PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

7 December 2004

(extract from Book 8)

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By authority of the Victorian Government Printer

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
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Hirsh, Hon. Carolyn Dorothy	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

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TUESDAY, 7 DECEMBER 2004

Tuesday, 7 December 2004

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

ROYAL ASSENT

Message read advising royal assent to:

Children and Young Persons (Koori Court) Act
Construction Industry Long Service Leave (Amendment) Act
Energy Legislation (Amendment) Act
Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act
Mildura College Lands (Amendment) Act
Transport Accident (Amendment) Act
World Swimming Championships Act.

QUESTIONS WITHOUT NOTICE

Hon. Philip Davis — On a point of order, President, as a consequence of reviewing the *Daily Hansard* of question time last Thursday — this is the first opportunity I have had to raise this matter with you — I note that in respect of a question without notice from Ms Hadden to the Minister for Local Government in connection with local council elections, I took a point of order where I indicated that it was not appropriate for the minister to be discussing what members of the opposition had been discussing in a policy context.

President, you indicated in a ruling that you believed the question invited the minister to comment on alternative views. I took a further point of order and made this comment:

> ... I am not aware that the question contained a phrase in relation to alternative views ...

Consequently, you made a ruling with respect to the matter and said, in effect:

> 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 ...

et cetera. The point is that from my reading of *Hansard* it does not support the ruling you made, but more to the point and of more relevance is that there are precedents in relation to a government minister using question time to barrage the opposition in relation to matters of policy and actions on the part of opposition members when clearly question time procedures are established to invite questions to ministers of the Crown about government policy and administration and the performance of their duties. I take, for example the House of Representatives practice manual, which says:

> ... It has been held that a minister 'should not engage in irrelevancies', such as contrasting the government and opposition ...

It further says:

> ... a question should not ask a minister about opposition policy as the minister is not responsible for it ...

Further, I refer to rulings given in the Victorian Legislative Assembly. I instance cases — for example, 12 March 1991 by Speaker Coghill; 13 March 1991 again by Speaker Coghill; 14 March 1991 by Speaker Coghill; and on 20 October 1994 by Speaker Delzoppo — where rulings were given to the effect that:

> Question time is an opportunity for ministers to be questioned and provide information on government administration and should not be used as a vehicle for attacks on the opposition.

Further, President, I turn to your ruling in relation to these matters which occurred on Thursday, 14 October. On a point of order I indicated that it was not appropriate for the minister to make comments about opposition policy, and you responded in your ruling on that day by stating:

> I draw the minister's attention to rulings in the house that such comments are not to be critical of the opposition ...

In light of those comments, I ask that in relation to your ruling in the matter concerning the question to the Minister for Local Government last week that you reflect upon your ruling and indicate clearly that the minister's comments were out of order.

Ms Broad — On the point of order, President, in relation to the matters that the Leader of the Opposition has clearly been doing some research on in the intervening period, in taking the matters which the Leader of the Opposition has raised and reflecting on them as he has invited you to do, I indicate to you that last week in responding to the question from Ms Dianne Hadden I took it upon myself to raise some alternative views, which had been publicly stated by the opposition spokesperson — so that was my doing. In doing so, I had regard to rulings not only by yourself, President, but by your predecessor in relation to references to opposition policies, including in question time, and also reflecting on the fact that indeed members of the opposition have asked questions during question time in this sitting of Parliament referring to opposition policies in the federal Parliament.

It seems to me that having regard for not only your rulings in this Parliament but your predecessors' rulings, there have clearly been questions and responses in question time referring to opposition policies at state and federal level. So in considering the important matters which the Leader of the Opposition has raised and requested that you reflect upon, I would ask that you also consider those rulings and the actions not only by government members on this side of the house but actions by members of the opposition in question time in matters to do with opposition policies in federal Parliament.

Hon. Philip Davis — On the point of order, President, I make the point that there is a significant distinction between members of a state Parliament raising questions in relation to the administration of state government and in the context of federal policy debate, because there are no precedents so far as I am aware to support any contention that matters occurring in parliaments outside this Parliament or indeed the unique Parliament where a question or matter is being raised have a bearing on a question put in a chamber.

I have done considerable research on this matter, and it seems to me quite clear that the case the minister puts in relation to the policies of a federal opposition are completely erroneous in this discussion. But the matter is in the hands of the President.

Mr Gavin Jennings — On the point of order, President, may I indicate that the research work that has been provided by the Leader of the Opposition falls a little short of actually describing the practice in the commonwealth House of Representatives. Clearly he provided us with advice to indicate that questions should not be drafted asking for ministers to reflect on opposition policies. However, he did not refer to the phrase that is most often used in the commonwealth jurisdiction, which is, 'Is the minister aware of any alternative views?'. I think that is the prevailing phrase within the commonwealth.

If Mr Davis's proposition were applied within the last federal Parliament I would have thought that Speaker Neil Andrew would have rejected something like 200 to 300 questions at a minimum. In terms of the most recent practice of which I am aware in the commonwealth Parliament, practice allows for ministers to express an opinion about their own policies in the context of alternative views.

Hon. Bill Forwood — On the point of order, President, when you are reflecting on the issues that have been rightly raised here today I suggest you reflect closely on the words of the minister who, in her contribution, pointed out unequivocally that the ruling you gave last week was in fact incorrect. She said that she took it upon herself to raise alternative views. She did not use these words, but by implication that was not part of the question, yet your ruling last week of course turned on the issue. You said, and I quote from *Daily Hansard*:

> The question referred to democracy in local government and alternative views ...

I put to you, President, that in your reflections you will need to take into account the fact that the minister herself has said that is not correct.

Hon. T. C. Theophanous — On the point of order, President, I think this is an important issue for you to consider in some depth because it does set a precedent for how question time is conducted. I have been asked a range of questions which have included the phrase 'alternative views' and you have not ruled them out of order. Indeed they are in accord with practice and custom in the Senate and House of Representatives but also in accord with custom and practice of the lower house of the Victorian Parliament; consequently I would suggest that that is appropriate.

Moreover, President, I also ask you to reflect on this issue because I notice that the Leader of the Opposition indicated the issue of portfolio responsibility. I ask you to reflect on this: where there is opposition action, which for example might affect investment in the energy industry by suggesting — —

Hon. Philip Davis — On the point of order, President — —

The PRESIDENT — Order! I was just about to get on my feet. I know it would have been hard for anyone to predict what I was going to do. I ask that when raising a point of order the minister not debate the issue and that he put the facts before the Chair so that I can respond to them. I know it is difficult to raise a point of order when someone is already raising a point of order, but without reading the mind of the Leader of the Opposition, I think that was the point he was about to raise. I ask the minister to keep to the point of order and not to debate the issue or make hypothetical points in his argument before the Chair.

Hon. T. C. Theophanous — On the point of order, President, your rulings have consistently been along the lines that where a question includes the notion of canvassing alternative views which are directly related to the portfolio the question be about that, and you have allowed a minister to talk about it in the context of their portfolio. That is the central point I am making, and that

is the custom and practice that has been adopted here — and in the Senate and in the other house.

In relation to the issue at hand, which is the specific question that was asked of the Minister for Local Government where those words were not included in the question, and we all recognise that; however, I noticed in reading the question that was asked of the minister that it does ask her to comment on how the Bracks government has strengthened democracy at the local government level in Victoria. The use of the word 'strengthened' suggests there is some capacity — —

Hon. Philip Davis — On the point of order, President, the issue here is quite clear, as you have indicated — that is, that the minister should not be bringing to a discussion about procedure matters that relate to policy.

The PRESIDENT — Order! I ask the minister to wind up his point of order. The Leader of The Nationals will speak next, then I will rule on the point of order. Again I remind the minister not to bring in anything other than what is a point of order and not to debate the issue.

Hon. T. C. Theophanous — On the point of order, President, I am not debating the issue, I am talking directly about the question that was asked of the minister. I believe the words used — —

The PRESIDENT — Order! I will read the words. I thank the minister.

Hon. T. C. Theophanous — The words used suggest that there was some flexibility allowed to the minister. I urge you to consider that in giving your response.

Hon. P. R. Hall — On the point of order, President, The Nationals welcome this point of order being raised because a review of how questions are phrased and answered in this house would be timely. The Nationals believe the standard of question time has deteriorated terribly and there needs to be some reform and some discipline imposed both upon people asking questions and ministers answering questions. A review in that respect would be very timely.

In your considerations on this matter, President, I draw your attention to standing order 6.02, which says:

> In answering any such question, the minister will not debate the matter to which it refers.

In respect of the many questions that have been asked of the minister, I believe questions asking if members of the government are aware of alternative views are direct invitations for the minister to debate an issue. Whenever there has been such a question asked never do we have purely a statement of alternative views; we always have a commentary on alternative views. In my opinion any such question phrased in that manner invites debate and invariably brings it about, and that is contrary to standing orders. I make that point in respect of your consideration of the point of order raised by the Leader of the Opposition.

The PRESIDENT — Order! The Leader of the Opposition has raised a point about a ruling I made last week, and he invited me to look at that ruling. I will do so and report back to the house.

Energy: mandatory renewable target

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy Industries. I refer to the minister's remarks last week when he informed the house that a state-based mandatory renewable energy target (MRET) scheme would be based on the costings of the Tambling report. Analysis of that report shows that the annual cost of an expansion to 5 per cent — the often-quoted 20 000 gigawatt a year proposal — would ramp up the tax on electricity consumers to about $800 million each year, or $8 billion over 10 years. Therefore I ask: how much of the $800 million each year would be paid by Victorians under his state-based MRET scheme?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I welcome this question from the Leader of the Opposition because it again allows me to point out the government's very strong commitment to bringing about increased amounts of renewable energy in this state. It does so in an unapologetic way because it is the right thing to do, because it cares about the environment, because it will ultimately create jobs in regional Victoria, and it will create a new industry for this state. It will create a new wind industry — a new renewable energy industry — and this government does not apologise for that at all.

The mandatory renewable energy target scheme is a national scheme administered by the national government. That current scheme costs money. I did not hear the Leader of the Opposition complain and ask why the federal government has such a scheme in place at the moment; he did not ask me that question. He is against the expansion of this scheme. He does not want the scheme to be expanded any further.

I remind the member that huge benefits to the economy arise from an expansion of the renewable energy scheme. It is not a simple equation of looking at what

the subsidy might be. If all you looked at was the subsidy, you would never do anything to improve the environment in this country because you would always be saying, 'This is going to cost some money'. That was not what the federal government said; that is why it had a mandatory renewable energy target scheme. It was prepared to understand that there will be a cost in bringing about renewable energy in this country.

The state opposition does not seem to be prepared to do that, but at least the federal government has supported the existing scheme. It then looked at an independent report that said this scheme should be expanded further because we need to support renewable energy into the future. The federal government decided not to support that expansion of the scheme. As a consequence we will have limited investment in renewable energy in the future for this state and for the nation.

However, the net economic loss is not what was discussed in the report which was referred to by the honourable member. The discussion was simply about the cost of increasing the scheme by a certain percentage term, and that is the number he pulled out of the report and wanted me to comment on. The truth of the matter is that when you look at costs in relation to this kind of initiative you have to look at the overall economic costs including the gains from increased economic activity, from developing a new industry, from increased jobs, from a whole range of things that result from further investment in renewable energy in this state and in this country. This government stands by its commitment to renewable energy, and it is proud to do so.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — The minister cannot help but put words in my mouth, but having said that I point out it is true that the federal government rejected the proposal to increase the mandatory renewable energy target to 5 per cent, and look what happened at the federal election! The minister has avoided to a large degree answering the question about sharing the cost in Victoria, but as a consequence of that he should explain to the house how many Victorian jobs will be lost as a result of this state-based MRET scheme.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The only jobs that are going to be lost in regional Victoria are as a result of this opposition not being prepared to support renewable energy, especially wind energy in regional Victoria. We are on the cusp of developing in this state a renewable energy industry around wind energy development. That is about hundreds of jobs in regional Victoria, and every single one of those is at risk because this opposition will not support it.

Energy: government initiatives

Ms ARGONDIZZO (Templestowe) — I refer my question to the Minister for Energy Industries, who is also the Minister for Resources. Can the minister inform the house how the Bracks government is getting on with the job by meeting the greenhouse challenge for the energy industry?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for her question, and I am pleased to inform the house about the announcement today by the Premier, the Deputy Premier, John Thwaites and me of the *Greenhouse Challenge for Energy* position paper of the government. We released this paper earlier today, and it contains a comprehensive policy package which includes the following: an energy efficiency strategy; a renewable energy strategy; support for an expansion of the mandatory renewable energy target; an energy technology innovation strategy; emissions reporting and disclosure requirements for large emitters; and support for a national emissions trading scheme.

The focus of the package is to attract investment into the energy sector while reducing emissions. This is a tough task — it is difficult — but it is one that must be done; it must be tackled. I urge the federal government to understand that it has obligations in relation to this, and those obligations are about looking after those two components at the same time — maintaining investment in the energy sector whilst at the same time abiding by our international obligations in relation to the reduction of emissions. Unless we do something about emissions now and in the near future, we will be forced to do so and in a much more difficult way later.

The only way to secure the future of the Latrobe Valley is to ensure that we act early and are able to reduce or eliminate the risk of the uncertainty of not knowing what a carbon-constrained future might bring to that area. The only way we can do that is through an appropriately structured emissions trading scheme. Our position and our view is backed up by the Allen Consulting Group report, which is also being released. In Allen Consulting's preferred model a national emissions trading scheme will result in marginal short-term impact on job growth and economic growth. However, in the longer term the benefits which will be seen from taking this early action will include increased job activity — it will create more jobs. It will drive more investment and at the same time reduce

emissions. So whilst there is some short-term reduction under the model in economic growth and in jobs — very small, I hasten to add — the long-term impacts post 2012 of the scheme are for net economic gain.

Hon. Bill Forwood — Did you release all of them?

Hon. T. C. THEOPHANOUS — I will be very happy to provide Mr Forwood with a copy of our paper.

Hon. D. McL. Davis — Is it a complete copy?

Hon. T. C. THEOPHANOUS — I am sure Mr David Davis will enjoy it as well. This package is about creating and securing long-term jobs. We are determined that our Latrobe Valley generators and energy-intensive industries will be protected by making sure that brown coal is recognised and appropriately treated in the allocations under the scheme; and at the same time we can secure lower carbon emissions for our future and for our children's future.

Electricity: coal drying

Hon. BILL FORWOOD (Templestowe) — I direct my question without notice to the Minister for Energy Industries, and I refer to the Australian government's $2.2 million offer toward the construction of a 15-tonnes-an-hour pilot plant to test mechanical thermal expression technology, contingent on matching funds from the Victorian government. Will Victoria be matching this funding so that technological solutions to the Latrobe Valley emissions can be progressed?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I have answered questions on this issue in the past from the Honourable Bill Forwood. Let me set the context here. The context is that we supported this mechanical thermal expression technology. It was supported by my predecessor and has been supported by the Bracks government financially in developing the initial test in the initial pilot to which the honourable member has referred. That pilot allowed the technology to be examined and tested, and the proposal which is now being considered is for a bigger 15-tonnes-an-hour test of mechanical thermal expression technology.

In examining this proposal we have said that we are keen to get the proposal from the proponents in the form of a very clear business plan of how this would operate. When we receive that business plan and evaluate what is associated with it we will make a decision about contributing further state funds to that particular proposal.

I believe the proposal is worth while, and we will certainly take seriously our examination of it. We want to develop new technology in the Latrobe Valley, and mechanical thermal expression is one of a number of coal-drying technologies that we are looking at simultaneously, which includes trying to get investment from the private sector, not just in that technology but in gasification technology, geosequestration and a range of other technologies that we need to look at to secure a long-term future for the Latrobe Valley.

I hasten to add that we would be able to secure that future even more if we were able to bring about the sort of policy position that was discussed today in the paper which the Premier, the Minister for Environment in the other place and I released, including getting some movement from the commonwealth in seriously considering an emissions trading scheme to give certainty for all those industries and to provide an impetus for introducing a low-emissions technology into the Latrobe Valley.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I am not aware of the federal government offering millions of dollars for any other technological experiments. I hope that the Victorian government looks seriously at this proposal. Can the minister indicate to the house when he thinks he is likely to make a decision on whether Victoria will provide the matching funds required so that a technological solution to some of the climate change problems in the valley may be advanced?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — As I said, we are looking at this proposal in detail, and we are in discussion with the proponents in relation to it. I have also indicated that we have put money into this proposal in the past, and that we believe it is one of a number of proposals that is worth supporting. When I have made a decision I will be very happy to let the opposition know about that decision, but I hasten to add for the information of Mr Forwood that in fact there are other proposals around — some of them very good ones — which are also being considered not only by us but by the federal government as well.

Information and communications technology: Internet access

Mr SOMYUREK (Eumemmerring) — I refer my question to the Minister for Information and Communication Technology. The lack of access to the Internet can create a new class of disadvantage in our community which is often referred to as the digital divide. Can the minister please advise the house how

the Bracks government is getting on with the job of closing the digital divide?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the member for his question because I know it has been an issue in his electorate, particularly given the multicultural nature of his electorate and the need to ensure that all communities have access to the Internet and can use it in an affordable way to get the benefits that come with this technology.

In 1999 only 50 per cent of Victorians had computers in their homes, but what was even worse only 23 per cent of Victorians had access to the Internet in their homes. This meant we were looking down the path of having a digital divide whereby some would have access to new knowledge and information by being connected and others would not. That is why we put in place Connecting Communities, a policy which was about ensuring there was no digital divide as we took on these new technologies. We needed to make sure that the Internet was accessible and affordable and that people had the skills necessary to be able to use this technology.

We have come a long way since then. Today there are more than 10 000 public Internet terminals throughout Victoria, over 100 000 Victorians have now been trained in using the Internet and over 2700 communities are online through the My Connected Community program. That means that more than 30 000 people in Victoria are using My Connected Community to communicate with one another around shared interests.

The 2002 Australian Bureau of Statistics figures show a vast improvement, with 68 per cent of Victorians having computers and 54 per cent using the Internet in their homes. So we are now seeing greater use of this technology. We want to see that use continue, and we want to see more sophisticated use of that technology. Victorians, whether as a result of family, business or personal requirements, are now using the Internet for many and varied things. Members here would use it for their banking and to pay bills; students use it to do their homework; jobseekers use it to seek jobs; and, most of all, communities use it to keep in touch — a very important ingredient, particularly for those who suffer from isolation for one reason or another.

Although we have made great advances in communities taking up the use of the Internet, there are still sections within them that require extra help and assistance. To that end, on Friday of last week I announced Connecting Communities — The Second Wave, which is a $9 million commitment of the Bracks government over the next four years to continue the work it has been doing to close the digital divide. Connecting Communities — the Second Wave will go towards a number of initiatives, including a program to deliver introductory Internet training for people with disabilities. We will also be providing $3.5 million to continue supporting affordable public Internet access for disadvantaged groups. We will also continue the My Connected Community program, which allows Victorians with mutual interests to create online communities and engage with each other.

Unfortunately the federal government has not continued to fund its programs, but the Bracks government is getting on with the job of ensuring that Victorians have access to the Internet.

Commonwealth Games: public transport

Hon. D. K. DRUM (North Western) — My question is to the Minister for Commonwealth Games. I refer to the decision to exclude country people from accessing the V/Line services to attend the Commonwealth Games and a claim by the minister on the ABC's *Statewide* morning program that there was a significant cost involved. I ask the minister: what is the cost involved in offering free public transport to people who live outside Melbourne and wish to attend the Commonwealth Games in 2006?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the member's question. If the member had listened to the morning program on regional ABC radio quite closely, he would have probably known most of the answer that I will give this afternoon.

The answer basically revolves around the fact that what members of the opposition — maybe not Mr Forwood and other members of the Liberal Party but particularly members of The Nationals — find very difficult to accommodate or appreciate in their consideration of the Commonwealth Games is the direct community benefit that the Commonwealth Games will provide to regional Victoria. They will also appreciate what I said on the radio program about transport — that is, this is not nor has it ever been about free public transport, let's put it that way.

Whilst the papers may have wanted to put out there a headline about tremendous free public transport, the issue is not about public transport. The issue is about access to metropolitan transport systems to take — —

Hon. P. R. Hall interjected.

Hon. J. M. MADDEN — If you are prepared to listen — to take pressure off metropolitan Melbourne around games time. That is the intention. It is not about free public transport; it is about accommodating that in the ticket to Melbourne venues to take pressure off parking, the road system and the city centre — —

Hon. P. R. Hall interjected.

Hon. J. M. MADDEN — If you want to listen — it is to take the pressure off the city centre in Melbourne so that people from regional Victoria, metropolitan Melbourne or anywhere around Australia when they are in Melbourne will not have to put up with traffic snarls. They will be able to get away from the venues quickly and access whatever transport form they choose to take. I know and appreciate, and Victorian regional communities also appreciate, the significant benefit that this government is delivering from the games to regional Victoria, whether it is the regional venues — Bendigo, Ballarat, Geelong and Traralgon; the baton relay that will go comprehensively about Victoria; the get-involved community pack; or the low-priced tickets so that they are family friendly and families can get to the games at low cost, with four tickets for the price of three. All these are considered benefits to make sure that the games benefit all Victoria.

I know that Mr Drum would want to subsidise all forms of transport across Australia in all sorts of ways, but the government has committed to being economically responsible in relation to these games. We appreciate matters that have been raised by rural and regional Victorians, and we will look at those closely, but I can also say that we have given significant consideration to the events throughout regional Victoria, to the benefits and accessibility of the games throughout all Victoria. We will continue to do that and also to give added value to those in regional Victoria through the overall delivery during the pre-games, during the games and during post-games celebrations around the Commonwealth Games.

Supplementary question

Hon. D. K. DRUM (North Western) — I thank the minister for his answer. I join with him in welcoming the games coming to regional Victoria. If the minister had been around a bit more often last week, he would have seen the role that we all played in the Commonwealth Youth Games in Bendigo just recently. I ask the minister: has he in fact done any cost analysis of what it would have cost the government to give regional Victorians exactly the same deal as those living in Melbourne are going to enjoy during the 2006 Commonwealth Games? Has he done a cost analysis?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Mr Drum would appreciate that in my response on radio last week I also highlighted that if you were from metropolitan Melbourne and wanted to see some of the regional events, the same would apply — you would not get subsidised transport to go to regional Victoria. But we are encouraging international visitors to go to regional Victoria.

One of the great things about having the events in regional Victoria is that when the television images of regional Victoria are shown right across the commonwealth — when they show Bendigo, Ballarat, Geelong and Traralgon to the rest of the world — that is going to showcase more economic opportunity in regional Victoria. We are, as we have always been and will continue to be, committed to regional Victoria — far more than members of The Nationals were ever committed to regional Victoria under the Kennett government.

Aboriginals: government initiatives

Ms ROMANES (Melbourne) — My question is for the Minister for Aboriginal Affairs, Gavin Jennings. Can the minister inform the house of the outcomes of the recent meeting of the Ministerial Council for Aboriginal and Torres Strait Islander Affairs?

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — I thank the member for her question and for her commitment to the wellbeing of Victorian Aboriginal people. I am very happy to report to the house that a very important meeting of the ministerial council of Aboriginal affairs ministers from around the country — state, territory and commonwealth — took place last Friday. Members may not be aware of this meeting because it took place at about the same time as Michael Long and a number of other significant Aboriginal leaders from around the country met with the Prime Minister. There are some very interesting parallels between the conversation which took place at the ministerial council meeting and the conversation which took place in Canberra. I would like to take the opportunity to outline to the house where those two very important conversations led in terms of their potential impact on the quality of life of Victorian Aboriginal people.

During the course of the ministerial council meeting the state and territory ministers were acutely interested in finding out from the commonwealth government how it will deal with issues such as mutual obligation, a principle which has been used to describe the underpinnings of the commonwealth's new approach to

Aboriginal wellbeing. What are the mechanics of it and how will shared responsibility agreements work within Aboriginal communities? What are the potential impacts on behavioural contracts? It has been suggested there may be an expectation of people behaving in a certain way before programs or benefits accrue to them. What will replace the regional structure of the Aboriginal and Torres Strait Islander Commission to ensure that appropriate representative models apply right across Australia to guarantee that some mechanisms are in place to make sure Aboriginal people are involved in decision-making processes?

I am very pleased to say that there seemed to be a degree of accommodation from the commonwealth on many of those issues. In fact the states and territories bent over backwards to ensure that in the spirit of reconciliation we found some common ground on those matters. I would like to outline to the house some of the undertakings made by the federal Minister for Immigration and Multicultural and Indigenous Affairs, Amanda Vanstone, in the context of this ministerial council meeting. In relation to mutual obligation, the states and territories said it must be based on a true partnership, not on the imposition of a paternalistic set of values which may impact on the wellbeing of Aboriginal people. The federal minister responded positively and said she will explore ways in which true partnerships may be established.

Those partnerships will be enacted through the mechanism of shared responsibility agreements. The states and territories are very concerned that shared responsibility agreements might be applied in circumstances where Aboriginal people will be expected to exceed the benchmark of any other member of the community in relation to their behaviour and their standard of public demeanour. The commonwealth, which had floated this idea, appeared to pare it back last week. I am pleased to report to the house that the federal minister gave the states and territories an undertaking that no behavioural contracts will apply to individuals in terms of receiving their welfare benefits. They will only apply to specific Aboriginal programs which go to those communities beyond the level of welfare support, social security and income support which applies to all other members of the community. It was very good for us to receive that undertaking from the commonwealth.

In relation to the question about regional representation, here lies an issue we are rightly concerned about because the commonwealth minister admitted to me that Victoria has been a bit of a blind spot in the consideration of the regional representation structure and that efforts will have to be made to ensure that the needs and aspirations of Victorian Aboriginal people are assessed. This morning government members received a report from Michael Long reaffirming those issues.

Minister for Environment: staff

Hon. BILL FORWOOD (Templestowe) — I direct my question without notice to the Minister for Energy Industries, the Honourable Theo Theophanous. I refer to the fact that Darren Gladman, director, global warming campaign, Environment Victoria, has recently been working full time from the office of the Minister for Environment on the *Greenhouse Challenge for Energy* position paper that was released today. Was the minister consulted on this appointment, and did he agree to it?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I could take a point of order because the question being asked of me is about an appointment by another minister and his office. I do not really see the relevance of that minister's decision to my portfolio area.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I make the point to the house as a preliminary to my supplementary question that the *Greenhouse Challenge for Energy* paper was today released by the Minister for Energy Industries along with the Premier and the Minister for Environment. I ask: how can stakeholders in the energy industry, or for that matter ordinary Victorians concerned about the cost of electricity now and in the future, have any confidence in the minister's ability to advocate on their behalf when he does not take on issues such as Mr Gladman's appointment?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I really do not know how to respond to the honourable member. I will hand him a copy of the report — he might be able to read it and recognise, like I believe all stakeholders will, that this is a very good report. It is good for the industry and it is good for this state.

Housing: affordability

Hon. R. G. MITCHELL (Central Highlands) — My question is directed to the Minister for Housing. Can the minister inform the house of recent action by the Bracks government to secure commonwealth involvement in the national housing affordability project?

Ms BROAD (Minister for Housing) — I thank the member for his question and his continuing efforts and interest in the Bracks government's efforts to get on with the job of supporting housing affordability for Victorians who need it. On Friday in Adelaide I attended a meeting of commonwealth, state and territory ministers responsible for housing. I am pleased to advise the house that we have had what I consider to be an important breakthrough in making progress in national work on housing affordability.

It is true that the Bracks government led the way last year when, with the support of other states and territories, we commenced work across jurisdictions on how governments can make housing more affordable. While we have been making good progress, I can be realistic in acknowledging that the project was probably not helped by the commonwealth government's refusal to participate. I can inform the house that as a result of efforts by the Bracks government, working in partnership with the other states and territories, the commonwealth has now agreed to come to the table as a full participant in the national affordable housing project. That is a good result, and I want to welcome the commonwealth's decision. This means that it will be possible to take concrete affordable housing proposals to an historic first meeting of housing, planning and local government ministers in April 2005.

We can now put some building blocks in place to deliver homes for aspiring home owners who may fear that their dream of home ownership is falling further and further out of reach. Some of the proposals I expect to be put to this meeting include rent-buy arrangements, access to superannuation funds for affordable housing, innovative rental products and cheaper house designs for the growing number of single people. These are just some examples of proposals which will be developed for this meeting.

The project reflects the Bracks government's view that affordable housing is a responsibility of all levels of government — local, state and federal. The Bracks government is doing everything it can, including the provision of additional funding for social housing beyond its obligations under the commonwealth-state housing agreement. Our additional efforts have included about $280 million over and above that agreement since we come to office in 1999. However, I again have to acknowledge the reality that in the wider area of housing affordability the ball is very firmly in the commonwealth's court as the level of government which holds unto itself most of the levers which affect housing affordability. That is why the commonwealth's involvement in the national affordable housing project is so important, and why it is timely and welcome that it has decided to come on board with this project. I look forward to the commonwealth government matching the efforts of the Bracks government to deliver more affordable housing for low-income Victorians and Australians who need access to affordable housing.

Electricity: Hazelwood plant

Hon. PHILIP DAVIS (Gippsland) — I direct a question to the Minister for Energy and Resources. The significant delays in the approvals process for the Hazelwood coal mine puts 1740 megawatts at risk. The proposed state-based mandatory renewable energy target scheme creates a disincentive to investment in brown coal base-load generation. Is it not a fact that this combination creates medium-term risk to supply and will add additional significant pressure to prices?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question. In answering his question I also point out to Mr Forwood in relation to a comment I made about the minister's office, that Mr Gladman was appointed to the Department of Sustainability and Environment and not to the minister's office.

Hon. Bill Forwood interjected.

Hon. T. C. THEOPHANOUS — You wouldn't expect me to be responsible for — —

The PRESIDENT — Order! I ask the minister to respond to the question before him.

Hon. T. C. THEOPHANOUS — In relation to the question asked of me by the Leader of the Opposition, I think he is confusing two different sets of issues. One set of issues is about Hazelwood and its operation. As he is well aware, negotiations are occurring with the owners of Hazelwood, International Power, and those negotiations include discussions about its capacity to reduce emissions in order for us to facilitate an expansion of the mine, giving the company access to an additional 92 million tonnes of coal it has asked for.

That is a completely separate issue from what is happening with the mandatory renewable energy target (MRET) scheme — a federal government scheme that has been and continues to be in existence and is funded across the entire electricity industry, including Hazelwood and other providers. The member is confusing those two sets of issues.

In relation to the MRET question, the Premier and I made it clear today that we are in the business of pursuing a state-based MRET scheme. In the event that the federal government is not prepared to support the

expansion of the MRET scheme, then we will pursue a state-based one, but that would be on the basis that all states signed up to that particular state-based scheme and that it was transferable across all the states.

We will discuss this. An interjurisdictional group made up of all of the states and territories is working on the possibility of introducing a state-based MRET scheme to supplement the federal government scheme. I would hope that that would be welcomed as another way of ensuring that we obtain renewable energy. The existing MRET scheme will have no effect in relation to the operation of Hazelwood, which has been discussed as a separate issue and is being dealt with separately by the government.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the Minister for his response, and I therefore make the observation that the only electricity supply crisis, including blackouts and restrictions, to have occurred in the last 22 years followed the election of the Bracks government. Is it not a fact that the current policies with mandatory renewable energy target and the actions in relation to the delays in approval for Hazelwood by the Bracks government are putting consumer prices under pressure, Victorian jobs at risk and inviting a repeat of the electricity supply fiasco which occurred under Minister Broad's stewardship?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I take up the highly politically charged question by the Leader of the Opposition and struggle to answer it in the context of not debating it, but I will do my best. It has been the actions of this government when it came to power and faced electricity shortages that brought into play an extra 1000 megawatts of capacity which has resulted in stabilising that system which the government inherited from the previous government. That is the real story — we fixed up the system that those opposite left in an absolute and parlous mess. Not only that, the only danger is from the opposition which continues to oppose Basslink which will bring on an extra 600 megawatts of power, and those opposite continue to oppose Origin Energy's new power station in — —

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

Consumer affairs: motor car traders

Mr PULLEN (Higinbotham) — My question is addressed to the Minister for Consumer Affairs. Can the minister outline how the Bracks government is getting on with the job of monitoring Victoria's motor car trader industry and where appropriate taking action against those rogue traders who harm Victorian consumers?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Pullen for his question and his obvious and genuine ongoing interest in matters of motorcar trading. In fact, I would say, with the possible exception of the member for Murray Valley in the other place, Mr Ken Jasper, Mr Pullen is probably the most knowledgeable person in this Parliament of the car industry, which is a tribute to his hard work.

The member specifically asked me a question about taking action against those few rogue traders and what the government was doing. It brings us to a critical policy debate in this Parliament and the community about how we get the balance right between those businesses that trade, put up a shingle, want to do business, caveat emptor — let the buyer beware, let consumers come in and buy things. It is a matter of how much of that we let happen versus how we regulate an industry through our compliance and regulatory activities.

It is always a delicate balance in society how that is done because on the one side there will be an argument put forward, 'Do not go in too hard, do not stifle small business or any small business', but on the other hand there is an enormous cry from consumers asking to be protected. I certainly draw the attention of the house to a case in Bendigo where Consumer Affairs Victoria did not, after inspecting a number of traders, shy away from exercising powers under the Fair Trading Act and asking for books; it did not shy away from acting.

A number of consumers complained. We found that one of the most insidious things in the car industry was winding back the odometer. One thing every purchaser of a car fears is that when they go to purchase a car they think they have a decent product but the odometer has been wound back. We found that the Bendigo rogue trader not only did it once or twice but seven times. Not only that, but in those seven offences he wound back the speedos collectively by 800 000 kilometres. This government is getting on with the job of compliance and unashamedly getting inspectors out into the community to protect consumers from rogue traders, and it is not only in Bendigo because we have had another rogue trader in Portland, where 75 different vehicles were sold without a licence.

Those who say, 'Let small business flourish everywhere' forget that these rogues are stopping other small businesses getting on with the job. The protectors

of small businesses vigilantly have a compliance program. Those 75 vehicles sold in Portland and detected by Consumer Affairs Victoria inspectors were sold without any of the protections under the Motor Car Traders Act. Those 75 consumers who bought those vehicles had no protection.

By getting on with the job the government will go out there and will unashamedly have compliance inspectors in the community to not only protect consumers but also those small businesses that cry out for the Parliament and the community to be protected from rogues who, with their roguish practices, undercut their prices and make it hard for small businesses to do business in this state and this community. We are getting on with the job; we are listening, and we are acting. Mr Pullen is listening; he will act, and he will bring down the report, and we will have good legislation and continue to govern for all Victorians.

The PRESIDENT — Order! Question time has expired.

Mr Viney — On a point of order, President, I wish to raise a matter related to that raised earlier about procedures at question time and debating issues. I will preface my remarks by saying that I believe this chamber exists as a forum for the debate of ideas. However, I note that page 488 of *Odgers' Australian Senate Practice* sets out the rules for asking questions and states:

> Questions shall not contain ... arguments ... inferences ... [or] imputations.

This is repeated in our own standing orders in the rules relating to questions. The essence of it is also related to statements on page 297 of *May* under the heading 'Argument and disorderly expressions', where it states:

> Questions which seek an expression of an opinion or which contain arguments, expressions of opinion, inferences or imputations ... are not in order.

President, the purpose of drawing your attention to the rulings in *May*, *Odgers* and our standing orders is to ask that when considering the matter raised by the Leader of the Opposition today, you consider also that on a number of occasions members in this house have used the opportunity in the 1 minute available to them to ask questions to engage in debate and to present argument. In the balance of your consideration of the matter raised by the Leader of the Opposition, I ask, President, that you consider — and I can think of at least three examples today — the issue of the use of the 1 minute available for members to provide a context to use that to engage in debate, to criticise the government and in many instances to criticise ministers and to flout the rules of the standing orders in relation to argument.

The PRESIDENT — Order! Mr Viney has added to the point of order raised before question time. As I indicated to the house earlier, I will look into the matter and respond back to the house in due course.

QUESTIONS ON NOTICE

Answers

Hon. E. G. STONEY (Central Highlands) — I seek answers to questions on notice 1634 and 1817 from last autumn, and 3791, 3792, 3794, 3795, 3796, 3798, 3790 and 3797 from this spring. I have written to the minister and am hoping for answers before the end of the year.

Mr LENDERS (Minister for Finance) — Mr Stoney gave me a letter on the last sitting day with those two questions. I inform him and the house that questions 1634 and 3790, which he has passed to me, are to the Minister for WorkCover in the other place and the Treasurer. I am pursuing the answers to his questions with those ministers. The other eight questions are technically the responsibility of Ministers Broad, Thomson and Theophanous for ministers in the Legislative Assembly, but I will pass on his letter to those ministers for their attention.

MEMBERS STATEMENTS

Wind farms: Newfield

Hon. J. A. VOGELS (Western) — I have been contacted by concerned residents in regard to a proposed wind farm at Newfield, which is halfway between Port Campbell and Timboon. EHN-Oceania, which I understand is a Spanish company, is planning for a 30-turbine farm along Newfield ridge. No doubt a 30-turbine farm is the preferred option, because that takes the planning approvals away from local council, the Corangamite shire, and leaves the final decision in the hands of the responsible minister. The local community deserves to be fully informed by the company involved so that those affected understand what is happening in their backyards. Too often we have been left with divided communities when major projects like this are undertaken due to lack of consultation. The Liberal party is not opposed to wind energy provided there has been local dialogue with all those who will be impacted upon, and the final decision is made by a local authority.

Wind energy and the construction of giant turbines has become a major issue for rural Victoria mainly due to the visual effects of these towers. As we have seen at Codrington and Challicum Hills near Ararat, if you take the community along with you these concerns can be resolved. If its plans to go ahead with the proposed wind farm in the Timboon region, I ask EHN-Oceania to consult closely with the community.

South Africa: democracy celebration

Ms ROMANES (Melbourne) — I would like to draw attention to an event and celebration that occurred at the National Gallery of Victoria on 26 November. It was the 10th anniversary of democracy and freedom from apartheid in South Africa. The Attorney-General in the other place, Rob Hulls, spoke and made apposite points. He talked about how the South African people have prevailed over injustice and won democracy after generations of racist oppression. He spoke of the challenges ahead and the long road to healing, while bearing a heritage of poverty and despair. He quoted Archbishop Desmond Tutu, who remarked when appointed chair of the Truth and Reconciliation Commission:

> True reconciliation is never cheap, for it is based on forgiveness, which is costly ... and on an acknowledgment of what was done wrong ...

The Attorney-General brought the issues home. He made these points:

> We must not ignore our own backyard, immersed as it is in prejudice and denial. Far from forgotten history, ours is a living heritage — its legacy played out every day while the traditional custodians of this land continue to be the poorest, unhealthiest, least employed, worst housed and most imprisoned members of our population, their disadvantage and sorrow compounded by the shadow of violent dispossession and self-delusions of white virtue

Michael Long and his fellow walkers brought a similar message to the Prime Minister last week and the Premier and government MPs today — —

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

Michael Long

Hon. BILL FORWOOD (Templestowe) — I would like to congratulate Michael Long and his fellow walkers on their outstanding achievement — not just the achievement of walking to Canberra but their achievement in getting Aboriginal issues firmly back on the agenda. It is easy for us to forget the extraordinary hardship and disadvantage that exists throughout Australia in many Aboriginal communities. The sort of thing that happened in Palm Island is no surprise to people who have been associated in some way with Aboriginal communities.

It is important that people of goodwill across the country continue to focus on finding achievable solutions to the issues. I was heartened by the words of the Minister for Aboriginal Affairs in question time today when he outlined the positive meeting that he had with his state and federal colleagues last week when they addressed some of the substantive issues that need to be addressed as we look for better outcomes across the country for our indigenous community. This applies equally in Victoria as elsewhere.

One thing I have always admired about Michael Long is that he is a very straightforward human being. He played football in that way, and he brings that same approach and passion to the issue we are discussing here today. I congratulate him and the others on the outcome they have achieved through their dedication to bringing this matter forward.

Keith Ingram

Mr PULLEN (Higinbotham) — I would like to congratulate Keith Ingram of Cheltenham for 50 years of service to cricket. Keith started district cricket, now named premier cricket, at Prahran in the 1950s. He was a good right-hand batsman and a mean in-swinger, left-arm bowler. He then joined North Caulfield-Glenhuntly Cricket Club where he played cricket and served on the committee for 25 years. For the past 13 years he has umpired in the City of Moorabbin Cricket Association (CMCA), and he is currently president of the City of Moorabbin Cricket Association Umpires Association. Keith is a fine umpire, and I have had the pleasure of umpiring with him in the top grade at the CMCA Longmier Shield before my election to this place. I have never heard a bad word said about him. Players love him.

He is unique. He never wears an umpire's hat and never drinks water during a game. To my surprise he does not even carry a counter. The other night Keith was given a testimonial from the City of Moorabbin Cricket Association. Keith also loves his footy; he is a one-eyed Bombers supporter — the same as me. Congratulations, Keith, and keep sticking the finger up for many years to come!

Community Care Coalition (Victoria)

Hon. ANDREA COOTE (Monash) — I congratulate a number of communities in Victoria for joining together in the Community Care Coalition

(Victoria) and wish them good luck on their ventures. This joint venture is supported by the Helen MacPherson Smith Trust and auspiced by the Victorian Association of Health and Extended Care in order to run a community care awareness program and campaign in Victoria. The work forms part of a national project that is coordinated by Aged and Community Services Australia and funded by the Myer Foundation, which has a long and rich history of supporting aged care and looking into issues concerning aged care in Australia. In Victoria the community care awareness program aims to highlight the strategic importance of care in the community to all Victorian politicians and policy-makers and to put strongly the case to all politicians the need for significantly increased funding in community care.

I have spoken with a number of people from the organisations involved — that is, the Victorian Council of Social Service, Carers Victoria, and the Council on the Ageing. Other people involved include the Royal District Nursing Service, the Victorian Health Care Association and Alzheimer's Australia, all of which are highly valued organisations. I believe they will come to a conclusion that will point us all in the right direction, and I urge the Minister for Aged Care to take very close notice of what the community coalition suggests and recommends. Hopefully he will be able to support any suggestions — —

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

International Day of People with a DisABILITY

Hon. J. G. HILTON (Western Port) — Last Friday I attended, as I am sure many other members did, some memorable events to celebrate International Day of People with a DisABILITY or, as it was described at Frankston, People with Abilities. I found both events, at Cardinia and Frankston, to be moving and inspirational. At Cardinia the national anthem was played by a young man who had always wanted to play a musical instrument, and the obvious delight he felt was a joy to behold. The guest speaker was a young lady who had won a gold medal at the Sydney Olympics but who has continued to battle health problems of which the majority of us could not conceive. At Frankston certificates of appreciation were given to a number of organisations which make a material impact on the lives of people with disabilities.

Long gone are the days when people with disabilities were kept hidden away as if they were an embarrassment. Now we acknowledge the achievements and determination of people with disabilities to become totally involved in their communities. All people with disabilities and their carers deserve our absolute admiration, and I congratulate them all.

Traralgon Cup

Hon. DAVID KOCH (Western) — A great day out was enjoyed by all who attended the running of the Traralgon Cup last Sunday at Glenview Park in Traralgon. In particular the large number of younger people in attendance demonstrated that the future of racing at this exciting course is with the young. Glenview Park is an excellent venue, being central to Latrobe Valley thoroughbred racing and having great support from the Latrobe City Council. The venue could accommodate more racing dates annually and is convenient for racegoers from the Latrobe Valley cities of Traralgon and Morwell and their districts.

This year's cup drew a record crowd of nearly 4500 patrons, who took advantage of the fine oncourse facilities. Good use was also made of the record number of marquees pitched around the course. Racing under the banner of Gippsland Racing, a nine-race program, was conducted on a brilliantly prepared track that was in top condition. The 1900-metre Traralgon Cup was the feature event of the day and was won by Royal Rule, bred and trained at the Marconi stables at Mornington and ridden by Anthony Darmanin.

The Traralgon Club, enthusiastically led by Peter Wight and the committee, along with a large contingent of volunteers are to be congratulated for hosting such a successful and magnificent day of racing at Traralgon.

Lifesaving Victoria

Ms MIKAKOS (Jika Jika) — Last Saturday I had the pleasure of representing the Premier at a historic afternoon tea with 100 of Victoria's oldest lifesavers. This event was the culmination of the centenary celebrations of the Royal Life Saving Society of Australia's Victorian branch. The event was presided over by the member for Sandringham in the other place, who is also the president of the Royal Life Saving Society. The Honourable Wendy Lovell also attended, and it was truly inspirational to hear the many lifesavers speak of the many decades of service they have given to the community. I note that the society's Victorian branch was formed on 4 December 1904. For 100 years they have been watching over us at our most popular beaches and indeed saved hundreds if not thousands of lives.

The society recently merged with Surf Lifesaving Victoria to become Lifesaving Victoria. This new lifesaving body is an integral part of Victoria's emergency service providers and includes over 24 000 volunteers who provide approximately 870 000 volunteer hours per annum. The Bracks government believes Lifesaving Victoria is an important part of our community, and that is why it gives it some financial support. The government believes the safety messages of Lifesaving Victoria deserve to be supported and passed on to the next generation of lifesavers. I congratulate the royal lifesaving society on its centenary and especially acknowledge the contributions of 100 of Victoria's oldest lifesavers.

Drought: government assistance

Hon. B. W. BISHOP (North Western) — I report to the house, and particularly to the Minister for Agriculture in another place, that a meeting was held at Woomelang last week to discuss issues arising from this year's drought. Jan Adcock and Myra Duthie got the meeting together with the help of the local branch of the Victorian Farmers Federation, its president Daryl Boxall being the chair for the evening. Department of Primary Industries agronomist, Rob Sonigan, and local agronomist, Kate Wilson, joined with the area's financial counsellors, Grant Doxey, and David McManamey to provide information to the 80 people in attendance, including Cr Andrew McLean of the Yarriambiack shire. Alan Malcolm, a local farmer who has a lot of experience in representing farmers, and Ray Campling, the chief executive officer of the Yarriambiack Shire Council, also contributed to the night, which was reported to be informative and practical and formulated a couple of resolutions.

The thrust of the resolutions was to contact local members of Parliament and the state Department of Primary Industries regarding the implementation of the exceptional circumstances process. Given that that process is a longer term process, it was resolved that the state government be approached to reinstate the cash grant system that worked well last time around. Also it recognised that fuller support be given to the area's financial counsellors, who will form a crucial part of the process of assisting our people through this tough time when some have not had a positive return for three seasons.

Eureka: rebellion anniversary

Ms HADDEN (Ballarat) — The Eureka rebellion of 3 December 1854 has a special place in the psyche of Ballaratians, especially during this year which saw the celebration of the 150th anniversary of the rebellion. The Legislative Council had already passed the Elective Franchise Bill in March 1854, which granted the vote to males aged over 21 years. The bill was an amendment to Victoria's first constitution act of 1851, so it was required to be passed by the British Parliament in Westminster — hence the delay in its enactment. That was further delayed by the ship's travel time and by the Crimean War and the consequent lower precedence of colonial matters.

The act arrived back in Melbourne in May 1855, six months after the unnecessary bloodshed and slaughter of 30 diggers and 6 soldiers at the Eureka Stockade around 3.30 a.m. on that bloody Sunday of 3 December 1854. Universal male suffrage was granted in 1857, which was an amazing feat for the Australian digger as the English miners had to wait another 30 years. As a consequence of the Eureka rebellion, in November 1855 two mining representatives were elected to the Legislative Council to represent Ballarat Province: Peter Lalor, described as 'blunt and earnest'; and John Basson Humffray, described as 'a Welsh Chartist and orator'. The Southern Cross flag, which had been lovingly made by three Ballarat women — that is, Anastasia Hayes, Anastasia Withers and Anne Duke — is a great symbol of the Eureka Stockade rebellion and of the sacrifices made by those brave and loyal people on the Ballarat goldfields in 1854.

Australian Labor Party: federal leader

Hon. RICHARD DALLA-RIVA (East Yarra) — Today I join with the many thousands, in fact the 25 per cent of voters in this country, who would prefer Mr Latham to be the Prime Minister of this great country. In fact the Liberal Party would endorse Mr Latham remaining in his position as the leader of the federal opposition, because 25 per cent is a great number. Members of the Liberal Party see that as a great result, and we want to ensure that he stays in that role. The reality is that this is disgraceful behaviour by the federal Labor opposition. It was clearly gazumped at the last federal election. We heard their slogans about easing the squeeze, a fair deal and even before that Mr Beasley wanted to roll back the goods and services tax. As I said, the results of the poll published today indicate that 25 per cent of people want to keep Mr Latham there. The opposition wants him there; it thinks he is great.

It gets worse. Today the Premier said on radio that he had no intention of going federal. I will give him some advice which is also for the other side: the opposition has some ideas — what about Mr Viney, Mr Mitchell, Mr Eren or Mr Pullen taking on the role of federal

opposition leader? Their skill level is equal to that of the Premier and we think they would be great. We encourage any other member on the other side of the house who may be interested in the job, if the Premier has ruled it out. We do not mind if Mr Latham stays in the job. Twenty-five per cent — —

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

Isik College: Keysborough campus

Mr SOMYUREK (Eumemmerring) — My member's statement today concerns a local school I visited, but it is tempting to go through the same spiel but this time having the local Liberal, Mr Robert Doyle — say no more!

Last Sunday I had the pleasure of attending Isik College, Keysborough campus, end-of-year awards ceremony as a guest of the college. I take this opportunity to congratulate the principal of Isik College, Mr P. Ahmet Ozcelik, the staff, volunteers and students on the very professional program it presented on the night that I was fortunate enough to witness. I was particularly impressed with the elegance and high standard of the dances and the great theatrical displays by the students. I was also impressed by the way the school has pulled the community together and a community atmosphere has evolved.

The college initially went through challenging times to get started but against the odds it seems to be in the process of building a successful and durable school. Isik College, Keysborough campus, is part of a group of four Isik College campuses around Victoria. The first campus was opened by the member for Warrandyte in the other place, Phil Honeywood, who was then Minister for Tertiary Education and Training in October 1997 — —

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

Bushfires: *Flames Across the Mountains*

Hon. PHILIP DAVIS (Gippsland) — It was an honour for me to be invited to launch a book on Sunday that contains the personal accounts of people who were affected by the Bogong, Razorback and Pinnibar fires in East Gippsland in January 2003. A large crowd attended the launch which was held at Native Dog Plain in the alpine park, about an hour's drive east of Benambra.

I want to acknowledge the contribution of the compilers of these individual stories — and there were approximately 200 individual contributions — Leanne Appleby, Sandra Livingstone and Brian Blakeman, who put in a great deal of effort and resources to ensure that this personal record was published.

Flames Across the Mountains is a very well-presented publication; not only the text and the individual stories but also the graphic photographs showing the devastation caused which supported the individual accounts. Dramatic stories were told by people such as John 'Buff' Rogers, David Woodburn, Bill and Sandra Livingstone and Clive Anderson and it was wonderful to see some 200 people at the launch on Sunday.

James Hardie: asbestos compensation

Mr SMITH (Chelsea) — I rise to congratulate the Australian Competition and Consumer Commission (ACCC) under its new chairman, Mr Samuel. I am really pleased that the ACCC is demonstrating a willingness to be proactive by taking James Hardie Industries to court seeking $2 billion for asbestos victims in the event that James Hardie does not reach a full settlement with the Australian Council of Trade Unions (ACTU). The action is to be launched in the Federal Court and in addition the ACCC will seek to launch a successful case overseas.

The ACCC decided to move on James Hardie Industries and its actuaries when talks between the ACTU and interested parties failed. It will take this action on behalf of the medical research and compensation fund (MRCF). The ACCC's inquiry and action against James Hardie Industries has been triggered by New South Wales special commissioner, Mr David Jackson. In his report Mr Jackson claims that Trowbridge Consulting, actuaries for James Hardie Industries, misled the directors of the MRCF by suggesting that claims for compensation would be fully funded with $293 million. This arguably contravenes section 52 of the Trade Practices Act. It is disgraceful conduct, and I have raised this matter on a few occasions in the house — —

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

Water: Gippsland supply

Hon. P. R. HALL (Gippsland) — Today I join with the Yarram branch of the Young Farmers Federation in expressing its concern about falling ground water pressures in Latrobe and some of the other aquifers in the Gippsland basin. A fair bit of work has been done on this, and some reports have been produced by the Senate and the CSIRO identifying a significant risk of

land subsidence, a possibility of saltwater intrusion in some areas, a possibility of reduced surface stream flows, falling water levels in irrigation bores, and restrictions on further irrigation development in the area.

The Yarram Victorian Farmers Federation believes that the state and commonwealth governments should jointly fund further studies to look at the continued monitoring of the coastline for evidence of land subsidence, better knowledge of the risks of saltwater intrusion and its effects on stream flow, more studies on the potential of further falls in the levels of irrigation bores, and the preparation and costing of plans to remedy the situation by recharging the aquifers.

To date these reports have been very useful, but further work needs to be done to ensure that these issues are continually monitored and appropriate plans put in place. One of those interim measures may be to provide support to irrigators who need to lower their bores to gain continued access to that ground water. I urge the federal and state governments to continue to work together on this important issue.

PAPERS

Laid on table by Clerk:

Audit Act 1994 — Report on the Performance Audit of the Victorian Auditor-General's Office, December 2004.

Ombudsman's Office — Report, 2003-04.

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

Colac Otway Planning Scheme — Amendment C35.

Dandenong — Greater Dandenong Planning Scheme — Amendment C31 (Part 2).

Hume Planning Scheme — Amendment C51.

Kingston Planning Scheme — Amendment C50.

Knox Planning Scheme — Amendment C7.

Latrobe Planning Scheme — Amendment C27 (Part 1).

Moreland Planning Scheme — Amendment C45.

Queenscliffe Planning Scheme — Amendment C14.

Shepparton — Greater Shepparton Planning Scheme — Amendment C47.

Stonnington Planning Scheme — Amendments C5 (Part 2) and C36.

Statutory Rules under the following Acts of Parliament:

Births, Deaths and Marriages Registration Act 1996 — No. 143.

National Parks Act 1975 — No. 142.

Subordinate Legislation Act 1994 —

Minister's exception certificate under section 8(4) in respect of Statutory Rule No. 142.

Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 143.

Victoria Grants Commission — Report for the year ended 31 August 2004.

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

Death Notification Legislation (Amendment) Act 2004 — Remaining provisions — 26 November 2004 (Gazette No. S246, 26 November 2004).

Limitation of Actions (Adverse Possession) Act 2004 — 26 November 2004 (Gazette No. S245, 26 November 2004).

Mental Health (Amendment) Act 2003 — Part 2 — 6 December 2004 (Gazette No. G49, 2 December 2004).

PUBLIC ADMINISTRATION BILL

Second reading

Ordered that second-reading speech be incorporated for Mr LENDERS (Minister for Finance) on motion of Hon. J. M. Madden.

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

That the bill be now read a second time.

The government is committed to reinvigorating the public sector and valuing public servants who work to deliver services to Victorians. The principles of impartiality of advice and employment on merit are crucial to the integrity of the system and the continued provision of high quality services to the public.

This bill preserves these principles and articulates a new set of enduring values for the public sector in Victoria.

The bill:

repositions Victoria at the forefront of public sector reform;

honours the government's commitment to repeal the Public Sector Management and Employment Act 1998; and

ensures that public entities adhere to the highest standards of corporate governance.

The 1998 act sought to position the public sector on a closer footing to the private sector by giving overriding emphasis to

financial efficiency. Section 3(a) of that act is testament to the view prevailing within the government at that time that government is merely a collection of business units.

This government does not share that view. Although financial efficiency remains an important goal, this government recognises that the fundamental role of the public sector is to serve in the public interest.

Viewing government as a collection of business units leads to fragmentation, duplication and a system where individual units act upon priorities that potentially isolate them from the achievement of the government's broader policy objectives.

The fragmentation into so-called business units under the current model has sometimes stood in the way of a more coordinated approach to meeting the needs of the community. Although the public rightly expects the public sector to be run efficiently, it also wants seamless delivery of government services.

The government recognises that an objective and impartial public service is fundamental to the Westminster system of government.

Under these arrangements, elected governments exercise their judgment on the impartial advice of public servants serving the public interest. This system requires that public servants, unlike their counterparts in the private sector, owe a higher duty to the public interest. Loss of impartiality in the public service ultimately leads to an erosion of trust in government.

A further area where public sector employment is different from the private sector relates to the strict adherence to the principle of appointment on merit. The government is committed to protecting public employment from politicisation and to ensure the principles of merit and equity are strengthened. The existing act does not go far enough in protecting these concepts.

With the strengthening of the principles of public employment, and the need to provide a more integrated service delivery across government, as contemplated by the bill, the current Office of Public Employment is to be replaced by a new statutory authority, the State Services Authority.

The authority's responsibilities will include those which currently reside in that office along with functions relating to service delivery, work force development and the governance of public entities.

The bill also contains a part dealing with the governance arrangements for public entities. Victoria has a long tradition of using entities outside departments to perform functions or provide services on behalf of government. These entities take a range of legal forms including corporations, statutory authorities, advisory committees, unincorporated bodies and incorporated associations.

Over the decades, and under successive governments, public entities have been created in an ad hoc fashion — without any overarching policy, or consistent legislative or corporate governance framework.

As a result, there are currently a large number of such bodies, carrying out critical services. These bodies range in size and function from VicRoads to small rural cemetery trusts or committees of management.

Events in the private sector have highlighted the risks — financial and otherwise — that can arise in the absence of clear corporate governance, and accountability to the government and the community. The governance arrangements in the bill aim to improve government's ability to manage the challenges associated with these entities' operations.

I now wish to identify some key areas of the bill.

Employment arrangements

The bill does not change the current employment arrangements for departmental heads, heads of public entities, ministerial advisers, judicial employees, or the heads of administrative offices. For example, the Premier remains the employer of all departmental secretaries.

With only minor variations, the bill does not affect existing powers of public sector employers. Similarly, there is no diminution in the terms and conditions of existing employees.

The bill maintains the ability of certain office-holders such as the Auditor-General and the Ombudsman to exercise independent employment powers in relation to their offices.

Scope of the bill

The bill better defines the public sector by establishing three distinct classes of entity within the sector comprising of:

the public service;

public entities; and

special bodies.

'Public service body' corresponds to the existing definition of 'agency' in the current act which includes departments and administrative offices and has now been amended to include the State Services Authority.

'Public entity' is a new definition which replaces and modifies the definition of 'public authority' in the current act. This new definition covers public entities owned by government such as statutory authorities, entities where government has control of a board of directors such as corporations and incorporated associations. The decision to bring ministerial advisory committees under the public entity provisions of the bill will be made on a case-by-case basis.

'Special body' is a new definition for those parts of the public sector which might be considered to be part of government in a general sense, but operate under arrangements which provide for a level of autonomy in their functions, such as the Ombudsman, the Auditor-General and Victoria Police.

It is necessary to note that funded agencies such as community health centres which receive funding from government, but are not controlled by government, are specifically excluded from the ambit of the bill.

The bill also creates a small category of exempt bodies to which the bill does not broadly apply. These entities are the courts, local government, universities, the Office of Public Prosecutions, parliamentary committees and entities with interjurisdictional appointments or which are established under intergovernmental arrangements.

Public sector values and principles

The principles of public sector employment are basic to an apolitical public sector, serving the government of the day. The current principles have been significantly expanded in the bill and take account of the United Kingdom's well respected principles enunciated by Lord Nolan. The principles not only ensure the provision of frank and impartial advice, but also contain a need to be responsive. In addition, public officials must behave with integrity, impartiality, be accountable for their actions, respect their colleagues and demonstrate leadership by actively promoting these values.

The employment principles found in section 8 of the current act are also found in clause 8 of the bill. These principles have been strengthened by the addition of a principle which obliges public service heads to foster the development of a career public service.

The State Services Authority

The new State Services Authority is established by the bill. The authority has four key roles:

> role 1 will be to identify opportunities to improve the delivery and integration of government services and report on service delivery outcomes and standards;
>
> role 2 will be to promote high standards of integrity and conduct in the public sector;
>
> role 3 will be to strengthen the professionalism and adaptability of the public sector; and
>
> role 4 will be to promote high standards of governance, accountability and performance for public entities.

The authority consists of a chair, a new public sector standards commissioner and other commissioners as required.

Under role 1, the bill empowers the authority to carry out different types of reviews. Ministers and secretaries will be able to task the authority with a 'systems review' to look at key issues, particularly those affecting the whole of government, and to report back with recommendations.

The bill also provides for the authority to undertake 'special inquiries' or 'special reviews' at the request of the Premier.

Special bodies (but not exempt bodies) can be subject to review under the 'special inquiry' provisions of the bill.

Similarly, the authority cannot review the exercise of any function that is judicial or quasi-judicial in nature. This limitation is to preserve the independent exercise of those functions by certain entities.

Under role 2, the public sector standards commissioner is charged with the task of promoting high standards of integrity and conduct in the public sector.

The robust protection of merit in this bill includes the right of an employee to have an employment decision reviewed by the public sector standards commissioner. This review is limited to an error of law or a deficiency in a selection process in relation to appointments or promotions.

The public sector standards commissioner can independently evaluate complaints and make recommendations to the relevant employer. If the employer fails to adopt the public sector standards commissioner's recommendation, he or she must provide a written explanation to the public sector standards commissioner and the complainant within seven days. The public sector standards commissioner may then choose to report on that review to the Premier who must table that report in Parliament.

The public sector standards commissioner is appointed by Governor in Council, cannot be removed without a vote by both houses of Parliament, and replaces the commissioner for public employment.

Under role 3, the State Services Authority will promote public administration as a challenging and fulfilling career. The authority will support secretaries in tackling key work force development issues such as recruitment, retention, professional development, remuneration and human resources and management.

Under role 4, the authority will be responsible for providing advice on the governance and performance of public entities.

Operation of public entities

The bill establishes a new governance framework for public entities. This framework differentiates between entities created prior to, and following, commencement of the bill.

The bill is flexible and provides mechanisms to enable existing public entities to be brought under the bill's governance arrangements for new entities, either wholly or in relation to specific provisions only if required. Similarly, new public entities can be excluded from these arrangements either wholly or in part.

These mechanisms are necessary to acknowledge the wide variety of public entities which exist, and the need to avoid the 'one size fits all' approach. These mechanisms provide a flexible means to consider carefully how, and indeed if, the bill's governance arrangements should apply to a particular type of public entity.

Governance standards for public entities created after commencement of the bill.

The bill establishes a governance and accountability framework for public entities created by government after the bill becomes operational. The framework draws on a variety of sources including Australian standards and the Corporations Act 2001 (Cth) to provide basic minima with which new public entities must comply. The bill covers issues such as directors' duties, duties of the board as a whole, duties of a chair, conflicts of interest and the creation of subsidiary entities.

The obligations are couched in non-prescriptive terms and allow entities significant flexibility to design governance processes which suit their operations. This approach seeks to ensure that public entities have sound governance processes, while maintaining flexibility. The bill also includes a priority provision which operates to give the bill priority over other legislation. The priority provision is structured in such a way, however, to ensure that:

> a more detailed governance process in another statute is not overridden by the generic principles in the bill; and
>
> compliance with a more detailed or stringent process in another statute constitutes compliance with the bill.

These modifications ensure that the bill minimises the possibility of conflicting governance arrangements or the creation of duplicate obligations. Similarly, the bill specifically provides that public entities may adopt and adapt policies from other public sector bodies to meet their obligations under the bill.

Other measures to ensure the integrity of public entities are standard removal provisions for board members, a prohibition on the making of loans to directors, and requirements to notify the board if any member stands for Parliament or local government. In keeping with the independent exercise of quasi-judicial functions, entities exercising quasi-judicial functions are not subject to the general removal provisions. A director of an entity with quasi-judicial functions must however stand down from their position if charged with an indictable offence, until the charge is finally determined.

Provisions affecting public entities established before passage of the bill

The bill contains a number of provisions which apply to existing public entities.

The bill contains a power for the Premier to seek non-financial information from a public entity, or a class of public entity, and a power for the Treasurer or the minister administering section 44A of the Financial Management Act 1994 to ask a public entity or a class of public entity for any financial information. These powers improve accountability and provide a means by which government can be informed of risks arising within a public entity, and allow them to plan any appropriate remedial action. Neither of these powers exist in this form under the Financial Management Act 1994 nor other legislation at present.

The bill also contains a power for the Governor in Council to issue an order requiring a public entity, or class of public entity to comply with a specified whole-of-government policy. This power provides a means for reducing the fragmentation in approach in relation to the application of certain government policies to public entities. For example, a whole-of-government direction could be used to achieve economies of scale, clarify the application of certain policies to public entities, improve service delivery or support a whole-of-government approach in key policy areas. Once again, the power is restricted to preserve the exercise of independent statutory functions, and cannot be used to bring about a specific individual result or outcome in a particular case.

Finally, the bill requires public entities to keep basic documents relating to their operations, such as business plans, corporate plans, letters of appointment and other accountability documents. The government is, however, mindful of not wishing to impose unnecessary burdens on small public entities or public entities which have no control over government funds. Accordingly, the bill sets out reduced documentation requirements for small public entities (as defined in the regulations) and advisory public entities. These requirements can be reduced further by order in council if so desired.

Provisions amending the Parliamentary Officers Act 1975

The bill also includes provisions amending the Parliamentary Officers Act 1975. A review of the Parliament's administrative arrangements has been undertaken by the Parliament's presiding officers and these provisions implement the new structure by reducing the administrative structure of the Parliament of Victoria from five departments to three.

Under the new arrangements, the Department of the Parliamentary Library and the Department of the Victorian Parliamentary Debates will no longer exist as distinct departments. Instead, the functions currently performed by these departments will fall within the Department of Parliamentary Services, which will be jointly administered by the Parliament's presiding officers.

The three department model is used by the West Australian and federal parliaments and is currently considered the best practice model for parliamentary administration.

Protection from reprisal

The bill establishes a new offence for detrimental action taken against a public official, for the reason that the person is a public official. This provision is designed to provide greater protection to 'front line' public sector employees, in particular nurses, child protection workers, mental health workers and other employees who may be subject to intimidation or harassment in their everyday work. This provision acknowledges the valuable contribution that public sector employees provide in serving the public interest.

The reprisal provisions are not intended to, and do not prevent public discussion or criticism of public officials. Such criticism can be made without breaching the provision where the criticism is based on the official's performance, or the performance of his or her organisation, as this is a matter within his or her responsibilities.

These provisions are not intended to, nor do they in any way affect the operation of parliamentary privilege. Such a change would require express intent and there is no such intent.

The bill provides a modern, contemporary structure for the public sector. The new State Services Authority will play a significant role in ensuring that the public service, and the public sector more broadly, are adequately prepared for the challenges of the future. The public sector values and employment principles have been modernised and strengthened. The governance arrangements in the bill will help government manage both financial and non-financial risks associated with public entities carrying out functions on its behalf.

I commend the bill to the house.

Debate adjourned for Hon. BILL FORWOOD (Templestowe) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

MULTICULTURAL VICTORIA BILL

Second reading

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

Hon. J. M. MADDEN (Minister for Sport and Recreation) — On behalf of the Minister for Aged Care, Mr Gavin Jennings, I want to make a few comments. There have been some minor amendments to this bill on receipt from the other chamber, and that was in response to issues raised by the opposition. The principles which built on the preamble were amended in the Legislative Assembly. On behalf of Minister Jennings I would like to thank members of the opposition for their input. Those principles highlighted the united shared commitment by all Victorians to a democratic framework governed by the rule of law and also the shared commitment to the interests and future of the state, the nation and its people. In making those comments pursuant to sessional order 34, I move:

That the bill be now read a second time.

The purpose of this bill is to:

establish principles of multiculturalism;

repeal the existing Victorian Multicultural Commission act 1993 and re-establish the commission within this act; and

establish reporting requirements for government departments in relation to multicultural affairs.

Victoria's social, cultural and economic life has been invigorated by successive waves of immigration, providing an outstanding example of the positive effects of our cultural and linguistic diversity.

This has made Victoria an open and inclusive society that readily embraces the rest of the world, delivering many benefits for our community.

In the global economy, the ability to cater to a wide variety of languages and cultural differences is invaluable.

Tourism, sport, business investment, arts and education are some of the areas already reaping the rewards of Victoria's diversity.

The Multicultural Victoria Act will:

recognise the social, cultural and economic contribution of Victoria's cultural and linguistic diversity; and

promote Victoria's diversity, through which the state's cultural and economic competitiveness will be further enhanced.

However, as was made clear in the discussion paper, the multicultural Victoria act:

will not create new 'rights' ;

will not impose obligations on any Victorians to comply with other cultural norms or modify their own beliefs and customs;

will not create new offences. The establishment of community norms of tolerance and fair treatment are already established under the Equal Opportunity Act 1995 or the Racial and Religious Tolerance Act 2001.

The government's approach to multicultural affairs to date has been based on the commitment that all Victorians should uphold common civic values, rights and obligations including:

respect for institutional structures;

participation in support of Australian democracy and its institutions;

respect for the law;

respect for and tolerance of others' beliefs and practices;

individual freedom of association;

prime loyalty to Australia's interests; and,

English as the national language.

This approach is maintained through this proposed act, which in effect builds on the government's existing policy framework and legislation.

Consultation process

In developing this legislation the government appointed an independent consultative committee comprising of:

Professor John Nieuwenhuysen as chair;

The Hon. Maureen Lyster; and

Professor the Hon. Haddon Storey, QC.

The committee consulted extensively, providing an opportunity for the community to have input into what form the legislation should take.

I wish to acknowledge and thank the committee for their work and providing the government with a well considered report.

Role of legislation

Multicultural legislation is generally enacted to demonstrate a commitment to promoting multiculturalism, achieving social cohesion and espousing the values of cultural diversity as guidance for public policy makers and service delivery.

In a strong democracy it is up to the community to ensure that it deals respectfully and tolerantly with each other.

However, it is a role for government to actively promote policies that strengthen all aspects of the Victorian community and to show leadership in multicultural affairs and policies of inclusion.

The bill

I now turn to the substance of the bill.

As mentioned earlier, the purpose of this bill is to:

establish principles of multiculturalism;

repeal the existing Victorian Multicultural Commission Act 1993 and re-establish the commission within this act; and

establish reporting requirements for government departments in relation to multicultural affairs.

Principles of multiculturalism

Principles within the legislation must be principles that we can all embrace and which reflect the tolerant, law abiding, democratic and aspirational aims of the Victorian community.

The bill provides an overarching preamble and a set of principles.

The preamble asks that the parliament of Victoria:

recognises and values the cultural, religious, racial and linguistic diversity of the people of Victoria;

promotes the state as a united community with shared laws, values, aspirations and responsibilities within which people from a diversity of backgrounds have —

The freedom and opportunity to preserve and express their cultural heritage;

The freedom and opportunity to participate and contribute to the broader life of society; and

Equal rights and responsibilities under the laws of Victoria.

I should state that in response to issues raised by the opposition the principles, which build on the preamble, were amended in the Legislative Assembly.

I thank the opposition for their input.

The principles highlight:

the united shared commitment by all Victorians to a democratic framework governed by the rule of law;

the shared commitment to the interests and future of the state, the nation and its people;

mutual respect and understanding;

the promotion and preservation of diversity and cultural heritage;

that all Victorians have shown that they can work together to build a positive and progressive future and that such cooperation be encouraged so as to enhance Victoria as a great place in which to live, work, invest and raise a family;

that all Victorians are equally entitled to access opportunities and participate in and contribute to the social, cultural, economic and political life of this state; and

that all Victorians have a responsibility to abide by its laws and respect the democratic processes under which those laws are made.

Victorian Multicultural Commission

This bill will repeal the existing Victorian Multicultural Commission Act 1993 and re-establish the commission within this proposed act.

It will also incorporate a number of amendments within the commission, including:

increasing the maximum number of commissioners from 10 to 12, which will in effect incorporate the commission's current practice of co-opting two young persons;

create a part-time deputy chairperson position;

increase the maximum number of terms that commissioners can be appointed for from two to three so as to ensure continuity and maximise the experience of serving commissioners; and

an amendment to the VMC's consultation function (s8(d)) that acknowledges the commission's existing role in conducting public consultations on the whole-of-government multicultural affairs report.

Reporting requirements of government departments and the minister

The legislation incorporates the current whole-of-government multicultural affairs reporting requirements for Victorian government departments to report on:

the use of language services;

communications in languages other than English;

major improvements or initiatives developed to promote multiculturalism and meet the needs of Victoria's diverse communities; and

representation on government boards and committees by Victorians with culturally and linguistically diverse backgrounds.

It provides the minister with the capacity to seek additional information from departments (s20).

It also requires the minister to lay before each house of parliament a report consolidating the information submitted by the departments.

Conclusion

I trust that all members will support the bill as appropriate legislation:

to enshrine a set of principles regarding multiculturalism;

to repeal the existing Victorian Multicultural Commission Act 1993 and re-establish the commission within this act; and

to define the roles, functions and reporting requirements of government departments.

I commend this bill to the house.

Debate adjourned for Hon. ANDREA COOTE (Monash) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

FAIR TRADING (ENHANCED COMPLIANCE) BILL

Second reading

Ordered that second-reading speech be incorporated for Mr LENDERS (Minister for Consumer Affairs) on motion of Hon. J. M. Madden.

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

That the bill be now read a second time.

A key element of the government's consumer justice strategy in its 2002 election platform is to establish better enforcement mechanisms to protect consumers.

The ministerial statement on Consumer Affairs made on 14 September 2004 demonstrated how the Bracks government empowers consumers, works to ensure that the government delivers quality services to assist consumers and makes markets work for the benefit of all Victorians.

In dealing with strengthening compliance with consumer protection laws, the statement noted that promoting such compliance is a core function of a consumer protection agency and that in an increasingly sophisticated and global marketplace the challenge is to stay at the forefront of effective regulation.

The bill is the first part of the implementation of the consumer justice strategy. It will enable the government to re-orient enforcement of consumer protection legislation from reliance on criminal prosecutions to a greater reliance on civil and administrative interventions.

The objective is a more decriminalised enforcement strategy under which compliance with consumer protection laws, particularly the Fair Trading Act, is seen as a matter for all sectors of industry, not just the more extreme cases that warrant criminal prosecution.

To this end, the bill strengthens the Fair Trading Act, Victoria's primary consumer protection law, and provides for these improvements to apply to other consumer acts listed in the schedule to the Fair Trading Act.

The bill strengthens the Fair Trading Act by providing for an expanded civil injunction power, consistent with powers in other state and territory fair trading laws and the Trade Practices Act, and by reproducing recently amended provisions of the Trade Practices Act regarding adverse publicity orders.

These powers will enable the courts, in appropriate circumstances, to make orders such as requiring the institution of a fair trading compliance program, an accounting of moneys received from consumers, refunds and the transfer of property, the honouring of promises contained in misleading, deceptive or false advertisements, and the publication of corrective advertisements and advertisements that acknowledge breaches of the law.

The bill expands the list of consumer acts to which these and other enforcement and compliance provisions of the Fair Trading Act will extend to.

The bill also provides for a range of other amendments, including the insertion of infringement notice capabilities in several acts, streamlining the process for registering enforceable undertakings with the Magistrates Court, and enabling the director of Consumer Affairs Victoria to obtain information from traders about their compliance with consumer protection laws.

As a complementary measure, the bill standardises and streamlines the enforcement and compliance mechanisms in the various consumer acts.

The second part of the consumer justice strategy is a new, recently published, compliance and enforcement policy for Consumer Affairs Victoria setting out its objectives when responding to breaches of consumer protection laws, these objectives being to stop the unlawful conduct, provide for compensation or other redress for those affected by the conduct, ensure future compliance with the law, raise awareness of legislative requirements through publication of enforcement outcomes and the use of other compliance tools, and, finally, to deter and, if necessary, punish wrongdoers.

These objectives emphasise that enforcement is not just about punishment. As the ministerial statement indicated, it should also be about promoting industry awareness of the law and the need for compliance, and about being targeted, proportionate and cost effective, using such measures as education, warnings, enforceable undertakings and remedial injunctions, with prosecution as a final resort.

Other features of the bill include amendments to the Sale of Land Act 1962 to allow genuine bids by co-vendors at public auctions without such bids having to be made by the auctioneer; to the Estate Agents Act 1980 to remove the requirement for estate agents to report inadvertent trust account irregularities that are corrected within two business days of their discovery and to give the director of Consumer Affairs Victoria a more streamlined capacity to require information and documents for the purposes of monitoring compliance with the act and conducting trust account audits.

The Credit (Administration) Act 1984 will be amended to enable grants from the Consumer Credit Fund for the conduct of legal proceedings, which will allow the government to run test cases. Members of the consumer credit fund advisory committee will be able to be remunerated from the fund for their expanding work in advising the government on the use of the fund.

I commend the bill to the house.

Debate adjourned for Hon. B. N. ATKINSON (Koonung) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

EMERGENCY SERVICES TELECOMMUNICATIONS AUTHORITY BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) on motion of Hon. J. M. Madden.

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

That the bill be now read a second time.

The purpose of this bill is to establish a statutory authority to be known as the Emergency Services Telecommunications Authority (ESTA). ESTA will have the clear statutory duty and responsibility for the provision of multi-agency emergency services telecommunications across Victoria.

The background of emergency services telecommunications

The second-term Bracks government is committed to enhancing emergency services telecommunications by establishing an integrated statutory authority, with a clear legal responsibility for managing and providing the state's emergency services telecommunications system.

This commitment is in response to the 2001 Metropolitan Ambulance Service Royal Commission, which made broad-ranging recommendations for the reform of Victoria's emergency service telecommunications. One of the key issues highlighted was the need for revision of the existing service delivery arrangements. In response, the government brought the core functions of multi-agency emergency services telecommunications under public sector control. This was partly achieved with the formation of Emergency Communications Victoria (ECV) in 2002. This process will be completed by the implementation of ESTA.

Emergency services telecommunications are a vital link in the chain between the public and its emergency services organisations in an emergency. The establishment of ESTA will provide greater transparency and accountability. ESTA will have clear statutory objectives to provide the vital emergency communications link between Victorians and the emergency services organisations, via a telecommunications network linking the essential operations of emergency services career and volunteer workers in the field.

ESTA's key benefits

The establishment of ESTA will ensure government provides a comprehensive, seamless and holistic network management approach to emergency services telecommunications. It will ensure an appropriate single point of responsibility for the management of these services across government, by relieving the emergency services organisations of their legal duties for call taking and dispatch, and concentrating these responsibilities in the new authority.

Given the complex and continuously evolving nature of emergency services telecommunications systems, it is important that there be a single, integrated and authoritative point for the management of call-taking and dispatch and other emergency services telecommunications across government. By their nature, such systems are multi-agency and involve significant costs.

ESTA will fulfil this role, by managing a range of important new multi-agency emergency service telecommunications technology developments. Key projects currently being developed will replace existing ageing communications technologies, and provide opportunities for better integration of other important emergency services, such as Rural Ambulance Victoria, into statewide emergency services telecommunications.

Under this bill, ESTA and the emergency services organisations to which it provides services will be required to act in accordance with the following core principles:

service delivery to the Victorian community and to the emergency service organisations;

a coordinated, integrated approach to emergency telecommunications and other communications services;

promotion of trust and open communication; and

openness, flexibility, and accountability in service provision.

Partnership model replacing contractual model

At present, Emergency Communications Victoria provides services to the emergency services organisations by a complex contract. This excessively legalistic model, whose origins can be traced back to the privatisation of this function in the 1990s, entrenches conflict rather than fostering cooperation, as well as leading to additional costs for the parties, and discouraging problem solving.

The introduction of ESTA will see this approach replaced by a partnership model between ESTA and the emergency services organisations. Contracts will be replaced by a memorandum of understanding (MOU). The MOU will ensure that the parties have a clear understanding of their respective responsibilities and accountabilities for the delivery of emergency services telecommunications to the Victorian community. The MOU is currently being developed, and will be finalised before ESTA becomes operational in 2005, well before the Commonwealth Games in 2006.

Any future change or development in ESTA's services will occur through a formal process of consultation between it and the emergency services organisations.

ESTA governance

The structure of the authority will build upon the strengths of the current ECV board. The bill provides that the composition of the authority will be skills based, and will include commercial, technical, legal, operational, financial or functional expertise. It will broaden the board's expertise by including people with significant experience in the emergency services sector.

Authority members will be appointed by the Governor in Council upon recommendation of the minister, who will consult with the Minister for Health regarding the

appointment of one member. This will ensure that the ambulance services are adequately represented on the board.

The bill will further strengthen the new partnership model by legislating for an internal advisory committee of ESTA, comprising all emergency services organisation representatives. This legislated committee will provide a forum for the emergency services organisations to ensure that ESTA is fully aware of each of their individual requirements, and will enhance communication between ESTA and the emergency services organisations. The committee will perform an advisory function, and executive decision making will remain the responsibility of the ESTA board.

The bill provides that the authority will be directly accountable to the Minister for Police and Emergency Services. As a statutory authority, ESTA will be subject to an increased accountability and reporting regime. ESTA will be required to report to:

Parliament via its annual report;

the minister via its annual corporate planning process;

the emergency service organisations in relation to its agreed performance standards; and to

its own advisory committee to the board via monthly reports.

ESTA will also be required to comply with the reporting requirements of the Financial Management Act 1994.

ESTA's operations

ESTA will be responsible for emergency telecommunications, including call taking and dispatch and related information transfer services for emergency services. Establishment of ESTA will also allow the progressive extension of the emergency communications network to other agencies as the need arises.

As is currently the case with ECV, ESTA will initially provide these services to the following emergency services organisations:

the Country Fire Authority;

the Metropolitan Ambulance Service;

the Metropolitan Fire and Emergency Services Board;

Victoria Police;

Victoria State Emergency Service.

The bill has been drafted to give ESTA the ability to expand its services in future, in an agreed, structured way. A need for an expansion may arise as a result of the following:

the emergence of new emergency service telecommunications technologies;

the introduction of a new customer; or

additional requirements of an existing customer.

ESTA will need to seek approval for expansion via its business planning process, and will need to consult with the emergency services organisations before seeking approval.

The bill gives other ministers who have an interest in ESTA a formal role at key points, by providing input into any substantive matters (e.g. the approval of the annual corporate plan, including the setting of annual fees).

ESTA's role is to work in cooperation with other emergency services organisations in relation to emergency telecommunications services. This will allow emergency service organisations to retain management of critical aspects of their own operations in the following way:

by being able to assess and vary their own operational standards (for example, in the case of the Metropolitan Ambulance Service, its own defined clinical standards, patient requirements and its own call-taking and dispatch protocols);

by retaining the right to manage their own resources; and

by being able to assume direct control of communications in the event of specific incidents or emergencies.

The bill reflects this well-established and agreed division of responsibilities.

Arrangements for the provision of services

The bill provides that ESTA, in consultation with emergency services organisations, may determine an 'appropriate administrative arrangement' for the provision of emergency telecommunications and other communications services.

The administrative arrangements will comprise a memorandum of understanding, which will set out the relationship between ESTA and the emergency services organisations, and attached, agency-specific schedules containing performance standards. Qualitative and quantitative performance standards will be determined by the Emergency Services Commissioner in consultation with ESTA and the emergency services organisations. These standards will apply to the provision of ESTA's services to each emergency service organisation.

To ensure a smooth transition, ESTA's initial performance standards will be consistent with those already being delivered by Emergency Communications Victoria under its current contract.

The performance standards setting, monitoring and investigation regime will be strengthened and clarified. Changes to expand the standards setting and monitoring and investigative powers of the Emergency Services Commissioner, coupled with the annual report requirements applying to statutory authorities, will further enhance the transparency of ESTA's operations compared to current arrangements.

Investigation of ESTA's performance

As a statutory authority, ESTA will be subject to three complementary public sector review frameworks:

non-financial performance — the Emergency Services Commissioner in the Department of Justice will be responsible for assessing the effectiveness of ESTA's non-financial performance, from a public safety perspective. The Auditor-General will also continue to

maintain the capacity to potentially investigate issues dealing with non-financial performance;

financial performance — this function will continue to fall to the Auditor-General; and

public complaints — the Ombudsman and the Emergency Services Commissioner will have the capacity to investigate individual complaints from the general public.

The Emergency Services Commissioner plays an important advisory role to government. Under the bill, the commissioner will be able to monitor and investigate the non-financial performance of ESTA. Such investigations will be initiated from either the commissioner's 'own motion'; at the request of the minister; or at the request of an emergency services organisation to which ESTA provides services.

The bill provides that the commissioner's monitoring and investigation powers are in respect of the provision of services by ESTA to emergency services organisations. As a result of an investigation, the commissioner may make recommendations to the minister about any matter arising.

The bill will not, however, empower the Emergency Services Commissioner to monitor or investigate the activities of emergency services organisations such as the Metropolitan Ambulance Service, Rural Ambulance Victoria, or Victoria Police in relation to their own emergency response activities.

Any issues concerning the adequacy of these agencies' services can be readily addressed through these agencies' own established internal monitoring processes, coupled with the Ombudsman's existing external investigation powers.

Funding

ESTA will be funded by contributions from the emergency service organisations. This will provide funding stability, enabling ESTA to deliver its base line level of functionality. By directly funding ESTA, emergency services organisations will be encouraged to effectively prioritise their needs. This model will also help to contain the costs of emergency services telecommunications, by imposing a discipline on the sector in relation to further expansions in service demand and cost.

The bill enables ESTA to determine a fee to be charged for the provision of its core services, which must be approved by the minister. Consistent with the cooperative framework on which ESTA is based, in determining fees for its core services, ESTA will be required to consult with the relevant emergency services organisation. Provisions in the bill in relation to fees for core services promote openness and accountability by requiring ESTA to specify the method by which fees are determined.

Conclusion

It is envisaged that the governance arrangements and broad structure provided by the bill will enable ESTA to function optimally as an integrated statutory authority.

The implementation of ESTA represents a significant step forward for the Victorian community in the critical area of multi-agency emergency services telecommunications.

I commend the bill to the house.

Debate adjourned on motion of Hon. RICHARD DALLA-RIVA (East Yarra).

Debate adjourned until next day.

CORRECTIONS AND MAJOR CRIME (INVESTIGATIVE POWERS) ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) on motion of Hon. J. M. Madden.

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

That the bill be now read a second time.

This bill will amend the Corrections Act 1986 to provide the Secretary of the Department of Justice with a new power to prevent prisoners in his or her custody from changing their names for improper purposes. The bill also amends the Major Crime (Investigative Powers) Act 2004 to clarify a number of provisions in relation to video recording of attendances to the Director, Police Integrity, complaints arrangements and the delegation of functions for the chief examiner and special investigations monitor.

Currently, a prisoner can apply to the registrar of births, deaths and marriages to change his or her name in the same way as other persons. However, a prisoner's name change may give rise to serious concerns that do not arise in the case of name changes by other members of the community.

A prisoner's name change may be offensive to victims of crime and their families and may give rise to safety and security problems in administering a prison. These issues were highlighted recently when a high profile prisoner serving a sentence for serious offences against women indicated that he would apply to the registrar of births, deaths and marriages to change his name to a female name. Such a name change is likely to offend victims, their families and other members of the community.

The bill seeks to address this issue by subjecting prisoners' name change applications to the scrutiny of the Secretary to the Department of Justice, and providing the secretary with an appropriate power to prevent a prisoner from making an application to change his or her name.

The secretary will be able to approve a prisoner's application for a change of name if the prisoner satisfies him or her that the change of name is necessary or reasonable. An example of this may be if a prisoner wishes to adopt a new name for religious or cultural reasons.

Even if a prisoner makes a strong case for a change of name, the Secretary must refuse a name change in specified circumstances. These are if the secretary considers that the proposed name change would be reasonably likely to:

be a threat to prison security;

jeopardise a prisoner's safe custody and welfare;

be used to further an unlawful activity or purpose; or

be offensive to a victim of crime or an appreciable section of the community.

The Victorian registrar of births, deaths and marriages will be able to proceed to register a prisoner's change of name only if he or she has received a copy of the secretary's approval. In the event that a prisoner's change of name is inadvertently registered without the secretary's approval, the Victorian registrar will be empowered to correct the register. This could occur, for example, if a prisoner fails to obtain the secretary's approval for a name change and deliberately conceals the fact that he or she is a prisoner when applying for a name change.

It will be an offence for a prisoner, or a person on his or her behalf, to apply for a name change without the secretary's approval. This is intended to deter those who would seek to circumvent the new requirements contained in the bill.

The bill will also clarify the existing power of prison authorities in section 47D of the Corrections Act 1986 to stop or censor a prisoner's mail if it is threatening or harassing or in other specified circumstances. That power was intended to allow mail to be stopped or censored before it leaves a prison. However, the wording of that section appears to refer to mail that has already been sent. The proposed amendments will clarify that the power in that section applies to mail that is yet to be sent by a prisoner, as was originally intended.

This power to stop or censor prisoners' mail will also be extended to enable prison authorities to stop mail that contains a name change application that is made without the secretary's approval. This will provide prison authorities with an effective power to prevent unauthorised name change applications from being sent to the registrar of births, deaths and marriages.

Together, the proposed amendments will provide a tough new regime to prevent prisoners from changing their names for improper purposes. This regime will enable prisoners to change their names for legitimate reasons, while safeguarding the interests of victims and the need to ensure prison security.

The bill also amends the Major Crime (Investigative Powers) Act 2004 to clarify the video recording of attendances by witnesses on the director, police integrity. The bill currently provides that all attendances will be video recorded. This bill refines those requirements to provide that video recording will only proceed in circumstances where a person attends in response to a summons, or is required to be sworn or answer a question, or where the director, police integrity issues a certificate requiring a person to provide information, or produce documents or things, to the director, police integrity.

This bill also clarifies that anyone compelled to comply with a witness summons in relation to the chief examiner, whether he or she is required to answer questions or provide documents or things, is able to complain to the special investigations monitor. The delegation of functions of the chief examiner and the special investigations monitor are also clarified. This bill also makes a number of statute law revisions to the Major Crime (Investigative Powers) Act 2004.

I commend the bill to the house.

Debate adjourned on motion of Hon. RICHARD DALLA-RIVA (East Yarra).

Debate adjourned until next day.

PLANNING AND ENVIRONMENT (DEVELOPMENT CONTRIBUTIONS) BILL

Second reading

Debate resumed from 1 December; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution to the Planning and Environment (Development Contributions) Bill. In doing so I indicate that the opposition will propose an amendment and will seek to test it, but it does not oppose some aspects of this bill. The bill seeks to increase from $450 to $900 the maximum community infrastructure levy to be paid where the construction of a dwelling is occurring. It will amend the Planning and Environment Act to enable ministers and public authorities as well as municipal councils to collect and administer development infrastructure levies and community infrastructure levies; it will empower the minister to set standard levies that development contributions plans can be based upon; and alters provisions relating to conditions on planning permits for the provision of or payments for work services and facilities. To clarify what we are talking about here, a development contribution is defined as a one-off payment or in-kind provision of works, services or facilities provided by a developer towards the provision of infrastructure required to meet the needs of a community resulting from the development. So it is a narrow arrangement.

The minister's second-reading speech states:

Development contributions can encompass contributions for a range of physical —

and social infrastructure such as roads, drainage and community facilities.

There are some sensible concepts in this, and the government asserts that the previous level and the previous system did not work smoothly and needed some change. A review was undertaken. The government had promised a review back in the late 1990s or when it first came to government — and it looked at a development contributions system. The original system goes back to the middle 1990s.

The other issue the legislation is responding to in part is the objective of Melbourne 2030 — that is, to improve the delivery of services in newly developing suburbs and neighbourhoods. A great deal has been said over the recent period about 2030. I am not sure that this bill on its own will make a great difference to it. It may assist with certain aspects of facilities and so forth, but it seems that this is only one small part of the system.

In many ways this bill could be seen as another tax on development and on developers and an attempt by the government to find other sources of revenue that in effect enables it to build community infrastructure of various types. That is not to argue for a second that any communities do not deserve that community infrastructure and that developers do not have some obligations; it is a question of how much, the way it is implemented and the effectiveness of this system and the government's changes to it. For example, I note that the government seeks to ensure that on the edge of the city the 2030-inspired developments are able to proceed smoothly and that this will enable the early provision of infrastructure. To that extent the opposition is pleased to see that there will be provision of certain types of infrastructure. The fact that there can be ministerial and departmental level intervention to set standard levies and that ministers and public authorities as well as municipal councils have the ability to collect and administer development infrastructure levies is a new twist. It seems to me that local councils should have the primary role in planning these arrangements. Local councils should have the whip hand, as it were in being able to manage these developments including those aspects that relate to — —

Ms Hadden interjected.

Hon. D. McL. DAVIS — Ms Hadden says, 'That is if they are capable'. I would have far more faith in those local councils than I would in the minister or the department to manage these things. I do not have a great deal of faith in the ministry at the current time, and I certainly do not have a lot of faith in the ability of the department to manage these things. Indeed, the evidence is that the department is prepared to ride roughshod over local communities on many of these development proposals and is not often responsive to what the community wants. We have seen that with many developments both on the edge of the city and close into the city.

I note, as I said, that the review that sparked this legislation sought to respond to one of the key objectives of 2030. I note also that in the second-reading speech Melbourne 2030 manages to seek the development of services in growth areas to ensure that services are available early in the life of new communities by requiring new developments to make a substantial financial contribution to the provision of infrastructure such as community facilities. It is important to place this squarely in the rubric of 2030. I note that the government is struggling with its present proposal.

Hon. J. M. Madden interjected.

Hon. D. McL. DAVIS — Would you like me to spell it, Minister, or do you want me to do that later? The government is struggling with its 2030 program. Whilst we have seen a number of development approvals granted — many of them at the expense of local communities — I do not believe it has struck the right balance with its 2030 proposals in terms of central coordination and local control and decision making. What is required is for the government to take a serious re-look at its 2030 proposals. As I said, this bill is only one part of that larger structure, but it is certainly a step.

What I would say about 2030 at the moment is that the community has given a very clear indication of its views on the results of it. The local council elections in some areas around the city were almost referenda on the activities of the Bracks government and almost referenda on the councillors and their decisions about supporting the government's 2030 proposals and working hand in glove with the government to implement some of the more controversial 2030 proposals. In the area I represent, East Yarra, there was a very strong reaction in the elections for the City of Boroondara. I note the disappearance of a number of councillors after the election, and I — —

Ms Hadden interjected.

Hon. D. McL. DAVIS — Well, they have disappeared from the council because the community has made a decision that their policies and approach were not — —

An honourable member interjected.

Hon. D. McL. DAVIS — What I would say about Nillumbik is that many people there were concerned about the unnecessarily forceful approach to development, and I think that reflects the views of the broader community. I do not for 1 second resile from saying that in many of those council areas the community looked at the councillors and made a decision as to whether they would be prepared to stand up for the local community's interests and advocate on its behalf. Indeed often that meant advocating against the Bracks government and its 2030 proposals. In my experience — and I speak about the area I know

closely — City of Boroondara councillors who had the intestinal fortitude to stand up and tell the government that its proposals were wrong and were prepared to indicate that these proposals would not be facilitated by the local council were largely returned. Those councillors who took a different stance and worked at playing footsies across the table with the state government have largely been thrown out. The planning issues were not just in the city of Boroondara either, and I will come back to making some comments about community decisions elsewhere on 2030 and that whole structure in a moment — —

Ms Hadden interjected.

Hon. D. McL. DAVIS — This 2030 proposal is severely — —

The DEPUTY PRESIDENT — Order! Mr Davis does not need to respond to interjections. I ask members of the house to refrain from making interjections. I remind Mr Davis that he has been speaking for over 10 minutes but has yet to get to the content of the bill.

Hon. D. McL. DAVIS — I have got very deeply to the content of the bill. I have made some of the main points about the bill and discussed its close relationship with 2030, but I will try to take your advice, Deputy President, and avoid the interjections, even though they are very hard to resist, especially Ms Hadden's contributions!

What I did want to say about the City of Boroondara though is that I am very pleased to welcome some of the new councillors: Luke Tobin, Lachlan Williams, Phillip Healy, Nicholas Tragas and Mary Halikias-Byrnes, and to see the return of Meredith Butler, Coral Ross, Jack Wegman and Heinz Kreutz. I have left off the list Dick Menting, but I was very pleased to see him there. He has made a huge contribution to the Boroondara community through his work on the community bank in Canterbury and Surrey Hills, and I have the highest regard for Cr Menting and his contribution. I was also very pleased to see Meredith Butler returned. She took a strong stance against the government's 2030 proposals, and that was a very significant development.

I believe the Studley ward's rejection of the former mayor, Judith Voce, was a signal. She is a person of integrity, but her views were wrong for the Studley ward community. I say that personally as someone who lives there and speaks to people in the area regularly. I am very aware of the views of the people in the area. There was a decision by the community to step forward to try to protect our local amenity because that huge area of parkland in Studley Park and the facilities we have there are something we would not want to lose lightly. We are very prepared as a community and indeed as a ward to fight over those amenity issues.

The government has a long way to go with its 2030 proposals for the redevelopment of Kew Cottages. If the government pushes forward with its proposal to put monstrous multistorey dwellings — towers — in the parkland in Studley Park, it will elicit a very strong reaction. Some members of the government may find this to be jocular, but it is a deadly serious issue on which the community has passed its judgment. If the government intends to push forward with the 2030 proposals against community opposition and after the community has made its opposition clear on Glenferrie Road and Camberwell station, there will be an increasingly strong reaction in the community. Building a tall tower over the heritage-valued station at Camberwell would be quite wrong, in my view, and the community has made that point. Indeed I have spoken about it in the house before.

Closer to the city, in areas like the city of Yarra, there is no doubt that there is a strong feeling against the government's 2030 proposals as well. People at the meeting that I attended in Smith Street recently made it clear to me that that community is determined to protect its amenity, as are many others. As for Mr Mitchell's comments earlier about Nillumbik, a similar issue is arising there. Councils that are not prepared to advocate for their communities are not, in the end, supported by their communities.

Hon. R. G. Mitchell interjected.

Hon. D. McL. DAVIS — What I am saying is that across the state in a number of areas where councillors are prepared to support development proposals foisted on areas by the state government and are not prepared to advocate against those development proposals which are out of character there will be a reaction. That reaction was seen just a week or so ago at the council elections.

One of the points I want to make specifically on an aspect of the bill is that the opposition has had communication from the executive director of the Housing Industry Association (HIA). With the indulgence of the house, I will read a paragraph or two of that correspondence relating to a number of clauses in the bill. The letter from Graham Wolfe says:

> In the second reading to the bill, the minister indicated that the provision was intended to provide a mechanism that allows for the power to recover costs of the impact of

> individual developments 'where the need for works, services or facilities is necessitated by the development' and where 'the impacts cannot be reasonably anticipated' ...
>
> The proposed provision goes well beyond this intent. Its scope is effectively without boundary, can be applied to any land and its application is entirely at the discretion of the council. And while the application of the provision applies to individual developments, there is scope in the wording to apply it to a broad project-type application across several developments.
>
> The wording is therefore too broad — providing an unfettered mechanism for councils to recover costs or, as the wording suggests, conditioning the developer to provide the works, services or facilities in respect of any land.

There is an aspect of this bill that is arguably too broad. Those points are well made. Further, in a submission on the development contributions scheme (DCS), the HIA stated:

> On 8 October, HIA wrote to Peter McEwan of the department following a briefing on the DCS indicating that:
>
> > 'We remain nervous that facilitating enhanced opportunities for an unspecified number of government agencies to initiate programs (perhaps unforeseen) that support or justify new levies may have a significant impact on housing affordability, as agencies attempt to load projects on to the proposed system'.

As I said early in my contribution, the bill could be seen as another tax. If different agencies load contribution after contribution on to development, they undoubtedly will be passed through to the final consumers of those housing services — that is, the purchasers. They will pay one way or another. I am concerned also that this could be misused by the department and the government to ratchet up a number of serious impositions on development.

It is true that already the cost of housing in Victoria is rising. It is true to say that already the cost is growing significantly, particularly on the fringe of the city. As the government's green wedge policies have been put in place, there is a growing impact on the cost of land and that land cost is flowing directly through into higher prices paid by consumers of all sorts, but in particular young families on the edge of the city. There is a great Australian tradition of young families purchasing homes at a very affordable cost on the edge of a city. That is under some threat at the moment. The 2030 proposals and the green wedge interaction are pushing up the cost of land and those increased land costs will be added to by the excessive use of the development contributions approach by the government.

The opposition will move an amendment that seeks to substitute the word 'must' for 'may' where a development does not proceed — that is, that the government must return an unexpended contribution. The opposition considers this a very modest step and encourages the government to accept that amendment.

I want to make some further comments about housing affordability. The recent federal review of housing affordability across the country will not have picked up fully many of the changes that have occurred under the 2030 proposals. I think it has been only in the last 6 to 12 months that many of the impacts on the edge of the city have begun to become very clear. I think also that the 2030 developments that will occur closer to the city will be at a higher cost than we have been used to. They will be higher rise, higher density and higher intensity developments than Melbourne has been used to traditionally. That is in part what communities and, as I said, councils are reacting to. The evidence is overwhelming that the unit cost — the cost per bedroom and standard size — of many of the developments close to the city is rising significantly. That, combined with the rise that is occurring on the edge of the city is, as I said, a concern and it should concern all Victorians.

A further interaction is feeding into housing costs as well — that is, the state government's high direct taxation regime on stamp duty, and land tax to a lesser extent, on the developments; but certainly so far as holding costs and so forth go the land tax costs feed in. The stamp duty costs are very significant, and they are now not only the highest in Australia and showing no sign of serious abatement but are beginning to have, as I said, a real impact on ordinary Australian families who are simply trying to buy a small home to house their families and are increasingly facing a barrier. On one hand I suppose it encourages the home renovation industry, as people decide not to move house but instead to renovate. That is not what we always want to see. The state government has certainly filled its coffers with enormous amounts of money through land tax and stamp duty imposts.

As I said, I am concerned about the development contributions scheme that will enable the government to bypass councils. Although it is true to say that the development contributions have to be part of a plan developed through council, they can be collected by the agencies nominated or able to do so. They will grow over time and will ratchet up the impact on costs. With that contribution, as I said, the opposition intends to move its amendment but does not oppose all aspects of this bill.

Hon. P. R. HALL (Gippsland) — I welcome the opportunity to comment on the Planning and

Environment (Development Contributions) Bill and put the views of The Nationals in respect of this legislation. I want to make a couple of general comments to start with because planning and development have become dominant issues in country Victoria. We are now finding that planning and development matters are frequently being raised at council meetings, and indeed at times have generated some heated debate. There is also greater community awareness of the importance of planning and development issues in local areas.

An example I could cite is towards the start of this year we had a major review of the rural planning zones in Victoria. That issue generated much debate all around country Victoria. We also have issues such as the planning guidelines for wind farms et cetera where people have commented significantly.

We have the sensitivity of developments along some of the coastal areas in rural Victoria. These issues generate a great deal of concern, anxiety and interest among people on both sides of the fence when it comes to development along our sensitive coast. With the growth pattern in Victoria at the moment we know very well that a lot of the population growth is centred around the coast of Victoria. Whenever there is development along the coast there are issues associated with the infrastructure that need to be attached to that development. In particular waste services infrastructure along the coast of Victoria and in some of the small towns has generated some significant debate between people who want it and people who do not want it, people who are prepared to pay for it and people who are not.

Some people do not want to see development happen in a place they like — they moved there because of the ambience in the local community and do not particularly want to see development. There are others who want to maximise the opportunities, and people who have a desire to live in those nice areas want to take up those opportunities. Whenever we are talking about development and planning matters there needs to be a sensitive balance. There needs to be consideration of infrastructure provision, and I guess that is what this bill goes to, at least in part.

All governments like to boast about the growth in housing and commercial building that is taking place. In fact, the number of building permits issued and the value of them is often regarded as an economic barometer of both state and national growth. Governments like to brag about those figures from time to time. If my memory is correct, the building industry here in Victoria is worth about $15 billion per year — it is a very significant industry by all accounts. These figures are used by state and federal governments to measure growth. They are also used by the Reserve Bank of Australia in setting interest rates; as I said, they are very important barometers of growth.

I mentioned these points because we need to be reminded that all of this building activity is generated by developers — that is, people who are prepared to invest very significant amounts of money to subdivide land to open up new housing estates, or to take the punt in building multi-residential developments. As I said, the growth we experience in Victoria is largely reliant on developers. Developers are absolutely necessary for the growth of the state. At times we need to stop and acknowledge the contribution they make and not frown upon them as capitalists wanting to make a quick buck, as some would want. They are essential and they facilitate opportunities for new people to acquire housing. Governments invest and assist with growth but overwhelmingly it is the private sector, from the multinational corporations all the way down to the mum and dad investors, which has grown the state of Victoria to where it is today.

In relating those comments to this bill, this is all about developers making a contribution payment towards the public infrastructure associated with any new development. In most minds we immediately think about the new subdivision at the edge of town and the cost of infrastructure associated with it — we think of roads, footpaths, drainage, open space and the like; I understand that that is referred to as development infrastructure. Items referred to as community infrastructure include kindergartens, sporting infrastructure, libraries and the like. One component of this bill directly addresses the issue of the community infrastructure levy and increases the maximum community infrastructure levy payable by a developer from $450 per block to $900 per block. That provides greater scope for local government or the planning authorities to set what they believe is an appropriate community infrastructure levy.

Other components of this bill allow a number of agencies to collect development levies, and the minister to set standard infrastructure levies; that is important and I will come back and make reference to it later in my speech. I also wish to make some general comments about the cost of developing new housing subdivisions because these levies are directly related to the cost factor; the Honourable David Davis mentioned some of those.

I live in Traralgon, which is a rapidly developing town. It is the biggest town in the Gippsland region; it is a city of nearly 20 000 people now. If you go to anywhere on

the outer ring of Traralgon — all around the boundary — you will see new housing subdivisions being built. If you talk to some of the developers involved in the subdivision of land, subdivision is not money for jam by any means at all. The cost of development is very significant. First of all you have the land itself. We all know that land is becoming more expensive. The cost of the construction of roads, footpaths, drainage and the installation of utilities all adds to the cost, as does meeting particular planning scheme conditions, which could be related to block size or the amount of public open space required. That all contributes to the cost of any development. We need to recognise that these additional costs are reflected in the sale price to the home builder.

It was not long ago that the major cost in a house and land package was the house itself. For some time the major cost component in the metropolitan area has been the land value, and in country Victoria it is now getting to the point where the land value is close to, and in some cases exceeds, the cost of the building itself. When we are talking about development, development costs and particular levies that are being applied, we need to take all of that into account because the rapidly escalating land prices here in Victoria impact on the ability to acquire housing.

Hon. D. McL. Davis — And 1 million extra people.

Hon. P. R. HALL — The Honourable David Davis spent a little bit of time talking about housing affordability, and we need to keep it in mind when we are discussing this bill.

We need to be careful that the imposition of development costs first of all does not unnecessarily deter development. I do not think anybody is suggesting that we should put financial impediments in the way of development here. We also need to make sure that these development costs do not contribute unreasonably to the price of building blocks in this state.

The other thing which needs to be said about increasing development levies for an expanded range of purposes is we need to be careful that this does not lead to any cost shifting by both state and local governments. The state government receives substantial funds from any new development. It receives stamp duty on every block of land sold in the new subdivision as well as the original sale of the land. It may also benefit from a new land tax revenue stream, depending on the cost of that block of land and whether it is a second residence or a commercial development.

With every new development and subdivision development the state government picks up substantial revenue by way of stamp duty and perhaps also by way of land tax. We have to make sure that the state government contributes to the state's infrastructure services and does not unnecessarily pass that cost on to developers — that is, the state should also contribute to the cost of infrastructure development given that it is the beneficiary of the substantial revenue stream from developments.

Local government also benefits. It receives additional rate revenues from every new block of land created. The rate revenue collected from 60 individual blocks of land is far greater than that collected from a rural paddock prior to it being subdivided. Local government itself is the beneficiary of increased revenues from subdivisions and should also put that increased revenue towards the cost of the provision of services to people who live in those new development areas. The point I am making on this issue is that there needs to be some transparency and consideration to ensure there is no cost shifting between one level of government and another, and cost shifting at the expense of the developer when it comes to the provision of services for new subdivisions.

I turn to my experience of talking to councils — of which there are six — and developers in my electorate of Gippsland Province. Some developers tell me that it is easier to deal with one council than another, and some say that the costs involved with some councils are different from others — and the difference in development costs between municipalities can dictate where development takes place. One of the provisions in the bill enables the minister to set guidelines on development costs and give local councils a framework upon which to set those costs. That is a sensible provision which will hopefully lead to greater uniformity of development costs across municipalities in Victoria.

All these matters are about balance, consistency and transparency, which is what we need in our planning system and in encouraging development in this state. We need to have a system that provides an appropriate balance between the costs being borne by developers and those being shared by state and local governments. Having consistency from one municipality to the other is a desirable thing, but most importantly we need to have some transparency and accountability in the system so that people understand the sorts of levies that are paid and where they are directed towards.

I will not detail each of the clauses in the bill because there is no need for that. My overall comments have

touched on some of the particular provisions of the legislation. It appears to The Nationals that this is sensible legislation, and I hope the minister will apply it with that even-handedness that is so important. We will not be opposing the bill; however, the concern that has been raised by the Liberal Party is valid — that is, the requirement to refund any development contributions levy that has not been expended. That is appropriate and commonsense. I hope the government will support that amendment. This is sensible legislation, and The Nationals will not be opposing the bill.

Ms CARBINES (Geelong) — I am pleased to speak in support of the Planning and Environment (Development Contributions) Bill. The purpose of the bill is to improve the legislative framework under which the development contributions system operates. The current provisions for development contributions were introduced in 1995, and generally the provisions have been found to be unworkable. They have served neither the municipalities, the communities nor developers very well, and the evidence for that is that very few municipalities have prepared development contributions plans and had them incorporated into the planning scheme. The Bracks government made a commitment to undertake a review of the development contributions system in aiming to achieve an appropriate balance between the need for economic development and the sustainable growth of communities. The introduction to a discussion paper Minister Delahunty released in May 2003 entitled *A New Development Contributions System for Victoria,* talks about the appointment of:

> ... an independent steering committee with broad representation from local government and the development industry to conduct a review and provide advice to the government about improvements to the development contributions system.

There were about 10 members on that steering committee, including representatives from the Wyndham City Council. The chief executive officer, Mr Ian Robins, was the chair of that group. Also on that committee were representatives from other councils, such as Darebin City Council and the Rural City of Wodonga; representatives from the local government peak bodies such as the Victorian Local Governance Association and the Municipal Association of Victoria; representatives from the Urban Development Institute of Australia (UDIA) and Central Equity Pty Ltd representing the development sector; two representatives from the Department of Sustainability and Environment; and a representative from Planning Panels Victoria.

The review had two stages. Firstly, the steering committee looked at the problems of the existing system, and the second stage was to look at trialling the recommendations of the steering committee. The first stage of the reforms of the development contributions plan has already been implemented. There have been new development contributions guidelines released by Minister Delahunty, which provide guidance on applying for development contributions. There has also been a ministerial direction released by Minister Delahunty enabling essential family and children's facilities to be levied for and provided earlier in the establishment of new communities. There has also been a building practice note released providing guidance for the improved collection of community infrastructure levies. The first stage of the reform of the development contributions system has already taken place. The second stage includes the content of the bill. The amendments contained in the bill are all about fixing the workability of the development contributions system. The steering committee has gone through extensive consultation with all stakeholders in the development industry, including local government and its peak bodies, and with of course the development industry. I have met with the Housing Industry Association, the UDIA and the Property Council of Australia to discuss the content of the bill, and they have had input into the content of the guidelines which the minister will release.

Development contributions plans (DCP) will continue to be subject to the common-law principles: need — a need for the proposed infrastructure has to be demonstrated; nexus — there has to be a demonstrated connection between the development and infrastructure need generated; equity — the contributions must be fair and reasonable apportionment of cost; and finally accountability — funds collected must be spent on the infrastructure for which they were levied and be accounted for in an open and transparent manner. Development contributions plans will continue to be implemented through the publicly contestable planning scheme amendment process, including the public exhibition of the proposed amendment, the opportunity for any person to make a submission regarding the development contributions plan, consideration of submissions by an independent planning panel, and approval of the amendment by the Minister for Planning.

Specifically the bill seeks to increase the community infrastructure levy cap from the current $450 per dwelling to $900. The $900 levy cap is a much more realistic figure, reflective of the real need to provide substantial infrastructure to support the sustainable growth of new communities. The bill will also enable

state agencies to directly collect and administer levies under a development contributions plan. This is in addition to that capacity by local councils. Under current provisions a state agency can be authorised to prepare a DCP and the relevant planning scheme amendment, but the state agency cannot collect or administer the levies directly as the act requires councils to collect levies on behalf of state agencies.

The amendment contained in the bill provides for a more efficient process, giving state agencies control of the levies for infrastructure they are providing, therefore relieving councils of the burden of managing DCP levies on behalf of state agencies. Again any DCP prepared by a state agency will be subjected to a publicly contestable planning scheme amendment process. State agencies will be required to consult with the Treasurer to ensure consistency with overall government infrastructure funding and delivery timing. State agency levies will be paid into the consolidated fund, and provisions are made in the bill for the paying into and out of the fund. The minister will release a protocol to outline the process to be followed by state agencies. As I said earlier the development industry has been consulted thoroughly regarding these provisions and has had input into the intent of the protocols.

The bill also provides the option of preparing a development contributions plan utilising a preset schedule of limited infrastructure charges also known as off-the-shelf levies. These are outlined on page 4 of the minister's discussion paper 'A new development contributions system for Victoria'. I will not go through them individually but they add certainty to municipalities and may be an encouraging way to enable them to levy development contributions. The bill clarifies the use of planning permit conditions to require the provision of infrastructure where the works are necessary as a result of the granting of the permit.

The Planning and Environment (Development Contributions) Bill will, upon its passage, make the government contribution system in Victoria much more workable. It refines a system that has not worked well. In fact it has hardly been used by local councils. The provision of community infrastructure is essential to the health and wellbeing of people in communities. This bill ensures that planning legislation allows for adequate funding of community infrastructure.

I will briefly speak in relation to the opposition amendment that the Honourable David Davis flagged this afternoon. The government will not be supporting the amendment as we do not think it is necessary. The proposed opposition amendment to replace the word 'may' with the word 'must' does not recognise that the word 'may' is not being used as a discretion in this instance as is presumed by the opposition. The word 'may' is an enabling provision — that is, it enables the municipal council or state agency to pay back the amount of the levy paid to it.

The obligation of the provision is that if the council or the state agency as a development agency is satisfied that the development is not to proceed, any levy paid in respect of that development would be refunded. I want to reassure the opposition in relation to this. The refusal of a council or a state agency to refund a levy under this provision would be subject to judicial review. The use of the term 'may' rather than 'must' — which the opposition is seeking to amend — is the correct terminology for this purpose. We have sought advice from parliamentary counsel. Changing the word changes the intent of the subsection and is therefore inappropriate. The Minister for Planning in the other place has assured the industries about their concerns and has agreed to clarify the opposition of this provision in the development contributions guidelines that she will be releasing.

In conclusion, I congratulate the Minister for Planning in the other place, Ms Delahunty, on her preparedness to reform the development contributions system in this state. This bill, upon its passage, will make the development contributions system in Victoria much more workable and will enable municipalities and state agencies to levy appropriately for infrastructure needed by new subdivisions and the communities which will inhabit those subdivisions. I wish the bill a speedy passage.

Hon. J. A. VOGELS (Western) — I would like to make some comments on the Planning and Environment (Development Contributions) Bill. Victoria is fast becoming the state where one should not do business. The Bracks government is the highest taxing and the highest money-grabbing government in real terms in Victoria's history. If it cannot get its hand in your hip pocket, then it will force local governments or other statutory bodies to do so for it. Cost-shifting has become a catch phrase around local government.

Clause 5 which amends section 46 L(1)(a) of this act increases the maximum community infrastructure levy per dwelling by 100 per cent — from $450 to $900. I think a 100 per cent increase on anything is enormous especially since we often hear of inflation going along at 2.5 per cent, 3 per cent or so. But the bill also allows the minister and government agencies to collect their own infrastructure and community levies and not have to go through councils.

Developers contributing towards the cost of infrastructure is not new. In a lot of cases it is a good thing. When I was on the Corangamite shire council, which was in the last century — in the 1990s — we would have, for example, some developer wanting to put in a quarry at the end of a local road. As a council we would ask it to contribute to the maintenance of that local road. Because there was now a quarry down the end of it, you could imagine the trucks and traffic going down the road which was never built to take that in the first place. It was fair enough for council to ask the developer to put in finances or funds to help maintain the road.

At the moment there is a good example in the Western District where Farm Pride is proposing to build a $10 million egg farm. It will go down the local gravel road, if that project goes ahead and meets the planning approval. It has not at this stage; it is only on the drawing board. But if it goes ahead the residents along that quiet little road will all of a sudden find dust like they have never experienced because you will have trucks delivering pellets for the chooks, trucks taking eggs away and an enormous amount of traffic on a little local road. In cases like that you would ask the developer to help fund the upgrade because the people who have lived peacefully along that road for a long time will find enormous changes happening to them.

It concerns me that sometimes we say developers have plenty of dough and if they are going to develop an area, we should get as much money out of them as we can. In rural Victoria councils are often in a bind: they are trying to attract industry to their regions for employment and so the local government area will grow. In many cases rural area councils are trying to get industry to move to their area. They say, 'If you come down here we will give you great reductions for the first year or no rates for five years', just to try to get them to move into that local government area. It is much more difficult for rural areas to attract industry. If they say to a developer, 'If you come here we demand this, this and this,' the developer will say, 'We will find somewhere else to go. Bye. See you later'. There is a huge difference.

In rural Victoria why can't some of the money dragged out of there be returned to that local government area? A farmer told me recently he bought an out-paddock down a hopeless local road which in the winter can be accessed only by tractor. He bought the property because he needed an out-paddock but he finished up having to pay $50 000 in stamp duty. No doubt that $50 000 went into the coffers of consolidated revenue. Yet he cannot even get to that paddock in winter except by tractor — not by car or truck or anything. You would have thought maybe some of the stamp duty being collected could go back to the area where it came from to help upgrade some of those roads rather than it all going into consolidated revenue here in the city.

There are two types of infrastructure development contributions that I have heard of. They are the development infrastructure for drainage, roads, land for community open space and so on. Then we have community infrastructure which as I said before is going from $450 to $900, which helps build community centres, kindergartens, neighbourhood houses, sporting facility et cetera in that area.

Local government is taking larger amounts of contributions in revenue from developers. An Auditor-General's report on financial statements to 30 June, which was released only last week, shows on page 165 that over the past year developer contributions accounted for 7 per cent of local government revenue. Rates were the highest at 44 per cent; grants were 20 per cent; user fees, 15 per cent; and the fourth-highest item was developer contributions at 7 per cent. Of course there were other bits and pieces as well. Developer contributions are becoming a very important revenue raiser for local government.

It does make sense for developers, especially in greenfield sites where they are putting in whole new housing developments, to put in some funds for roads, drainage, water and recycling, and that it should be added to the cost of each block as it is sold. That makes sense, but developers do become upset regularly. They say to me, 'See this area! There are 100 new houses going up, and I have paid for everything here — the roads, the drainage, the guttering, kerbing and the drainage. I have footed the bill for everything, yet council officers are here making life difficult for me instead of trying to help me'. They get quite annoyed because they have paid for everything, yet they have some bureaucrat saying that they have not done this or that properly. A lot of the time that is due to lack of communication, but it is an issue. Opposition members do not oppose this bill, but we do have some concern about some aspects of it, and that is why we are moving an amendment.

Ms ROMANES (Melbourne) — I am pleased to have the opportunity to speak on the Planning and Environment (Development Contributions) Bill and to say a few words about the way the development contributions system is working within the planning and environment context. We know that the intention of the bill is to make development contributions and levies and the system within which they are struck a more workable and effective tool for providing the important

infrastructure that is required, not only by the developers and their clients but also by the broader community and those who are going to use those facilities in the decades to come.

Having been a local government councillor I know — and I am sure others in this chamber who have been local councillors also know — that developer contributions can be a very sensitive and difficult issue as councils and developers, as Mr Vogels has just pointed out, negotiate over who pays for what and how the infrastructure is implemented in developments. Of course the community has a strong stake in that as well. As Mr Vogels acknowledged, generally it seems to be a more straightforward matter for developers and councils where the developments are greenfield sites because the provision of infrastructure is integral to the development of the new sites, so it is in the interests of developers to reach agreement about the provision of a reasonable infrastructure contribution in order to encourage interest and sales because interest and sales as well as the individual quality of the dwellings will be enhanced if excellent infrastructure is provided.

However, in inner and middle suburbs and in many rural and regional areas where infrastructure is well established the negotiations may be more complex. While the 5 per cent open space levy has been with us for a long time and is relatively straightforward, even that is sometimes challenged by developers. Because councils have to consider what is a reasonable contribution from a developer in a situation where there is urban consolidation and intensification of land use, there is of course much controversy in certain developments about the extent to which there is a utilisation of an established infrastructure and how much the developer is putting back into both the utility infrastructure and other community facilities that that development may well draw heavily upon. I understand that many rural and regional councils do not have the resources to persevere with those negotiations and to get a fair deal for the community; therefore the provision in the bill for off-the-shelf proposals for the way in which levies might be set and administered and on what basis is an advantage to those particular councils. As I said, having been a local councillor in years gone by, it was my experience that local people were often aggrieved that large profits might be made at the expense of local residents and sometimes by drawing heavily on some of the established assets.

I am mindful of the example of what was Moreland council's policy — that is, to encourage the siting of new residences along the edges of parkland. That was a deliberate policy to provide surveillance and to improve safety of parks and open spaces, which can sometimes be unsafe if they are not well populated at certain times of the day. On the other hand the developers who had the opportunity to sell properties that abutted parkland had the opportunity to make huge gains from some of those developments, so there is an issue. Sometimes that issue could be resolved through planning permit conditions and contributions from a developer to a range of local and community facilities and other development facilities. Sometimes it could be resolved by section 173 agreements. For example, Project Aurora, which VicUrban has put in place, is showing the way through an integrated development contributions plan to make sure that the infrastructure that is provided through development contributions adds to the quality of the development and to the public infrastructure for the future. But there has not always been an easy mechanism to get a greater contribution from the developers to the public domain.

This has been a very important program of the Bracks government, and it followed the review of the development contributions system that was committed to by the former Minister for Planning, John Thwaites, in a program set out under the commitments of the state government planning agenda, A Sensible Balance, back in 1999. That review has taken place, and Ms Carbines outlined the range of changes that happened in the first stage of the reforms by the Bracks government. In this legislation we are dealing with the second stage of reforms, which require legislative change. Again these have been outlined by Ms Carbines.

I want to take up some of the concerns that have been raised about levies. Previous speakers have drawn to the attention of the house some concern about the possibility of increases in levies through the giving to state agencies of the power to directly collect and administer levies, which takes away from local councils the onerous task of doing that on their behalf. The concern has been expressed that levies will proliferate and grow in volume. In talking about volume I should say that when Mr Vogels talked about 7 per cent of local government revenues being raised through development levies, I would have thought that that is not a bad outcome for local councils to contribute to investment in infrastructure if, as Mr Hall remarked, we are dealing with a $15 billion industry. Yes, there should be a fair and reasonable amount, and that is what this bill is about — making the development contributions system fairer, more transparent, accountable and making sure that it is effective in helping to deliver the infrastructure that communities need.

The levies will not be applied willy-nilly; they will have to pass the common-law tests of need, nexus and

equity, and of course they will be subject to strict accountability in the way that councils have to account for what they do with the development contributions they levy. State agency levies will continue to be based on the actual cost of providing the required infrastructure and the share of the cost of providing infrastructure that is attributable to new development. These factors need to be taken into account when determining state agency levies, and that will be done either through development contributions plans, which will have to go through a rigorous process akin to the planning scheme amendment process which involves a review by an independent planning panel and the opportunity for the public to contest it, or if it is community infrastructure it will be subject to a community infrastructure levy cap. So there are checks and balances in respect of state agency levies.

Another issue was raised by the opposition when it suggested that the Bracks government is really looking at development contributions as another tax. All members in this chamber know that the development contributions levy is tied through need, nexus, equity and accountability to the actual infrastructure provided. Taxes are moneys raised by governments that go into consolidated revenue for broad allocation to any service or facility that is adjudged a priority by that particular level of government, but that is not what we are talking about here. We are talking about something that those who are involved in the development or who will purchase housing or lease or use that housing in the future will directly benefit from, as well as some other people in the surrounding community. Therefore it is not a tax; it is a development contributions levy, and it can only be applied where there is a demonstrated connection between the development against which the levy is applied and the infrastructure to be provided.

Furthermore, I refer to the amendment, which states that a development contributions levy must be refunded if infrastructure is not provided; and as we know, a tax does not need to be refunded. Ms Carbines dealt with the important issue of the head of power that is provided within this bill to make sure that happens.

In conclusion, there have been lots of references by Mr Davis to Melbourne 2030. That is a major strategy and policy of the Bracks Labor government, which is designed to physically contain the spread of the city within an urban growth boundary and to encourage greater consolidation of development in certain parts of the city; therefore, it is important that the kind of infrastructure required to enhance the objectives of Melbourne 2030 is provided for through development contributions. In the past factors such as transport facilities and other equipment and local community infrastructure have not been considered part of the developer's contribution, but the minister made it very clear in her guidelines and through her ministerial direction that included in the definition of development infrastructure are not only items such as the construction of drainage works, land forming and landscaping of public open space but also the construction and installation of lighting, street furniture, seating, signage, fencing and playground equipment, as well as roads, footpaths and bike paths, the construction of traffic management devices and the construction of public transport infrastructure, including fixed rail, bus and tram stops and stations.

This bill broadens the definition of 'development infrastructure' and provides more flexibility and more opportunities for development contributions to play a role in and contribute to the essential provision of local infrastructure. This will enhance the symbiotic relationship between land-use planning and the strategy of Melbourne 2030 by taking into account the need to increase the number of people who walk and cycle and use public transport in a much more densely settled city in the future. With those words I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — I have pleasure in joining the debate on the Planning and Environment (Development Contributions) Bill, and in doing so echo the comments of my colleagues in the opposition who have already indicated that we will not be opposing this bill, although we do have some key concerns about some provisions within the legislation and some of their potential effects. Obviously an amendment will be proposed which seeks to address some of those concerns, and that will be moved by Mr Davis. In speaking on this bill I indicate that I will be supporting that amendment.

We understand that the bill updates, clarifies and rationalises arrangements for development contributions which were first introduced about 10 years ago but which have been problematic, shall we say? We understand the bill expands the application of those development contributions — the purposes to which they can be applied. We also understand that the bill provides for financial commitments for services as a condition of permits, as well as the existing requirement for hard infrastructure, things like roads, drainage and so on.

This bill increases the maximum community infrastructure levy per dwelling from $450 to $900 — double the current levy. It enables ministers and government agencies to collect their own infrastructure and community levies directly and not through local

councils, and still requires planning scheme amendments. It enables the minister to establish standard levies and off-the-shelf tables, and it alters provisions for planning permit conditions regarding payment for works, but adds services and facilities and links section 173 agreements to permits. The opposition is concerned by some of the provisions in this bill, and I will briefly outline those and go into some detail on the key provisions.

Agencies only may — and the word is 'may' — repay a levy if a development does not proceed, and that is new section 46QB(5), which is inserted by clause 9, so there is no obligation to repay in our view — and this provision exists under existing legislation but for councils. As this is a largely unused provision, we believe this flaw should be corrected, and we seek to do that with our amendment. That is likely to lead to some increased development costs, and there are enormous pressures on those costs already in the state of Victoria. We believe it may encourage multiple government agencies to pursue levies. We see that as something which is not completely out of the question and which is possibly quite likely as budgetary conditions tend to tighten and cost-shifting opportunities are realised and discovered. We believe it may encourage cost shifting by councils by their issuing permits with services conditions, for example on waste collection and a range of other service obligations which may be completely unforeseen at this point in time. Because the legislation does not specify what those conditions may or may not be, it is possible for councils to think up their own, so to speak, and act unilaterally out of the norm from the vast body of councils in the state. Those are concerns with which we are dealing and the reason that the opposition seeks to amend this legislation.

The costs implications are amongst our key concerns, and we acknowledge, and the government has acknowledged, that developers have long contributed to the costs of infrastructure through levies, at least since 1995, but ratepayers, councils and government also have their part to play in the provision of that type of infrastructure — both hard infrastructure and community infrastructure but particularly community infrastructure. We would not like to see one of the cost implications of this legislation being councils and state government both shifting their costs on to the private sector because all that would do would shift the cost directly on to the consumer of the dwelling land and the purchaser or builder of the dwelling. We see that as a very negative outcome — a triple cost shift, so to speak, and it is possible and quite probable depending on the nature of the councils that are elected in certain parts of the state.

Increasing developer contributions will obviously impact on the price affordability and density of housing. It will work to increase the density because if costs are rising and costs go up for the consumer, then the amount of land purchased for any given dwelling is going to start the trend to the smaller end, and that will increase density. It will also impact on the design quality of housing. There are longer term applications related to that. Land cost is already rising rapidly in Victoria, and this is particularly the case in outer suburban and interface areas, like the one I represent in the outer east of Melbourne, but more broadly right across the whole northern region of Melbourne in areas like Whittlesea and beyond. Some of the most buoyant housing markets exist at the suburban interface between country Victoria and metropolitan Melbourne. The price of land in these regions and areas is growing astronomically, and this will add to the pressure.

Land tax also has had a big impact. We are understandably reticent to place unnecessary or unreasonable further burdens on the development sector because we know that the reality of life in business is that it is not the development sector, which we have been told is a $15 billion industry — that is correct; it is a very large and significant industry for the state — that pays the bill when costs increase and overheads increase but their customers and the customers of those people who are seeking to establish properties for homes in those outer suburban interface areas. We believe those people have already enough cost pressure put on their shoulders to bear. This is an important point in this debate because I do not believe the government members who have already spoken have acknowledged this. I mentioned the triple cost shift — the state government shifting responsibility for paying for services and infrastructure to local government, which then shifts it on to the private sector — which means the private sector will reasonably increase its costs and will cost shift on to the people who pay, who are the mums and dads and the people trying to establish homes and buy land. We believe that is the real danger in this legislation; and that is largely the subject of our amendment.

Unilateral council actions are not out of the question: it just depends on what infrastructure — whether it is hard infrastructure or community infrastructure — councils see as appropriate for their areas. This could have vastly different implications for investment, livability and affordability in various parts of the state, given that these costs will definitely be passed on by developers. They will have to be passed on if the developers are to stay in business. Some areas of the state could be development poor and others

development rich, depending on the decisions that the local councils make.

With the advent of a large number of councils that may have a very high endorsed candidate quota for the Greens, Left Labor or various coalitions, there may be an incentive to cost shift completely on to the private sector without any regard for the impact that will have on housing affordability, development or even the community infrastructure that they might like to fund with that contribution. We are very concerned that that could happen in certain parts of the state. We are obviously referring to unilateral council actions, because they may not reflect the best interests of either consumers — those establishing homes — the development sector or the state itself.

The opposition does not believe that the government has adequately consulted on the final draft of this legislation. If it had consulted more widely, as the opposition has, it would have understood that a large number of the recent initiatives of the government have increased the financial obligations of the development sector, and these have largely been passed on to consumers, increasing costs for people buying homes. The five-star energy ratings, the mandatory computer assessment requirements, occupational health and safety provisions, ResCode and a range of other measures are all coalescing to represent what is becoming a much larger overhead cost impost, and without a doubt it will be passed on to consumers. Cost pressure will continue to be artificially inflated upwards. This is not a good thing for those people who are seeking to buy land, build or establish homes and communities in our outer suburban interface.

I was interested to hear Mr Hall talking about his town of Traralgon and how the phenomenon there is exactly the same. On the fringes of Traralgon, which — he relayed to the house — has a population of around 20 000 the same phenomenon is taking place. The land and the cost pressure that is occurring there is, I am sure, very similar — perhaps not to the same extent, but very similar — to the phenomenon that is happening on the outer fringes of the Melbourne metropolitan area, because it is all about new development and the cost that people must bear when they seek to develop a home for themselves.

We believe the government would have understood this much more clearly if it had consulted with the Housing Industry Association, people who are involved in the development sector, the Property Council of Australia and the Real Estate Institute of Victoria. The opposition and the shadow Minister for Planning, Mr Ted Baillieu, in the other place have spent a large amount of time, effort and resources talking to a very broad range of industry players. That is why we understand, as we believe the government does not, some of the broader and more negative implications of this legislation, and that is why we will be bringing our amendment forward.

In my concluding remarks I note that we are seeking in this amendment not only to address the issues I have already spoken about but also to address the key issue of the return of moneys by agencies. If there is the potential under this legislation for moneys to be collected — ostensibly from the private sector but ultimately from the consumer and householder — without limit and not to be used for the purpose for which it is ostensibly being collected, then we have a problem.

If my understanding of human nature and the nature of governments — local, state and federal; any level of government — is true, you have to accept the possibility and high likelihood that there will be governments that will hang on to that money and use it for purposes for which it is not required. That removes a nexus which is so important to the principles that should be governing this type of expenditure.

The use of the word ‘must’ in our amendment means that we would compel agencies to return unspent moneys. ‘Must’ means you must; ‘may’ means you can if you want to. I was interested to hear Ms Carbines’s explanation — which I do not think it really was — as to why the opposition’s amendment was not necessary: because the government had had legal advice, or some such explanation. It is quite simple: in the English language ‘must’ is a compulsion and ‘ may’ gives you the choice — you can if you wish. There is no legal definition. We are not opposing the bill, and I urge members of the government to support our amendment.

Hon. R. H. BOWDEN (South Eastern) — The opposition is not opposing the bill, but that does not mean we are all happy with all aspects of it. There are some concerns about the bill, and I will address several of those. In his contribution my colleague Mr Olexander made some excellent points in relation to the application of this bill, which I agree with. In case it is not understood by the minister, the state government and councils in general: to expect to take money in the form of contributions from the private sector means only one thing — eventually it is passed on to either the property owner or the purchaser.

One of the tenets of Australia’s way of life is that successive governments, state and federal, have put a high score on the ability of members of our community,

particularly young families and forming families, to acquire a home of their own. Australia is in many ways outstanding in the world community because of its high percentage of home ownership.

It is naive and I think quite dangerous for a state government to believe that it can pass legislation which enables the continual escalation of base costs in the form of these contributions without some market reaction. I believe it is extremely dangerous and threatens our basic philosophy of encouraging home ownership. We must do what we can to protect the ability of forming families, new families and young couples to take that important first step in their life journey towards buying their first home. I therefore feel a great deal of concern whenever a bill comes before this house that puts into question the affordability of our young families to get started on what is an essential aspect of their life.

I will make a few comments about some other aspects that cause me great concern. The parliamentary library has kindly provided me with some statistical information, which I will share with honourable members. The total developer contributions for all Victorian local governments in 2003–04 is reported as $387.2 million. That is $387.2 million that was ultimately provided by property owners or property purchasers but was originally contributed through the system, through the developer stage, in one year alone.

If we take the City of Casey as one example — a city which is continuing to experience massive growth and which prides itself as being the fastest growing municipality in Australia — in 2003–04 the city received actual assets from developer contributions of $26.9 million in the form of non-cash contributions plus $5 million in cash — so one council, the City of Casey, received a contribution from developers of $31.9 million.

It is my honest belief that that entire figure will be passed on to home owners, and that is a characteristic of the City of Casey and its area, which forms part of my electorate. The City of Casey is therefore directly influencing, through these contributions and the formulas it applies and the imposition of these costs, a substantial contribution for each block of land which is, in the main, for first home buyers. That goes the full circle to my opening comments that this is driving up the cost of land. I do not say unreasonably so, but I think we are seeing an amber light here, a warning light, that councils believe they can cost-shift on to the private sector. There is no magic pudding, it is paid for ultimately by the property owners.

Another thing I am extremely concerned about is clause 1 of the bill, which states:

> to increase the maximum community infrastructure levy to be paid in respect of the construction of a dwelling;

On first glance that is probably not unreasonable. According to the bill it is to be lifted from $450 to $900. The assumption there is that councils are going to take this money and provide this wonderful community infrastructure that we hear so much about in warm, flowing, cuddly terms. But I suggest that not all people who purchase land in a typical newer area feel that is a fair impost. Demographic profiles show that the older community in Australia is steadily increasing.

As I understand it, the community infrastructure levy is predominantly to fund schools and services for younger people, which is a good thing and is certainly not open to criticism; but I would like to see something for those people who are downsizing their home, building a smaller home for their older years. In addition to serving the community interests and needs of our younger people, I would like to see that $900 levy targeted at providing community infrastructure for the older sector of our communities.

I have had no evidence to date of such a program being seriously considered by any council of the several in my electorate, and I say that as a challenge. I am not aware of it. I am therefore concerned about the naivety of the state government in allowing councils to increase this factor with no real supervision of the way it is being spent. I have on several occasions expressed concerns about the growth of councils, their increasing sophistication and the way they see themselves more as a government than as a low-cost provider of essential services. In many instances councils are more fascinated by the word ‘government’ than by the need to provide services at a local level. Not all councils are like that but some are, and it is a worry when they are given access to increasing amounts of money.

It is wrong that agencies of the government such as water boards and so forth can keep the money. As is implied by one interpretation of this bill, agencies may repay the levy only if the development does not proceed. It is fair that the agency takes the money and that the money should be returned if the development does not proceed for genuine reasons, otherwise it is completely inappropriate.

The impact of this contribution levy should be brought to the notice of honourable members. The cost drivers are forcing up the price of land and the price of developments. For example, Melbourne Water’s annual report for 2003–04 shows that it received

$38.025 million in 2004 from developer charges and contributions, and $44.714 million in 2003. We are talking very large cost drivers here. South East Water received developer contribution assets of $28.560 million — more than $28 million — in 2004.

The City of Greater Dandenong receipts from developers and other contributions amounted to $3.8 million. That seems low but the figure is taken from the annual report. Frankston City Council received non-cash developer contributions of $4.580 million. The City of Casey received $5.406 million alone in cash. I am a bit worried about the concept of cash going to any council. These things need to be highlighted, talked about and watched scrupulously. In relation to the other agencies, some water boards are applying very high charges, some of which are for very modest work input.

The other thing that is of great concern is the idea of having multiple charges. There are community infrastructure levies and other levies and charges of council, and then the levies and charges of the water boards and water authorities come along, and it all escalates. There is a naive belief in government that they are paid for by the private sector. Well, they are not; they are paid for by the hard-won dollars of young families. It is an absolute brake on our economy, and, quite frankly, the cost of subdivisions and providing land in some areas are sometimes not only unreasonable but appear to be highly inefficient. If you talk to the professionals in the subdivision business and the real estate industry, you will quickly learn that one year is considered to be a reasonably fast-track for a very simple subdivision — it can go on and on. The bureaucracy, cost and inefficiency is compounded, and young people in their 20s who are struggling to raise fine young Australian families are paying for this gross inefficiency and the attitude of the various government agencies which seem to think there is a magic pudding; that the private sector will pay all the stupid costs associated with their unreasonable delays, and they dump the final cost on to the block of land. The Department of Sustainability and Environment figures, which I obtained from the parliamentary library, show that the charges for an average block in a metropolitan greenfield area on the fringe of Melbourne are around $30 000 — that is what these development costs and levies are already. They include developer contributions, which average $17 000; community infrastructure costs, which average $900; and government contributions. Having charges totalling $30 000 is a worrying signal, and it is cause for concern.

Whilst the opposition will not be opposing the bill, given the contributions of the previous speakers and me, I suggest the state government should take a long, hard look at and certainly engage in some deep thinking on the final impacts of these contributions, levies and charges, because in some instances they are totally unjustified, misplaced and misguided and unnecessarily drive up the cost for young Australian families.

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

Quorum formed.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I rise to make a contribution on the bill before the house in the context of my electorate, Eumemmerring Province. The province includes the suburbs of Narre Warren South, Berwick South, Beaconsfield and Pakenham, which are the fastest growing suburbs in Victoria — indeed they are the second-fastest growing suburbs in Australia; second only to certain areas along the Gold Coast.

Mr Somyurek interjected.

Hon. G. K. RICH-PHILLIPS — Be quiet! These areas at the southern end of the City of Casey were growing at their peak by 80 households a week, which demonstrates a rapid expansion in urban development in the area, which started in the mid-1980s. At that time developments were undertaken without much regard for the infrastructure that would be required to support them. As a consequence of that we now have the situation, particularly in the Narre Warren South area, where the roads have not kept up with the demands of the housing developments, and there is a constant shortage of public infrastructure and a constant demand for it by the ever-growing population. Frankly, it is very difficult for local, state and federal governments to keep up with that demand. At the time of these developments there was no requirement to provide infrastructure, but since the passage of the principal act in 1995 the developers have been required to make provision through levies for certain infrastructure. That has gone some way to alleviating the demand for infrastructure in these areas, but I point out there is still an insatiable demand for public infrastructure to service the estates. The introduction of these levies to satisfy the requirement for basic infrastructure to be provided by the developers, such as turning lanes on arterial roads and so forth, has gone some way to correcting the problem that existed when these developments in the Narre Warren South and Berwick South areas started in the mid-1980s.

I would like to put on the record two concerns about the way the levies operate. My colleagues on this side of the house have articulated one of them, which is in respect of how the levies are used. Certainly in the City of Casey it has been the practice for a considerable period of time to require the developers to pay levies. But there is no doubt in my mind that there is some concern about the requirement of the levies and whether the infrastructure that will be constructed by the levies will actually be needed as opposed to being merely desirable. The question should be asked as to whether the levies should be used to fund a wish list for a local government area as opposed to funding necessary infrastructure to support the particular development. It needs to be made clear that if a levy provided for by the act is imposed, it should be used only to supply infrastructure required as a result of the development rather than providing funding for another project that may be on a local government wish list.

The other aspect I would like to touch on briefly relates to the liability for the levy. I raise this because constituents in my electorate have faced the situation where the levy on a block in a new development was not paid by the developer. When the landowner who had bought that block went to sell the piece of land they were told that there was an encumbrance on the land because the developer's levy had not been paid. In effect, that levy had been passed down the chain to the subsequent purchaser rather than being paid by the developer. There was considerable debate at the time as to whether responsibility for the levy should rest with and have been paid by the developer or whether the subsequent owners of the land could be held liable for it.

I raise those two matters — the application of the levy and clarifying in the minds of property holders and developers responsibility for the levy — as matters the government should take into consideration when it further revises the legislation.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 7 agreed to.

Clause 8

Hon. D. McL. DAVIS (East Yarra) — I regard amendment 1 to be a test of amendment 2. I move:

1. Clause 8, page 5, lines 11 to 13, omit sub-clause (2) and insert —

'( ) In section 46Q(3) of the **Planning and Environment Act 1987** —

(a) for "may" **substitute** "must";

(b) after "paid to it" **insert** "as a development agency".'.

In speaking briefly to this amendment, the issues have been canvassed well in the second-reading debate. It is clear that 'may' and 'must' are quite different words. The opposition believes that 'may' does not compel the government to repay development contributions and that 'must' is the fairest change to make. It is a modest change to the legislation; it just seeks to make it fairer and clearer, as a number of speakers in the second-reading debate have said. The reality is that there are many good parts of the bill and the opposition does not oppose many parts of it. However, the comments that I made earlier about the observations of the Housing Industry Association on this clause indicate that these changes are a sensible improvement.

Hon. P. R. HALL (Gippsland) — I reiterate the comments I made in my contribution to the second-reading debate, that The Nationals are prepared to support this amendment. I commented also that the development levies paid by developers in this state are not insignificant; they are quite sizeable amounts. It is only a fair and reasonable position that, given that a development does not proceed in full or part, those development levies should be returned to the developer as of right, in full or in part, proportional to the extent that the development proceeds. This is a fair and reasonable request. I would also describe it as a very modest request. There is really no logic for the government not accepting the fair and reasonable proposition being put.

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

Ayes, 22

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

Noes, 19

Atkinson, Mr	Forwood, Mr

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

Amendment negatived.

Clause agreed to.

Clauses 9 to 11 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank the honourable members of this chamber for their contributions during the debate in the committee stage.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HERITAGE (WORLD HERITAGE) BILL

Introduction and first reading

Received from Assembly.

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

BUILDING (COOLING TOWERS AND PLUMBING) (AMENDMENT) BILL

Second reading

Debate resumed from 1 December; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I am pleased to make a contribution on the Building (Cooling Towers and Plumbing) (Amendment) Bill. In doing so I wish to indicate that the opposition does not oppose this bill; indeed, it makes a number of valuable changes. I want to indicate some of the sensible changes made by the bill — the single registration system and the synchronisation of registration systems for owners, in particular those with several sites or several units on one site. Under these arrangements they will be able to sensibly register once a year, coordinating all their individual cooling tower units.

The purpose of the bill is to make changes to the registration of cooling tower systems and to allow risk management plans and risk management audits to occur in relation to those systems; to make changes concerning compliance certificates issued for certain plumbing work; and to make a range of other amendments. As I said, some of these changes, the synchronisation in particular, are sensible. The clear validation of past renewals made by the Building Commission is sensible. We tend to think there may be some legal issues around that, and perhaps the government could have made this clearer earlier. However, it would be wrong not to support such a change.

I note also the issue of risk management plans and the specification for when they need to be reviewed — the clarification of the period for cooling tower operations will need to be examined. On a side note, in a relatively recent report to the Parliament the Auditor-General made comments about risk management across government in general. Not only is that risk management significant in the private sector, and I welcome those aspects of this bill which clarify the risk management plans, but it is also important across the public sector. In my role as shadow Minister for Health I am increasingly aware of a number of issues around our large public hospitals. There are also issues with government buildings that house significant numbers of public servants. There is always a risk. I want to make it clear that Legionella is an issue — —

Hon. P. R. Hall — Legionnaires.

Hon. D. McL. DAVIS — Legionella is the bug. This issue needs to be kept very clearly in focus with various risk management plans. It is a bug which can strike quite unexpectedly and despite the best risk management plans. It is unpredictable in the sense that breakdowns can occur, maintenance which is thought to have occurred may not have occurred — —

Mr Pullen — That was the airconditioning system starting up!

Hon. D. McL. DAVIS — I am pleased. I make the point that large public facilities are exactly what I am talking about, Mr Pullen.

What am trying to say is that we need the risk management approach across the public sector because a number of specific public sites concern me. While I welcome the apparent improvement with Legionella reports over the last small number of years, I believe it is a sporadic set of occurrences. It is important not to be hoodwinked but to remain vigilant about the way this can strike. Although is not my intention to recite the numbers, because they are available on the department's web site, they give the appearance of a lower incidence over recent years, but this is an issue that can strike sporadically. You only need one or two significant outbreaks and those figures will look different.

I am reminded in this chamber that the government has not been as open and accountable with questions about legionnaire's disease as it should have been. In the last Parliament I had a series of questions which the government refused to answer about the inspections, audits and risk management plans of government buildings, including hospitals and large Department of Human Services sites in Melbourne and across Victoria.

I was concerned that the government would not answer those questions. For the first time we began the process of activating what was the old standing order 71AA provisions — I am not sure precisely what the number is under the new standing orders — to require the government to answer those questions in this place. The government would have provided more fulsome answers had I had the opportunity in the last Parliament. I note that a set of responses was provided on the last or second-last sitting day before the election was called.

I make the point that it took the government a long time to answer those questions, and the responses were far from adequate. In a debate concerning the government's lack of response on those important questions about legionnaire's disease and the preparation to prevent that in public buildings, I made the point that the then Minister for Health, John Thwaites, in the other place had made a number of intemperate comments as the shadow Minister for Health.

Mr Smith interjected.

Hon. D. McL. DAVIS — You may laugh, Mr Smith. I would be happy at a future point to put these on the public record. The then shadow Minister for Health made a number of intemperate comments in the late 1990s about legionnaire's disease.

Mr Smith interjected.

Hon. D. McL. DAVIS — No, not me personally, Mr Smith, but he made comments that reflected on the then Minister for Health, the Honourable Rob Knowles, that do not stand well on the public record and may well come back to haunt Mr Thwaites at some future point if a tragedy were to occur in Victoria. They were stark and unfair comments. To the extent that very stark comments underlie the need for proper risk management and proper planning in this area, then it is a worthwhile contribution. To the extent that they vilify an individual unfairly, then that is not a worthwhile contribution. On that occasion the boundary was crossed. The bill takes some useful steps with risk management plans and lowers costs for businesses.

Mr Smith interjected.

Hon. D. McL. DAVIS — I am standing very close to my microphone. I am rather too tall for these unfortunate desks. The synchronisation of registration — —

Ms Hadden interjected.

Hon. D. McL. DAVIS — The occupational health and safety bill will come before this house shortly, Ms Hadden.

The PRESIDENT — Order! Mr Davis will ignore interjections.

Hon. D. McL. DAVIS — I will take the President's advice and attempt to ignore interjections as they are unruly. The point I was trying to make before I was rudely interrupted was that there may well be a lowering of the cost of compliance for businesses with synchronisation, which is welcome. I commend the work done by the shadow Minister for Planning on the bill. I also note the contribution to our respective understandings of this bill made by the member for Bass, Mr Ken Smith, in the other place, who was a plumber.

Mr Smith — Smithy!

Hon. D. McL. DAVIS — Smithy understands these things rather better than most members in either chamber. I am referring to a different Mr Smith. He was in this chamber, as you may remember, Mr Smith — —

An honourable member — We miss him!

Hon. D. McL. DAVIS — We miss Smithy, but he makes a welcome contribution to debate. The issues surrounding plumbing are important, and the opposition has been prepared to place on the public record concern about the accretion of increasing powers to the Building Commission. While the current occupant of the senior position is a very capable individual in Tony Arnell, we are concerned that the accretion of powers to that body may not be in the interests of the state in the longer term. It is worth placing on the public record that the requirements for registration and policing, as it were, of the plumbing industry are central to getting the best outcomes with legionnaire's disease and other related matters.

As I said to the house, I do not intend to talk for a great length of time on this. In conclusion, the opposition is not opposed to the bill. There are points of significant merit. We will be watching closely to see how the bill is implemented and the steps that the Building Commission takes over the next period. I continue to caution the house and the government about being overconfident in the management of legionnaire's disease, which is a very serious disease, because vigilance is required. The risk management plans and approach offered by the Auditor-General is a valuable contribution.

Hon. P. R. HALL (Gippsland) — The Nationals do not oppose this legislation. It deals with two matters: the first part being associated with the registration of cooling tower systems and risk management plans; and the second part relating to the plumbing industry and dealing principally with some issues regarding compliance and the lodging of compliance certificates.

Firstly, I shall talk briefly about cooling towers. As has been explained in the second-reading speech by the minister, at various times Victoria has experienced some outbreaks of legionnaire's disease, and those outbreaks have been most often traced back to cooling tower systems which form part of some airconditioning systems.

The second-reading speech reported that in the year 2000 there were 239 reported incidents of legionnaire's disease but thankfully that came down to 65 in 2003. That it is a positive outcome. Some of the amendments made to the Building Act in the year 2000 have helped, but there are also greater public awareness and better education strategies in place which have also helped to reduce the number of incidents of legionnaire's disease. If this legislation further assists in that regard that is a positive outcome.

As most people know, all cooling towers in Victoria are required to be registered. There are the better part of 5000 such towers in Victoria. Clause 6 strengthens that provision, which requires all cooling towers to be registered. Clause 8 will allow people owning more than one cooling power system to have those registration periods synchronised. The statistics in the second-reading reading speech show that there are 86 sites in Victoria with multiple cooling tower systems, and there are also a number of people who are responsible for cooling tower systems on multiple sites. It is a sensible provision, since those people will be able to seek a common renewal date for the registration of those cooling towers.

Clauses 10, 11 and 12 deal with risk management plans and audits. Clause 10 requires that an owner of any land on which there is a cooling tower system take all reasonable steps to ensure that a risk management plan exists. Again that is common logic and an expectation I am sure we all have of landowners. Clause 11 requires that risk management plan to be reviewed and if necessary updated at least once every 12 months. Clause 12 includes a number of small provisions, including a requirement that there be flexibility in the audit of the risk management plan. It does not have to be every 12 months to the month, but it has to be somewhere within that period of 12 months. Again I think that is a commonsense measure.

Most of the other clauses in the bill deal with amendments concerning plumbing. For example, clause 15 is all about compliance certificates. There is an amendment to the Building Act which will mean that compliance certificates issued by a licensed plumber more than five days after the relevant work has been completed will still be valid. Again that is a commonsense provision. With the paperwork that plumbers have to do these days it may take them a little over five days to get that work into the Building Commission.

Clause 16 authorises a person to sign and issue a compliance certificate where the plumber may have died or disappeared, cannot be located or has some physical or mental disability. Again I think this a sensible provision. Certainly consumers should not be disadvantaged if the plumber who did work disappears and cannot complete the compliance certificates.

Clause 17 also requires the transfer of compliance certificates from third parties to the owner of a premise. I presume that if a plumber were doing contract work for a builder and passed on the compliance certificate to the builder, then the builder would be required to pass it on eventually to the home owner. It makes a lot of

sense. I have had a chat with one of my good friends in Traralgon, Mr Neil Dunbar. He does a lot of work in assisting plumbers with lodging compliance certificates. He has had a look through the bill for me and has given it the big tick, so I am happy to agree with his recommendations, particularly those in relation to compliance.

I reserve my last comment for clause 20, which was commented on by the Honourable David Davis. It is about extending the minimum qualifications of the plumbing commissioner. When I look at clause 20 and I read the second-reading speech I cannot help but feel that there is some predetermined agenda in respect of this issue. The second-reading speech says:

> The changes will create the potential for the government to consider options for closer alignment of the operations of the Building Commission and plumbing commission.

It continues in that vein. Reading through it I think the government knows what it is about to do with the plumbing commission, and I simply think it would be handy if the government were more up-front and told us what it is really planning in respect to the future of the commission. We will wait with interest to see what happens with that particular provision. This is a small bill which covers a couple of important topics. The Nationals are happy to lend support to it.

Ms CARBINES (Geelong) — I am pleased to speak on behalf of the government in support of the Building (Cooling Towers and Plumbing) (Amendment) Bill. The bill makes amendments in relation to the registration of cooling towers in Victoria and amendments in relation to the plumbing industry. All members of this place will remember the serious outbreaks of legionnaire's disease which took place several years ago in Victoria. Australia's largest outbreak of legionnaire's disease occurred amongst people who had visited the then new Melbourne Aquarium.

Hon. D. McL. Davis — We were there.

Ms CARBINES — You were there, Mr Davis — you survived. I did not want to refer to that. Some 95 people were hospitalised.

Hon. D. McL. Davis — Some of my branch members were very sick indeed.

Ms CARBINES — It was very serious indeed. No one is denying that it was a serious outbreak. It was a tragedy for all concerned.

Some 95 people were hospitalised and four people died as a result of contracting legionnaire's disease. Some 239 incidents of legionnaire's disease in 2000 were associated with cooling tower systems. The Bracks government has taken decisive action in response to the serious public health threat posed by these outbreaks. Since March 2001 cooling tower systems have had to be registered. This registration system has resulted in a significant reduction in the incidence of legionnaire's disease in Victoria. In 2001 there were 111 incidents; in 2002 there were 86; and last year there were 65. There has been a significant reduction in the incidence of legionnaire's disease from the 239 incidents reported in 2000 — just four years ago.

A key component in the strategy to reduce the incidence of legionnaire's disease in Victoria is the compulsory annual audit for each cooling tower system. However, the current registration system involves two separate registration schemes: one for cooling towers which were already in existence when the legislation was introduced in 2001 and one for cooling towers which have been installed since that time. The bill before us today seeks to introduce a single registration system for all cooling towers in Victoria. This will streamline the system for all the owners of the cooling towers and the officers responsible for the administration of the register. The bill will also allow for the synchronisation of registration renewals for landowners who are responsible for multiple cooling tower systems. It makes provision for the late renewal of cooling tower system registrations.

There are other provisions outlined in the bill which are aimed at improving the administration of the registration and audit of cooling tower systems. It is a sensible provision in relation to cooling tower systems. It will make registration simpler and streamline the system and so the auditing of those cooling towers for safety and health checks will be much easier. I am pleased that the opposition and The Nationals are supporting the bill.

Other provisions relate to the plumbing industry. Two weeks ago I had the pleasure of representing three ministers — the energy minister, the Minister for Environment and the Minister for Planning — at the annual green plumber awards evening.

An honourable member interjected.

Ms CARBINES — Indeed, I was presenting awards to recipients who were all making substantial contributions to innovative plumbing design. I would like to congratulate the Plumbing Industry Commission for its leadership in promoting environmentally sustainable plumbing design and for its support for the awards. Further I would like to congratulate all award

recipients. It was a great night, and I noted that some members of the opposition were in attendance. Indeed Ken Smith, the member for Bass in another place, made himself known to me. He was very gracious in acknowledging me, and he certainly enjoyed himself on that evening.

On the evening of the annual green plumbers awards there was an acknowledgment and recognition of the enormous contribution made to the plumbing industry by Michael Kefford, the plumbing industry commissioner. Mr Kefford will retire from his position at the end of the year. I place on record my thanks to Michael for his excellent work and wish him well in his future endeavours. I know that all who were present at the green plumbers awards a couple of weeks ago were certainly very supportive of Michael and the work he has done in the plumbing industry.

The bill contains some provisions in relation to the role of the plumbing industry commissioner, and it seeks to amend the Building Act 1993, which requires that applicants for the position of plumbing industry commissioner must have substantial knowledge of and experience in the plumbing industry. This bill removes the requirement that the plumbing industry commissioner has experience in the plumbing industry exclusively. The government believes the plumbing industry commissioner should also have broad relevant management and industrial experience. We believe the role requires broader skills today to face the many challenges that are confronting the plumbing industry. In this way the applicants will have a wide range of relevant management and industrial experience as well as, obviously, the ability to understand the plumbing industry. Also contained in the bill are a range of minor amendments that improve the administration of and compliance with plumbing laws.

As other members who have spoken in relation to this bill have said, the bill makes sensible, logical changes to the provisions concerning the registration of cooling towers in our state. These provisions will improve the administration and inspection of cooling towers, and I thank the opposition and the National Party for their support of the bill. The bill also makes provision for the broadening of skills available for the selection of the plumbing industry commissioner, and it is reflective of the modern challenges facing the plumbing industry today. With those few words I wish the bill a speedy passage and commend it to the house.

Hon. J. G. HILTON (Western Port) — In the spirit of this debate I will also be brief in my comments on the Building (Cooling Towers and Plumbing) (Amendment) Bill. The objectives of this bill are to alter the requirements relating to the registration of cooling towers, risk management plans and risk management audits. The reason for this legislation is to finetune and improve the effectiveness of the government's Legionella reform strategy, which was implemented in 2000. That strategy made modifications or amendments to the Building Act 1993.

As has been mentioned by other members, the Legionella strategy was in response to a number of serious outbreaks of legionnaire's disease, and particularly the outbreak relating to the Melbourne Aquarium, to which Ms Carbines referred. That outbreak caused significant public concern, and rightly so. The aquarium attracts many hundreds of thousands of visitors a year, and it is a major international tourist attraction. Obviously an outbreak of Legionella would have significant impact on the state's commercial activity derived from tourism. Obviously legionnaire's disease is very insidious. People can succumb to the disease without even realising that there is anything wrong with them. Obviously the government had to act quickly to try and eliminate the dangers.

Although the original strategy formulated in 2000 has been effective, and, as members have mentioned, in 2003 there were only 65 reported cases, I also think Mr David Davis's comments are valid in that that figure could be the exception. We cannot relax; we must be eternally vigilant in seeking to improve the effectiveness of our measures. One of the amendments in this bill is to make some changes so that there will be a single registration system for all existing and planned cooling towers under the one system. The bill will also make changes to the arrangements pertaining to risk management plans and their review.

The one issue which caused some heat in the lower house and has been mentioned in this house concerns changes to the selection criteria for the plumbing industry commissioner. I believe the government is quite right in its comments in relation to this — that is, that we are not precluding in any way people who have plumbing experience from applying and being successful in their applications — but by broadening the criteria so that the person has to have an understanding of the plumbing industry rather than in-depth knowledge you can attract some candidates who may have a slightly different background. Government members are concerned that in this position the person would need to have some understanding of financial management, be able to think strategically and have some knowledge of working within a regulatory environment.

Government members believe there will be sufficient support for the plumbing industry commissioner by the Plumbing Industry Advisory Council. I understand the chairperson of that council does need to have plumbing experience. Obviously the plumbing industry commissioner will have on his staff experienced plumbing inspectors who will have relevant plumbing experience; therefore the government believes, and I believe this is an appropriate comment to make, that there will be sufficient expertise within the organisation to ensure that the commissioner has all the available knowledge and advice to do his or her job in an effective way. I draw the analogy of the public hospital system. I believe it has been commonly accepted for a number of years that the chief executive officer (CEO) of a hospital does not necessarily need to be a general medical practitioner. It is recognised that the qualities required of a hospital CEO are not necessarily the same qualities required of a general practitioner. I believe the same logic can apply in this situation. We can appoint as the plumbing industry commissioner a person who has not necessarily been a plumber in a previous life as long as he has the infrastructure and support to enable him to be effective in his role, and I think that is what this bill is seeking to achieve.

I said I would promise to be brief in my comments. I believe this is a good bill that makes improvements to some existing legislation, and I commend its speedy passage through the house.

Motion agreed to.

Read second time.

Third reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Hon. M. R. Thomson (Minister for Small Business) — By leave, I move:

That the bill be now read a third time.

In doing so I thank all honourable members for their worthwhile contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

LEGAL PROFESSION BILL

Second reading

Debate resumed from 2 December; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Legal Profession Bill I indicate at the outset that the opposition will not be opposing this piece of legislation. One of the concerns it has is that although this bill had a gestation period of over four to four-and-a-half years before coming to this house, when it was introduced into the other place only a week ago it was the first time the full bill had been seen. I will hold it up and members who can see it will note that it would have to be about 4 centimetres thick!

Hon. D. McL. Davis interjected.

Hon. C. A. STRONG — It is an extremely large document, and Mr Davis said, 'Do not drop it' because we could demolish this wonderful chamber. It is a very big document, and it is a great pity there was not more time for consultation, even though a lot of people were probably well aware of the issues to be canvassed. Nevertheless, as we know, with many pieces of legislation the devil is in the detail. There is a hell of a lot of detail in this bill, and that detail has not been adequately perused. That is certainly the advice the opposition has received, and that is fundamentally why it will not oppose this legislation rather than support it. It is really very hard to know what nasties it may or may not contain.

In essence the bill seeks to restructure the Victorian legal system in several ways: as to the way it is managed, as to its regulatory arrangements, and it particularly seeks to create a situation where people who are legally qualified in Victoria will be able to easily practise anywhere in Australia and vice versa. This legislation means that the legal fraternity will be able to practise freely anywhere in Australia and as far as the legal profession is concerned we will now have a standard gauge, as it were, for Australia. It can only be a good thing that we have a much greater choice of legal professionals across the nation, and people who are qualified in one jurisdiction will now be able to practise much more freely in other jurisdictions.

Turning to some of the details of the bill, one of the key things it seeks to do is to establish a national framework. This was a process started some years ago by the national legal profession project, which was sponsored by the Standing Committee of

Attorneys-General. As I said, this process has been over four years in development, and it aims to set in place a national market for the legal profession and to facilitate the Australia-wide practice of that profession. In Victoria it also establishes a whole new regulatory framework for how the legal profession will operate, and I will explain some of that to the house.

The bill will abolish three of the existing pillars of the framework as it now exists. The Legal Practice Board will be abolished; the office of the legal ombudsman will be abolished, and the Legal Professional Tribunal will be abolished. These three bodies will be replaced by a new body called the Legal Services Board (LSB). This board will be the peak regulatory body for the Victorian legal profession.

An honourable member interjected.

Hon. C. A. STRONG — As one of my colleagues points out, the Legal Services Board goes under the acronym LSB. My colleague Mr Olexander reminds me that when one peruses the second-reading speech one finds that it is full of acronyms: acronyms to the left, acronyms to the right, into the valley of acronyms we ride! I will try and steer clear of acronyms.

The bill establishes the Legal Services Board to regulate the profession in Victoria. This board will be responsible for administering the legal system, particularly with respect to the way it is funded. It will set policy, and on advice from others it will set the legal standards, qualifications and all the other things that are required to establish a proper, well-respected profession.

The board will not be responsible for disciplinary functions, and that makes a certain amount of sense because as the board will set the standards it would therefore be inappropriate therefore if it were also to administer those standards. Administration of the standard will be done by a new person in a new role to be set up, which is to be called the legal services commissioner, who will be responsible for disciplinary actions and so on. I will turn later to the role of the legal services commissioner.

The new board will be responsible for making legal professional rules. It will be responsible for the approval of those rules which will generally be developed by the Law Institute of Victoria and the Victorian bar. Those two professional associations will still have a significant role in developing codes of practice and qualification standards although it will not actually set those as they will be adopted in whole or in part by the new board — the Legal Services Board.

The Legal Services Board will administer the various trust accounts that are held; it will administer the Fidelity Fund which is there to compensate anybody with a claim against the legal profession; and it will administer the issuing of practising certificates. It will also be responsible for approving the professional indemnity insurance policies and the appointment of the various members to the bar's legal practitioners liability committee and so on. It will have a very broad role in establishing the standards under which the profession will operate.

We do not know the make-up of the board at this stage but the second-reading speech tells us that the board will be broadly representative with a membership consisting of consumers as well as legal practitioners and experts from financial management. Clearly it anticipates being a board with a broader reach than just simply a narrow one drawn purely from the legal profession.

The bill also establishes the new role of the legal services commissioner, and this particular role will have the function of being able to initiate disciplinary actions, to receive complaints on many problems that people have with the legal profession, whether they be on legal competence or on any other issue that a customer or client may have with a legal practitioner, where there is any misconduct of any type. The legal services commissioner will be able to hear those complaints.

Also there are cases where a customer or a client is unhappy with the services of a legal practitioner insofar as the advice may have caused them some damage or loss in the execution of some contract or some arrangement. The legal services commissioner and people thus affected are able to take civil disputes of up to $25 000 to the Victorian Civil and Administrative Tribunal for satisfaction of any of those financial losses which they may have had through faulty advice rather than through some malpractice. This legal services commissioner is, according to the second-reading speech, to be independent from the legal services board.

Sitting suspended 6.30 p.m. until 8.03 p.m.

Hon. C. A. STRONG — Before the dinner break I was talking about the role of the commissioner established by this bill. Before I continue on that at any length I would like to reflect on the fact that as history looks at this debate of December 2004 it will be of some interest that although we are on different sides of an argument in the house we enjoy a wonderful arrangement — if that is the right term — in this country. Those who are on different sides of the

political fence in countries such as Iraq are out there with their machine guns, mortars and tanks trying to kill each other. The wonderful thing about our system is that we are able to deal with it in a civilised fashion. This evening we have had the opportunity to enjoy your hospitality, President, with Christmas drinks. The Leader of the Opposition in this house, the Honourable Philip Davis, whose birthday it is today, has also had the opportunity to enjoy that. Be it that we may find ourselves in this place in a situation of great conflict, where we may in all other respects perhaps like to tear each other's throats out, we are civilised enough to step back from that and to deal with conflicts in a civilised and well-balanced way, even though we may have real and significant differences.

We all know that we are here because we want to do the right thing by our communities. I must say that I think those on the Labor side are fundamentally misguided; and probably those on the Labor side think that we are fundamentally misguided. We have only to look at the last federal election to know that most of the people think that the Labor side is misguided — and they have to be correct in that assumption — but it says a lot for our democracy that we do not go out with machine guns and mortars and try to kill each other. We kill in a cerebral way, which also says a lot for our society. My Higinbotham Province colleague, the Honourable Noel Pullen, who has just come in, is without question cerebrally challenged, and he will no doubt take me to task for that in future. Nevertheless it says a lot for our system of democracy — and for my need to use the 43 minutes available to me — that we are able to do these things in a civilised fashion.

I would like to put on record my great support and admiration for the Deputy Leader of the Liberal Party, the Honourable Andrea Coote, who quite rightly has come back to support her colleague, because it is the Honourable Andrea Coote and I who will I hope emerge victorious in the south-east metropolitan region and be here in the next Parliament to put those on the other side to the test. It is a great thing that we can luxuriate in our differences but nevertheless do so as members of a civilised society.

Mr Lenders interjected.

Hon. C. A. STRONG — The Leader of the Government, the Honourable John Lenders, makes a typically fatuous interjection. He is a person who, if he had chosen differently, would have a lot to offer to society and to Parliament.

We welcome our new Independent member, who has been forced to independence by an excess of goodwill. As one who has enjoyed goodwill and good fun and who has for many years sworn off driving a motor car and has used public transport, I can say that allows one to relax at this festive time and enjoy oneself. I urge our new Independent member to do the same thing but not to get caught driving when she does not have a licence — it is much easier to catch a bus, train or taxi! I am amazed that nobody has yet called me to order at this point in time, but maybe that is a reflection of the rather diminished state of the house. It is only a matter of two or three days before we will be doing Christmas felicitations in this place — —

Ms Mikakos — And you are getting in early!

Hon. C. A. STRONG — As my colleague on the Scrutiny of Acts and Regulations Committee has reminded me, I should stay on the bill. Nevertheless, be that as it may, I am under a commission by my leader to make sure I use my full 38.53 minutes, and in that way we can all enjoy our Christmas cheer! Returning to the bill, we have a new role, which is the commissioner — —

Hon. W. R. Baxter — The legal services commissioner.

Hon. C. A. STRONG — The legal services commissioner — thank you, Mr Baxter. I divert to say that when I first came to this place in 1992 the Honourable James Guest was a member here. I can remember that he used to get up and speak — he spoke from the opposite side when I was here, which is the appropriate side — and in many ways his speeches were fundamentally inarticulate when you listened to them, but when you read them the next day in *Hansard* they were quite amazing. Ever since then he has been an inspiration to me to give articulate speeches that read well.

The minister, in his second-reading speech, made much of the fact that the commissioner will be independent from the Legal Services Board. However, the commissioner will also be the secretary of the Legal Services Board. It seems to me that this is a little bit like the Ombudsman who is also the police integrity commissioner. He has an office at 101 and then he rushes down the corridor to office 102 to be the police integrity commissioner. The commissioner is independent from the Legal Services Board but is also the chief executive of the Legal Services Board.

Hon. W. R. Baxter — It is like being a little bit pregnant!

Hon. C. A. STRONG — Mr Baxter said, 'It is like being a little bit pregnant'. That is probably an overly

generous assessment of the situation, to be honest. The lady who I understand will be the new commissioner and secretary of the Legal Services Board will no doubt have a Chinese wall within her head, and that will be interesting to watch. It is unfortunate that the government has this propensity to give independent roles to the same person.

President, up until this point in time I may have enjoyed a little of the Christmas spirit and been frivolous with the things I have said, but I think it is a problem with many of the things this government has done: it creates two functions which are allegedly independent but gives them to the same person. It beggars belief and stretches credibility to the limit, and as a result one is left wondering why the government has given those roles to the same person.

Does this mean there are so few people the government can trust that it has had to create two independent positions and give them to the one person? Does this mean that there is only one person it can trust rather than two people? It is a little bit of a problem with many of the things it is doing. Certainly if we think about the police integrity commissioner and the secretary of the Legal Services Board, we realise they have, quite rightly, two fundamentally different roles. The Legal Services Board sets the standards by which the legal profession should be judged, and the commissioner is the one who is responsible for disciplining people if they are in breach of those standards.

A fundamental rule of the separation of powers — and this is not just a Westminster thing but something that all governments, administrations and companies do — is to endeavour to establish that the person who sets the standards is different from the person who enforces them. If the person who sets the standards enforces them, you immediately have a compromise because that person inevitably will set the standards that suit the result. In other words, if you know you will breach the standards, you subtly modify the standards to ensure that you do not breach them. A fundamental of good governance is that the person who sets the standards is different from the person who enforces the standards. The bill ensures that they will be two different functions, but the same person will be performing both functions.

I remember the first thing I was taught as a young engineer was, 'If you estimate or work out what this job is going to cost, you are responsible for putting the price on this job and somebody else should be responsible for seeing that it is delivered. If you can adjust your estimates to suit the result, it is fundamentally corruption'. As I said, you should always separate the person who sets the standards from the person who administers them. This bill does that: it has two different functions, but they are to be performed by the same person. Well, pull the other leg!

It is a bit like the Office of Police Integrity, which sets the standards and is responsible for administering them. That is a very sad thing, and I seriously urge this government to think about ensuring that the standard setter and the standard auditor are different people. Do not have the same person, because it does not matter how good or honest that person is, they are under a certain amount of personal duress in trying to ensure that what they have said in one function is materialised in another.

Although in essence the concept of making the commissioner a totally independent person from the Legal Services Board is appropriate and absolutely correct, to turn around and say that the commissioner will also be the chief executive officer of the Legal Services Board is a mistake. I hope the government will revisit this in the future.

For dramatic effect, I once again hold up the full 40 centimetres of the bill. It is no mean effort to go through it and find a few things — —

Mr Lenders — Forty centimetres? That is about this thick! Mr Strong is misleading the house — it is 4 centimetres thick.

Hon. C. A. STRONG — I meant 40 millimetres. I am sorry. The minister reminds me that I am out — by just a small fraction. I meant 40 millimetres or 4 centimetres.

Ms Mikakos — How much does it weigh?

Hon. C. A. STRONG — Ms Jenny Mikakos asks how much it weighs.

Hon. W. R. Baxter — In pounds, please.

Hon. C. A. STRONG — I can tell her it weighs a helluva lot. What does 4 centimetres or 40 millimetres of paper weigh? Would anybody like to make a bid here?

Hon. W. R. Baxter — Half a brick.

Hon. C. A. STRONG — No, definitely a brick.

One of the issues the bill deals with in some detail is delegation. It deals in some detail with the functions of the commissioner that can be delegated to other people. Delegation is most interesting. Members who have

been here some time will remember that one or two years ago — I am not sure when — there was an issue of delegation in the legal profession. The various organs of the legal profession were able to delegate their authority to various people, but the people who were responsible for the safekeeping of the law of the land had misread the legislation and had fundamentally messed up — I do not think I would be wrong in saying — the way they had done their delegation. The government quite rightly — and the opposition supported it — brought in a bill to regularise what was the irregular delegation of the then legal profession. I must say that I was intrigued to read the multiplicity of clauses that deal with delegation in the hope that that will not happen again. This bill requires, for instance, that delegation must be in writing, that all delegations must be audited once a year to determine whether they are appropriate, and that every year every delegation is reported in an annual report so that the situation where delegation caused embarrassment to everybody will not arise again.

The bill transfers some of the functions of the Legal Profession Tribunal to a separate Victorian Civil and Administrative Tribunal list. That special VCAT list will be able to deal with issues of misconduct on the part of legal professionals, or where there is a dispute or where incorrect decisions or pleadings of legal professionals may have cost their clients a significant amount of money, although, as I mentioned before, those sums are capped at $25 000.

The bill also allows the new body to have oversight of things like professional indemnity. Professional indemnity is a major issue in any profession. Over the years the legal profession has had a professional indemnity scheme which it has run itself with some underwriting from insurance companies. As a result of this bill, that professional indemnity arrangement will be maintained. A major issue in the legal profession is that of a fidelity fund. It will give some comfort to people who for whatever reason have been misled or cheated by legal professionals. All professions, it does not matter what they are, have some rogues. The Fidelity Fund is there to protect consumers if a legal professional, for whatever reason, lets the side down. This new body will have the role of oversighting that Fidelity Fund.

Another very important function of this bill is that it seeks to make the legal profession national in nature. Unfortunately, or fortunately, our processes have been state based. We have grown into independent states, and one of the things most jealously guarded by each of those independent states is their legal system and their legal independence. However, we live in Australia rather than just Victoria, New South Wales, South Australia et cetera, and this bill goes a long way towards saying that it really does not matter where we did our legal training or where we got our legal qualifications, if we are ticked off by the legal body in our states, then we can practise anywhere across Australia. It needs to be said that in the past few years there has been mutual recognition of legal professionals. This goes the next step and says that if a legal practitioner is qualified and those qualifications are accepted in Victoria, he can, without letter or hindrance, practise across Australia, and vice versa so legal practitioners in New South Wales, South Australia et cetera can practise here. It is a more national approach to the legal profession, and I think that is appropriate. Australia and Victoria can only gain from this. As a state which has one of the more highly qualified legal practitioner groups in the nation and as a state which has some of the best tertiary education establishments in the nation, Victoria can only gain from this move, and that is absolutely appropriate.

The other interesting thing is that the bill recognises the importance of the brand. The brand of legal practitioner, lawyer, barrister and so on is protected by the bill, just as the brand of architect is protected by legislation. I would like to make a personal professional plea here and say that certain brands are not protected by legislation — the brands of engineer and accountant are not protected by legislation. It is appropriate that people can anticipate when they go to a lawyer, a barrister, an architect or even an engineer or accountant that that brand name carries some backing with it. This bill ensures that as far as the legal profession is concerned that brand is guaranteed by legislation. We know that the architect brand is guaranteed by legislation. I must say that as an engineer it is a great regret to me that the engineer brand is not protected by legislation, and I am sure the brand of accountant should also be protected. There is a very sound reason to say those brands should be protected by legislation, and this bill protects those legal brands.

Another interesting thing in the bill concerns the Fidelity Fund. Now that we have a national process for accrediting legal professionals, if you are a Victorian practitioner who by some sort of misadventure happens to be a rogue and you become a great cost to the Fidelity Fund, the Victorian Fidelity Fund will pick up the tab for your misadventures even if they take place in Queensland, South Australia or New South Wales. One can only hope as a result of that arrangement that there are less rogues in Victoria than in New South Wales or South Australia. That there is not a better sharing of the risk leaves us with some sort of exposure in the Fidelity Fund.

President, in the short time available to me I have endeavoured — as a member who has been here for many years it is a great regret to me to see you sitting in the Chair and yawning while I am speaking — —

The PRESIDENT — Order! I am not sure if the member was referring his comments to the Chair, but I believe that is a reflection on the Chair. I ask him to withdraw. Leaving aside the fact that the member's comments were completely wrong — that is irrelevant — he is not to make comments about the Chair, so I ask him to withdraw.

Hon. C. A. STRONG — President, you know I would be only too happy to withdraw, because I have great respect for the Chair. I was in no way reflecting on the Chair; I was probably reflecting more on the boring nature of my speech.

With those few comments I urge the house to think very carefully about the bill. Although it does a lot of good things and seeks to take the legal profession to a more national perspective it is of great regret that this 40 millimetre-thick bill was introduced a week and a half ago and is being railroaded through this house without an opportunity for the profession to consider all issues. When you think that the bill has had a gestation period of over four years, it beggars belief why it cannot be allowed to lie over until the next sitting. After a four-year gestation period it makes no sense that it should be forced through Parliament in the dying days of this sitting. The opposition's criticism of the bill is not in the detail because, frankly, I do not think anybody has had a chance to effectively get across the detail. That the government should seek to ram it through Parliament in the dying days of this sitting makes no sense. It is a great pity that it has not been left to lie over during the Christmas period so that what may be very constructive amendments can be made to it before autumn next year. With those few comments, I am happy to put on record that once again the opposition will not be opposing the legislation.

Hon. W. R. BAXTER (North Eastern) — This legislation, as Mr Strong has said, is very lengthy and runs to some 530 pages. There is no doubt it is quite a complex bill. To an extent I share Mr Strong's reservations about it not being allowed to lie over. Despite that, it has been in the marketplace during its preparation for some time, but the actual bill is of very recent origin and certainly solicitors in my electorate have not had much, if any, opportunity to consider the bill once it was introduced into Parliament. That probably explains why I have had no comment from members of the profession in my electorate about the contents of the bill.

I do not take that as a signal that all the solicitors in North Eastern Province are entirely happy with the legislation — far from it! — it is just that it is somewhat overwhelming, and they have not yet got on top of it. I acknowledge that in many respects it is a rewrite of the 1996 legislation. Certainly it makes some changes, but generally they are not radical; they are more changes of an administrative nature in terms of how the profession is regulated. It is my conclusion, and the conclusion of The Nationals, that the legislation is generally meritorious and that we can support it.

I make the observation, and perhaps the minister in his summing up or in the committee stage may comment, that so far as I can recall this is the first bill that the Parliament has had where the clauses have been numbered in the decimal system rather than the traditional system. I am not certain whether a decision in principle has been taken that all future bills will be so numbered or this is a one-off or that this has somehow or other been prepared by sources outside parliamentary counsel and has been therefore done by someone who is not familiar with the method by which the Parliament traditionally enumerates clauses in legislation.

I am not saying that I am absolutely opposed to this method of numbering clauses, but I find it somewhat confusing. Certainly one cannot only look at the proposed act and ascertain exactly how many clauses or sections it contains. It is likely to lead to a deal of confusion. I am not certain what is the situation which will apply when we get amendments to the legislation, which ultimately and inevitably we will. For example, I have opened the bill to page 91 which is clause 2.6.12. If there is to be an addition to that clause presumably we then get 2.6.12(1), I suppose, or is it 2.6.12(a). I am not certain. The house might be enlightened by the minister as to what is proposed. Clearly we will have some confusion and a dual system because if this bill is to be numbered in this way, and if it is to refer to other acts — I am not certain that this bill necessarily does, but inevitably we will have acts that amend other acts or refer to sections in other acts — they will be numbered in a different way to what the principal act is in terms of the references. All I am saying is that we have a recipe for confusion unless we make a change in its entirety from one system to another. If we are, then let us have the rationale for that and let us understand how it is to be done.

As I said, this legislation is largely a rewrite of the Legal Practice Act 1996 but makes some major changes. The most dramatic change is the shift away from the traditional means of regulation of the profession. Historically, and for many years, we have had, for want of a better word, in-house regulation by

the Law Institute of Victoria and the Victorian Bar Council. It would be fair to say that the bill sidelines both of those organisations in terms of regulation of the profession. On the other hand, one would have the knowledge that the current fashion is to have regulation by independent bodies and not by the particular profession or industry itself. We have to accept that.

Firstly, I want to pay tribute particular to the Law Institute of Victoria, and secondly, to the Victorian Bar Council because by and large the institute has regulated the profession well over the last century or so. In the time I was the spokesman for The Nationals for the Attorney-Generalship I received unfailing courtesy, assistance and generous response from the Law Institute of Victoria, and I do not think I could have on any occasion asked for more. I place on record my appreciation of the numerous presidents and chief executive officers who served during that time when I had a close association with the institute.

I particularly remember Mr Bernard Teague, now Justice Teague, when he was president of the Law Institute of Victoria, and Ian Dunn, the long-serving chief executive officer of the institute. They responded to my requests very generously and in great detail. In no way were they dismissive of queries they might have got from me as the representative of the third party in this Parliament. I hope that over the years I was able to respond positively to that assistance by making their views known to the Parliament during debate here.

There is no doubt that the legal profession is a very prized one, and is well sought after by many students. Evidence of that is the very high ENTER score needed to study law at our universities. There are obviously a lot of very talented young men and women who see great rewards in becoming members of the legal profession. Certainly for those who are successful it brings some rich rewards. Whether they become partners in big national firms or corporate lawyers, they are able to exercise extraordinary influence in our society and along the way perhaps earn a very high income indeed at the bar.

I want to take this opportunity to pay tribute to those thousands of lawyers and solicitors who practise in country Victoria, because many of them give an outstanding service to the people of Victoria. Many of them are sole practitioners in many of our small towns. Certainly in the past, perhaps less so now, they were the only professionals in the town. They may well have been the only people in the district who had been to university. As I say, that is probably no longer the case but certainly for a long while it was. They have been great mentors and advisers to generations of country families. In many respects, unlike some of the city counterparts who were able to specialise in the law, they had to be a jack-of-all-trades. They have been rather like the country GP. They have had to deal with every issue as it came along, whether it be estate planning, taxation, marital discord, traffic offences, conveyancing, the law of contract, the sale of goods, the creation of easements, subdivisions and so on. We owe a great debt to many of those young men and women who went out to country Victoria and practised for many years.

In that regard I want to name one or two, particularly Tim Stuart, who 34 years ago went to Numurkah on a temporary assignment to work with the legendary Charles Newman, who was then the senior partner at Morrison and Teare. Tim has now hung up his shingle and retired to the coast after 34 years. He came to the small town of Numurkah on a temporary posting and stayed a long time during which he provided an extraordinarily good service to the people of the town. Similarly I refer to Brian Keogh, a sole practitioner in Nathalia who succeeded his father, Max Keogh. For as long as I can remember the Keoghs have been the only solicitors in Nathalia. It is a great tribute to Brian that he has given so much good service to country people.

I do not intend to go to the detail of the bill, because it has been well outlined in the second-reading speech and by Mr Strong. I know Ms Mikakos is bound to give us a good dissertation on its detail. It is worth noting that the bill abolishes the Legal Practice Board, the legal ombudsman and the Legal Professional Tribunal and in place thereof establishes the Legal Services Board and Legal Services Commission. I share to some extent Mr Strong's reservations about the chief executive officer (CEO) serving both bodies. In one sense he is going to be acting as the legal services commissioner quite independently of the Legal Services Board. I would have thought there would be a potential for some conflict of interest with one person wearing two hats. I can understand being CEO to two bodies if you are responsible to two bodies. But this person also has an independent role to exercise, quite separate to one of those bodies. That seems to me potentially to be a recipe if not for disaster then at least for confusion. I would be interested in hearing a rationale advanced by the government as to why this particular model has been selected.

The bill also makes provision for disputes of up to $25 000 in value that cannot be resolved by the legal services commissioner to be referred to the Victorian Civil and Administrative Tribunal for hearing. One might say that that is acceptably in line with the government's policy of having VCAT hear all sorts of

administrative disputes. Other legislation has established various divisions of VCAT, and one would hope that this turns out to be a suitable vehicle as well. Only time will tell.

As we pass by the abolition of the legal ombudsman I want to note that Kate Hamond has done a very good job in that position. I want to pay particular tribute to how she visited members of Parliament. I assume she visited members in the suburbs, as she certainly has in country Victoria. I find it gratifying that a senior public official such as that moved around country Victoria, calling upon local members of Parliament and other senior people within the various regional cities to explain her role, offer her assistance and generally promote good governance. That is what Kate Hamond was on about — promoting good governance. I very much appreciated the work she did. In a sense I am sorry to see the office of the legal ombudsman abolished. I hope the new structure, which I know is designed to envelop the work that was done by the legal ombudsman, will still bring that same focus to the task.

The bill talks about trust funds as it must. They are undoubtedly an important source of revenue particularly for legal aid and for some legal education proceedings and the like. And obviously they generate a very high level of income each year. Of course defalcations have occurred when solicitors have not administered trust funds correctly or worse have raided the trust fund, and funds belonging to clients have been dissipated one way or another, whether on unwise investments on the part of the solicitor or at Crown Casino or the racecourse. Some very serious defalcations have been identified, and that has imposed a severe impost on other solicitors, because levies have had to be made to make up the shortfall. I suppose that is going to happen again in the future; it is human nature. But one would hope that is minimised, because those sorts of activities bring the profession into a good deal of disrepute, and rightly so.

One of the issues I noted in the second-reading debate in the other place is the activities of solicitors who conduct lending arms — who take deposits from their clients and lend them out again usually on first mortgage investments or property purchases whether they be farms or commercial properties within their districts. That is a very worthy activity in that it keeps the funds, in terms of the country anyway, in the local district. No doubt many people have entrusted funds to solicitors who have on-lent them and creamed a bit off the top. Perhaps in retirement, by selling the farm or business or through inheriting an estate from relatives, people have found themselves with surplus funds and many of them have felt uncomfortable about husbanding those funds themselves, either by investing them in the stock market or buying an investment property or whatever else they might have done. I do not necessarily object to that practice, but there have been some famous failures. The one that comes to mind is Tietyens, although that was in Albury not Victoria. That firm went beyond looking after the knitting at home and made very large investment in a retirement village at Tally Ho here in Melbourne which went bad. Some $35 million was lost and the Solicitors Guarantee Fund in New South Wales was put to the test in refunding the money. I think that is a danger. Some solicitors are not financial advisers. They are not necessarily skilled in that sort of risk taking and funds management, and should be very careful in doing that because there are quite serious risks involved.

Having said that, the other side of the coin is that it is not being very helpful to your client if you simply lend out the money with which you have been entrusted on first mortgage for many years and you get an interest rate which might be marginally above the term deposit rate that a bank would give you, because money loses value in inflationary times. Perhaps that is not the case so much at the moment when the inflation dragon might have been slain, as the federal Treasurer, Mr Costello, claims, but certainly if one looks back at times of higher inflation one sees that some people lost a lot of opportunities. On two occasions I have been involved in presentations of substantial sums of money to charitable institutions in my electorate — to hospitals and nursing homes and the like — from people who have had money invested by their solicitors for 20 and 30 years at fixed interest which has not grown at all. If those funds had been more boldly invested, or in my view more sensibly invested, we would have had an accretion of capital rather than simply returned interest.

I well remember one occasion I presented a cheque for $200 000 to a hospital building appeal. The money had been invested when the donor's husband died in 1974 — 30 years before. Taking into account the Whitlam inflation years, if that money had been more assiduously invested I probably would have been presenting a cheque for $1 million instead of $200 000. There is a greater responsibility on solicitors than simply lending money on fixed interest if they are entrusted to look after the affairs of someone's estate. I simply make that point because although obviously they collected fees for doing it one has to ask whether they obtained a responsible result after 30 years. I tend to think not.

I also express again the concern that I have expressed in this house on other occasions in respect of this activity of the legal profession that, yes, they are taking the

client's money and lending it out, and they are probably taking a return of 1 per cent off the top, but it is not the client's name on the mortgage; it is in fact the name of the solicitor's lending vehicle. I do not think that clients by and large are aware of that fact. I think they believe it is their name that is on the mortgage and that they have that sort of security. I am not so sure that they do. They have security provided the person who has borrowed the money goes all right and provided the solicitor's mortgage company goes all right, but if it does not they are not the first creditor in line, although they think they are. Something needs to be done to make sure that is better understood by potential clients because it is in that area that sometimes the profession lets its clients down. It is where people are misled to their great cost and suffer extreme disappointment because they pay fairly high fees over the years believing they are getting good service when they are not.

Having said that, let me say that I do have great respect for the legal profession. As I have noted, 99.9 per cent of the practitioners are very dedicated people indeed and provide an extremely good service to their clients. We all hear stories about solicitors being too slow in responding and that their fees are too high et cetera, but when something goes wrong and you need a good lawyer, it is great that we have a profession in this state in which by and large we can have the utmost faith.

This legislation will serve the profession well. However, I say that I suppose more in hope than in sound knowledge because the bill is so lengthy and so detailed that I admit I have not had the opportunity since it was introduced 10 days or so ago to study it — —

Hon. Bill Forwood — To read it!

Hon. W. R. BAXTER — To read it! I do not like speaking on legislation I have not read from cover to cover, but I acknowledge that tonight I am speaking on legislation that I have not read cover to cover. I am taking it in good faith, and I certainly hope that my good faith is not found wanting in the contribution.

Ms MIKAKOS (Jika Jika) — It gives me great pleasure to speak on the Legal Profession Bill, and particularly to do so as someone who has formally practised as a legal practitioner in the state of Victoria. I begin my contribution by saying that — —

Hon. Bill Forwood — Slater and Gordon or Maurice Blackburn?

Ms MIKAKOS — If you check the parliamentary handbook, Mr Forwood, you will find it was with neither of the two firms you named.

At the outset I say that I wholeheartedly agree with the sentiments expressed by the Honourable Bill Baxter. I agree with him that the legal profession is an honourable profession and that lawyers take their particular responsibility as guardians of our justice system, you could say, very seriously, and that they do see themselves as being in a unique position to protect our fundamental rights and freedoms, to champion human rights in general and to seek to advocate on behalf of the most disadvantaged members of our community.

I come at this bill from the starting point of seeing lawyers and the legal profession as playing a very significant role in our society, and that it is therefore absolutely important that Victorians and legal consumers have the utmost confidence in our legal system, and in particular in legal practitioners who, as I said, are effectively the guardians of that system. This legislation seeks to establish a new regulatory framework for the legal profession in Victoria. It seeks to incorporate national model provisions developed by the Standing Committee of Attorneys-General, which seek to remove barriers to national practice through uniform standards for the regulation of the profession. This will benefit both consumers and legal professionals and will contribute to national consistency in the legal profession. Of course we are looking at a very different context to the one that has existed in the past in that we are seeing a legal profession that is practising more and more across state jurisdictions. It is important that our system of regulating legal practitioners reflects the modern reality — that is, a society that operates across state boundaries.

In line with the aims of the Attorney-General's justice statement — that is, of modernising justice, protecting the rights of Victorians and addressing issues of disadvantage — this bill seeks to enable all Victorians to be able to access a simpler and more cost-effective legal system. As I indicated, the government is seeking to modernise the legal profession and also to provide for a more responsive and efficient regulatory system that will allow legal professionals to compete effectively and deliver high-quality legal services to their clients.

As indicated by previous speakers, this is a lengthy bill and I will only touch on its key aspects in my contribution. I found the format adopted in this bill most helpful; the way the clauses are numbered assists in ease of reference. I recall that a similar format was

used in the Gambling Regulation Bill, which was previously before this house. Whilst the examples where this approach has been used are relatively few and far between, when we are talking about quite lengthy and complex bills this format is particularly helpful to us as legislators, and I am sure it will be helpful to practitioners who have to use this legislation in the future. In answer to Mr Baxter's question, it is not my understanding that it is intended to make this the general format to be adopted in the future, but it has been adopted in this case and in previous instances for ease of reference.

The changes we have before us modernise our current regulatory system that has been established for some years under the Legal Practice Act 1996. It is a system that is partly self-regulated by the legal profession, partly by independent statutory bodies such as the Legal Practice Board and the office of the legal ombudsman, and by recognised professional associations such as the Law Institute of Victoria, the Victorian Bar Council and the Legal Profession Tribunal. It has been my experience that rather than the current system being seen as a complementary system it is regarded by many in the legal profession as a system in which there is considerable duplication of functions between the various bodies. It can be confusing for legal consumers, particularly when they want to put in a complaint against a practitioner, and it is overly costly and inefficient. For legal consumers this state of affairs is clearly unacceptable. The Bracks government has listened, consulted and acted. It may have happened over a long period but we now have a new system of regulation that will protect the interests of consumers while meeting the needs of the legal profession.

The bill will abolish the Legal Practice Board, the office of the legal ombudsman and the legal profession Tribunal and replace them with a new regulatory framework that will avoid duplication and streamline the complaints process. It will establish the Legal Services Board as the peak regulatory body in the new system, and the board will be accountable for administering the funding for bodies within the system, for policy setting and for all non-disciplinary functions within the system. The board will have responsibility for a range of key functions which include making legal profession rules, dealing with criminal breaches of the act and management of the Fidelity Fund. It is anticipated that membership of the board will be broadly representative and will include consumer legal practitioner representatives and experts in financial management.

As has been mentioned by previous speakers the bill also establishes a legal services commissioner whose main function will be to handle complaints against members of the legal profession. A consumer will be able to make a complaint directly to the commissioner if it involves a civil dispute, a disciplinary complaint or both. The commissioner will be the single point of contact for consumers of legal services who have a complaint about a member of the legal profession, and this is something that I strongly argue consumers want because the current system is overly complex and confusing.

The legal services commissioner will also be the chief executive officer (CEO) of the Legal Services Board. A great deal of care has been taken to ensure that the dual responsibilities of the commissioner will be quite separate, and to ensure this happens safeguards have been put in place in the new system. As CEO of the board the commissioner will carry out his or her duties in accordance with the board's policies and directions, whereas in the complaints handling role the commissioner will be independent of the board and not subject to its direction. The rationale for the change, which has been queried, is that we want to ensure that the streamlining of the regulatory system we are putting into place allows for the appropriate sharing of resources, and the government would argue that this is a more efficient approach that will reduce the cost of the overall regulatory system.

The bill makes some changes in respect of funding matters. Currently the Legal Practice Board administers three funds: the Legal Practice Fund, which funds the regulation performed by recognised professional associations; the Fidelity Fund, which compensates clients for defalcations committed by legal practitioners; and the Public Purpose Fund, which contains several accounts through which funding is directed to various regulatory bodies and other organisations. These funding arrangement have proven to be complex and inefficient, and the bill simplifies these arrangements so that 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 general account, the statutory deposit account and the new distribution account. The distribution account will be for the funding of legal aid, law reform legal education research and other purposes.

This bill recognises the importance of continuing funding for legal education law reform and legal research. It adopts a modern purposive approach for this funding to provide flexibility in meeting future community needs. Those organisations which currently receive funding for these activities from the Public Purpose Fund, such as the Leo Cussen Institute, the

Victoria Law Foundation and the Victorian Law Reform Commission, play an important role in our legal system. I understand that the Attorney-General was advised last week by the Legal Practice Board that funding for these organisations will continue.

The bill also transfers the functions of the current legal profession tribunal to a separate Victorian Civil and Administrative Tribunal list. The tribunal will amongst other things have jurisdiction to review certain decisions made by the board and deal with applications made by the commissioner for the tribunal to make an order that a practitioner is guilty of unsatisfactory professional conduct or professional misconduct.

As I said at the outset, the system that has been put in place is a system of co-regulation. It acknowledges that both the Law Institute of Victoria and the Victorian Bar Council are important bodies and should continue to play an important role in maintaining and raising professional standards. Both the board and the commissioner may choose to delegate functions to the various professional associations in order to draw on their considerable knowledge and expertise in various aspects of regulation.

I said at the beginning of my contribution that we are moving towards a national legal profession and trying to achieve some national consistency. I note in this respect that the model adopted in the bill will ensure that standards and procedures across jurisdictions are consistent, and at this point in time Western Australia and the Northern Territory have also introduced legislation adopting the model provisions. Queensland has introduced legislation to implement most of the core provisions, and New South Wales has just recently introduced a similar bill into its own Parliament. It is my understanding that all other jurisdictions are expected to adopt the core model provisions by the end of 2005. Once all of those parliaments have passed the legislation we will certainly have gone a long way towards achieving a national legal profession.

There has been some confusion amongst the members of the Victorian conveyancing industry, and I want to note that the provisions of the Legal Practice Act that relate to conveyancing business have been carried over into this bill until a regulatory scheme for conveyancers, if any, is developed. Both the Attorney-General and the Minister for Consumer Affairs announced a few weeks ago that such a review is imminent.

In conclusion, this is a significant bill. Anything that increases the confidence of the community in our legal system is a positive thing. Anything that promotes the highest possible standards from our legal professionals is critical. This new regulatory system will contribute to national consistency and ensure we have modern laws to meet the ongoing needs of the legal profession and above all, consumers of legal services. I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — I take pleasure in joining the debate on the Legal Profession Bill. In doing so I want to pay tribute to my friend and colleague Mr Strong, who provided the chamber tonight with a very detailed analysis of the bill in all of its facets.

There is no doubt, and all speakers tonight have acknowledged, that this bill is quite voluminous and very complex in its nature. I note that Ms Hadden has just picked up a copy of it — and it nearly bounced back onto the desk! That is a reflection on the volume of material contained within it. It is also a fact that the opposition and all parties in this Parliament have only really had a fortnight in which to consider this legislation. As such, members of the opposition have relied — particularly those of us who are not members of the legal profession — heavily on briefings given to us by the responsible office of the shadow Attorney-General in the other place, the member for Kew, who was a barrister and solicitor before he entered Parliament and practised as such. He has provided us with many briefings on the important content of this legislation.

What amazes me is that Mr Strong was able to talk for a whole hour on this legislation because I received exactly the same briefing from the shadow Attorney-General as did Mr Strong and I think I probably got 10 minutes worth of material to cover. Perhaps it is just that our note-taking skills are quite different.

Ms Mikakos — Perhaps you did not partake of as much goodwill as Mr Strong.

Hon. A. P. OLEXANDER — Perhaps, Ms Mikakos, I have not and perhaps I have, we will never know, but the point here is that I would like to make just a brief contribution, certainly I do not believe to the extent of time allocated to me.

This bill makes some very basic changes to the Victorian legal system and the regulatory framework which governs that system. It provides for the adoption of the national legal profession project which has been developed by the national Standing Committee of Attorneys-General. The key thrust of the bill, as has been outlined by other speakers, is to provide some

national consistency across states for legal professionals in all of those states regardless of where they practice.

Many professions have restructured themselves so that they are effectively operating on a national platform. It is certainly very useful in the broader sense to do that. Many industries, however, as Mr Baxter and Mr Strong said, are not protected by legislation and certainly the rules governing them are not defined under legislation as this and the legal profession is here. We understand that Queensland has not yet enacted similar legislation but will be doing so shortly. We also understand that New South Wales is probably further down the track but has not yet enacted similar legislation; but we understand that is coming very soon so the Victorian legal profession will certainly be part of a truly national network.

The bill abolishes the Legal Practice Board, the office of the legal ombudsman and the Legal Professional Tribunal and replaces them with the Legal Services Board and the legal services commissioner (LSC). The bill also provides a new complaints scheme. The legal services commissioner will be the sole person responsible for receiving complaints and may also refer complaints to professional associations for their investigation.

The Legal Services Board will be responsible for making legal professional rules, approving rules made by other bodies within the legal profession — the Victorian Bar Council and others — controlling administration of trust accounts and management of the Fidelity Fund. It will also administer practising certificates and criminal breaches of the bill. The LSC will also be the chief executive officer of the new Legal Services Board as provided for by this bill.

The legal practice list is created by the bill and replaces the Legal Practice Tribunal within the Victorian Civil and Administrative Tribunal to hear unresolved complaints to the LSC relating to the conduct of legal practitioners. The legal practice list will be empowered to hear matters currently heard before the Legal Practice Tribunal and also applications by the legal services commissioner to make orders when the commissioner is satisfied that a practitioner is guilty of misconduct, civil disputes involving up to $25 000 that the legal services commissioner cannot resolve as well as applications to set aside cost agreements; and it may review decisions made by the Legal Services Board.

Funding of legal aid is dealt with in this bill. Legal education and legal reform issues are restructured. The Legal Services Board will be responsible for a restructured Public Purpose Fund and a Fidelity Fund. The existing Legal Practice Fund will be abolished under this legislation.

The national legal profession project, as I mentioned before, is the key initiative contained in this bill and will allow legal practitioners to practise in any Australian jurisdiction without the need to obtain or going to the expense of obtaining the necessary practising certificates in each of those jurisdictions. However, we do have some areas of concern. The legal services commissioner who obviously will have such wide and broad-ranging power will be a very powerful officer, and the person holding that position will have enormous responsibility as well as control over the profession to a large degree. We are concerned that there does not appear to be built into this legislation any real form of oversight of the legal services commissioner. For example, a legal ombudsman or a state Ombudsman might have been empowered to oversee that aspect but there does not seem to be provision made for that, so that is of concern to the opposition to some degree.

However, as has been stated by Mr Strong, our lead speaker in this debate, we do not oppose the bill. We have consulted widely — the shadow minister in the other place, Mr McIntosh, has consulted widely with the Victorian Bar Council, the legal ombudsman, the commonwealth Attorney-General's office, the Australian Institute of Judicial Administration and the Institute of Legal Executives. Broadly speaking they have welcomed the advent of this bill, given that it has taken four years to come to this place and that the national scheme has been discussed in legal forums now for at least that long. So we will be ensuring the passage of the bill, given the feedback we have received from the legal fraternity and associated and allied professions and bodies.

The bill is very lengthy and convoluted. It essentially implements one of the legal fraternity's pet projects, which is the national platform for qualification and practice. We are supportive of that. It follows four and a half years of consultation with the profession. The opposition wishes it a speedy passage, and I hope my contribution, being significantly less in length than that of Mr Strong, is appreciated by all those members still present in the chamber.

Mr SOMYUREK (Eumemmerring) — I rise to make a brief contribution, which will be about 25 per cent of what it should be, thanks to the significant contribution by Mr Strong. I support the Legal Profession Bill 2004 which has as its objective to implement a new regulatory framework for the legal profession in Victoria while at the same time

implementing national model provisions developed through the Standing Committee of Attorneys-General as the basis for consistent regulation of the Australian legal profession.

Due to time constraints I will restrict my comments to the regulatory framework provision of the bill. The Legal Practices Act 1996 established the current statutory regulatory system for the Victorian legal profession. The current system is co-regulatory, meaning that both the profession and independent statutory bodies are involved in the regulation of the profession.

I will now briefly discuss how the legal profession has been regulated in Victoria in the past. Due to lawyers playing a critical role in representing individuals against the states, lawyers have historically had a degree of independence with respect to the regulatory frameworks of the profession. The arm of the doctrine of the separation of powers between the legislature and the judiciary is a fundamental tenet of our Westminster democratic system and therefore the regulation of the legal profession requires governments to keep at arm's length from the regulation process.

As a consequence the Victorian legal profession has for the most part been self-regulating with the professional associations such as the bar council and the Law Institute of Victoria taking responsibility for maintaining the ethical and professional standards of lawyers.

Over the last decade or so there has been a trend towards co-regulation in most industries, and certainly this is the case in the regulation of the legal profession. This bill gives further impetus to co-regulation of the profession. The current regulatory framework is widely acknowledged to be deficient in a number of areas, specifically duplication, cost and confusion.

Due to time constraints, and thanks to Mr Strong, I will not expand on these issues, but I will make one point: the cost of regulating the legal profession in Victoria increased from $6.5 million in 1995 to $11.9 million in 2001–02, which is an extraordinary increase. It really is wasteful, and it is fortunate that we have been able to stop any further increases in waste, duplication and inefficiency with respect to the regulation of the legal profession.

As a result of the deficiencies in the system the Attorney-General commissioned a review of the regulatory framework in 1999, and as a result of the review the Auditor-General announced a new regulatory model. The two main features of the model are the creation of an independent legal services commissioner and the Legal Services Board. Again, I will not expand on those thoughts.

I will conclude by saying that this bill enhances the regulatory framework which operates in the state to govern the legal profession. Justice and the rule of law are paramount in the functioning of every liberal democratic society. Consequently the role played by the legal profession is integral to the process of justice. This bill will provide a simpler and more cost-effective legal system for the benefit of consumers and the legal profession. I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — It is hard to believe and indeed quite incongruous that this legislation might achieve a simpler, more cost-effective process of legal regulation when one looks at the size of the bill. In every sense of the word the legislation before the house is very much a lawyers' bill. I do not think we have seen for quite some time a tome of this nature on any matter that has come before the Parliament. It is something of a doorstopper, and consistent with the fact that it is very much a lawyers' bill it has had some four and a half years gestation. I am not sure that many other professions would have taken quite so long or arrived at quite so many pages to achieve a regulatory framework for themselves. Nonetheless it is important legislation. All members of the house have recognised that the regulatory framework for our legal system is crucial to the integrity of the legal processes, the confidence that people have in our legal system, access to the law by people not of significant means and the opportunity for those people to have their complaints adjudicated.

As a number of members of the house have said in their contributions to the debate, this legislation makes a number of changes to the regulatory system as we know it today. It abolishes the Legal Practice Board, the office of legal ombudsman and the Legal Profession Tribunal and replaces them, as members have indicated, with the Legal Services Board, the chief executive of which will also be the new legal services commissioner. As members have referred to, the bill also provides a new complaints handling system, with the legal services commissioner being the sole person responsible for receiving complaints. Certainly in the past the issue of complaints about the legal profession has been a rather vexed one, with concerns about the Law Institute of Victoria conducting its own administration of complaints, its ability to provide due process and the lack of a fair, open and transparent system of complaints adjudication in the eyes of some people in the community who are concerned about

where legal matters should go and their rights in the context of the law.

As I said, the bill establishes the Legal Services Board, which will be responsible for making legal profession rules and approving rules made by the Law Institute of Victoria or the Victorian Bar Council, the organisation that represents barristers. It will also have control over the administration of trust accounts, which is a very important aspect of the legal profession, with many solicitors running and managing trust accounts on behalf of their clients; the management of a Fidelity Fund; the administration of practising certificates; and the consideration of criminal breaches of the bill. As has also been mentioned, the funding of legal aid, legal education and legal reform have been restructured under this legislation, and the Legal Services Board will be responsible for a restructured Public Purpose Fund and Fidelity Fund, which will cover those areas of service.

I do not have a great deal of complaint about the general direction of this legislation. It is interesting to note that the current Attorney-General has made it a cause of his to sweep away the cobwebs of the legal profession and try to develop a more contemporary legal system in Victoria. To a large extent his ambitions of achieving a legal service that is more accessible and better understood by the community at large is something that ought to be commended.

Indeed, it is something that in general terms Parliament ought to be supporting. It is important that whilst there are areas of tradition and other areas that are important to maintain in a profession like the legal profession from the point of view of its integrity, it is also important to challenge some of the conventions and ensure that we are doing things because they are important, make a difference and ensure the integrity of the law — that is, rather than simply because we have always done them. To that extent this legislation certainly provides an opportunity to visit some of those issues. A range of other legislation has been presented to this house, and I note that in other forums the Attorney-General has mooted that in future we might see other legislation that will challenge some of those conventions. I certainly do not have a problem with that provided there is full and proper consultation and that we arrive at a position where, as I said, we ensure that the integrity of our legal processes are protected.

The concerns I have about this legislation fall into two key areas. One is about the mutual aspects of the legislation, bearing in mind that it will effectively allow legal practitioners to practise in any Australian jurisdiction without the need or expense of obtaining their own practising certificate in each jurisdiction. That is an important and proper initiative. It recognises that the state boundaries that were established quite some years ago are not contemporary in terms of the processes of law today and the access that individuals, corporations and other organisations would want to have to the law and to pursue their claims in courts right throughout the commonwealth. The concern I have about it is simply that Victoria is doing this first, and the other states have yet to include the same provision in legislation. The concern is that we may well see legal practitioners from other states coming to Victoria and practising here — particularly in some of the border areas of northern Victoria and on the South Australian border in particular — and becoming more involved in legal work in this state without Victorian lawyers having the same opportunity if the other states drag their heels in including similar provisions in their legislation.

The second aspect is obviously more important. Any structure put in place by any government depends for its integrity very much on the appointments made to those boards. The appointments that will be made to the Legal Services Board — particularly that of the our chief executive officer, the legal services commissioner — will be crucial to whether the expectations of this house, the community and the legal profession are met by the new regulatory framework. That will be particularly important in the context of the complaints system and the handling of complaints. I want to place on record that I have had an opportunity to see the work of Kate Hamond as the legal ombudsman. I have to say that in her position as a government officer Kate Hamond has made every effort to establish in her own way a greater accessibility to and understanding of the law and, I suggest, a little more authority in the administration of the Law Institute of Victoria's processes for the handling of complaints and generally giving attention to the responsibilities of the profession to the community in a moral as much as a legal sense.

I know that at times the office of the legal ombudsman was approached by various people to persuade the office — as indeed happens with so many government officials — to take particular positions. Kate Hamond distinguished herself over an extended period as a person who was resolute in her dedication to the position she held and to the maintenance of a fair and transparent system where the accessibility of people to their right under the legal system, and certainly to have proper adjudication of their complaints, was preserved at all times.

It is unfortunate to see that the legislation abolishes Kate Hamond's position. I hope the government might consider Kate Hamond as a suitable person for a position on the board or somewhere else within the regulatory framework. She has done a lot for the profession in bringing her own skills and particularly her intellect to the role. The administration of our legal system owes a great deal to Kate Hamond in her position as legal ombudsman. I hope the government will take that on board.

I join other members of the opposition in not opposing the legislation. I hope it will deliver the sorts of benefits that have been outlined by the government and the Attorney-General in particular and that it ensures that the accessibility of the law to all Victorians is maintained and that we also see that people can appreciate that the integrity of our law is upheld under the new regulatory framework that is established.

Ms HADDEN (Ballarat) — I rise to speak in support of the Legal Profession Bill. This is indeed a doorstopper. It is a massive bill: some 538 pages, 10 parts, and an explanatory memorandum that runs to 125 pages. It is pretty heavy going, although it contains just 10 clauses in 10 parts. It will revolutionise the way legal practice in this state will be regulated. I have every faith that the legal profession in Victoria will be able to work within the regulatory confines of the bill when it becomes an act of the Parliament. If any problems arise, which no doubt they may from time to time, I have every confidence that the legal profession will work through those using the proper channels.

The bill will establish a regulatory framework that removes state and territory barriers and contributes to the establishment of a national legal profession. It creates an independent legal services commissioner, or a one-stop shop, for consumers to access for complaints about the legal profession. It creates a single point of entry for all complaints about legal practitioners. It proposes a simple approach to complaint making, which is what consumers really need and ask for. The new Legal Services Board will be the peak body in the regulatory system and will be responsible for funding, setting policy and all non-disciplinary functions. A separate legal practice list will be established within the Victorian Civil and Administrative Tribunal to replace the Legal Profession Tribunal. The new regulatory system will be operational from 1 July next year, 2005, and will contribute to national consistency, bringing the laws surrounding the legal profession into the 21st century and aiming to meet the needs of both the legal profession and legal consumers. I want to canvass just a couple of matters. I do not want to take too much time; the bill has been thoroughly canvassed by earlier speakers.

Hon. Bill Forwood — We are keen to listen to you.

Ms HADDEN — Mr Forwood probably is.

Hon. B. N. Atkinson — Are you also mentioning Kate Hamond?

Ms HADDEN — I am going to speak again about Kate Hamond, because I actually had dealings with Kate Hamond as a legal practitioner before I came into this place in 1999. I just want to place on the record — —

Hon. Bill Forwood — Is it really that long?

Ms HADDEN — Yes, it is. It has been five years since I came into this place.

Ms Hamond has done an exemplary job as the legal ombudsman in this state, especially with her outreach services to rural and regional Victoria. Even to this day her very simple messages on Win TV in country Victoria are reaching out to people who need to access the legal ombudsman's complaints system.

The legal ombudsman has served Victoria for eight years. In that time the ombudsman has received 35 405 inquiries and investigated 3645 complaints. The ombudsman's office has reached out to Victorians, informing them about what they can do if they have a problem with a lawyer. It has reached out to the legal profession, sharing information and feedback to help improve legal professionals' services to their clients. The legal ombudsman's office has a very important outreach program which has involved 464 250 information publications being published throughout this state; 251 visits to regional centres, towns and outer metropolitan suburbs; 1164 representations to community groups and support services; 93 lectures to university students and bar readers; 117 visits to community legal centres and legal aid offices; and 126 ethics workshops for lawyers.

I have always found the legal ombudsman, Kate Hamond, to be robust, independent, objective, accessible and a person of the highest integrity. She and her office, including Janet Cohen, have provided an enormous service to this state. Given their experience, skills, intellect and integrity I certainly hope that the future regulatory framework takes on some of the staff from the office of the legal ombudsman. We cannot afford to lose those skills and that respect Kate Hamond has engendered throughout this state.

In relation to conveyancers — it is a bit of a topic because of Grove Conveyancing Services down at Geelong — the conveyancing industry is rather concerned about the bill, especially clause 7.1.5. I noted Mr Baxter's concern about the decimal points in the numbering of the clauses in the bill. That numbering is something family lawyers have had to deal with for many years, at least the last 10 or 12 years.

Ms Mikakos — And tax lawyers.

Ms HADDEN — As Ms Mikakos says, tax lawyers also.

Ms Mikakos — It is a good system.

Ms HADDEN — It is a good system; it just takes a little bit to get your head around it.

The conveyancers are a bit concerned, and their organisation wrote to me outlining their concerns. Conveyancers provide a service to the community. They are not lawyers, they do not hold trust accounts and they are not licensed as lawyers under the act. However, they have to have insurance. If they do not have insurance, they must tell people that. That is precisely what the bill says — that is, that a conveyancer must give a written notice to a prospective client indicating the type of insurance held, if any; the amount of cover provided; and any relevant exclusions. If they do not do that, the conveyancer is not authorised to perform legal services. I do not have a problem with that. Buying and selling land is a major decision for many people. It is a very expensive undertaking and when things go wrong with a conveyancing company — if it goes bust and it is not insured — the first body people turn to expecting assistance is the law institute. Of course that assistance is limited because a conveyancer is not a lawyer.

The Attorney-General and the Minister for Consumer Affairs have recently announced that terms of reference have been drawn up for a review of the regulation of Victoria's conveyancing industry. The stakeholders will be included, with a discussion paper to be released in early 2005. That review will assess the current regime to determine what risks consumers face in relation to the conveyancing industry, complaints handling and public confidence in that system. It will review the definitions of legal work and conveyancing work in the act. That should satisfy the Victorian division of the Australian Institute of Conveyancers.

The bill is revolutionary. It provides a regulatory framework. It provides a one-stop shop. It aims for a nationally consistent regulatory system, which is a good thing. As I said, no doubt there will be teething problems, but I have every confidence in the ability of the legal profession to work through those problems in a meaningful and professional manner. 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 honourable members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

GAMBLING REGULATION (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

ACCIDENT COMPENSATION LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time for Mr LENDERS (Minister for Finance) on motion of Hon. M. R. Thomson.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The PRESIDENT — Order! The question is:

That the house do now adjourn.

Go for Your Life campaign

Hon. ANDREA COOTE (Monash) — My adjournment matter is for the Minister for Aged Care, Mr Gavin Jennings. The Australian Institute of Health and Welfare today released a report. The general practice activity part of this report for 2003–04 found that the proportion of patients aged over 65 visiting a general practitioner rose from 24.1 per cent in 1999 to 26.8 per cent in 2003–04. An article on page 7 of today's *Australian* states:

> More than a third of people visiting doctors are overweight, with most classed as obese, in a 'worrying' trend identified in a study of the nation's general practitioners.
>
> The report, which also traces the growing number of older people visiting GPs, argues that the elderly and overweight are placing an increasing strain on the health system.

I know the Bracks government has introduced Go for Your Life, a program which I have to say has many very good elements. It is very pleasing to see that obesity in particular is being looked at in the younger parts of our community.

There are programs to help us become aware of obesity. I am concerned about obesity and the funding for the early onset of diabetes which seems to be on a merry-go-round from the Community Support Fund to the Department of Human Services and then siphoned into various areas. I see it popping up again in Go for Your Life. I am concerned with the emphasis in the *Go for Your Life* brochure on communications under headings such as the 'Advertising campaign', the 'Campaign schedule', 'Outdoor', the 'Press', 'Getting connected', 'TV and radio'. An enormous amount is dedicated to the communications side, and not enough has been done about looking into how much money will be spent on research. That is not mentioned. We need to have not only the spin but the accountability. *Go for Your Life* refers to the fact that $1.9 million has been allocated to promote healthy and active living for senior Victorians. What precisely are the new programs that this $1.9 million will be used for, and over what period will they be implemented?

Health: vitamin D deficiency

Ms ROMANES (Melbourne) — I raise with the Minister for Health in the other place a matter which arises from an issue that I was approached about by the new mayor of Moonee Valley City Council regarding the council's concern — —

Hon. Bill Forwood — What is her name?

Ms ROMANES — Ms Lydia Kauzlaric. The concern of the mayor and councillors is about the effect of a vitamin D deficiency in the community, particularly on the health of dark-skinned and covered Horn of African women in the inner north-west. The deficiency can have an ongoing impact on the health of their children because of such problems as rickets which has lifelong effects.

I have been interested to note in the last couple of weeks since this issue was raised with me that vitamin D deficiency has been receiving prominence in the media. There is growing concern in the community. The growing problem has been highlighted across the general community, because people are heeding the public health message to cover up and keep out of the sunlight due to the possibility of skin cancer. Less mobile older people, who spend a lot of time inside, are also vulnerable to vitamin D deficiency. There is an issue about health and the need to balance access to sunlight.

Given the various ideas about what might be done to address the issue, I ask the Minister for Health whether she is aware of this growing issue of concern in the community? What action is the government taking with regard to increased vitamin D deficiency in the community?

Self-funded retirees: concessions

Hon. BILL FORWOOD (Templestowe) — The matter I wish to raise is with the Treasurer. I have been approached on a number of occasions recently by a constituent, Vern Rosenfeldt. I have had several conversations with him about self-funded retirees. A number of people, who are by no means wealthy, have set themselves a life ambition to fund themselves from the cradle to the grave. These people pride themselves on their ability to look after themselves. In times of low interest rates life gets pretty tough for them. We have had a number of conversations about ways in which state and federal governments can assist people in this category.

I corresponded with the federal Treasurer about ways in which people like Mr Rosenfeldt and other self-funded retirees could be assisted. In the course of a response the federal Treasurer said:

> … the government recently increased an earlier ... offer to the states and territories to $75 million per annum to assist with the cost of extending core pensioner concessions to CSHC holders.

The federal government has offered $75 million per annum, and the Treasurer goes on to say:

> This offer represents approximately 60 per cent of the full cost of extending these concessions.

He said that it would:

> ... see many CSHC holders save up to nearly $700 on state and local government services including council, water and sewerage rates, electricity, and motor vehicle registration ...

The federal Treasurer goes on to say:

> As state and territory governments are primarily responsible for delivering concessions and for the eligibility rules that apply to the concessions, the government cannot implement this initiative without their cooperation and support.

Could the Treasurer advise me of the government's attitude towards the approach from the commonwealth government as quickly as possible?

Melbourne Markets: relocation

Mr SOMYUREK (Eumemmerring) — I raise a matter for the attention of the Minister for Major Projects in the other place concerning the possibility of relocating the Melbourne wholesale markets to Dandenong South. I understand Dandenong South is one of four locations throughout metropolitan Melbourne which is currently being considered for the relocation of the markets. Dandenong is strategically situated to be the home of the Melbourne wholesale markets. It is only 20 kilometres from the geographic centre of metropolitan Melbourne, which is Glen Iris. It is also the gateway to the fastest growing growth corridor in Victoria and the third fastest growing area in Australia — the Casey and Cardinia council areas.

Within 30 minutes of Dandenong South there is access to 2 million people, and within 45 minutes there is access to the entire metropolitan area. In terms of geographical location Dandenong South is strategically positioned. The advent of the Mitcham–Frankston freeway will further improve the accessibility of Dandenong from all over Melbourne, including the peninsula, the Latrobe Valley, the eastern, western and northern suburbs and other industrial precincts across Melbourne, including the ports and airports. Dandenong is central, and people should start regarding Dandenong as a strategic location.

Dandenong has done it tough since about 1990 when the negative impacts of globalisation hit hard. The transformation of the Australian economy from a manufacturing base to a service base has given the people of Dandenong a hit. Dandenong is consistently identified as one of the most socioeconomically disadvantaged suburbs in Australia. However, things are starting to look up, because there is a sense of vibrancy and enthusiasm and a sanguine attitude is creeping in. Will the minister give careful consideration to Dandenong as the new site for the fruit and vegetable wholesale markets?

Mildura: industrial skills centre

Hon. B. W. BISHOP (North Western) — My adjournment matter is directed to the Minister for Education and Training in the other place. The house and the minister are aware of the development of a great purpose-built industrial skills centre situated at the Mildura airport which is able to deliver nationally accredited courses to the transport and distribution industry. This 12-hectare development has gone through two stages. The first was the laying of a large concrete slab for industry training purposes, and the second stage was the construction of a sealed road network that will allow industry training — that is, a staged development of driver training up to advanced driver training. To that end we now see the eight secondary schools accessing the centre to undertake driver related instruction and Victorian certificate of applied learning (VCAL) studies.

The funds are available for the third stage of the development, and the plans for a community building that will be purpose-built to train industry and school participants is in the final negotiation stage between Mildura Rural City Council and the governing body of community and industry people who form the Mallee Community Skills Development Centre. This will see conference and training rooms, office space, reception area, kitchen and storage areas to complement stages 1 and 2 and allow the full application of training from the complex across a wide range of clients from just as wide a geographical area.

This is a joint venture between the Mallee Community Skills Development Centre and Aust-Link Pty Ltd, a private, registered training organisation, to deliver approximately 30 000 student contact hours a year.

There is real community concern and uncertainty about the level of funding support under the current annual priority education and training program tender process which is overseen by the Office of Training and Tertiary Education. Given this community unrest and concern, can the minister assure me that a realistic and sustainable level of funding will be offered to secondary schools undertaking VCAL studies at the centre in 2005 and beyond?

Wombat State Forest: wildlife shelter

Ms HADDEN (Ballarat) — I wish to raise a matter for the Minister for Environment in the other place, the

Honourable John Thwaites. The matter is urgent. It is in relation to the relocation of the Trentham Wildlife Shelter which is in urgent need of a new home within the Wombat State Forest.

The wildlife shelter has been operating for some years now within the forest on leased property at East Trentham. The operators are Gayle Chappell and John Rowdon who are environmental scientists, educators and naturalists. The shelter is a self-funded volunteer wildlife shelter registered with the Department of Sustainability and Environment. It was established for the rescue and rehabilitation of sick, injured and orphaned wildlife. Its shelter is nestled in the Wombat State Forest and is part of a statewide network of wildlife shelters and carers in the state. It provides an important service to the region and receives over 200 calls for assistance, and over 100 animals pass through the shelter each year. The problem is that they simply cannot afford to buy equivalent land in the area given the real estate boom and the special requirements of the shelter — that is, it needs to be in the Wombat State Forest and away from heavy passing traffic and neighbourhood and residential areas.

The shelter provides an important service to the native wildlife of the Wombat State Forest. I urge the minister to do his utmost to give assistance to the operators of the shelter to allow it to relocate to suitable land and premises within the forest before Christmas because the lease on the present premises expires on 3 January 2005. It is a very important service that provides a haven for the wildlife within the wombat forest. I ask the minister to give this his urgent attention.

Eastern Community Legal Centre: expansion

Hon. C. D. HIRSH (Silvan) — I want to raise a matter for the Attorney-General in the other place. It concerns the needs of a community legal centre in the outer east of Melbourne. The Eastern Community Legal Centre currently provides legal advice, representation and education to an enormous area of six municipalities with a population of over 800 000, which is 17 per cent of Victoria's population. The legal centre is committed to these communities and is most concerned about the limited availability of services to large parts of this area particularly in the outer east.

In partnership with local government and other community agencies the centre has developed a proposal for the outer east community legal centre with a catchment area of Knox, Yarra Ranges and Maroondah. If the proposal were successful, centres for both the outer east and inner east would still look after a population of about 400 000. The proposal for the outer east community legal service was actually initiated over 18 months ago by Kate Hamond. She is to be congratulated on her work and assistance in getting this proposal off the ground.

The recommendations that the legal service makes are for an establishment fund by government for an outer east community legal service as a matter of some urgency and that the Eastern Community Legal Centre and its project partners be supported in their work to prepare for and establish such a service.

There is a lot of evidence of the need for an outer east community legal service. There are voluntary solicitors in Boronia at the Knox community information centre. They can only offer six free appointments a week, and only 140 clients could be assisted in 2003–04. Even though there were 700 legal inquiries, they could not all be helped. In the Shire of Yarra Ranges the territory covered is extremely large — 2467 square kilometres — and includes communities in isolated rural areas. The highest proportion of indigenous people of the shire is 6 per cent, mainly around Healesville. They also urgently need the services of a community legal service. I urge the minister to take note of this request.

Hon. B. N. Atkinson — On a point of order, President, that matter has to be ruled out of order, because clearly you cannot urge a minister to take note of an item.

The PRESIDENT — On the point of order, which was raised before I had a chance to respond, I have to rule the matter out of order. The member referred a matter to the Attorney-General in the other place about community legal services in the outer east. She went on to give extensive details about the issue but never posed the request to the minister; so I direct the minister not to respond.

Responses

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Andrea Coote raised a matter with the Minister for Aged Care concerning the Go for Your Life campaign and the allocation of funds for programs for older Victorians. The member sought details of what those programs might be. I will pass that on to the minister.

Ms Glenyys Romanes raised a matter with the Minister for Health in the other place concerning a vitamin D deficiency and what asked action the government is taking to address this issue.

The Honourable Bill Forwood raised a matter for the Treasurer concerning a constituent who is a self-funded retiree and a response from the federal Treasurer to him on a matter concerning concessions and the government's attitude to the commonwealth offer of support for concessions. I will pass that on to the Treasurer.

Mr Adem Somyurek raised a matter for the Minister for Major Projects in the other house concerning the relocation of markets and a suggestion that Dandenong South should be given very serious consideration by the minister as a location. I will pass that on to the minister for his response.

An honourable member interjected.

Hon. M. R. THOMSON — You missed yours! Mr Forwood was too busy engaging in conversation to hear his reply.

The Honourable Barry Bishop raised a matter for the Minister for Education and Training in the other place concerning the Mallee Community Skills Development Centre and funding for schools undertaking the Victorian certificate of applied learning to support the work being done through the centre. I will pass that on to the minister.

Ms Dianne Hadden raised a matter for the Minister for Environment in the other place concerning the urgent relocation of the Trentham Wildlife Shelter and seeking assistance in its relocation. That will be passed on the minister.

The PRESIDENT — Order! The house stands adjourned.

House adjourned 10.21 p.m.