PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 16 August 2005

(extract from Book 2)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

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

Parliamentary Services — Secretary: Dr S. O'Kane

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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The Hon. ANDREA COOTE

Leader of The Nationals:
The Hon. P. R. HALL

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The Hon. D. K. DRUM

Member	Province	Party	Member	Province	Party
Argondizzo, Ms Lidia	Templestowe	ALP	Jennings, Mr Gavin Wayne	Melbourne	ALP
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Bishop, Hon. Barry Wilfred	North Western	Nats	Lovell, Hon. Wendy Ann	North Eastern	LP
Bowden, Hon. Ronald Henry	South Eastern	LP	McQuilten, Hon. John Martin	Ballarat	ALP
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Buckingham, Hon. Helen Elizabeth	Koonung	ALP	Mitchell, Hon. Robert George	Central Highlands	ALP
Carbines, Ms Elaine Cafferty	Geelong	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip	Silvan	LP
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
Darveniza, Hon. Kaye	Melbourne West	ALP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Davis, Hon. David McLean	East Yarra	LP	Romanes, Ms Glenyys Dorothy	Melbourne	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Scheffer, Mr Johan Emiel	Monash	ALP
Drum, Hon. Damian Kevin	North Western	Nats	Smith, Mr Robert Frederick	Chelsea	ALP
Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Hadden, Ms Dianne Gladys	Ballarat	Ind	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hall, Hon. Peter Ronald	Gippsland	Nats	Thomson, Hon. Marsha Rose	Melbourne North	ALP
Hilton, Hon. John Geoffrey	Western Port	ALP	Viney, Mr Matthew Shaw	Chelsea	ALP
Hirsh, Hon. Carolyn Dorothy	Silvan	Ind	Vogels, Hon. John Adrian	Western	LP

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TUESDAY, 16 AUGUST 2005

Tuesday, 16 August 2005

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

BUSINESS OF THE HOUSE

Sound system

The PRESIDENT — Order! I am pleased to inform the house that I have been advised the technical problems experienced last week relating to the recording of proceedings by Hansard have been rectified. I thank all members for showing their patience while the problem was being overcome.

ROYAL ASSENT

Message read advising royal assent to:

National Parks (Point Nepean) Act
Planning and Environment (Williamstown Shipyard) Act
Tobacco (Amendment) Act.

QUESTIONS WITHOUT NOTICE

Police: database security

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Information and Communication Technology. I refer the minister to the extraordinary breach of security in which a prison officer turned whistleblower received over 1000 Victorian law enforcement assistance program, or LEAP, data files. His personal computer was accessed, and an email and an entire file were deleted, without his knowledge or consent. Will the minister advise who has access and responsibility for the Department of Justice's email and computer file system?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — This issue is currently the subject of media stories and no doubt questions in the other chamber, and is of concern to all Victorians. The actual security of the police files is the responsibility of the police, and departments have responsibility for having their own protocols in place to meet the security and privacy requirements. The minister responsible for police in the other place, Tim Holding, indicated in the most recent story in the newspaper today that he has sought an explanation from the Chief Commissioner of Police in relation to the release of those documents that should not have been released.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for her response, but as she is the minister responsible in the government for information and communications technology, I would think she would take a more active interest in electronic data in government. Therefore, I ask: will the minister undertake immediately to investigate the security of all government departmental employees' email and computer files?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — As I have already indicated, the actual protocols that are in place — and that is the issue in question here — in relation to who has access to what, rightly lies with the departments because they have to determine who has responsibility to access what files, by what staff, for what reason and for what purpose. They have to ensure that those protocols are being met and that the proper protocols are in place. Let me say again: the Minister for Police and Emergency Services — —

Mr Lenders — A very good minister.

Hon. M. R. THOMSON — I agree with the Leader of the Government in relation to the Minister for Police and Emergency Services in the other place. He is seriously concerned about this issue, as are all Victorians, and has sought an explanation from the police commissioner as to what has occurred in relation to this matter.

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

Housing: affordability

Mr PULLEN (Higinbotham) — My question is to the Minister for Housing, Ms Broad. Will the minister advise the house how the Bracks government is leading the way in pursuing national action to deliver more affordable housing for Victoria?

Ms BROAD (Minister for Housing) — I thank the member for his question about the leadership the Bracks government is showing to ensure that all members of the community have an affordable place that they can call home. Earlier this month I was pleased to chair a joint ministerial council meeting of some 20 housing, planning and local government ministers here in Melbourne. That ministerial council reached an historic agreement that Australia's three

tiers of government will act together to tackle the escalating shortage of affordable housing.

The proposed new national affordable housing agreement will be a catalyst to ensure that home ownership remains a realistic goal for young people starting out in life. It aims to keep alive the great Australian dream for a whole generation of young people and to increase the supply of affordable housing, because current research predicts that the shortfall of affordable housing will increase by 74 per cent from 550 000 to 910 000 by 2026 if nothing is done to redress this issue.

The fact is that the challenge of housing affordability cannot be solved by any one tier of government acting alone. Making home ownership an attainable goal for all Australians and increasing the supply of affordable housing demands a national approach. That is why the initiative by the Bracks government to unite with all levels of government — federal, state and local — to deliver a new national affordable housing agreement is so important. This is an initiative for which the Victorian government and other state and territory governments have now been arguing for more than two years, and it was a great advance to have the federal government agree at this meeting to support for the first time a new national affordable housing agreement.

This new agreement provides the political will to deliver for young people and struggling families currently locked out of home ownership. Importantly, the agreement will also seek innovative solutions to increase the supply of affordable rental housing through the private and the community sectors. Work on this agreement will commence immediately. It will unite current initiatives and will also bring together all the various sectors that need to be involved in developing this agreement, including planning, social housing, local government, a range of current subsidy schemes as well as the private sector.

I wish to acknowledge the efforts of the National Housing Summit, led by Professor Julian Disney, and strongly supported by, amongst others, the Housing Industry Association, the Australian Council of Trade Unions and the Australian Council of Social Service for this national approach to tackling this issue. These are organisations which do not often agree about a great deal, but it is saying something about the importance of this issue that they have all come together to strongly endorse this new approach.

In the face of ongoing cutbacks from the Liberal government in Canberra to Victoria's social housing, Victoria is determined to lead the way so that more Victorians can have a decent and affordable house to live in.

Liquor: code of practice

Hon. B. N. ATKINSON (Koonung) — My question is to the Minister for Consumer Affairs, the Honourable Marsha Thomson, in regard to her responsibilities for liquor licensing. The minister will recall that when she held the portfolio responsibility for liquor licensing prior to Mr Lenders, she reached an agreement with independent liquor retailers to draft a code of conduct that would augment legislation in controlling the behaviour of Coles and Woolworths in their acquisition of independent stores ahead of the abolition of the liquor licence cap next January. I ask the minister: with five months to go until the cap is removed and with more than 18 months having passed since she struck an agreement with independent liquor retailers for the code of conduct, why has the code not been finalised?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — First, to set the record straight on what the liquor code was meant to do, the liquor code had a number of aspects to it. One was to deal with the relationship, as the honourable member pointed out, of how fairly big business should relate to small business and should deal with that within the code. The other was to deal with the issue of consumers and to see that retailers were also treating consumers fairly and appropriately. All of that was to be conveyed within the code that was to be negotiated between the parties. The parties have been negotiating, as I understand it, and have been informed, with a fair amount of goodwill and good intent. I believe that the resolution of that code is imminent, and I have certainly sought from the director an understanding of the time lines for an announcement of that code.

But let me make it very clear, the commitment is to ensure that the parties who are prepared to be participants of that code were given every opportunity to do that in a collaborative and cooperative way, and certainly the director of liquor licensing has taken that very seriously. Those discussions have been ongoing and, as I understand it, have been cordial. As I indicated I would hope to be able to a make announcements in the not too-distant future.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — I thank the minister for her answer. She indicated that the code she envisaged incorporated the relationship between the chains and independent retailers ahead of the removal

of the cap and in the context of an Ernst and Young industry evaluation that found most independent retailers would exit the industry following deregulation in January next year. I therefore ask the minister why the code of conduct under discussion with the liquor industry is now solely focused on the operation of retail bottle shops, including restrictions on advertising that are inconsistent with town planning regulations of this government, and whether she believes this change in the scope of the document is consistent with the undertakings she previously gave to independent liquor retailers?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — All I can say to the member is he should wait for the code to be announced. The code in fact will meet the commitments the government made.

Seniors: elder abuse

Hon. KAYE DARVENIZA (Melbourne West) — My question is to the Minister for Aged Care. Can the minister advise the house of how Victoria is leading the way in responding to the issue of elder abuse?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Ms Darveniza who, despite her flu, has displayed her concern for representing her constituents in raising the important issue of making sure Victoria leads the way in our response to elder abuse. It has been one of the rare exceptions to the rule that there has been an expression of interest by the Liberal Party on this matter. I will come back and talk about that shortly.

In responding to the notion of leading the way, I am very pleased to say that following the announcement of the elder abuse prevention project, which included the establishment of an advisory group led by former Senator Barney Cooney which is now consulting with the Victorian community, the Victorian government has entered into a cooperative arrangement with the World Health Organisation. We are the only jurisdiction in the nation to be participating in this World Health Organisation research which is designed in part to produce a method and model for primary health care workers internationally to deal with the issue of identifying and responding to elder abuse.

Hon. Andrea Coote interjected.

Mr GAVIN JENNINGS — The shadow spokesperson on aged care continues to interrupt me. I will respond to her continual intervention and say that on the rare occasion the Liberal Party indicated it is going to have a policy and put a step forward, it said it would impose a system of mandatory reporting. It did that over the summer holidays and ever since that time it has been retreating from that position. It is almost like a waltz — one step forward, one step back, two to the side — —

The PRESIDENT — Order! If the Deputy Leader of the Government and the Deputy Leader of the Opposition want to have a conversation, they can leave the chamber. In the meantime the minister will be given the opportunity to conclude his answer without interruption.

Mr GAVIN JENNINGS — President, thank you for your assistance, but I thought I was on message in relation to the notion that the Victorian government is very clear about engaging with members of the community. We have created a consultation paper and an advisory group that is currently charged with the responsibility of discussing with members of the community and people who provide services the way we can address questions of elder abuse and militate against it in the future. The opposition goes around in circles. I generously described that as a waltz, but it may well be it is going around in a flat spin.

Next week, starting in Ballarat, the advisory group will have a round of consultations that engage members of our community. In the next few weeks in Ballarat, Morwell, Shepparton, Bendigo, Preston, Frankston and Geelong members of those communities and those of their regions will have the opportunity to participate face to face with the advisory group about this important issue. Members of the community who cannot get to those regional base meetings will have the opportunity to respond to the consultation paper. They can track down a copy of the consultation paper by contacting the Office of Senior Victorians or getting it from the web site at www.seniors.vic.gov.au. They can take the opportunity to respond to this important consultation by the end of September, when the government will take all this important information, digest it, give it a degree of consideration — as distinct from the premature decision of the Liberal Party — and respond in a positive way to the needs of our elderly community.

Electricity: prices

Hon. P. R. HALL (Gippsland) — My question is directed to the Minister for Energy Industries and Resources. The minister should be aware that commercial electricity customers are charged for electricity deemed to be lost in the transmission process under a line loss component in their electricity bills. As the reference point for calculating line loss is Thomastown in Melbourne, country users of electricity

pay more, and in the case of Patties Foods in Bairnsdale this amounts to in excess of $3000 per month. I therefore ask the minister why this government continues to approve electricity pricing structures that actively discriminate against commercial electricity users in country Victoria?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) — I cannot agree with the basis of the member's question. I think this is another case of the member not checking his facts properly and making the sort of claim that I, as the Minister for Energy Industries and Resources, would want to take away and check very carefully to see whether it was based on inaccurate foundations. I would be very surprised if people in this state were being charged extra simply on the basis of line losses. I do not accept the premise in the question asked by the honourable member, but I do want to make a point. The member has made a point about Patties. He suggested that Patties will lose $3000. The honourable member might be interested to know — and he might have been better to congratulate the government on the fact — that following the introduction of natural gas to Bairnsdale, Patties is going to be saving up to $500 000 — —

Hon. Philip Davis — When?

Hon. T. C. THEOPHANOUS — I will tell Mr Davis in a minute. It will be saving up to $500 000 as a result of this government, so if the member wants to ask about Patties, let us talk about the $500 000 it is going to save rather than coming in here with some trumped-up figures that mean absolutely nothing.

Supplementary question

Hon. P. R. HALL (Gippsland) — I also point out to the minister that in the last year a survey of 26 companies based in Bendigo showed that those companies actually paid $3 million for electricity they simply did not receive because of this line loss component in their commercial bills. Therefore, by way of supplementary question, I ask the minister, despite the fact that he does not have immediate knowledge of this issue, to check the facts. If he finds my assertions to be correct, I ask whether his government will take immediate action to address what is a significant disincentive for country businesses to locate in country Victoria?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) — I am happy to check out the honourable member's question and provide him with an answer, but I have to say it is a bit much from an opposition which, when in government, set up a system which structured in higher electricity prices in regional Victoria. It became necessary for this government to pay out more than $200 million to try to fix the problem created by the previous government of higher electricity prices in regional Victoria than in the city. We will continue to look after regional Victorians; the opposition will not.

Gas: regional supply

Hon. R. G. MITCHELL (Central Highlands) — My question is directed to the Minister for Energy Industries and Resources. Can the minister advise the house of how the Bracks government is leading the way with the natural gas extension program, particularly with new gas connections starting to flow in Gippsland and the Yarra Valley, and how it makes Victoria a great place to raise a family?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) — I love to talk about the natural gas extension program because I know that members on this side of the house love to hear about the natural gas extension program. I know that the grumpy old man, the Leader of the Opposition — Phil, do not be so grumpy — —

The PRESIDENT — Order! I ask the minister to direct his comments through the Chair.

Hon. T. C. THEOPHANOUS — I want to inform the house that as of Friday last week natural gas is now connected to two major centres that are part of the natural gas extension program. Last Friday the Minister for State and Regional Development in the other place, John Brumby, launched another major milestone in the rollout with the installation — —

Hon. Philip Davis interjected.

The PRESIDENT — Order! The Leader of the Opposition's interjection is totally unacceptable. I ask him to stop interjecting and allow the minister to respond to the question put to him.

Hon. T. C. THEOPHANOUS — It is pretty amazing because — —

Hon. Philip Davis interjected.

Hon. T. C. THEOPHANOUS — Have a look at that! What an idiot you are! He comes in here — —

The PRESIDENT — Order! Minister! I ask the Leader of the Opposition to desist from interjecting. I have warned the member twice in quick succession. If I have to call on the Leader of the Opposition again, I will use sessional orders.

Mr Smith interjected.

The PRESIDENT — Order! Mr Smith should not speak when I am on my feet or I will use sessional orders to throw him out also. I ask members to stop interjecting and allow the minister to answer the question.

Hon. R. G. Mitchell interjected.

Questions interrupted.

SUSPENSION OF MEMBER

The PRESIDENT — Order! Under sessional orders I ask Mr Mitchell to vacate the chamber for 30 minutes.

Hon. R. G. Mitchell withdrew from chamber.

Questions resumed.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) — I am pleased to have the congratulations from the Leader of the Opposition for the connection of gas to the Bairnsdale hospital and the commissioning of the meter there. The Bairnsdale city gate is now being commissioned and tested, which means this major piece of infrastructure that is required to transfer gas from the existing high pressure eastern gas pipeline into the new pipelines around the township is now in place. The installation of the city gate means that natural gas can now flow to major commercial customers, including the Bairnsdale hospital, with potential energy cost savings of $150 000 per year, meaning these funds can now be redirected into other hospital services.

Another commercial customer which will benefit will be Patties Pies, which, as was mentioned in answer to a previous question, will achieve estimated savings of up to $500 000. This is a significant amount of money, and this company has congratulated the government on having done it. I might also say that the community will also enjoy further benefits from the rollout when the municipal swimming pool installs new gas heaters in the coming months. This is a great benefit for Bairnsdale. Rather than bag the rollout, the opposition ought to be congratulating us and saying, 'Well done, and keep going with the program'. That is what the opposition would be doing if it had any decency whatsoever.

But it is not the only bit of good news. The Shire of Yarra Ranges mayor, David Hodgett, was present at the ceremonial purging of gas test at Yarra Glen recently. In describing the arrival of gas in Yarra Glen he said it is:

> … fabulous that homes and businesses in Yarra Glen now have the opportunity to access the domestic and economic benefits of natural gas.

So what we are getting is the mayors of all these towns coming out and saying how fantastic it is that natural gas is coming to their towns. They recognise the benefits, they know that gas is coming soon, and they are willing to stand there with the government and congratulate all the people who have brought this about, unlike the opposition, which continues simply to bag a very important program for regional Victoria.

Transport Accident Commission: chief executive officer

Hon. RICHARD DALLA-RIVA (East Yarra) — I direct my question without notice to the Minister for Finance, Mr Lenders. I refer to the extraordinary expenses incurred by the chief executive officer of the Transport Accident Commission, Mr Stephen Grant, who has spent around $180 000 on travel and expenses in recent years. My question to the minister is: given that the minister was quoted as saying he expects the highest level of accountability from the TAC board, what action has he taken since he has become aware of the level of Mr Grant's expenses?

Mr LENDERS (Minister for Finance) — I thank Mr Dalla-Riva for his question. I welcome any question from the opposition, because members on this side of the house are open, transparent and accountable, and we welcome questions. Mr Dalla-Riva specifically raised the question of the expenses of the chief executive officer (CEO) of the Transport Accident Commission (TAC). I have closely looked at those. They were in accord with the guidelines set by a former minister responsible for the Transport Accident Commission, Mr Alan Stockdale. When these were drawn to my attention I had concerns about whether they were appropriate and where they fitted in.

I have contacted the chair of the TAC's audit committee to let it know this government has a very strong view that while it expects the CEO of a body like the Transport Accident Commission, which is a world leader and a large organisation, to see state-of-the-art things around the world and to be in touch because we need to get those things right, it is also conscious that there is an expectation in these areas that these things be done prudently and according to guidelines. I have raised the issue with the audit committee, and obviously that is an issue that the CEO and I have engaged on. That is what this government does — we make sure

that guidelines are followed. We have, for the first time under the financial directions, put in place in every major public authority a requirement of audit committees where independent directors look at these matters and advise on them. That issue is, as is appropriate, before the audit committee of the TAC, which is an independent statutory authority. I am confident that the TAC will continue to do its good work, and I am also confident that it will be cognisant of the expectations of the Victorian community that it do so prudently and within guidelines.

Supplementary question

Hon. RICHARD DALLA-RIVA (East Yarra) — I thank the minister for his response and for actually undertaking some level of review on this particular matter. My supplementary question therefore is: in the context of the minister's response, does he consider it appropriate that the chief executive officer of the Transport Accident Commission regularly eats at Melbourne's top restaurants with his chairman and the chief finance officer and then charges these long lunches back to the TAC?

Mr LENDERS (Minister for Finance) — Before I respond to that, the assumption there that a working lunch is a long lunch is one that might be part of the culture of Mr Dalla-Riva's party, but it is not necessarily the culture of the Victorian public sector. I also note that no Transport Accident Commission officials eat in the Bamboo House and conspire against their leader. But leaving that minor detail aside, obviously from the government's perspective we certainly expect high standards from our public sector. We also know that in the public sector quite often people work through their lunchtimes — and often it is a case-by-case situation in an organisation where those lunches are held. I certainly think that is a case that the chair of the audit committee will be discussing with the chief executive officer of that organisation, and I will obviously keep an ongoing interest in what is happening and what standards are applied.

Consumer affairs: contract terms

Ms ARGONDIZZO (Templestowe) — My question is to the Minister for Consumer Affairs. Since 2003 Victoria has led the way with laws to protect consumers from unfair terms in contracts with traders. Can the minister update the house on the implementation of these laws and how they are helping Victorian families?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for her question. As the member mentioned, Victoria leads Australia in consumer protection, particularly with the unfair terms provisions in the Fair Trading Act. These laws offer an extra layer of protection for Victorian families against companies not acting fairly by ensuring that their contracts do not put consumers at risk or, in essence, are unfair — for example, the new laws may void contracts that permit the supplier but not the consumer to vary the terms of the contract, or permit the supplier to vary the price without the right of the consumer to terminate the contract.

Businesses which treat consumers fairly have nothing to worry about with the operation of these provisions in the Fair Trading Act. However, where there is an issue Consumer Affairs Victoria will take, in the first instance, a cooperative approach with businesses and companies to try to improve their contracts so they are operating on a fair basis. Alongside the guidelines it has produced to show businesses how to comply with the provisions, Consumer Affairs Victoria will sit down and work with companies in developing the terms in their contracts. However, let there be no mistake, if after that effort companies fail to provide fair contract terms, Consumer Affairs Victoria will act.

Mr Lenders — Tough but fair.

Hon. M. R. THOMSON — That is right. Consumer Affairs Victoria has been working very closely with the hire car industry to make changes to its contractual arrangements. In particular, Avis, Budget, Hertz, and motor home companies Britz, Maui and Backpacker, have made some changes to their contracts following discussions with Consumer Affairs Victoria. How many people have hired a car only to later have charges made on their credit cards which they did not know were coming? Over half of the complaints received by Consumer Affairs Victoria in the year up to 31 May 2005 were from consumers complaining about being overcharged, receiving undisclosed charges or what they believed was unauthorised use of their account. In some circumstances this will be considered to be unfair. This is one area where these companies have worked with Consumer Affairs Victoria and improvements have been made to their arrangements and practices.

We tell consumers to check the fine print. We will continue to tell consumers to check the fine print in contracts they sign. However, in one instance in relation to a contract for a hire company the fine print stated: 'Rates and conditions quoted in our brochure and/or documentation are subject to change without notice.'. This is a real issue but following intervention by Consumer Affairs Victoria these contracts have been

changed so no changes can be made — once a contract or undertaking has been signed by the consumer, those contract terms will be the contract terms. This is a great development.

Finally, for the benefit of the *Age* Diary journalists, everything Consumer Affairs Victoria does is to help make Victoria a better place to raise a family.

Local government: charges

Hon. R. H. BOWDEN (South Eastern) — I direct my question to the Minister for Local Government, Ms Broad. Given the need for governments to be mindful of the impact of new and additional taxes over and above rates in the community, I refer the minister to a newspaper report on page 7 of the *Herald Sun* of 25 June under the heading 'Country councils to impose extra fee'. Fifty-two councils in Victoria are reported to be planning extra taxes as municipal charges, ranging up to $129 in Bass Coast. Councils can appear unwilling to restrict their desire for bloated administrative spending. Does the minister support these new taxes by councils that enable councils to keep feeding their never-ending demands for more and more spending?

Ms BROAD (Minister for Local Government) — In response to the honourable member's question, I can advise that it is the very clear policy of the Bracks government that these matters are properly determined by councils as the elected representatives of their communities in line with the status of local government as a tier of government in its own right now recognised by our Victorian constitution, thanks to the Bracks government.

The Bracks government recognises the very significant cost pressures that local government faces and the pressures that it is also facing as a result of the failure of the federal government to increase financial assistance grants to local government in line with responsibilities of the federal government under the intergovernmental agreement on taxation, which the federal government entered into and for which it accepted responsibility for funding financial assistance grants to local government. This is a matter which the Victorian government, together with other state and territory governments, the Australian Local Government Association and the Municipal Association of Victoria are continuing to argue the case for with the federal government and seeking to ensure that there is a fair share of federal tax revenues provided to local government.

A recent decision of the federal government which is going to increase pressures on local councils is the decision to not continue national competition policy payments to the states and territories. Because the Victorian government provides a share of these payments to local councils, the removal of those payments is going to further add to pressures on the financial viability of local government here in Victoria, which is the only state to share these revenues with local councils.

Yes, councils are continuing to search for further sources of revenue in order to provide the services and to fund the infrastructure that the people who elect them expect councils to provide, and yes, their task is not made any easier by the cuts which have been made by the federal government to their funding and the failure to increase financial assistance grants to local councils in line with increases in federal taxation revenues. For our part the Bracks government will continue to argue that these matters should be rectified, that the federal government should recognise the pressures on councils and come to the party and provide a fair share of federal tax revenues to local government in line with federal responsibilities.

Supplementary question

Hon. R. H. BOWDEN (South Eastern) — I thank the minister for her response, and as a supplementary question in the context of her answer I ask: will the minister prohibit councils from imposing new taxes such as administration charges onto Victorian ratepayers?

Ms BROAD (Minister for Local Government) — I believe it was the policy of the former Kennett Liberal government to cap local government rates which forced local councils to cut rates and in turn to force councils to cut services, to cut staffing and to sell assets in order to fill the gap in their budgets as a result of those decisions by the Kennett government which were inflicted on councils right across the length and breadth of Victoria. That is not the policy of the Bracks government. We believe these matters are properly determined by elected councils.

Australian Synchrotron: project

Ms CARBINES (Geelong) — My question is to the Minister for Major Projects, Mr Lenders. Can the minister inform the house of progress to the synchrotron and how the Bracks government is leading the way in providing world-class facilities for Victorian and Australian research and development?

Mr LENDERS (Minister for Major Projects) — I thank Ms Carbines for her question and her interest in

the synchrotron. As a former teacher, she knows what it will do to create research opportunities in Victoria and to make Victoria a great place to raise a family, because it will provide a future for the best and the brightest children of Victorians to have a research capacity in this state.

Honourable members interjecting.

Mr LENDERS — I need to remind Mr Forwood and some members opposite of what a synchrotron actually does. The web site of Monash University, that great institution in my electorate, describes what a synchrotron does, and amongst other things it says:

> A synchrotron … is crucial if Australia is to remain competitive in the areas of pharmaceutical development, biotechnology, advanced materials manufacturing, telecommunications, and electronics.

So Monash University, a great university, agrees with Ms Carbines that a synchrotron is important.

Hon. M. R. Thomson — And the rest of Victoria!

Mr LENDERS — Sadly, not the rest of Victoria — I correct my ministerial colleague. There are two Victorians, at least, who talk down the synchrotron at every possible opportunity. There are at least two Victorians. One of those is a certain Ms Louise Asher, the member for Brighton in the other place and the shadow Minister for Major Projects. Another is her predecessor, a certain Mr Phil Honeywood, the member for Warrandyte in the other place and a former shadow Minister for Major Projects. The reason it is disappointing that these shadow ministers talk down the synchrotron is that if only they knew how disadvantageous that can be to Victorians, particularly the scientific community, they would not do it. I cannot help but note that Mr Robert Clark, the member for Box Hill in the other place, is the only Liberal who still wears a Victoria badge on his lapel. The Liberals are no longer pro-Victorian; in fact they all hide their Victorian identity — and it shows, particularly in the way they talk down the synchrotron.

What can I say other than to refer to an article in today's *Age*. Dr Dean Economou talked of how the Smart Internet Technology Cooperative Research Centre will be using the synchrotron in Melbourne rather than sitting in Sydney waiting to do things. We also know that Australia is the only Organisation for Economic Cooperation and Development country that does not have a synchrotron. I quote Mr Honeywood's comments in yesterday's *Age* on what he says the synchrotron is about:

> It won't … be the case that all our scientists will flock to use our synchrotron. They'll use the tax-deductible trip to France or Britain each year to work with European and Northern American scientists.

Ms Asher does not understand. Mr Honeywood insults our scientists. We have testimony as to why the synchrotron will make it a better place to bring up a family and lead the way — all the good things — and here are just some testimonials: from people like Maria Hrmova and Geoff Fincher from Adelaide, who are using it to study molecular mechanisms in germination and growth of cereal crops. Members opposite who care about agriculture will know its benefit. We have a Mr Michael Parker, based in Melbourne, who wants to use the synchrotron to work on new drugs to combat infection and to fight Alzheimer's. Let us talk up the synchrotron. We have a Mr Mark Ridgway and his Canberra team unlocking the secrets of semiconductors and metallic nanocrystals. All of these are value-adding bright things from young Victorians and young Australians who will stay in Victoria to make this a better place and an innovative place, and bring jobs.

Other people like Ms Andrea Gerson and Lee West from Adelaide will come to Melbourne to help mining companies understand and optimise their metal extraction processes and prevent pollution — something my colleague Mr Theophanous, the Minister for Energy Industries and Resources, is most excited about, as should members opposite who talk about the mining industry. I could go on for hours with testimony from those 3000 scientists who want to use the synchrotron. This will make Victoria a great place to raise a family. It is innovative. We will lead the way. Those opposite should talk up Victoria and not talk down the synchrotron.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 2102, 2311, 2312, 2325, 2331, 2333, 2555, 2766, 2772, 2775, 3067, 3324, 4102, 4364, 4370, 4392, 4405, 4435, 4453, 4467, 4473, 4636, 4646, 4923, 4928, 4942, 4980, 4988, 5070, 5224.

Hon. ANDREA COOTE (Monash) — I am extremely disappointed that there is no answer here for me from the Minister for the Arts in the other place. The minister responsible for the arts in this place, the Minister for Sport and Recreation, had promised that I would have questions answered this week. I remind the chamber that those questions go back to last year.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I did mention to the honourable member that I would try to access those answers as quickly as possible. I will continue to do that, but I do not think I gave any guarantees about this week. I will try to get the answers to the member as quickly as possible, but there are still two days to go of this parliamentary sitting week.

MEMBERS STATEMENTS

Wyndham Lodge Community Nursing Home

Hon. ANDREA COOTE (Monash) — Last week I had the pleasure of going down to Werribee to visit the Wyndham Lodge Community Nursing Home. I met with board members Ken McDonald and Brenda Arch. I have to say that it was a most impressive facility and I place on the record my praise for all those involved.

The community facility was commenced in 1970 by the board of management of the Werribee and District Hospital. It got commonwealth approval to build a nursing home in 1978. In 1992 a new wing was built to increase the capacity to 30 high-care beds. Recently it opened a 15-bed accommodation centre, which is extremely pleasant. It had the foresight to build a second storey which at the moment is not occupied but will be occupied in the years to come. It was a good use of finances to build a second accommodation area on the top, which showed a lot of foresight by the council and board members. It is an excellent facility and I think anyone who goes there will see that it is a happy and friendly place. Its philosophy is that every resident is a unique individual and deserves respect and dignity at all times. Wyndham Lodge Community Nursing Home provides friendly, safe and supportive care in a home-like environment.

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

St Kilda: Edge project

Mr SCHEFFER (Monash) — St Kilda Beach, the strip of sand that runs from West Beach at the eastern end of Beaconsfield Parade to Luna Park is a magnet to all Melburnians. Some 4 million people visit the St Kilda foreshore promenade each year. But the precinct is badly in need of a facelift and Port Phillip council has developed the St Kilda's Edge strategy including a suite of projects branded St Kilda's Edge: Soul and Sand. I commend the mayor, Darren Ray, councillors and the City of Port Phillip on this ambitious strategy and the consultative way they are going about it. The joint state government-council St Kilda Edge committee is overseeing the implementation. Three projects are well under way: the triangle site that includes the Palais Theatre and the Palace, the St Kilda foreshore linear park and the St Kilda harbour.

The objectives and strategies of the projects are to improve the overall St Kilda foreshore and to include the maintenance of St Kilda's cultural heritage, the imperative to respect and enhance what can only be described as the St Kilda-ness of the foreshore, the improvement of public spaces and pedestrian circulation, promoting public transport and preserving the environmental integrity of the St Kilda harbour and foreshore.

The prospects for the triangle site are especially exciting. The Palais Theatre will be restored and the possibilities for the adjacent Palace are limited only by the Port Phillip planning scheme. The triangle is the site of the legendary Palais de Danse that burnt down in the 1960s, and the site of the jumble of sideshow amusements that entertained generations of seaside holiday-makers.

Brimbank: Sunshine community bus

Hon. J. A. VOGELS (Western) — It has been brought to my attention that Brimbank City Council has banned shopping bags and library books on the Sunshine community bus service for the frail and elderly. Restricting senior citizens who use the community shopping bus from carrying grocery bags and library books beggars belief.

According to the Brimbank City Council's web site, the Sunshine community bus is also used to access citizen groups, shopping and library runs. Not anymore! This is bureaucracy gone mad. The Bracks government announced in the May budget a policy called A Fairer Victoria for our frail and elderly, and at the same time put a limit on the multipurpose taxi program for those eligible. What hypocrisy! We now have the Brimbank council coming up with another whack. Now not only are people restricted in using the multipurpose taxi program, they are also banned from using the community bus when returning from shopping trips.

For those seniors who still own a car, the Bracks government has another whammy in store, because now for the first time they are paying a car registration fee. It just goes to show how hollow the Ageing Well Strategy 2004–16 was when it was developed by Brimbank council.

The Bracks government's pledge to reduce disadvantage and give all Victorians opportunities to participate in their community was lauded as one of the highest priorities of last year's state budget. I call on the Minister for Aged Care, Mr Jennings, who I know is equally horrified by Brimbank council's approach, to have a quiet chat to his Labor colleagues who run this council.

Victory in the Pacific Day: 60th anniversary

Ms CARBINES (Geelong) — Yesterday I was honoured to attend the ceremony held by the Geelong RSL to celebrate the 60th anniversary of the end of the war in the Pacific and therefore the end of World War II. The ceremony was extremely well attended by the returned servicemen and women, their families, the wider Geelong community and many of our elected representatives. Tribute was paid by all speakers to the service of the World War II veterans and their families to the whole Australian community, and indeed the Allied effort. It was an honour to see the veterans proudly receive their commemorative medals struck to mark the 60th anniversary of victory in the Pacific day.

I was especially moved by the sight of widows and widowers receiving a medal on behalf of their late husband or wife. Many members of my own family served during World War II, but I would like to particularly acknowledge my late grandfather, Patrick Cafferty, who served in the British army in Europe; my uncle, Ronald McCormick, who died aged 20 serving in the British navy; and my father-in-law, Eric Carbines, who served in Papua New Guinea with the Australian army.

I would like to add my indebtedness to all who served the Allied cause in World War II and their families, and thank them on behalf of the people of Geelong for the sacrifice they made to ensure Australia remained free.

Rock Eisteddfod Challenge

Hon. B. N. ATKINSON (Koonung) — I had the pleasure last week of attending one of the heats of the Rock Eisteddfod Challenge at Vodafone Arena. It was a fabulous night and I urge all members to take the opportunity of going to one of the Rock Eisteddfod evenings whenever they have an opportunity.

On the particular night I was there my colleague the Honourable John Vogels, would be interested to know that St Mary's College, Timboon P-12 school and Ararat Community College were involved, as were a number of other schools which I will touch on briefly. One of the highlights of the evening for me was from Parkdale Secondary College with a number called *Return to Whitechapel*. It was one of the most sensational pieces of theatre that I have seen by any secondary college and by many professional companies. It was a brilliant piece of work. Many others were also very good. Mordialloc College, St Mary's College, Brunswick Secondary College, Kerang Technical High School, St Helena Secondary College, Gladstone Park Secondary College, Emmanuel College, Timboon P-12 School and Ararat Community College all put on performances which made for an outstanding night's entertainment.

Some performances were also thought-provoking, particularly the one on the life of Christopher Reeve put on by St Mary's College. I thought that was an excellent presentation. I urge all members to take the opportunity to go to this event in the future. I wish all those schools well.

Melbourne Storm: 100th home game

Hon. J. G. HILTON (Western Port) — Last Friday I was pleased to be a guest at the lunch which celebrated Melbourne Storm's 100th home game. The Premier has also announced that state-of-origin Rugby League is returning to Melbourne. The state government had previously announced that it would redevelop Olympic Park after the Commonwealth Games to provide a tailor-made stadium for the world's greatest game, Rugby League. As a passionate supporter of the Melbourne Storm and someone who has not missed a home game for seven years, I am delighted with these announcements. To make the celebrations complete, on Saturday Melbourne Storm had a great win over the New Zealand Warriors and is now fifth on the ladder. I would like to wish the Storm every success in the future, and particularly in the 2005 finals series. Go Storm!

Mildura: avenue of honour

Hon. B. W. BISHOP (North Western) — Last Sunday in Mildura we had the Governor, John Landy, and Mrs Landy as guests of honour of the Mildura Rural City Council and the Mildura Returned Services League at Henderson Park to witness the dedication of Deakin Avenue as an avenue of honour, commemorating the sacrifices of the region during wars and of the pioneers of yesterday. A large turnout of people celebrated the dedication and the ending of World War II in the Pacific some 60 years ago. The Governor said that Deakin Avenue as an avenue of honour is a lasting tribute to those who made the supreme sacrifice in fighting for their country in all wars.

The idea for an avenue of honour came from a discussion between the rural city council and the RSL some three years ago at an Anzac Day ceremony at Henderson Park. The parade was great, led by the Mildura pipe band and featuring Mildura World War II veterans, including two past members of Parliament, Milton Whiting and Ken Wright, and a contingent of the 8th/7th battalion and tri-services personnel.

The large crowd was entertained by the Mildura District Brass Band and the dedication was complemented by a World War II P51 Mustang fighter plane doing a flyover. The Governor concluded his busy day by opening the Hotel Mildura Mildura Masters Games 2005 and starting a 1500-metre foot race, which was fitting, as he holds a number of records in that event.

Austin Hospital: centre of excellence

Ms MIKAKOS (Jika Jika) — On Tuesday, 2 August, I had the honour of attending with the Treasurer, John Brumby; the member for Ivanhoe in the other place, Craig Langdon; and Mr Forwood the opening by the Minister for Innovation of Austin Health's new endocrine centre of excellence, a centre for research and development in diabetes, osteoporosis, obesity, androgen disorders and thyroid disease. The new centre will offer significant help in understanding diabetes and obesity. One in four Australians are overweight or obese, and the incidence of diabetes has trebled over the last 20 years to now affect over 1 million Australians over 25. Two million Australians currently have an osteoporosis-related condition. The centre strengthens Victoria's biomedical base and offers improved health outcomes.

As well as having office, library and conference space for medical, research and support staff, the centre also has facilities for undergraduate and postgraduate teaching programs and incorporates a clinical outpatient treatment area, a clinical trials unit, an endocrine laboratory and a bone mineral density unit for osteoporosis studies. Thanks to the continued investment in health by the Bracks government, Austin Health continues to be a leading teaching hospital and medical research centre. This new centre also builds on Victoria's growing reputation as a leader in medical biotechnology.

Geelong Supercats

Hon. J. H. EREN (Geelong) — I congratulate the Geelong Supercats for becoming the South East Australian Basketball League champions for 2005. The local team clawed its way back into overtime to grab a nail-biting win over Mildura Mavericks in the SEABL east conference championships on Saturday night. Congratulations to head coach Mark Leader and his team. While Geelong's other Cats have not been doing so well on the field at the moment, it is pleasing to see another champion team doing our city proud.

I also take this opportunity to point out that the Geelong Supercats have benefited greatly from the Bracks Labor government. The state government gave $1 million to the City of Greater Geelong council to buy the arena which is the home of the Supercats, ensuring that the sporting complex came into public hands for the first time. It is a great facility. It will ensure that basketball has a home in Geelong and will continue to grow in the region in years to come. Congratulations and well done to all involved in this magnificent win for making Geelong feel proud of its sporting achievements.

Refugees: nursing service

Hon. KAYE DARVENIZA (Melbourne West) — I wish to let the house know how delighted I was last Friday when the Minister for Health in the other place, Minister Pike, unveiled the government's refugee nurse initiative as part of the government's A Fairer Victoria, which is addressing social disadvantage. This initiative will see specially trained refugee health nurses employed in high settlement areas in metropolitan, rural and regional Victoria. Importantly this initiative provides refugees who are not eligible for Medicare services because of their visa status with access to the refugee nurses free of charge. These nurses will have experience in managing refugees and their special needs. Studies show that refugees suffer an incidence of physical and mental health problems higher than other migrants and higher than those who were born here in Australia. Refugees are also less likely to have support to assist them in accessing health care. This is a very important initiative that will assist some of the most vulnerable and needy people in the community and enable them to access very important and much-needed health services.

Small business: sustainable management project

Hon. S. M. NGUYEN (Melbourne West) — On 4 August I had the pleasure of attending the announcement of the Victorian government's support for Village Green Environmental Solutions Pty Ltd, a sustainable business management program for small business in five regions throughout Victoria. The Deputy Premier and Minister for Environment in the other place, John Thwaites, officiated at this launch. The launch was held at the Diamond Palace Chinese

restaurant in the Sunshine shopping precinct. I congratulate the restaurant on its desire to have a more sustainable business. I hope others will follow its lead. This is the third sustainable business management program, and it is important that small businesses take on board the issues of sustainability.

This three-year project will work with 1000 small businesses to assist them improve their quadruple bottom line — that is, social, cultural, environmental and economic performance. It is great to see that we are encouraging small businesses to think outside the square when they look at how they run their businesses. This project will allow a hands-on process that will involve small business audits, workshops, training and one-on-one contact. It is hoped that these businesses will learn the skills of sustainable business management and implement them for the betterment of our community. This project is the biggest of its kind in Australia. I congratulate Village Green Environmental Solutions Pty Ltd and the government on their foresight and willingness to drive this project — —

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

PAPERS

Laid on table by Clerk:

Local Government Act 1989 — Order in Council of 9 August 2005 suspending the Councillors of Glen Eira City Council and appointing an administrator for the Council.

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

Ballarat Planning Scheme — Amendment C80.

Casey Planning Scheme — Amendment C8.

Greater Dandenong Planning Scheme — Amendment C68.

Melbourne Planning Scheme — Amendment C102.

Stonnington Planning Scheme — Amendment C23.

Wodonga Planning Scheme — Amendment C44.

Statutory Rule under the Teaching Service Act 1981 — No. 97.

The following proclamations fixing operative dates were laid upon the Table by the Clerk:

Energy Safe Victoria Act 2005 — except section 59 — 10 August 2005 *(Gazette No. S147, 9 August 2005).*

Higher Education Acts (Amendment) Act 2005 — sections 1, 2, 111, 112, 113, 121, 128 and 129 — 9 August 2005 *(Gazette No. S148, 9 August 2005).*

CASINO CONTROL (AMENDMENT) BILL

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

In 2003 the Victorian Commission for Gambling Regulation requested that the Minister for Gaming approve the commission entering into discussions with the Melbourne casino operator, Crown Limited, to review the casino agreement that was originally entered into in 1993.

The casino agreement is one of the key documents relating to the establishment and operation of the Melbourne casino and can be amended with ministerial approval. It sets out many of the licence conditions that apply to the operation of the Melbourne casino by Crown.

Concurrently, Crown requested that the casino agreement be reviewed and specifically requested that consideration be given to removing the single purpose restriction that prohibits it from undertaking any business other than the operation of the Melbourne casino.

The government was prepared to consider Crown's request to remove the single-purpose restriction because the restriction was designed to protect the interests of the state during the development and construction phase of the Melbourne casino, which is now complete. There is no longer any reason to restrict Crown's operations in this manner and the single-purpose restriction may, in fact, impede Crown's capacity to compete in the interstate and international gaming market.

Indeed, the government saw Crown's request as an opportunity to make other changes to the casino agreement that would improve Crown's accountability and transparency and to give increased powers to the Victorian Commission for Gambling Regulation to monitor the operation of the Melbourne casino to ensure that the highest standards of probity and accountability are being met.

This review of the casino agreement has resulted in a package of agreements between the commission, the government, Crown and Crown's parent company, Publishing and Broadcasting Limited.

These agreements will provide significant benefits for Victoria, including —

increased transparency and accountability through the improved provision of information by Crown to the commission;

the expenditure by Crown of at least $170 million over the next five years on the Melbourne casino complex. This will maintain the value of the complex which is leased by the state to Crown;

increased tourism and export income as a result of the removal of the single-purpose restriction. Crown will be able to compete for interstate and international casino business and for other non-gaming business;

the promotion of tourism to Victoria by Crown; and

employment and other economic benefits that will result from Melbourne being the headquarters for the gaming business of Publishing and Broadcasting Limited and the Melbourne casino remaining the flagship gaming business for Publishing and Broadcasting Limited in Australia.

The amendments contained in this bill are part of this agreement.

Importantly, the bill —

increases the matters that the commission must consider when undertaking its periodic review into the suitability of the casino operator under section 25 of the Casino Control Act 1991;

varies the maximum interval between the reviews; and

ratifies an eighth deed of variation to the casino management agreement under the Casino (Management Agreement) Act 1993.

Currently, section 25 of the Casino Control Act 1991 requires the Victorian Commission for Gambling Regulation to undertake a periodic review of the casino operator's suitability not less than once every three years and in conducting that review to consider:

whether the casino operator is a suitable person to continue to hold the casino licence; and

whether it is in the public interest that the casino licence should continue in force.

The bill amends section 25 to expand the matters the commission is required to consider when conducting its periodic review to specifically include:

Crown's compliance with the Casino Control Act 1991, the Casino (Management Agreement) Act 1993, the Gambling Regulation Act 2003, regulations made under those acts; and

Crown's compliance with certain contractual obligations to the state, including obligations under the casino agreement, the casino licence and the site lease, for example.

The bill extends the time period for this more rigorous and detailed review of the casino operator from not later than every three years to not later than every five years. A review can still be conducted at a lesser interval if the commission considers it necessary to do so.

The bill includes a transitional provision to enable the next periodic review to occur within five years of the review that ended on 30 June 2003 and to consider the additional matters specified in clause 3 of the bill for the entire period of that review. This means that the amendments for the periodic review will have a retrospective effect, once the act has commenced, for the period from 30 June 2003 until the day that the act commences. This will enable the new extended review to apply immediately rather than after another limited three-year review is undertaken.

The bill also amends the Casino (Management Agreement) Act 1993 to ratify an eighth deed of variation to the management agreement for the Melbourne casino.

The management agreement is an agreement between the state and Crown and is contained in schedule 1 to the Casino (Management Agreement) Act 1993.

The eighth deed of variation to the management agreement has been entered into as part of the package of agreements that has been negotiated with Crown. The bill ratifies the deed of variation which removes from the management agreement the requirement that Crown obtain the consent of the state prior to acquiring assets that are not related to running a casino. This reflects government's decision to remove the single-purpose restriction and to allow Crown to carry on businesses in addition to the Melbourne casino.

The bill will also ratify a variation to the management agreement that updates the definition of transaction documents to reflect two additional documents that have been entered into with Crown.

I commend the bill to the house.

Debate adjourned for Hon. DAVID KOCH (Western) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

PRIMARY INDUSTRIES ACTS (AMENDMENT) BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Primary Industries Acts (Amendment) Bill is an omnibus bill that makes amendments to three acts within the agriculture portfolio: the Prevention of Cruelty to Animals Act 1986; the Domestic (Feral and Nuisance) Animals Act 1994; and, the Fisheries Act 1995.

Amendments to the Prevention of Cruelty to Animals Act 1986

The bill introduces amendments to the Prevention of Cruelty to Animals Act that are intended to improve enforcement mechanisms within the act.

It has been identified that an inspector currently has no power to seize things that are suspected to have been used in

connection with a cruelty offence, even where the thing is likely to be required as evidence for the purposes of prosecution. Similarly where a person has been found guilty of a cruelty offence, there is no power to order the forfeiture of a thing used in connection with that offence.

The amendment to the act will provide an inspector with the power to seize any thing that the inspector reasonably believes has been used in connection with an offence under the act or regulations. Where a thing is seized, it may be returned to the owner unless it is an offence to possess, set or use the thing, for example, dog or cockfighting implements.

A further amendment to the Prevention of Cruelty to Animals Act seeks to address concerns about the effectiveness of court orders applying to a person living in a border area. Under the act, an order may be made disqualifying a person from having custody of an animal or render that custody subject to certain conditions. Similar orders can be made in other states and territories pursuant to equivalent legislation provisions. However, persons living in border areas, who are subject to an interstate order of this kind, have been observed to move animals to a property in Victoria in order to circumvent the operation of the order.

The proposed amendment to the act would enable a minister from another state or territory to request the registration in Victoria of an order that has been made under the interstate equivalent of the Prevention of Cruelty to Animals Act. In this way, the interstate order would be enforceable in Victoria. This method of enabling interstate operation of an order would be limited to individual cases where the other state or territory seeks registration of the order in Victoria and where the Victorian minister agrees to its registration. However, discussions have commenced with regards to a broader system of reciprocal agreements and notification.

It has also been identified that there is no power under the act to seize an animal possessed in contravention of an order prohibiting or restricting custody unless seizure is pursuant to a warrant for temporary care and treatment. That power of seizure is not considered appropriate to the situation where an order prohibiting or restricting custody has been contravened. Where such contravention occurs, any course of action is limited to prosecution of the person subject to the order. The amendment to the act will enable an inspector to apply to the court to seize and sell or dispose of an animal where the inspector reasonably believes the animal is being held in contravention of an order.

Domestic (Feral and Nuisance) Animals Act 1994

The bill also introduces amendments to the Domestic (Feral and Nuisance) Animals Act to deal with microchip identification of menacing dogs and rectify anomalies in seizure and disposal powers under the act.

The bill will amend the act to provide that menacing dogs must be permanently identified by microchip identification. The act places restrictions on the control and housing of dogs identified under the act as dangerous, menacing or of a restricted breed. At present, the act requires dangerous and restricted breed dogs, but not menacing dogs, to be permanently identified by microchip identification.

Without a requirement to permanently identify menacing dogs it is difficult to ascertain whether a dog has been declared to be a menacing dog and therefore whether the relevant requirements under the act are being met. The consequences of this situation are the potential inability to trace menacing dogs that have been moved to another municipality and a lack of enforcement of housing and control restrictions imposed under the act. The proposed amendment will enable relevant provisions of the act to function more effectively in relation to menacing dogs.

A further amendment to the Domestic (Feral and Nuisance) Animals Act will allow for the disposal of a seized dog where the owner cannot be identified or located. Seizure powers under the act enable the seizure of a dog that is reasonably believed to have been involved in an attack or, in the case of a dangerous, menacing or restricted breed dog, there is a reasonable belief that it has not been controlled in accordance with the act.

Upon seizure of a dog in these circumstances, prosecution against the owner must be commenced as soon as practicable and the dog retained in custody until the proceedings have been concluded. However, where the owner of the dog cannot be identified or located, this process cannot be commenced and the dog may remain impounded indefinitely. The proposed amendment will provide the appropriate power to deal with such animals.

The act will also be amended to provide a power to impound unregistered or unidentified cats found at large. The act does not currently provide such a power in the absence of a council order specifying the times that cats must be securely confined to their owner's premises or prohibiting the presence of cats in public areas of the municipality. Few councils have made orders of this type, therefore it is necessary to provide a general power under the act to impound unregistered or unidentified cats. Impounded cats will be able to be released to the registered owner or sold or destroyed under existing provisions in the act.

Fisheries Act 1995

The bill will also make amendments to the Fisheries Act relating to requesting documents and the short-term management of fisheries.

The Fisheries Act will be amended to extend the power of authorised officers to request certain documents. At present, authorised officers may enter land and premises, other than a dwelling, to inspect documents which the officer reasonably believes are relevant to ascertaining compliance with the act. The proposed amendment will allow authorised officers to require a person to produce those documents. This will avoid unnecessarily entering and searching premises in order to obtain documents where the occupant can easily provide the documents upon request.

A final amendment to the Fisheries Act will make it clear that fisheries notices can be used to set minimum and maximum size limits for the taking of fish. At present, the act provides that fisheries notices can be used to set or amend catch limits and fishery closures but does not specifically provide for the setting of minimum and maximum sizes for the taking of fish. This amendment will effectively create a means of implementing the short-term management of fisheries.

This approach reflects increasing recognition of the need to adopt short-term adaptive fishery management measures to ensure sustainability of some Victorian fisheries. The fisheries in question are typically characterised by substantial inter-annual fluctuations in environmental, economic or social circumstances. The amendment to the act will provide a

means of implementing regulation appropriate to short-term environmental, economic or social concerns.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. Andrea Coote.

Debate adjourned until next day.

ENVIRONMENT AND WATER LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

For **Ms BROAD** (Minister for Local Government), Mr Lenders (Minister for Finance) — I move:

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

This bill had two minor technical amendments made to it in the Legislative Assembly.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The Environment and Water Legislation (Miscellaneous Amendments) Bill is divided into six parts. Part 1 sets out the purpose of the bill and provides for commencement of the bill to occur on the day after the day on which it receives royal assent. The remaining parts 2 to 6 deal with miscellaneous amendments to the Sustainable Forests (Timber) Act 2004, the Safety on Public Land Act 2004, the Victorian Conservation Trust Act 1972, the Water Act 1989 and the Melbourne and Metropolitan Board of Works Act 1958. I will now address the specific amendments to each of those acts.

Sustainable Forests (Timber) Act 2004

The proposed amendments to section 20(3) of the Sustainable Forests (Timber) Act 2004 will improve the security of supply of timber resources to VicForests, the timber industry, and the regional communities dependant on the timber industry.

As members will be aware, the government established VicForests to manage the commercial timber harvesting functions in state forests. VicForests is given the right to access timber resources through an allocation order made under the Sustainable Forests (Timber) Act 2004.

The act provides for review of the allocation of timber resources in a number of instances and specifies what may happen following such review.

Section 18(1) of the act provides that a review must occur every five years. Section 18(2) provides that additional reviews may be undertaken if the minister considers that there has been —

(a) a significant variation in timber resources due to fire disease or other natural causes;

(b) a significant increase or reduction in the land base which is zoned as available for timber harvesting; or

(c) any other event or matter which has a significant impact on timber resources.

In the case of a five-year review under section 18(1) or a review in response to a significant impact on timber resources under section 18(2)(c), any decision to reduce the timber resources allocated to VicForests can currently be phased in over the 10 years following the review. To improve security of supply to VicForests, the proposed amendment will require that any reduction following such a review may only occur 10 years after the review.

This amendment will provide greater commercial certainty to VicForests in entering into longer term supply arrangements with its customers of up to 10 years. This in turn will increase the industry's capacity to invest in improved technologies and value-adding and support regional communities.

In proposing these amendments, the government remains committed to maintaining sustainable timber harvesting levels. Thus, a reduction in timber resources can occur before the 10 years has elapsed with the agreement of VicForests.

We also retain the capacity to reduce timber resources more immediately in the event of a review triggered by fire, disease or other natural causes or because of a change in the land base zoned as available for timber harvesting, for example, as a result of the government accepting a recommendation by the Victorian Environmental Assessment Council to this effect.

There is also a minor amendment to provide more flexible arrangements for the resolution of suspension notices relating to the rectification of damage in timber harvesting operations.

Safety on Public Land Act 2004

The Safety on Public Land Act 2004 improves public safety in state forests by establishing and enforcing public safety zones. The act enables the Secretary of the Department of Sustainability and Environment to declare public safety zones for a variety of purposes. In making the first declarations under the act, it became clear that there was a need to streamline the process to achieve administrative efficiency.

Rather than require the whole declaration to be published in statewide and local newspapers, those newspapers will carry notice of the making of the declaration and details of where the declaration may be viewed. The full declaration will continue to be published in the *Government Gazette* and on the Internet. It will also be available for inspection at the department's head office and relevant regional offices.

There is also an amendment to enable documents to be incorporated by reference into a public safety zone declaration. This will, for example, enable media such as maps to be used to assist the public in identifying and locating public safety zones.

Victorian Conservation Trust Act 1972

Trust for Nature (Victoria) is a non-profit organisation that has worked to protect remnant bushland for over 30 years. The trust is a body corporate established by the Victorian Conservation Trust Act 1972 and managed by trustees. The trust has done an outstanding job in purchasing land for conservation purposes, entering into covenants with landowners in order to protect important conservation values and, through a revolving fund, providing a basis for future land purchases. Many of the areas acquired have been transferred to the state and included in parks and reserves.

The act currently requires the trust to comprise 10 trustees, with 6 forming a quorum at any meeting. The bill amends the act so that the trust comprises a maximum of 10 and a minimum of 6 trustees, with the majority of trustees from time to time forming a quorum. These amendments will assist the efficient execution of the trust's responsibilities when, for various reasons, there are vacancies on the trust or trustees are absent because of illness or other reasons.

The bill also repeals several spent provisions relating to the Victorian Conservation Trust Act 1972.

Water Act 1989 and Melbourne and Metropolitan Board of Works Act 1958

Part 5 of the bill amends the provisions of the Water Act 1989 to improve the management of water supply protection areas. The change will allow management plans to impose restrictions on taking ground water to prevent a maximum or average ground water level or potentiometric level being exceeded. Other improvements will also be made to the process by which management plans are drafted, amended, and approved by the Minister for Water.

Parts 5 and 6 of the bill amend the Water Act 1989 and the Melbourne and Metropolitan Board of Works Act 1958 to address particular issues relating to the declaration of districts and areas. They provide that subordinate instruments made under certain provisions of these acts may incorporate by reference matters contained in documents such as plans and maps. It also amends those acts to validate past subordinate instruments made since 1 July 1984 that have incorporated by reference maps, plans or other documents. Referring to the maps and plans in a subordinate instrument or piece of legislation is often the most convenient and effective means of describing an area of land.

I commend the bill to the house.

Debate adjourned on motion of Hon. E. G. STONEY (Central Highlands).

Debate adjourned until next day.

VICTORIA STATE EMERGENCY SERVICE BILL

Second reading

Ordered that second-reading speech be incorporated for Hon. T. C. THEOPHANOUS (Minister for Energy Industries and Resources) on motion of Mr Lenders.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

The purpose of this bill is twofold:

1. To re-enact the Victoria State Emergency Services Act 1987 to establish a statutory authority to manage the Victoria State Emergency Service (SES).

2. To improve the transparency and equity of the insurance-based funding system for the Metropolitan Fire and Emergency Services Board (MFESB) and the Country Fire Authority (CFA). The bill will implement recommendations of the Department of Treasury and Finance's 2003 review of Victorian fire services funding arrangements.

SES

The Bracks government is committed to creating a strong, sustainable and dynamic SES.

The Bracks government has strengthened the SES. We will continue in our efforts to support its long-term sustainability and identity as a separate emergency service organisation.

The SES is a key provider of emergency service assistance within Victoria's comprehensive emergency management framework, which in turn is widely recognised as highly effective in its delivery of services and planning for emergencies.

The SES has the primary responsibility for responding to extreme weather events such as floods and storms, and is the main provider of road accident rescue services in Victoria.

The SES also provides critical support to other emergency services, including:

provision of operational support to fire services during seasonal bushfire campaigns;

search and rescue activities for Victoria Police; and

critical support to local government with emergency prevention and management planning.

The SES provides these services through a statewide network of over 5500 volunteers and has traditionally been a business unit within the Department of Justice.

The SES volunteers have been performing well, as demonstrated by their excellent response to the recent February 2005 storms. However, the organisation has been hampered by challenges, such as:

a management structure that urgently needs reform to respond to increased demand;

regulatory requirements, changed community expectations and population growth in key urban corridors; and

the need for a sustainable budget framework that assesses and enhances the performance of the organisation.

The Bracks government is committed to equipping the SES with the capacity to address these present challenges and prepare for the future. This bill provides this capacity to the SES through re-enacting the SES as a statutory authority.

In addition, these changes will make it clear to SES volunteers that they are valued and supported. It will create efficient processes that support volunteers and allow them to focus on their training and emergency response, rather than paperwork.

Over the two terms of the Bracks government, SES volunteers have told us that the present structure of the SES does not give them parity with their colleagues in other emergency service organisations. We have listened and acted on their feedback.

Key benefits of the re-enactment of the SES as a statutory authority

Structural parity across all three primary emergency response services

Both the MFESB and CFA are successful statutory authorities. As a statutory authority, the SES will be aligned with the organisational structure of the MFESB and the CFA.

The structure and governance arrangements of a statutory authority will strengthen the SES to enhance partnering relationships with other emergency service organisations.

The government's vision is that the SES achieves significant corporate and operational efficiencies by partnering more with their comparable emergency service organisations. This structure facilitates that vision.

Creating structural comparability between Victoria's key emergency service organisations will facilitate the development of strategic, statewide deployment capabilities. Common operating platforms and corporate services cultures will speed the development of this capability.

The structure of the organisation

The new entity provides for a reinvigorated management structure that will import high-level corporate expertise into emergency operations and provide guidance for the management of the SES. It will include an expert board, a chief executive officer and a director of operations.

The expert board will provide high-level expertise in financial and operational management.

A chief executive officer will provide strategic advice to the board and manage the organisation. The director of operations (reporting to the chief executive officer) will focus on the delivery and improvement of emergency response services.

Reporting and governance

The new authority (as a public entity) will be subject to the requirements of both the Public Administration Act 2004 (the PAA) and the Financial Management Act 1994. The requirements of these acts provide a comprehensive framework to ensure good governance in the Victorian public sector.

Some examples of the requirements under these acts that will improve the governance of the SES include:

the requirement that directors must at all times, in the exercise of their functions, act honestly; in good faith; with integrity; in a financially responsible manner and exercise a reasonable degree of skill, care and diligence.

the requirement of the PAA that the board ensures it has procedures in place to govern the conduct of its meetings; inform the minister of any major risks to the effective operation of the entity; install adequate risk management systems and monitor and assess the performance of individual board members.

the provision of financial and other information (such as a corporate plan, statement of corporate intent, business plan, annual report and financial statements) that details information about operations.

A statutory authority ready for action

The government has devoted considerable effort to ensure that upon commencement, the systems and operations of the new entity have been seamlessly transferred, and that it is ready to focus on the delivery of its core emergency response services.

These reforms will enhance the sustainability of the SES and therefore Victoria's multiagency, multihazard emergency management arrangements.

Improving the transparency and equity of the current insurance-based funding system

The amendments contained in this bill to the Country Fire Authority Act 1958 and the Metropolitan Fire Brigades Act 1958 will deliver the Bracks government's commitment to transparency and equity in the fire service funding system.

The need to enhance the transparency and equity of the current insurance-based fire services funding model was identified by the Department of Treasury and Finance's 2003 review of Victorian fire services funding arrangements.

The review identified an apparent lack of connection between the fire services levy amounts collected by insurance companies and resulting contributions to the fire services. Community and business are united in demanding transparency in the way insurers charge them, and this bill will deliver this transparency.

The bill will ensure that companies itemising a fire services levy (or like description) on premiums, will be required to report these amounts to the CFA and MFESB. In the interests of transparency, the CFA and MFESB will have the power to publish these amounts in their annual reports.

The current funding model does not address this government's principle of equity across business and community sectors.

The bill will require high-level deductibles (i.e. excesses) contained in the insurance policies of major corporates to be included in the calculation of insurance company

contributions to fire service budgets (this is an equity measure).

For the purpose of assessing contribution, the insurer's contribution will now be assessed against the full insured value (minus an allowable deductible of $10 000). A formula allowing the full value of the insured value to be calculated will be contained in regulation. This measure is aimed at distributing the funding burden equitably across all insurance companies, including those with customers who have high levels of deductibles.

Amendments contained in this bill will clarify existing uncertainty in the MFB and CFA acts to ensure that while the Victorian Managed Insurance Authority will not be treated as an insurance contributor in terms of government property, it will have to make contributions to the fire services like any other insurer for any insurance business conducted in the non-general government sector.

The bill will also clarify some existing technical anomalies relating to the calculation of contributions required from insurance intermediaries, brokers and owners.

I commend the bill to the house.

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

Debate adjourned until next day.

WORKING WITH CHILDREN BILL

Second reading

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

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

That the bill be now read a second time.

Incorporated speech as follows:

The Working with Children Bill represents a significant change in the way Victoria treats the care of children. For the first time, there will be minimum, statewide standards for those who work with children, whether in paid employment or as a volunteer.

Any parent who entrusts their child to a person who holds an assessment notice under this act will know that that person has been vetted by the government, and a decision has been made that that person is not unsuitable to work with children.

I say 'not unsuitable' because the working-with-children check alone is not enough. The check is based on a person's criminal record plus, in some cases, information from professional disciplinary proceedings. It does not, and cannot, tell a prospective employer everything he or she needs to know about a person. The working-with-children check is no substitute for careful recruitment procedures and thorough reference checking.

This bill is only one part of the government's initiative in this area. A new unit is being established within the Department of Justice which, as well as conducting these checks, will work to educate the community about the check and the responsibilities to which it will give rise. This will be complemented by the role of the child safety commissioner, who will conduct an independent review of the working-with-children check each year. His oversight will assist to ensure that the scheme is administered appropriately. He will report to Parliament on the findings of his review through the Minister for Children.

The Working with Children Bill is the product of a thorough consultation process. In December of last year, an exposure draft of this bill was released and widely distributed. We received over 160 submissions on this bill. They came from sporting clubs, church groups and community organisations. We also received submissions from legal groups, child welfare organisations and interested individuals. The current Working with Children Bill is the result of careful consideration of all those submissions.

Of course, the government knows that it cannot please everyone. There are widely divergent views in the community about who this bill should cover, what should bar a person from working with children and how a person with a criminal record should be treated.

The bill does not attempt to regulate private relationships that exist between family and friends. Nothing in this bill will stop teenagers from babysitting for their neighbours, nor will it prevent a family from taking their children's friends away with them over the weekend. The Working with Children Bill is about ensuring that when a parent or guardian entrusts their child to a person or organisation outside the family, be it a music teacher, a child-care centre or a sporting camp, they will know that the person who will be responsible for their child has been checked at least to the standard required by this bill.

We are aware that most abuse of children happens within a child's immediate circle of family and friends. The Working with Children Bill does not alter the way in which the government tackles this problem. Rather, our child protection system provides child-centred, family-focused services to protect children and young people from significant harm as a result of abuse or neglect within the family. It also works to help children and young people deal with the impact of abuse and neglect.

The government is currently reviewing the child protection system in order to improve outcomes for children and families. The government's vision is to provide children with the best possible start in life and to give their families and communities the help they need to achieve this. The review of Victoria's child protection system is premised on the idea that to receive the best start in life, vulnerable children and young people need to be protected and nurtured to adulthood.

The child protection system and the Working with Children Bill complement one another. While child protection works to deal with the difficult problems that can arise within the family, the Working with Children Bill will enhance the safety of children when they are participating in activities outside the home.

Developing the working-with-children scheme has been an exercise in striking the right balance. Minimising the risk of harm to children is our priority. In achieving this, however, the government is aware of the need to ensure that all applicants for an assessment notice are treated fairly, in accordance with the principles of natural justice. Also important is the need to create a scheme that does not bury employers and community organisations in red tape and responsibilities, and the need to create a scheme that does not discourage the volunteers that are so vital to Victoria's community.

The government considers that the Working with Children Bill meets its aims. It creates a scheme that balances these, sometimes competing, considerations but which is aimed squarely at improving children's safety.

The Working with Children Bill — summary

In brief, this bill sets out criteria for who should be allowed to work with children. It envisages that the Secretary of the Department of Justice, through an agency, will vet people's criminal records and consider them against these criteria. This agency will issue 'assessment notices' to those who are not judged unsuitable, and 'negative notices' to those who are considered unsuitable to work with children. It will then be a criminal offence for a person without an assessment notice to work with children. It will also be a criminal offence for an employer or organisation to engage a person to work with children if that person does not have an assessment notice. Those who have a negative notice are prohibited from even applying to work with children. All these offences carry a maximum penalty of two years imprisonment.

Of course, once a person receives a negative notice, he or she will be precluded from many fields of employment and community involvement. This is a significant restriction to place on a person. To ensure that no-one is unfairly treated, this bill provides for a full range of appeal rights. A person who is issued with a negative notice and feels aggrieved can appeal this decision to the Victorian Civil and Administrative Tribunal.

As I said earlier, the Working with Children Bill represents a significant change in the way Victoria treats the care of children. We do not expect Victorians to comply with it the moment it becomes law. There will be a five-year implementation phase, during which the legislation will be progressively rolled out across all fields of child-related work. There will be ample time and assistance for all those who need to comply with this bill to do so.

Who will be checked?

The Working with Children Bill will apply to all employees, self-employed persons, and volunteers in child-related work where that work involves regular direct contact with a child and that contact is not directly supervised by another person. Work, in this legislation, includes work performed as a volunteer.

Children benefit greatly from the unpaid work of the many Victorians who get involved with school, sports and other community activities involving children. I am pleased to announce that the working-with-children check will be free for all volunteers. The Working with Children Bill will benefit volunteer organisations by providing free and simple assistance to them in managing their responsibility to ensure that the children under their care are safe.

Those who earn their income through child-related work will pay a fee when they apply for a working-with-children check. Once an assessment notice is granted, it will be valid for five years, and can be used for all forms of child-related work.

The types of child-related work captured by the bill are listed in clause 9(3). They include child care, youth justice, paediatric wards of hospitals, overnight camps for children and the provision, on a commercial basis, of entertainment services and play facilities. They also include clubs, associations or movements that 'provide services or conduct activities for or directed at children or whose membership is mainly comprised of children'.

This is not a precise term — but there is no way to be exact about something as fluid as a club's membership and activities. This definition targets those clubs — such as large sporting clubs — which may run competitions specifically for children, even if most of the club's members are adults. It also captures organisations that may be based around a hobby — such as model making — that involves both adults and children, but where most of the club members are children. This is a bill about protecting children, and this definition is intended to capture activities that are for children, while excluding clubs in which children may be only peripherally involved.

Not every adult involved in these types of employment or volunteer activities will need to be checked. That would be casting the net too wide, and putting too great a burden on many organisations. Rather, it is only those who have direct contact with children, and who are not directly supervised, who will require the check. For example, the coach of an under-12 football team will need the check, because he is engaged in child-related work, has direct contact with a child and is not supervised. By contrast, a person who is employed to develop the rosters for the under-12 competition, and has no involvement with the teams, will have no direct contact with children and so will not require a check. Neither will a person who acts as an assistant coach, under the coach's direct supervision.

The Working with Children Bill provides guidance on what 'direct supervision' means, by providing that it requires immediate and personal supervision, but does not mean that a person working with children must be watched every moment of the day.

As I said at the outset, the Working with Children Bill sets statewide minimum standards. The bill requires that certain workers must be checked. However, workplaces still bear the responsibility, as they do now, of deciding what standards they want their workers to meet. Any workplace may choose to do more than this bill requires — but no workplace may do less.

Exemptions

Although the bill generally covers people in child-related work which involves regular direct contact with a child, where that contact is not directly supervised by another person, there are exemptions. Those exemptions are for parents, family members, children, teachers and police. However, it must be remembered that these exemptions cannot be relied on by any person who is on the sex offender

register, or who is subject to an extended supervision order under the Serious Sex Offenders Monitoring Act.

Parents will not need a working-with-children check if they are volunteering in an activity with their child. Reading with your child's class or helping out with your child's school play will not bring a parent within the scope of the legislation. However, if your child stops participating in that activity — for example, if your child goes to high school and you want to continue to volunteer at the primary school — then a working-with-children check will be required.

There is also an exemption for those who work with their family. Family is more broadly defined in this exemption, and will cover grandparents, aunts, uncles and siblings. This means that if an aunt is paid to teach her niece piano, or an extended family schools their children together, there will be no need for a working-with-children check.

One question the government faced in developing the bill was whether to check children themselves. We have opted to exclude children from the operation of the Working with Children Bill, so any child can work with other children without having to be checked. Children who attend community and sporting activities often do so with other children. It is extremely difficult in some circumstances to draw the line between when a child is participating with other children, and when he or she is actually working. For example, is the scout who participates with his or her fellow scouts and then leads a group in an activity working with children? Rather than burden groups with the responsibility of having to draw these lines, we have exempted all children from the operation of the check. This exemption extends to 18 and 19-year-olds who are still at secondary school, so that they may participate in work experience and community programs organised by their school, without having to apply for a working-with-children check.

Teachers and police

Many professions require stringent police checks before they can begin work. Few, however, keep those checks updated regularly.

Teachers are already regulated by the Victorian Institute of Teaching (VIT). No-one may become registered as a teacher if they have a serious sexual offence on their criminal record. Teachers who are currently teaching will be deregistered if they are found guilty of a serious sexual offence.

As teachers are already carefully regulated, the government has opted to leave the regulation of this profession in the hands of the VIT and exclude teachers from the operation of the working-with-children check. Any teacher who has a current VIT registration will be able to work with children in any capacity.

As part of the Working with Children Bill, we are also strengthening the VIT regime by broadening the requirement for police to notify the VIT when a teacher is charged with a serious criminal offence.

Similarly, police officers are monitored for criminal convictions. If a police officer is charged with an offence, he or she may be suspended from duty. This bill does not subject police officers who wish to work with children either in their job or in their free time to another layer of regulation. Instead, the Working with Children Bill provides that sworn police officers, other than those suspended from duty, may work with children without requiring a working-with-children check.

To ensure that taking this approach does not create any loopholes in the scheme, a teacher who loses his or her registration, or a police officer who is suspended, must inform any other child-related organisation they are working with of this deregistration or suspension.

Many other occupations require people to be checked for a criminal record. In some cases, people will be required to have both a working-with-children check and comply with the checking requirements of their own employer. The government will continue to work to reduce the number of cases in which this occurs. However, as the Working with Children Bill establishes a minimum standard that will apply across Victoria, it will always be open to individual employers to request that prospective employees meet a higher standard.

Visiting workers

Many children travel into Victoria as part of school trips or with sporting teams. With the Commonwealth Games being held in Victoria next year, we are aware that many people will be concerned that, by arriving in Victoria as a coach or chaperone of a young athlete, they may need to comply with this new regime. Rather than expecting people to get an assessment notice before they visit Victoria, we have exempted visiting workers from the working-with-children scheme. This is a narrow exemption and will only cover those who do not usually live or work in Victoria. It means that school groups can visit, junior teams can tour, and adults from interstate or overseas can accompany them without falling foul of the working-with-children legislation.

Who may not work with children?

As I said at the outset, this bill creates a regime for declaring people unsuitable to work with children. So who will be considered unsuitable?

Any person on the sex offender register or subject to the Serious Sex Offenders Monitoring Act will automatically be issued with a negative notice. There is no appeal against this decision, unless a person believes they have been wrongly identified.

Any person convicted or found guilty as an adult of a serious sex offence committed against a child or of a child pornography offence will also automatically receive a negative notice. There is no discretion in the secretary to grant an assessment notice in these circumstances.

However, a person in this situation may take their case to VCAT and ask VCAT to consider whether they should be granted an assessment notice. This will allow the scheme to deal with extraordinary situations that may arise. VCAT may only grant an assessment notice in these circumstances if it is satisfied that the applicant does not pose an unjustifiable risk to the safety of children and that granting an assessment notice is in the public interest.

The next category of offenders are those with convictions or findings of guilt for serious sexual offences against an adult or against children committed when the offender was a child. Also in this category are those with convictions or findings of guilt for serious violence or drug offences. In all of these cases the applicant is presumed to be unsuitable to work with

children. However, this is a presumption rather than a hard and fast rule, and there will be a discretion to grant an assessment notice to a person who falls within this category.

The discretion is given to the Secretary of the Department of Justice. The secretary may only grant an assessment notice if she is satisfied that the person does not pose an unjustifiable risk to the safety of children, having regard to a number of factors. These factors include the age of the offence, the seriousness of the offence, the ages of the applicant and the victim at the time of the offence, and the applicant's behaviour since the offence was committed.

The offences of violence that will lead to this presumption include murder, intentionally causing serious injury and making threats to kill a person. Similarly, serious drug offences, including trafficking in a commercial quantity of a drug of dependence, cultivating a commercial quantity of a narcotic plant and supplying drugs to a child, give rise to the presumption that a person is not suitable to work with children.

As well as convictions, this category covers people who have been charged with any of these offences or charged as an adult with a child pornography offence or with a serious sex offence committed against a child, where that charge is yet to be finalised. A person who has been charged with an offence is, of course, presumed to be innocent unless and until a guilty verdict is entered. As I said earlier, developing this bill was an exercise in striking the right balance. In allowing pending charges to be considered as part of the working-with-children check, the government has decided that the need to ensure the safety of children requires that this information be available to the secretary in determining whether the applicant poses an unjustifiable risk to children. Of course the secretary will weigh the fact that the person has not yet been, and may not be, found guilty in the balance in making this decision.

The discretion given to the secretary, plus the ability to appeal the issue of a negative notice to VCAT, creates the flexibility that the working-with-children scheme needs to deal with the wide variety of situations that will arise when checks are conducted.

There is a third category of application which encompasses offences committed against the Working with Children Bill itself. This category also enables the secretary to go beyond the consideration of criminal offences and consider determinations made by professional registration bodies.

In this category the secretary still has a discretion, and the presumption is that a person will be granted an assessment notice, unless the secretary is satisfied that it is appropriate to grant a negative notice. Again, the secretary is required to consider a range of appropriate factors, including the severity of the conduct and the time that has passed since it occurred.

The relevant professional bodies are not named in the legislation, but it is our intention to prescribe by regulation bodies such as the Victorian Institute of Teaching (VIT) and the medical registration boards. The government is currently reviewing the operation of all health practitioner registration boards, and the information held by these boards will not be incorporated into the working-with-children scheme until the review has been completed and the future arrangements for regulation of the health professions have been determined.

Once the relevant boards have been prescribed, if a health professional is the subject of a serious disciplinary finding and, for example, is deregistered, this information will be available to the secretary if that health professional applies for a working-with-children check. The secretary will consider the circumstances that led to the deregistration, including its relevance to child-related work, in deciding whether this is a case in which the presumption that an assessment notice should be granted is displaced.

In going beyond purely criminal information we are acknowledging that there is other information that may be useful in determining whether a person is unsuitable to work with children. We are using information from professional registration boards, because they operate in accordance with the principles of natural justice, so that a professional is made aware of the allegations against him or her and is given an opportunity to contest them.

This is information that is the result of a proper investigation and has been tested before a tribunal. Given the significant consequences for a person's career and lifestyle that may flow from the issue of a negative notice, it is only information of this standard that is sufficiently robust to warrant inclusion in the Working with Children Bill.

All applications that fall outside these categories will qualify for an assessment notice. It is our expectation, based on the experience of other states, that the vast majority of applications will lead to the issue of an assessment notice.

Updating of checks

The working-with-children check has one significant advantage over virtually all other employment related police checks — it will be continually updated.

When a person is issued with an assessment notice, they will be added to a database. Victoria Police will have the ability to match this database against the list of all new charges and convictions on a regular basis.

If a person who holds an assessment notice is charged with one of the offences that can lead to a person being denied an assessment notice, a number of things will happen. The police will tell the Secretary of the Department of Justice, and the secretary will consider whether the assessment notice should be revoked. Individuals are also placed under an obligation — they must also tell the secretary about the charge, and if they are involved in child-related work, they must tell their workplace. There are criminal penalties for failing to meet these obligations. If the secretary knows where the individual is working, she will also pass on this information to the workplace or organisation — but the secretary will not always know this.

The government has decided that it is important for a person freshly charged with an offence to have the opportunity to make a case as to why they should keep their assessment notice. If the secretary proposes to revoke the assessment notice and instead issue a negative notice she will first issue an 'interim negative notice' and tell the individual that he or she may make a submission to her. The workplace must be informed of the issue of an interim negative notice — both by the individual and, where possible, by the secretary. It is then up to the individual workplace to determine how best to deal with the individual while their status is being reconsidered. Some workplaces may choose to allow the person to continue

to work, perhaps with added supervision, while others will request that the person stop volunteering at their association or suspend them from the workplace.

If the reassessment of the individual results in a negative notice, he or she must stop working with children. To fail to do so will be an offence carrying a maximum penalty of two years imprisonment. We understand that this will concern employers bound by the commonwealth's Workplace Relations Act. The Working with Children Bill recognises this by ensuring that no offences will be committed if an employer is in the process of meeting their obligations under that commonwealth act.

The regular updating of the working-with-children check and the requirement that any change in a person's status under the act be passed on to workplaces will ensure that the assessment notice is not just a document that will be granted and then forgotten about. An assessment notice will ensure that a person initially found not unsuitable to work with children will be continually screened for new criminal charges that may render him or her unsuitable to work with children.

Review

As I said at the outset, the Working with Children Bill represents a significant change in the way Victoria regulates those who care for and work with children. To ensure that this scheme meets its aims of providing a safer community for children, while not overburdening those who will be required to comply with it, the government will review the operation of the Working with Children Bill three years after the checking of Victorian workers begins. Although the scheme will take five years to be implemented across all areas of child-related work, we think that after three years of checks it will be time to take stock of the way the scheme is operating and ask ourselves whether it is doing what it is supposed to do.

Conclusion

There are those in our society who would, given the opportunity, hurt children. This bill is about putting barriers in those people's way to reduce their chances of being in positions of trust with children. The Working with Children Bill does this in two ways: by ensuring that those people who have inappropriate criminal records are prevented from working with children or from becoming involved in children's clubs and activities, and by bringing home to parents, workplaces and children's organisations the importance of thoroughly checking those to whom we entrust our children.

It does ask people who work with children to apply for a check and to comply with the responsibilities that will come with holding an assessment notice. It also asks employers and other organisations to ensure that their workers have been checked and hold a valid assessment notice. However, this is a small price to pay for the creation of a statewide screening system which will set a mandatory minimum standard for everyone who works with children, within the meaning of this bill.

I commend the bill to the house.

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

Debate adjourned until next day.

OWNER DRIVERS AND FORESTRY CONTRACTORS BILL

Committee

Resumed from 11 August; further discussion of clause 4.

Clause agreed to.

Clause 5

Hon. B. W. BISHOP (North Western) — The Australian Plantation Products and Paper Industry Council, sometimes better known as A3P, has raised some issues with us. I suspect that what the organisation is concerned about in this clause is that drivers and operators could be incorporated in their own businesses. It raised the question of whether they will be swept up in this bill.

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Bishop for the opportunity to clarify this matter. It is useful to consider the sequence of clauses 4, 5 and 6 in relation to who gets swept up in this bill. The provisions of clause 5 are very similarly structured to those in clause 4.

There is an expectation that owner-drivers as defined in clause 4 or haulage contractors as defined in clause 5 are those people who effectively act independently, whereas harvesting contractors as defined in clause 6 — which I advise Mr Bishop is the clause the member and I might have been having a conversation about recently — also ropes in those who work within the harvesting contract industry. They may be smaller corporations and smaller companies that have a number of vehicles and get swept up in clause 6. The effect of clauses 4, 5 and 6 is that people who act independently and operate a machine are covered by clauses 4 and 5, and those who operate a number of vehicles on behalf of a company structure are roped in under clause 6. The net effect, as far as the government is aware, is that the three clauses have the intention of covering the sector by covering all who operate within harvesting.

Hon. B. W. BISHOP (North Western) — I thank the minister for his answer. I believe that clarifies that particular issue, although I think the plantation sector might not be all that pleased about the minister's answer. I thank the minister for the clarification.

Clause agreed to; clauses 6 to 30 agreed to.

Clause 31

Hon. C. A. STRONG (Higinbotham) — Clause 31 deals with unconscionable conduct by hirers. To make sure the minister understands my question, I will read a few of the subclauses. Clause 31(1) says:

> A hirer must not engage in unconscionable conduct with respect to a contractor.

Subclause (2) says:

> Without in any way limiting the matters to which the Tribunal may have regard for the purpose of determining whether a hirer has —

engaged in unconscionable conduct —

> … the Tribunal may have regard to any one or more of the following …

The bill then proceeds to list a whole series of things which the tribunal may have regard to in determining unconscionable conduct. What I seek from the minister is perhaps some clarification or examples to give some better understanding of what these things mean. For instance, subclause (2)(i) says the tribunal may have regard to:

> the extent to which the hirer was willing to negotiate the terms and conditions of any contract for the acquisition or possible acquisition of services from the contractor …

Let us say I was a hirer with a good understanding of my business and I said to some potential contractor, 'These are the rates I can afford to pay you, and that is all I can afford to pay you'. Let us also say the contractor then said he would like to negotiate. If I said, 'I have worked out what I can afford to pay and that is it, so basically this is take it or leave it', would I have committed unconscionable conduct by refusing to negotiate with the contractor?

Mr GAVIN JENNINGS (Minister for Aged Care) — I commence by thanking Mr Strong for raising with me prior to the committee stage the matter he has just raised, so that I could do the requisite research and answer his question in an appropriate fashion. I appreciate his goodwill in wanting to tease out this issue in the committee stage. I will be a bit text driven for a minute to respond specifically.

Unconscionable conduct by acquirers of services from small business suppliers, such as those covered by this bill, is prohibited under section 8A of the Fair Trading Act. These provisions were introduced in the Fair Trading Act in 1999 and 2001, and they mirror the unconscionable conduct provisions of sections 51AC of the commonwealth Trade Practices Act 1974, which was introduced in 1998. Both acts give small business suppliers the same rights as consumers in pursuing complaints of unconscionable conduct against big business. Unconscionable conduct is a concept with a long history in the law of equity. The legislation assists by setting down criteria for the assessments of whether conduct is unconscionable, and this is where I greatly appreciated Mr Strong's heads-up to me because the substantive answer to his question in terms of the case law — the precedent, the way in which this would be interpreted — is subject to two sets of guidelines that have been produced in accordance with those pieces of legislation.

The Australian Competition and Consumer Commission recently reissued the *Guide to Unconscionable Conduct* containing a summary of legal cases on the meaning of unconscionable conduct. I can make sure that Mr Strong and other members of the committee have a copy made available to them. Similarly there is a mirrored set of guidelines that have been published by Consumer Affairs Victoria under the Fair Trading Act that do exactly the same thing — set out the case law, the relevant ways in which this piece of legislation would be interpreted. It is important for me to reiterate to the committee that the provisions of this bill are a direct lift from the Fair Trading Act and mirror that act. It has been the intention of the government to bring those pieces of legislation into line. We understand that this requires some degree of education and guidance being provided to any new sections of industry that are roped into these provisions, and it would be the intention of the government to make sure that we distribute the material I have outlined to the committee and make sure it is available to all those who are roped in by the provision.

In specifically responding to clause 31(2)(i), the test will be in accordance with the guidelines that will be issued to anybody wishing to purchase a service and enter into contractual arrangements. The test will be whether they have operated in a genuine way in accordance with effectively what is the going rate. That is the critical test: whether in the swings and roundabouts of the contractual arrangements they relatively match up to the benchmark of the going rate. It would only be under extreme circumstances that the government would envisage that the package of provisions within a contract would be outside what is a broad benchmark — not necessarily linear — of what the going rate would be. This would mean that the unconscionable conduct provisions would not be enforced under normal circumstances unless the contractual arrangements were very one-sided and were deemed through the provisions of the act to be unfair.

Hon. C. A. STRONG (Higinbotham) — I thank the minister; as he said, it was a fairly text-heavy answer. Is the minister saying that under the Trade Practices Act there is a similar provision to clause 31(2)(i)? Is the minister saying that this is a test which exists in other trade practices legislation?

Mr GAVIN JENNINGS (Minister for Aged Care) — Absolutely. I have confirmation from my adviser in the box that the commonwealth Trade Practices Act 1974 and the Fair Trading Act 1999 in Victoria have exactly the same provisions. Just in case there is any misunderstanding, save for the addition in terms of how we have included employees within this provision which is the one new provision, otherwise it is a direct lift of all the provisions in those two acts.

Hon. C. A. STRONG (Higinbotham) — That is a very significant deviation. I am thinking that in some of his responses the minister may have been talking about clause 31(2)(e), which I wanted to raise as my second item, rather than clause 31(2)(i) which deals with the extent to which the hirer is willing to negotiate. It seems to me in many ways that the answer the minister has given was the answer to clause 31(2)(e), which I want to get to in a moment, rather than clause 31(2)(i) which deals with the extent of negotiation.

Mr GAVIN JENNINGS (Minister for Aged Care) — No, it was my intention to basically cover all the concepts under clauses 31 and 32 which in a sense are mirror images of 'unconscionable conduct'. Clause 31 deals with the unconscionable conduct by hirers and clause 32 deals with unconscionable conduct by contractors and they are supposed to mirror one another in relation to fair trading between hirer and contractor. I was relating my comments to the set of guidelines and circumstances under the Fair Trading Act and the Trade Practices Act that have been issued and the working day-to-day practice of how these pieces of legislation are interpreted and how they should be understood by the industry. In one of my examples I may have given Mr Strong the impression that I was being narrow in my understanding of the clauses, but I was trying to give the committee an understanding of the breadth of the way this will operate and how the sector can most easily come to terms with it.

Hon. C. A. STRONG (Higinbotham) — I thank the minister. I and others look forward to reading the guidelines that he will be making available to us because on the face of it there is a certain amount of concern as to how clause 31(2)(i) would be interpreted as it deals with the extent to which the hirer is prepared to negotiate and how it could be used against a hirer. I turn quickly to clause 31(2)(e) which states:

> the amount for which, and the circumstances in which, the contractor could have supplied identical or equivalent services to a person other than the hirer, including as an employee …

What that is implying — and I think the minister agreed — is that it would be a case of unconscionable conduct if a hirer were to seek to employ a contractor at a rate that was less than he or she would have paid for an employee. In that particular circumstance, although the minister has tried to explain that this is normal practice, there are others involved in the industry who are as confused about this as I am. The other day Trisha Caswell, chief executive officer of the Victorian Association for Forest Industries, wrote to the Attorney-General expressing some concerns particularly about this and other clauses. She said:

> We wish to place on record our profound regret and despair that our concerns have been ignored and that government has not heeded our advice that there are fundamental weaknesses with the bill in its current form.

This letter sets out in detail 17 dot points and deals with the particular clause that we are talking about. Ms Caswell goes on to say:

> It will give rise to contracting arrangements that are not legitimate as a consequence of the structural arrangements established through the implementation and operation of the bill.

Can the minister again confirm that it would be a case of unconscionable conduct if a hirer sought to pay a contractor at less than award wages?

Mr GAVIN JENNINGS (Minister for Aged Care) — I actually think Mr Strong does not want me to confirm that, and I am not going to do so. I am going to say that obviously the going rate, the market rate and the amount of remuneration are important, and it is the government's hope that the provisions will not lead to an undue reduction in the remuneration received by contractors. What we are trying to do is create a meaningful way which guarantees fair dealing but is not overly prescriptive in the way it works on a daily basis as to the way those contracts can be entered into and what aspects are included within the basket of provisions within a contract. The going rate of remuneration is clearly one aspect of it, but not the sole determinant of whether a contract is fair and reasonable and whether or not it would fall foul of the unconscionable conduct provision. In that regard I provide Mr Strong and other members of the committee a degree of comfort.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for his response. I do not want to particularly labour the point, but I must say it is a very small degree of comfort the minister is providing. Clause 31(2)(e) quite clearly says:

> … the Tribunal may have regard to any one or more of the following —

and then proceeds to list them. I repeat that the provision quite clearly says that in assessing unconscionable conduct the tribunal is able to make a judgment that it is unconscionable if the hirer pays a contract rate which is less than the award. I must say that I and many others think that is not what contracting would normally entail, and I thank the minister for his small degree of comfort.

Mr GAVIN JENNINGS (Minister for Aged Care) — I would just say, probably for the record, I think Mr Strong has verballed the clause. Clause 31(2)(e) says:

> the amount for which, and the circumstances in which, the contractor could have supplied identical or equivalent services to a person other than the hirer, including as an employee.

Clause agreed to.

Clause 32

Hon. C. A. STRONG (Higinbotham) — Clause 32, as the minister said in discussing clause 31, is a mirror of the clause we have just been discussing. It refers to unconscionable conduct by contractors when dealing with a hirer. I again refer to the mirror of that provision. I must admit that I and others have lots of problems with that provision, which in this case is clause 32(2)(e), which says — without wishing to verbal it:

> the amount for which, and the circumstances in which, the hirer could have acquired identical or equivalent services from a person other than the contractor, including —

as an employee.

Mr Gavin Jennings — Now you have done it again. It is 'from' an employee.

Hon. C. A. STRONG — Yes, 'from an employee'. That to me is saying that it would be unconscionable conduct by a contractor if he sought to negotiate a contract which paid him more than award wages. I must say that if I were a contractor I would not particularly like a clause that would, as it were, cap the rates at which I could seek to win a contract, because there may be many instances where the market might allow me to exploit a market position to have a contract which would pay significantly more than award wages. This seems to be once again a highly limiting and unnecessary clause, and I must say I wonder why it should be there at all.

Mr GAVIN JENNINGS (Minister for Aged Care) — I think the way in which the government is hoping this piece of legislation will apply on a day-to-day basis is that it will be relatively self-regulating rather than having the heavy hand of any intervention or the consideration of a tribunal being a feature of its day-to-day operations. However, the way in which the bill has been determined and presented to Parliament does provide for a degree of flexibility in terms of this provision. That is why I draw particular attention to the phrase 'and the circumstances in which', which goes beyond just 'the amount for which', as being guidance to the tribunal should it be required to make a decision. It clearly understands that it has to consider the total make-up of a contract rather than any single particular clause.

In his previous question Mr Strong quite rightly suggested to me that the tribunal may take into consideration the remuneration and choose to deal with other matters. I would respond by saying that if remuneration is the only aspect that is in the contract then clearly that will be the matter on which the tribunal makes a determination — because it has nothing else to measure it against. But we would anticipate that in many circumstances there would be a number of provisions within a contract, and in the relative balance of those packages of measures in the contract the tribunal will be making a determination about whether that particular contract is way out of kilter with the industry standard.

It is the government's view that the way in which this will regulate itself in the marketplace is that there will be some degree of quality assurance about outcomes for both parties, hirers and contractors. Certainly it will lead to better quality contracts and better determination and maintenance of a market rate, but not necessarily an exclusive, tight, fixed market rate that is determined by money alone.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for that answer. In conclusion I would like to place on the record a couple of issues, and certainly these are the views of many I have spoken to in the industry. In terms of identifying a standard of what is a market rate, the normal course is to identify the market's going rate for the contract — in other words, what are the rates, how much you pay for a haulage contract for logs, and how much you pay for a pick-up for a courier, for a 2-tonne truck or whatever. It is

stretching the normal interpretation of industry standards to roll in basically what an employee on award wages would or would not be paid. You would expect perhaps a tribunal or a court to deal with that issue in its consideration, but the industry standard is the rate. The industry standard for a contract is the contract rate; the industry standard for a contract is not the award wage. It seems to me that by putting that in both these cases, certainly the opinion that has been expressed to me is that that, as it were, solicits people who might have a chip on their shoulder and want to try to use that clause. You could easily see that perhaps a hirer who wants in some way to beat down a contractor could say, 'This is unconscionable. You have to reduce your rate'.

It seems to me that we are creating an unnecessarily litigious situation there. However, with those comments, I accept the minister's response.

Clause agreed to; clause 33 agreed to.

Clause 34

Hon. C. A. STRONG (Higinbotham) — I have a fairly simple question about clause 34. Clause 34 sets out a dispute resolution process which includes the Commissioner for Small Business and the Victorian Civil and Administrative Tribunal (VCAT). Does the bill envisage that that is the extent of the jurisdiction, as we have in some domestic building contracts, or will causes and disputes be able to be taken through to the Supreme Court if appropriate?

Mr GAVIN JENNINGS (Minister for Aged Care) — I acknowledge and appreciate the heads up Mr Strong gave me. I am very pleased to say that there is a provision for appeals to the Supreme Court. These provisions pick up the Victorian Civil and Administrative Tribunal Act 1998 and section 148(1)(b) of that act would allow appeals to the Supreme Court.

Hon. C. A. STRONG (Higinbotham) — I thank the minister.

Clause agreed to; clauses 35 to 46 agreed to.

Clause 47

The CHAIR — Order! Mr Strong to speak on clause 47 and to canvass clauses 48 to 50, which all relate to the issue of contract variation orders.

Hon. C. A. STRONG (Higinbotham) — The issue here — I seek some clarification, explanation, examples — is the orders that are given by the tribunal where it may strike down a clause in a contract, perhaps the minister could give the committee some idea of what things he sees may fall into that category, and specifically the issue of these orders being extended to a specific class of contract. I think we can all envisage a situation where there is a dispute with regard to a particular contract and one hirer and one contractor who may have some problems take that dispute to the tribunal and the tribunal makes a judgment on that particular dispute. However, these clauses allow the tribunal to say that the result of that dispute will apply to all contracts in that class even though the other members of the class have not brought any dispute before the tribunal. I am particularly looking for examples and some explanation of why and how and what the class it would be extended to would cover.

Mr GAVIN JENNINGS (Minister for Aged Care) — I understand that we are dealing with clauses 47 through to 50, but while we are referring to these clauses I would like to draw the committee's attention to clauses 51 and 52 in terms of how the outcome of this class action is enacted. It is important to understand the way in which the mechanisms would work. However, before I run through that I want to draw attention in particular to clause 44, which we have passed over and which relates to the powers of the tribunal. That clause deals with the matters on which the tribunal can make an order. Clause 44(1) states:

> The Tribunal may do any one or more of the following in relation to a dispute …
>
> (g) make any other order it considers fair, including declaring void any unjust term of a regulated contract, inserting a term into a regulated contract or otherwise varying a regulated contract to avoid injustice.

They are the powers of the tribunal. These are the types of orders that may be made if the tribunal determines that a contract variation order should be made. This is the test of the issues that could be covered. The tribunal is charged with the responsibility of deciding whether unjust or unfair provisions are being inserted into a contract. It is charged with the responsibility of going through a process, once an application has been made to it, to make a determination, in the first instance, of whether there is an injustice in an individual contract, and secondly, whether it may be replicated in other sections of the industry and be a template provision that may exist in other contractual arrangements.

Under clause 49 an application for a contract variation order would be made by either an association, including a trade union, that represents contractors or a class of contractors or an association that represents hirers or a class of hirers. The building blocks of how the

application works is it has to come from a representative association of either hirers or contractors — the extension of contract variation orders is triggered by representative bodies, not individuals. The tribunal then makes a consideration under clause 50, clarifies the issues and makes a determination. It uses the rules that apply to hearings under the Victorian Civil and Administrative Tribunal Act — it makes determinations in accordance with the provisions of this bill using the processes of VCAT.

Once the tribunal has made a determination that a clause is unjust or unfair and recognises that it could apply to a broader cross-section of the industry, it is obliged to publicise its determination and seek submissions from those who may be affected by the contractual variation. The tribunal is obliged to advertise its intention. That advertisement would be placed in industry newsletters through mechanisms that would clearly be able to be tested to show whether they were valid within the affected industry. In accordance with the VCAT act those affected parties would be provided with an opportunity to respond. Following receipt of those submissions the tribunal would be charged with the power to enact those class actions if it saw fit.

Hon. C. A. STRONG (Higinbotham) — I thank the minister for that very thorough explanation. It goes to the concerns that are being expressed. I refer once again to this recent letter from the Victorian Association of Forest Industries. In expressing concern about this it states that one of its concerns is:

> The potential for standard rates, schedules and contractual arrangements to be imposed. This will prevent the development of tailored, innovative contracting structures that meet the needs of specific situations and are acceptable to both parties.

I see that as one of the problems of this class ruling to amend a contract. You may well have a contractual arrangement tailored to a particular situation that is working well. If an application is made by somebody else in that general class and the contract class is amended as a result of a Victorian Civil and Administrative Tribunal (VCAT) order, it may be to the detriment of the two contracting parties who were more than happy with the arrangement they had in place. That certainly has problems and imposes rigidities on the system that would seem unnecessary. I know the minister will say there is a mechanism in place whereby people who are happy can come back through the process of consultation and so on, but the fact remains that if the tribunal decides this particular issue is at the margin compared with the class, it will rule for the class and it will be bad luck for the particular contractual arrangement that was quite satisfactory. It seems to me that introduces unnecessary rigidities, which is unfortunate, but I accept that that is the way the bill is written. I thank the minister for his explanation.

Mr GAVIN JENNINGS (Minister for Aged Care) — I do not wish to extend the committee stage, and I thank Mr Strong for trying to assist the committee. The rejoinder to it is the government's hope that creating the normal arrangements, the normal behaviour we encourage, lifts the standard of contracts rather than diminishes it. We clearly hope that in the industry sectors covered by the bill there will be commonplace template-type contractual arrangements. They can be flexible and responsive to the needs of hirers and contractors — they can be established relatively quickly, which is in accordance with many of the propositions put to us by opposition members on the requirement for flexibility — yet they can have a commonplace grounding that is well accepted within the industry. That is our hope. The government sees that the tribunal will be charged with the objective test of assessing whether the clauses are unjust and then ruling them out of the class provisions. If Mr Strong is correct that these contractual arrangements have widespread support throughout an industry, they will be self-perpetuating and the tribunal will support them.

Hon. C. A. STRONG (Higinbotham) — I cannot let that go without a rejoinder. We and the industry think that is nonsense simply because the situation with normal contracting is well known and well established and is governed initially by the Fair Trading Act and the Trade Practices Act. These things are well known. This bill introduces a whole new layer of complexity, a whole new layer of tribunals and a whole new layer of things that are different from the existing structures. Certainly if the aim is to simplify and entrench normal practices as practice under the Fair Trading Act and the Trade Practice Act, then this bill does exactly the reverse. That is fundamentally the opposition's very great problem with it.

Clause agreed to; clauses 48 to 54 agreed to.

Clause 55

Hon. B. W. BISHOP (North Western) — I should like to have some leniency extended to me, because my questions to the minister range across part 7, which deals with the industry councils. It might expedite the work of the committee if I could have that leniency.

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

Hon. B. W. BISHOP (North Western) — The Nationals have received representations from the Australian Plantation Products and Paper Industry Council. Talking about the Forestry Industry Council of Victoria it says about the committee structure:

> How can a committee — the majority of whose members are from the government or CFMEU, with no active day-to-day involvement in transport, harvest or haulage operations — determine more appropriate contract conditions and rate schedules than the parties who hire and undertake these operations as part of their business.

Similar concerns have come from the livestock transport industry. We note that the industry is not represented on the transport industry committee. What are the terms of reference and criteria for appointment to the two councils and, given the representations that have been made to us, can the livestock transport industry be included on the Transport Industry Council of Victoria?

Mr GAVIN JENNINGS (Minister for Aged Care) — As a starting point to the make-up of the councils the government tried to adopt the principle that there be fair and reasonable representation across the hirers, the contractors, the government and the unions on the councils. We all understand from our various vantage points that getting the balance right is a tricky thing. I can attest from personal experience that a certain division of the Construction, Forestry, Mining and Energy Union might have made it clear to me it thought it was underrepresented. The government has tried to achieve a balancing act. Our hope is that these councils will be productive, constructive and collaborative, that they and will enhance the working arrangements within the transport and forestry industries. It is our hope that they will not be bogged down by partisan considerations, although from time to time they might have intractable positions. We hope they will be able to find their way through and provide useful guidance in relation to what their responsibilities are under the act. I can understand from anybody's vantage point that there might be considerations about whether they are structured in an optimum way for any particular section of the industry, but the government has tried to achieve a balance. The government has confidence in the model that is before the committee.

Specifically in relation to the position of livestock carters, which drew attention to itself during the second-reading debate, it is clear there are some issues that the livestock industry is uncomfortable in some provisions of the bill and the way they will affect the practicalities of day-to-day operations of livestock carting across Victoria. The government is particularly mindful of that. Officers of Industrial Relations Victoria have been working assiduously in trying to maintain good working relationships with the livestock hirers and their representative body and have indicated to me as recently as this afternoon that productive conversations have continued to take place with those representatives.

Having fallen short of guaranteeing the industry a spot on the council, the government is trying to ensure that within the representative structures of the Transport Industry Council of Victoria due consideration is given to livestock industry issues, and that we demonstrate that the industry's concerns are being addressed and those issues are being worked through assiduously. The government does not baulk at any issues that have been raised through the committee. The representatives on the council at this point go through the Victorian Transport Association, the Victorian Employers Chamber of Commerce and Industry and the Australian Industry Group because they are the bodies that pick the representative to be on the council.

The government is very clear about trying, within those representative bodies, to discuss with them to make sure they square away the needs of the livestock carters and that we address their concerns. I fall short of the luxury of giving a guarantee about a representative specifically on the council, but it is the government's intention to make sure that their concerns are heard and responded to with respect.

Hon. B. W. BISHOP (North Western) — I thank the minister for his answer. I just wonder whether the government would be prepared, after the operation of this system settles down, to review the two councils to ensure that they adequately reflect the operations of the two industries that they will be responsible for.

Mr GAVIN JENNINGS (Minister for Aged Care) — I think the appropriate minister should, and it is incumbent upon all ministers to reflect upon the effectiveness of their pieces of legislation and the regime they introduce. I will certainly make sure that the minister is aware of the need to try to ensure that those councils are as effective as possible. Without wanting to encourage Mr Strong to join up with another rejoinder, I look forward over time to us reflecting on the effectiveness of the act.

Hon. B. W. BISHOP (North Western) — I thank the minister for his answer. There are a couple of questions that go together, if the minister would care to answer them. One is: what are the terms of tenure of the councils? Secondly, where will the resources come from to fund those two councils?

Mr GAVIN JENNINGS (Minister for Aged Care) — There are standard provisions for councils and their periods are up to or not exceeding three years — no. 1. The answer to the other question is that both councils will be supported by a secretariat that comes out of the Department of Innovation, Industry and Regional Development.

Hon. E. G. STONEY (Central Highlands) — Mr Bishop glanced over some concerns of the Australian Plantation Products and Paper Industry Council (A3P) and then we went on to the livestock transporters. I want to bring the minister back to the A3P concerns. I make the point that the majority of members on these councils are from the government and the Construction, Forestry, Mining and Energy Union with no active day-to-day involvement in commercial activities. A3P would like to know how they can make a judgment on rates and conditions better than the people who are perhaps involved in the hiring and undertaking of these operations as part of their business day by day. I would like the minister to comment on that. It appears to me that we may have people with limited knowledge of commercial realities in the end making the final decisions, because of numbers on the councils, without the full knowledge of commercial reality.

Mr GAVIN JENNINGS (Minister for Aged Care) — I can understand from Mr Stoney's and the opposition's vantage point that they may consider the government and the Construction, Forestry, Mining and Energy Union to be in a bloc, but I assure Mr Stoney that from the CFMEU's position we do not form a bloc in relation to these matters. The government is charged with the responsibility of making sure that the legislation works and that we have viable businesses that operate within the commercial realities of the globally competitive marketplace. Ours is a government that on many occasions — much to the criticism of many of those within the union movement — has been particularly mindful of the costs of business regulation, and if there were representatives of the CFMEU on the Liberal Party benches, they might be asking me the same question from a diametrically opposed position to the one Mr Stoney has put.

Hon. E. G. STONEY (Central Highlands) — Just on these clauses, what would actually happen if industry representation on one of the industry bodies decided they did not want to participate or play ball in this whole process? Perhaps if they just refused to participate, what would happen?

Mr GAVIN JENNINGS (Minister for Aged Care) — That is a very interesting hypothetical question. It is clearly not the government's intention that that would be the case. We would work assiduously, just as I have indicated in my answers to Mr Bishop, to try to make sure that all sections of the industry were active participants within the process. Beyond that and on what the legal position would be as a default setting, I will take some advice. But I can assure Mr Stoney that it is the government's intention that these councils be inclusive and cooperative in the way they have been described.

The default setting is that if the official body chooses not to participate, then it will be at the minister's discretion to appoint someone to that position. I have been informed it is the intention of the minister to ensure that as closely as possible the relevant part of the industry would be invited to engage in the council. That would be the hope, that it would revert to ministerial appointment outside the formal nominee of the organisation in question.

Hon. E. G. STONEY (Central Highlands) — Clause 55(5) states:

> In performing its functions, the Transport Industry Council is subject to the control and direction of the Minister.

Could the minister confirm that in effect at the end of the day the minister can set the rates and conditions of contractors?

Mr GAVIN JENNINGS (Minister for Aged Care) — Ultimately the answer is yes. Although clearly it is the minister's intention — it is the government's intention — that the council will operate within the responsibilities it is charged with under the act. The council will give advice — hopefully coherent advice — that will provide the framework by which the minister would establish or sign off on those conditions. But in the default setting the head of power rests with the minister.

Hon. E. G. STONEY (Central Highlands) — That then really means market forces have nothing to do with the way the industry will run, in the end?

Mr GAVIN JENNINGS (Minister for Aged Care) — No. I indicated in my previous answer to Mr Stoney that the objective of this legislation, the objective of the minister who has brought the legislation before the Parliament is to try to ensure that fair and reasonable arrangements are the feature of contractual arrangements within the transport and forestry industries, so there are fair and reasonable contracts from both sides of the contractual

arrangement. The minister is charged with the responsibility of ensuring that there is ongoing commercial activity that is viable and vibrant within the state of Victoria and the transport and forestry industries. I would reject the suggestion that the minister would not be mindful of, no. 1, the advice that comes from the council, or no. 2, the commercial realities that Victorian businesses find themselves in. I would say, to the contrary, that the minister is mindful and respectful of those commercial realities.

Clause agreed to; clauses 56 to 65 agreed to.

Clause 66

Hon. B. W. BISHOP (North Western) — Will the minister guarantee that these regulations will not be used to fix the rates and costs recommended by either of the councils as mandatory rates and costs under the contractual arrangements?

Mr GAVIN JENNINGS (Minister for Aged Care) — The reason I took the opportunity to have the precise set of words Mr Bishop wanted me to respond to was that he wanted me to give a guarantee. I wanted to do justice to the question and provide the committee with a realistic understanding of the circumstances. I start from the premise that the way the bill has been constructed is that the government's clear preference is not to have a set of mandatory provisions that are automatically introduced by the minister. The intention is to have within the industry self-regulatory provisions that provide recommendations to the minister, over which he has a reserve head of power, but establish a way in which those contractual arrangement would operate in the manner that I have indicated previously, mindful of commercial realities and being fair and reasonable to both sides but not necessarily relying on what is in effect a mandated provision.

The reserve power under this provision means that if the industries do not regulate themselves in any reasonable way to establish flexible but commercially sensible arrangements the reserve power prevails. It is not the minister's intention to go out there tomorrow and do it. It is not his intention to do it next week, in 6 weeks time, 6 months time or 12 months time. The minister is hopeful there will be a proper engagement of these levels of councils that will determine reasonable provisions that will be fair to all parties.

Hon. B. W. BISHOP (North Western) — I seek confirmation from the minister. He said that it is not the intent of the government to do that, but the reserve powers are there and the rates and costs recommended by the councils could be imposed as mandatory without that coming back to the accountability of the Parliament.

Mr GAVIN JENNINGS (Minister for Aged Care) — I am very pleased to say to the committee that any such regulation would be subject to a regulatory impact statement and would come back to the Parliament for scrutiny.

Hon. B. W. BISHOP (North Western) — That was a blind turn, as we would say in football parlance. The issue is that if that happens it will not be in the Parliament for debate, is that so?

Mr GAVIN JENNINGS (Minister for Aged Care) — It is a matter whether Mr Bishop determines that the Scrutiny of Acts and Regulations Committee is in the Parliament. I think it is and as a consequence I say that the scrutiny of Parliament is available for the regulatory impact statement.

Hon. C. A. STRONG (Higinbotham) — Is the minister saying that any such regulation would be subject to disallowance by either chamber?

Mr GAVIN JENNINGS (Minister for Aged Care) — The Clerk is assisting me with that answer — the answer is yes.

Hon. C. A. STRONG (Higinbotham) — I want to make a final rejoinder. The minister made the point that it is not the intention of the government or the minister to set regulations on these conditions or rates and so on, but I make the point that the very structure that is being created will mean we will be flat out to find something less competitive where you have an industry body made up of all the players recommending to the minister what to do. That is probably the most monopolistic structure you could imagine. Although the minister might not intend it, I am sure the net result will be a far less competitive industry.

Clause agreed to; clauses 67 to 69 agreed to; schedule 1 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

I thank members for enhancing my understanding of the bill.

The PRESIDENT — Order! The question is:

That the bill be now read a third time and that the bill do pass.

House divided on question:

Ayes, 21

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

Noes, 19

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

Pair

Buckingham, Mrs	Hall, Mr

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ACCIDENT COMPENSATION AND TRANSPORT ACCIDENT ACTS (OMBUDSMAN) BILL

Second reading

Debate resumed from 11 August; motion of Mr LENDERS (Minister for WorkCover and the TAC).

Hon. BILL FORWOOD (Templestowe) — I rise to speak today on the Accident Compensation and Transport Accident Acts (Ombudsman) Bill which establishes, would you believe it, an ombudsman's office so that the Ombudsman has the capacity to undertake reviews of the Victorian WorkCover Authority (VWA) and the Transport Accident Commission (TAC).

I should start at the outset by saying that I believe we have a very sensible workers compensation scheme and an equally sensible transport accident scheme in Victoria; that both of them as no-fault schemes make a significant contribution to the wellbeing of Victorians. I particularly congratulate both organisations on their attempts to reduce the number of claimants with whom they have to deal. The TAC has been successful over many years in participating in the reduction of deaths on our roads and serious injuries caused through motor vehicle accidents; and the Victorian WorkCover Authority has also had a good record over the past 10 years in reducing deaths in the workplace and, equally as importantly, injuries as well.

However, we are still faced with a very significant number of claims. This year's VWA annual report shows that for 2003-04 the number of reported claims was 32 040 and the claimants who continue to receive weekly compensation after more than two years — in other words, those who are seriously injured — stands at 7722. Each year the TAC deals with around about 40 000 claimants at any one time, and of those around 2000 are cases of major injury. Despite our best efforts, we have two schemes that have responsibility between them both for reducing accidents in the workplace and accidents on the roads, and for dealing with the people who are the victims or casualties of both of those sets of circumstances.

Mr Lenders — And accidents are going down.

Hon. BILL FORWOOD — I have said that already. It is not bad, given the size of the issue we are dealing with, that the Ombudsman has been dealing with relatively few cases from both the TAC and the VWA in recent years — between 58 and 103 complaints against the TAC over the last four years, and 95 to 127 complaints per annum against the Victorian WorkCover Authority for the past four years. Given that we have 40 000 TAC claimants and 100 finding their way to the Ombudsman, and given that we have 32 000 claimants but also 7000 seriously injured claimants, the fact that we have only 100 going to the Ombudsman shows that fundamentally both systems are operating pretty well.

In its wisdom the government decided that it would go to the people with a policy which for some peculiar reason it labelled Better Work Places: Labor's Plan for Fairness and Safety at Work, which states:

> Labor commits itself to:
>
> > establishing a specialised office of the Ombudsman to deal with complaints in relation to the administration of WorkCover and the TAC …

and that is pretty clear. It says, 'administration of WorkCover and the TAC'.

Honourable members know the Ombudsman currently has the capacity to deal with the administration of the Victorian WorkCover Authority and the Transport Accident Commission. If anything were in doubt, it was the Ombudsman's capacity to visit self-insurers or the claims agents, but he had worked this out. In essence, the clarity that the bill before the house brings is that it specifically enables the Ombudsman to deal not just with the VWA or the TAC but with self-insurers and agents as well. The policy makes it clear that this is to deal with administration.

Unfortunately, as is the wont of this government when it decides to announce something, it goes out and does the spin number. On Saturday 21 May the Premier's office put out a press release. The heading is 'New powers to VWA/TAC — A fairer deal for Victorians'. I would like someone to point out the new powers the VWA and TAC get in this legislation. My understanding is the Ombudsman gets some new powers, but I am not sure there is much there for the VWA or TAC. It says:

> The state government will establish a WorkCover ombudsman

— as if one did not really exist, though we all know one did —

> to handle WorkCover and TAC complaints …

It goes on to say how historic this is and that the WorkCover ombudsman would in effect be WorkCover's watchdog.

> Injured workers who believe they have been treated unfairly will be able to make a complaint and that complaint will be heard by an independent umpire …

I look forward in the committee stage to finding out what is actually covered by 'treated unfairly', because this goes to the fundamental matter before the house today.

This press release led many people to believe that more than just administration would be covered by the bill before the house. As we all know, it is not. Later on in the press release the Ombudsman is quoted as saying:

> These powers are consistent with the mandate of the Ombudsman's office and will help ensure claims are managed in the most efficient and fairest way possible.

He understands that this is not open slather. In my conversations with him he very clearly knew that very clearly. It was disappointing that the press release created an expectation in some people that this bill would do more than it actually does.

One of those people is the head of TACTIC — The Action Committee for Transport Injured Claimants. Honourable members would be aware that TATIC produced a document in 2001 entitled 'Being able to get on with life: providing information and advocacy and ensuring support for people injured in transport accidents'. This document is very interesting. Let me read some comments from an email sent to me on 9 June by Bernd Bartl who deals a lot with the issues raised by TACTIC.

> There is no evidence I am aware of that the Ombudsman's existing powers help claimants and their families much at all or in a timely way and there is nothing in this bill which ensures that will change.
>
> The government might say that the Ombudsman (or other independent dispute-resolution body) does not need to deal with claims because there is an appeal mechanism through the Victorian Civil and Administrative Tribunal. But appeals to VCAT for anything under $10 000 is silly, and probably it only becomes really reasonable around $20 000 to $50 000 mark. But for transport-injured people there are already quite sufficient strains and for most people the legal costs are prohibitive and legal aid for TAC cases is effectively unobtainable …
>
> When I talked with the government's consultant (twice) about this proposal, when Rob Hulls was the responsible minister, the complaints mechanism was going to be a separate body, probably a company. At one stage there also seemed to be a chance that this separate VWA/TAC ombudsman would at least deal with relatively small claims ($1000 to $5000). However, with John Lenders as minister as of late January, the VWA/TAC ombudsman has been slotted back into the grab bag of responsibilities of the state Ombudsman.
>
> For some reason, despite John Lenders now having TAC/VWA responsibility, it is Rob Hulls who introduced the bill and gave the second-reading speech.
>
> The bill is pathetic. It does not ensure more effective dealing with disputes and complaints — —

An honourable member interjected.

Hon. BILL FORWOOD — I am just reading Mr Bartl's email.

Hon. T. C. Theophanous — Who is this bloke?

Hon. BILL FORWOOD — He is the head of TACTIC. The email continues:

> It does not ensure more effective dealing with disputes and complaints unlike the commercial industry bodies such as the insurance ombudsman service previously known as the insurance inquiry and complaints scheme (which can settle claims up to $150 000 and recommend to $290 000) or the banking ombudsman (recently increased limit to settle claims up to $250 000). It also leaves the TAC/VWA dispute and complaints resolution function in a ballooning Ombudsman's

> office which is predominantly dealing with corruption and organised crime and VWA/TAC complaints may well get lost as a priority area in this setting.
>
> I have attached part of a paper arguing for a TAC Ombudsman sent to the government in 2001 and revised today.

That is the paper I have just referred to. I commend Mr Bartl on the work he has done. It is a comprehensive approach to dealing with these issues. People end up coming to me as the shadow minister because the system has failed them.

I should say at the outset that I have had nothing but first-class treatment from both the Transport Accident Commission and the Victorian WorkCover Authority when I have raised these issues on behalf of these people. I am grateful for that, but there is something wrong with the system if in the end all these people can do is come to the shadow minister to seek some assistance.

I had an issue raised with me yesterday by a man called Michael Tommasini who has been injured for over five years, and he is about to lose his house because his weekly payments have been stopped. Mr Tomasini has contacted both this minister and the previous minister and both have said, 'You could go to court', but he has not got the funds to go to court. Both ministers have said, 'We commiserate with the situation you are in', but he says, 'That is not going to help me keep my house. I now do not have enough money to pay my mortgage and because I was injured in the workplace I am going to lose my house'. I do not know the full details of this case. I have got Mr Tomasini's WorkCover number which I am happy to provide to the advisers in the box and they can look at this case.

When people end up coming to me in these circumstances— they do not come to me first, they come to me last — it is only because the system has failed them. One of the issues we know about is that at the moment there are one and a half people working on and off in the Ombudsman's office on TAC and WorkCover claims. We know that the funding has been made available to support this legislation so that will enable there to be a full-time staff of four and they will be dedicated people looking at TAC and WorkCover matters. I hope that will enable there to be a vast increase in the speed with which some of these issues are dealt with. As I said previously, the opposition will go into committee and ask the minister specific questions about what can be dealt with and what cannot be dealt with. It is important that we do that.

It is also important to look at what the Ombudsman himself has said about both the TAC and VWA. The Ombudsman's 2003 annual report deals with many issues to do with the TAC and the 2004 annual report deals with issues to do with the VWA. I will read into *Hansard* from the Ombudsman's annual report for 2003 at page 40:

> Another frequent cause of complaint to my office is the claimant's dissatisfaction with the TAC's decision on a request for the funding of treatment or medication. It is also not uncommon for the TAC to cease to pay for the costs of previously covered treatment or medication, following a review of the client's accident-related needs by a TAC medical consultant.
>
> TAC clients have the right to seek review of TAC's decisions by VCAT. In addition, the TAC offers an informal, internal review process at no cost to its clients …
>
> Complainants are frequently reluctant to pursue their right of review by VCAT, perceiving the process as adversarial and costly. While I rarely investigate matters where the aggrieved person is entitled to access review by a court or tribunal …

In other words, the Ombudsman is saying that if a client has the capacity to go to VCAT, he is not going to look at their case. Is that the sort of system that we want? The RACV document says that the internal review process in the TAC has in the past been used to vindicate the original judgment made.

If you do not have a lot of faith in the internal review process and the Ombudsman will not look at it if you can go to VCAT, how far have we advanced with the legislation before the house today? That is a very good question. We know that the internal review process that was put in place for the Victorian WorkCover Authority which started on 1 July this year has now been going six weeks and is working well. I had lunch with WorkCover board members recently and they advised me — —

Hon. J. H. Eren — How long was the lunch?

Hon. BILL FORWOOD — It was an hour and a half and very pleasant — a working lunch. They told me at the time that there had been a number of internal reviews under the new system and it was about fifty-fifty; at that stage about 50 per cent had been upheld and about 50 per cent had been overturned through the new review process which we know was specifically established as an independent and strong review process. If the Ombudsman is saying he will not look at cases that have the capacity to go to VCAT, I think the TAC needs to improve its internal review process as well. It is really important that people do not end up coming to me, and that there is a system to address their needs early on.

While I am on this topic let me say that I have had too many people under both the VWA and the TAC

systems come to me and say, 'They have stopped my treatment'. It is often physiotherapy, or it might be swimming, but they are activities that they believe help them. All of these people are seriously injured workers and they have had their treatment stopped. Recently one guy said to me, 'They stopped my treatment, I went to court, I won and they reinstated it. Six months later they stopped it, I went to court, I won and they reinstated it. That cycle continues to be repeated. What is going on?'. What sort of system is it when a seriously injured worker has to continually go back and win the same case time after time? I do not believe these are major problems and I applaud the fact that the WorkCover authority and the TAC try to ensure that the funds are spent on appropriate matters, but there has to be a line drawn somewhere, at some time in relation to many of these issues.

While one should not ever take one's eye off the ball, it seems unreasonable to me that people get a letter in the mail saying that their weekly payments or treatment will be stopped and then are left to fight their way through the system rather than their being approaced and told, 'This is the situation and this is how we would like to progress your case or your claim'. I am concerned about that and I encourage people to read the WorkCover findings in the Ombudsman's 2004 annual report which deals with a number of issues just like this. One comment in particular I am keen to highlight is :

> A complainant classified as having a total and permanent incapacity complained that she had been advised by a VWA agent that certain of her treatments were no longer appropriate. The agent's decision was based upon an independent medical examination. I requested a copy of the medical report … did not have the report, only a summary of the agent's decision.

It goes on to outline that case. There is another case, however, that is outlined in one of the report which deals with the fact that a person who was seriously injured, and always will be, was required to produce a medical certificate every three months. That is nonsense! The woman had acquired a brain injury and it is ridiculous that she should be required to produce a medical certificate every three months. The report states:

> I received a complaint from a middle-aged woman … involved in a serious work accident in 1986 … serious head injuries …during the past year the agent had changed and was now demanding a medical certificate every three months to maintain her eligibility. The complainant stated this was very difficult … and had questioned the decision with the agent.

The agent had reinforced the decision. This one ended up with the Ombudsman, but at least it was resolved.

It is important that we acknowledge the strengths of the system without in any way, shape or form diminishing the fact that these people are having problems and they need more assistance — faster and better. I refer honourable members to a report on the Transport Accident Commission's treatment of injured motorists, a document produced by the Royal Automobile Club of Victoria (RACV) in April 2005. There are a few excerpts that I would like to quote from.

Let me start by saying that I agree with this. The consultant's first finding is that by both local and world standards Victoria is well served by the TAC. Let us not argue about it; we have a good system. This report then goes on and highlights a number of major problems that it noticed when dealing with this particular case. The summary of findings on page 2 states:

> … grievances at TAC decisions and decision processes … Points raised by dissatisfied claimants and their legal representative fell into seven categories:
>
> failure to volunteer information —

that means the TAC was hiding information from the claimant that would be necessary or helpful for the claimant in understanding what was happening —

> long delays before payment;
>
> suddenly stopping longstanding payments;
>
> not paying for items recommended by a doctor;
>
> not paying for inexpensive items that seem to be obviously needed;
>
> perceived lack of commitment to achieving the best outcomes;
>
> legal 'brinkmanship' or intimidation.

This gets back to the issue that I raised before about the use of the Victorian Civil and Administrative Tribunal. Too many times both the VWA and the TAC force people to say that they will take the matter to court. Sometimes, however, people will not go to court; it is a 'try-on'. They will not go to court if they are going to have to put their houses at risk, or if they have to be responsible for the payments that may be required if they lose.

On page 3 the RACV report states:

> Current review mechanisms are not universally seen as satisfactory … The Ombudsman's office is not seen as expert in insurance and it deliberately limits its jurisdiction to administrative matters … Few claimants have the confidence to pursue appeals through the Victorian Civil and Administrative Tribunal … without engaging a lawyer — a

> step many are reluctant to take, even on a 'no-win, no fee' basis …
>
> In moving to resolve these issues … there would seem to be considerable value in the RACV engaging with the TAC in a full and frank discussion of the issues raised and jointly exploring whether transparent, independent and affordable advocacy or mentoring arrangements can be put in place for claimants during the course of their interaction with the TAC.

We know that that has not yet happened. Today I spoke to Ken Ogden, the general manager of public policy at the RACV. He said that the RACV has a cordial and ongoing dialogue with the TAC, but that the TAC has yet to pick up on that particular recommendation from the RACV report. He said that the RACV strongly supports the bill before the house, as do the Victorian Automobile Chamber of Commerce and others. However, the bill can be demonstrated to have some deficiencies, and it is disappointing that they have not been addressed this time around.

There are a couple of additional more items I want to add. Page 12 of the report states:

> To the extent that there is any legitimate doubt about the correctness of the decision to stop benefits, the TAC is open to the accusation of 'trying it on'. Two lawyers interviewed … speculated that the TAC, as a matter of policy, sometimes cut benefits on inadequate grounds in the hope that it would not be challenged. Although there is no evidence for this serious accusation, it does not reflect well on the TAC in the eyes of claimants when decisions on terminating benefits are challenged and reversed.

This is one person's view, but that is a problem if there is a perception out there that claimants cannot get to court because it is too expensive, that the TAC uses try-on tactics by stopping payments and then says, 'Come and fight for your reinstatement rights'. That is something that does need to be looked at seriously. I previously mentioned claimants' dissatisfaction with decisions on request for funding of treatment or medication. This comes from the Ombudsman's report again:

> It is …not uncommon for the TAC to cease to pay for the costs of previously covered treatment or medication …

If that is the case, I believe we need to treat those issues very seriously as well. Page 15 of the RACV report states:

> Unfortunately current conflict resolution approaches seem less than satisfactory.

I have already touched on the fact that I think the WorkCover authority's approach now is a vast improvement and I look forward to seeing something similar instituted in the TAC. If I am the last resort for claimants, I really do think we ought to have better processes along the way, particularly if the Ombudsman's strategy is that he will not deal with cases where people have a right to go to VCAT.

The RACV's research report also says:

> Claimants and lawyers were also critical of the Ombudsman's ability to resolve claimants' grievances, partly because the Ombudsman's office does not have specialist insurance expertise … and partly because most complainants are believed to be referred to the TAC or TAC-contracted people to resolve.

You go to the Ombudsman, and the Ombudsman refers it back to TAC — in other words, it is saying there is not the expertise nor the capacity for independence in these matters. It goes on to say:

> The Ombudsman himself sees his role as limited to administrative matters… 'because the Transport Accident Act 1986 envisages that most issues giving rise to complaints are to be resolved by recourse to (VCAT) or issues pertaining to common-law entitlements to a court of law'.

The report is saying that this system the government is putting in place today does not do what the government says it will do. It finishes by saying:

> In brief, the two avenues of appeal that are open to claimants prior to pursuing a matter through VCAT … do not seem to be working as well as they might.

I think that is a real problem. I add my particular concerns to that. If we have a situation where there is some doubt about the scope or the capacity of the Ombudsman to deal with these matters, and we are giving the Ombudsman more work, then I think we need to be vigilant about how it works.

I have had my own set of problems with the Ombudsman in relation to other issues. Most honourable members in this place know that we are now giving the Ombudsman further work and some staff to do it, but there is no new WorkCover ombudsman. The person who is doing this job is George Brouwer, and he has two other jobs: he is the Ombudsman for Victoria, and he is the director, police integrity.

I had an issue with the Ombudsman. I wrote to him early in the year and on 17 January I spelt out in some detail a particular problem that I had. Eventually I got a response, on 13 April. It took from 17 January to 13 April — that is, three months — to get a response. In the course of the response the Ombudsman said to me in relation to my complaint that in brief summary it seemed that a protocol between the chief commissioner and the Minister for Police and Emergency Services — and I am paraphrasing — had been misapplied to my correspondence. He said he understood that because of

his intervention some matters would be then handled in a different way, and subsequently I got a response. I wrote back to him on 29 April and said:

> Thank you for your letter … and in particular your efforts on my behalf. I am grateful for your intervention.

Then I went on to say:

> I am very interested to know your views on the 'misapplication' of the protocol between the chief commissioner and the Minister for Police and Emergency Services.
>
> It seems to me the following matters are worthy of investigation and resolution:
>
> > Which officer was responsible for the 'misapplication'?
> >
> > Was the 'misapplication' caused by someone in the police force giving a specific order to the officer in question, and if so, who gave the order?
> >
> > Was the 'misapplication' caused by an instruction or order from the minister's office, and if so, who gave the order?
> >
> > What records were kept in the police force of my correspondence? It is of real concern that no documents — not even my original letter — were discovered during the FOI process.
> >
> > What follow-up procedure does the police force have in place for matters such as this? I note that nothing occurred for at least four months, nor does it seem that any follow-up occurred after my FOI in November 2004. I am certain that nothing would have happened without your intervention.
>
> I believe it is a matter of grave concern that an operational matter can be treated in such a cavalier manner. Equally importantly, if an operational matter raised by an MP can be treated in this manner, what confidence can anyone have that other operational matters are not being treated in a similar manner?

I wrote that letter to the Ombudsman on 29 April. I received a response on 17 May that states:

> I acknowledge receipt of your letter dated 29 April 2005, which was received at this office on 11 May.
>
> I will consider the issues raised in your letter and will write to you again.

I can do the maths. From 17 May through June and July to August means I am again up to three months without a response. I can cope with this, but injured claimants under WorkCover and the TAC should not be required to wait three months for the first response and three months for the second response. A major complaint against both the VWA and the TAC is the issue of delays in payments and treatment. I promise that it will not help anybody if we are now to be faced with three-month delays from the Ombudsman's office because of pressure he has in doing other parts of his work.

We do not oppose the legislation before the house. We are pleased it is being extended to cover agents and the self-insured, but there are still major problems in the system if I, Muggins, am the bucket of last resort — if the people end up coming to me after they have been to the Ombudsman and through the processes. I finish by saying that I am very grateful, particularly for the hands-on assistance I get from both the Transport Accident Commission and the Victorian WorkCover Authority when I deal with these matters. Sometimes I can help and sometimes I cannot, but at least I am dealt with appropriately and fairly, and I think that is very good. But this is such a small number of the 30 000 WorkCover claimants and the 40 000 TAC claimants, let us just see if we can do it a little bit better.

Hon. W. R. BAXTER (North Eastern) — This is a small amendment to what is a very large act, but as Mr Forwood has outlined, it is a very important clarification of what the powers of the Ombudsman in relation to following up administrative matters were and are now. I do not want to get at odds with Mr Forwood at all, but I am not so sure I necessarily agreed with all of his arguments — if I followed the thrust of his arguments — in the sense that I see the Ombudsman's role as following up administrative matters. I do not see the Ombudsman being the arbiter of whether someone should get a benefit or whether a benefit ought to be continued. That is surely a role for either the Victorian WorkCover Authority or the Transport Accident Commission and subsequently the appeal mechanisms to the Victorian Civil and Administrative Tribunal.

I was concerned when under the former Minister for WorkCover the government announced — or it might have been part of the government's election policy in 2002, I do not recall immediately — that it was proposed to establish an ombudsman's office specifically for WorkCover and the TAC. Frankly I thought that was going over the top for the very reason Mr Forwood has indicated — that is, the number of inquiries to the existing Ombudsman is relatively minor when compared to the total number under the two schemes, even allowing for the fact that some of the complainants, particularly in relation to WorkCover, will not always be injured workers. Some complainants will be employers who are unhappy with the administrative processes of the agents. On one hand we have a large pool of potential complainants and on the other hand we have a relatively small number.

I thought if we were going to have a separate ombudsman established — if we are going to have an ombudsman for telecommunications, which we have under the federal legislation, and an ombudsman for all sorts of things — we would be derogating from the definition of 'ombudsman'. The whole concept of the Ombudsman, as I understood it when it was established under the Hamer government, was a hands-on operation for looking at administrative stuff-ups, for want of a better term.

I think in Mr Geschke's case — the first Ombudsman in the state — that is exactly what he did. The scope of his office allowed him to be hands-on. We have now gotten to a situation where, because of the government's intransigence in setting up a proper crimes commission, the current Ombudsman has been lumped with the huge task of being the director, police integrity.

We are already getting away from what I think was the concept of an Ombudsman when it was first taken up in this state in the 1970s. However, that did not take away from my concern about the setting up of yet another person bearing that title. Therefore, to that extent, I am quite pleased that the current minister is not going down the track of a separate office, that he is clarifying the act through this bill today to make it clear that the current Ombudsman has the authority and the right to investigate and follow up administrative issues pertaining to the delegates of the TAC and the WorkCover Authority. I have looked at section 21 of the Accident Compensation Act which provides for that delegation. One would have thought that on the face of it that entitled the Ombudsman to investigate the delegates if he received a complaint about the VWA, but obviously there has been some dispute about that or some lack of clarity, and this bill is going to fix that up. I endorse that.

I think some of the complaints coming to the Ombudsman about delegates, in this case the agents, will come from employers. It has been my experience that quite often it is the employers who are concerned about decisions being made by agents, or the apparent lack of decisions being made by agents, or that the employer — the one who pays the premium — is being left out of the loop in all of this. The agent deals with the injured worker and with the VWA and unless he makes specific inquiries the employer does not know what is going on, is not kept informed. Often, even if he does make inquiries he gets back an answer which is less than helpful. Therefore I welcome the opportunity to refer those sorts of cases to the Ombudsman and for the Ombudsman to be able to assure the employer that everything is right. In most cases it is going to be right but I think it is ridiculous that employers are left out there in limbo at times.

When the previous government altered the Cain government's WorkCare scheme to put some insurance companies in as agents for WorkCover rather than having it all done in-house one of the driving forces in that, apart from some ideology that certain members of the government might have had at the time, was to introduce some private sector rigour into the administration of the system. That was a laudable aim. However, it does seem to me from my experience that unfortunately some of the agents' staff seem to have acquired a disease which is well known in the bureaucracy — the total inability to use any sort of nous in making a decision that might have a bit of commonsense attached to it. They read the rules so tightly and so narrowly and they feel so unable to step a mere centimetre outside of those rules that we get to some absurd situations. I have a couple on my constituency books at this very moment where it seems to me that there has been a complete lack of commonsense exercised by the agents. Frankly, as a great supporter and proponent of private enterprise, it annoys me to have to deal with situations where private enterprise wants to act like some monolithic government department and fails to exercise any sort of commonsense discretion at all. I therefore welcome the fact that the Ombudsman is going to have the capacity to go in and have a look and make a judgment as to whether that is the case.

However, as I said earlier, and somewhat contrary to what I understood Mr Forwood's argument to be, I do not think the Ombudsman should be going in there and determining whether a benefit which has been stopped has been correctly stopped if there is a formal mechanism to do it via the Victorian Civil and Administrative Tribunal. Otherwise we are going to have the Ombudsman becoming the de facto VCAT. People would see that you could go to him and he would not charge a fee and if we were not careful his office would become totally subsumed by all those sorts of arguments and proposals being put to him. I see it as an ability for the Ombudsman to have a look at the administrative arrangements, to see that things have been properly assessed and decisions made and that things are not just caught and left to fester because no-one has been prepared to make a decision and get on with the job.

I, like Mr Forwood, appreciate the good relationship that I have with the VWA in particular. Fortunately I have less cause to be speaking to the TAC but any discussions or representations I have made there have always been dealt with very sympathetically. As all

members of Parliament know, we are seldom told the whole story by constituents. Sometimes cases on the face of them seem to be grave injustices but when you get to know what is in the file you find out that things are not as they first appeared. I very much appreciate the work that these two organisations do with members of Parliament. I thank them for that but I also look forward to this clarifying amendment to these acts making it clear exactly what the Ombudsman's authority is in terms of dealing with the various delegates of these two authorities.

Ms ROMANES (Melbourne) — I appreciate the opportunity to speak on the Accident Compensation and Transport Accident Acts (Ombudsman) Bill. This bill clarifies and enhances the power of the Victorian Ombudsman. It highlight the benefits this state has enjoyed from over 30 years of oversight of administrative practices in government in Victoria on behalf of the people of Victoria. In more recent years the statutory powers of the Ombudsman have been strengthened as the Ombudsman has been made an officer of the Parliament.

In regard to the Victorian WorkCover Authority (VWA) and the Transport Accident Commission (TAC) the Ombudsman currently has, as previous speakers have mentioned, jurisdiction to investigate complaints into procedures and management of cases. That relates to a focus on administration of the processes and areas such as delays, access to information and bias. Another example is to make sure that those who are pursuing claims have all relevant evidence and available information considered in any decision that is made about their claims in relation to referrals to doctors or entitlements to compensation.

I would agree with Mr Baxter that the Ombudsman's focus in this area of his jurisdiction is on administration and that the Ombudsman does not have the right to go into merits review and look into such things as entitlements. However, as Mr Forwood has alluded, there can be a fine line in some cases and the Victorian Ombudsman needs to make sure that he does not overstep that fine line and become a merits review body because that is not the intention of the administrative complaints function under the Ombudsman Act. It is an important distinction to make, but the bill will strengthen and enhance the capacity of the Ombudsman's office, particularly to enable more detailed and systemic examinations to be undertaken of some of the examples that were given by Mr Forwood, and for those issues to be taken up in that way.

While the Ombudsman has had jurisdiction over the VWA and the TAC, I am aware from talking with people who have been involved in conciliation at the Trades Hall Council that a lot of people do not know that they can go to the Victorian Ombudsman to get some assistance with their concerns. In different ways their cases have often been thwarted in one way or another from being dealt with speedily and in a way which gives full knowledge to them about their options. These are people who are often in great need and should have every service available to them to resolve their situations as speedily and as fairly as possible.

Recognising there is a need for a better deal for workers who become victims of a transport accident, or victims of an accident or event in the workplace which renders them unable to work, the Bracks Labor government made a promise at the 2002 election to do whatever it could to further improve the workers compensation system. Over previous months there have been stakeholder consultations to look into what would be the better way to go in terms of strengthening the complaints management process in relation to these two bodies. Over the 1980s, 1990s and into the 21st century we have seen a proliferation of industry ombudsmen, such as banking, telecommunications, energy and water. There were different views about what would be the best model — in these circumstances, including a separate WorkCover and TAC industry ombudsman. The government in the end has opted for an extension of the role of the Victorian Ombudsman and has in the bill proposed to broaden and clarify the Ombudsman's jurisdiction, particularly jurisdiction over those parts of the private sector, such as claims agents and self-insurers who are involved currently as part of the Victorian WorkCover Authority system through contracts and through the Transport Accident Commission system.

The objective of developing a specialised office of the Victorian Ombudsman, or a VWA-TAC complaints unit, is to address precisely what Mr Bernd Bartl, who Mr Forwood spoke about earlier, has been critical of — to ensure that issues do not get lost within a broader Ombudsman's office, to make sure that there is a strong team of people with expertise and knowledge in this area and, to take the point of previous speakers, expertise in insurance in this sector to ensure that there is a comprehensive approach to the kinds of complaints that arise under WorkCover and the TAC bodies.

The government has allocated, as is obvious in the 2005–06 budget, an additional $400 000, which has been made available through the VWA and the TAC which have agreed to meet those extra costs through the consolidated fund, to ensure that there is a unit of at least four people who are involved in addressing and handling complaints in the Victorian Ombudsman's

office relating to WorkCover and to the TAC. Having worked in the commonwealth Ombudsman's office I know how important it is to be able to separate out the activities of various sections that need specialised knowledge and expertise from the rest of the broad brush, grab bag of complaints that come into the Ombudsman's office across a wide spectrum of government activity.

This is a very important move. It is aimed at not only improving the efficiency and effectiveness of the way the Victorian Ombudsman handles VWA and TAC complaints but it is to also enable the Ombudsman, through that enhanced knowledge and activity, to help improve the internal complaints handling in both of those bodies. Earlier reference was made to recent reviews and improvements in internal complaint handling, but that is something that needs continuous improvement. The improved collection and review of data and statistics that will come from the new specialised unit in the Victorian Ombudsman's office should help that measurably.

One other very important objective of establishing the specialised unit in the Victorian Ombudsman's office is to allow resources, time and energy for more community education and outreach. To take up Mr Baxter's point, that may well bring with it an improved understanding of the role of the Ombudsman's office to the point where more employers will be aware that they too, just as employees do, have the right to make a complaint to the Victorian Ombudsman in the way processes have been conducted.

The Ombudsman is an officer of Parliament, an independent statutory body who provides that additional level of scrutiny of compensation claims management and can report directly to the Parliament and make recommendations to members of Parliament. That is a very important extra power of the Ombudsman and is good reason to keep his function within the Victorian Ombudsman's office rather than set up a separate VWA and TAC industry ombudsman.

The specialist unit will become a one-stop shop for dealing with complaints in this area. It is the government's intention and desire that it become more effective and independent, that it become in the end a function which operates most of all to provide a better deal for those who are most unfortunate and who need to have their workers compensation case dealt with speedily, and to those individuals who need some support following a transport accident.

We would certainly hope, given the modest level of complaints that there have been, we will see improved management of complaints, because these people need every amount of assistance to help sort out their lives at a point of crisis for them. I am mindful of the comments Mr Forwood has made about complaints coming to him as an opposition member.

Hon. Bill Forwood — No, as shadow minister for WorkCover.

Ms ROMANES — It makes me think one of the key performance indicators for the success of this function and scheme being introduced through this bill might well be the number of complaints that continue to flow through to not only members of Parliament but also to the shadow minister for WorkCover. We could certainly watch that and hope in the future no complaints flow through to the shadow minister for WorkCover because from this time on we will have an excellent, comprehensive and very effective way of dealing with all the concerns of those who have the unfortunate circumstance of coming before the Victorian WorkCover Authority and the Transport Accident Commission. With those words I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — I trust that there is not an element of window-dressing to this particular legislation, in the context that much of the power that is anticipated for the work of the Ombudsman in terms of investigating concerns with the Victorian WorkCover Authority (VWA) and the Transport Accident Commission (TAC) is already available to him. The main new initiative of this legislation would only be to extend those powers of investigation to claims agents or self-insurers; they are the only genuine areas that are outside of the existing powers of the Ombudsman. While this was an election commitment of the government, I would hope there is a genuine desire to establish this as a true ombudsman's role in the investigation of complaints.

At this time I have a number of issues with the Ombudsman's office. I think it is time that the Parliament, or one of the parliamentary committees, reviewed this office, because I wonder about the effectiveness of the Ombudsman's office. It has been taken for granted that this office does a great job in its work and that it does in fact represent people effectively. But I have to say that in the past there have certainly been instances of where I have referred a matter to the Ombudsman's office and I have received a letter back saying that he has investigated it and giving me the department's view that, 'No, everything is all right'. It has been almost like a public relations

exercise. Usually when I have referred a matter to him I have been well aware of what the department's view and interpretation of events was; what I wanted to establish was whether the processes justified the point of view that the department had adopted and whether the records in fact showed that all due process had been followed.

Recently I referred a matter regarding the responsibility of this office for police matters which concerned a constituent who came to me. The fairly troubled young man put a number allegations to me about his treatment at the hands of the police with regard to their dealings with him due to a crime that he had allegedly committed. One of the interesting things is that on that occasion, after we had put him in touch with the Ombudsman's office, the Ombudsman wrote back to me and actually upheld a number of the complaints this young man made. I was certainly most disturbed about a couple of the allegations, and was somewhat surprised to find that they were true. One of them concerned the police using a young woman to go to this gentleman's door at 2.00 a.m., claiming she was being attacked. When the young man opened the door to let her in and save her from attack a policeman stepped inside the door and served him with a summons. I thought that was outrageous behaviour; fortunately so did the Ombudsman. But he simply suggested to the police that he did not think it was appropriate behaviour. There did not seem to be any other action taken to address that sort of conduct going forward.

There was also another situation with this same young man; in fact I think this is what led to the summons and the police feeling they had to serve papers on this young fellow. The young man missed a court appearance. He had phoned the court to say that he was running late and would not make the court appearance at the appointed time. The only problem was that the clerk of the court did not pass that information on to the magistrate, and the magistrate issued an arrest warrant. Again, that proved to be a true allegation, and this young man was considerably disadvantaged by the system. But in this instance, where the Ombudsman found this to be a true allegation, he simply noted that it was a fairly unsatisfactory practice and that they should just tidy up their message system.

That is not what I, as a member of Parliament, expect of the role of the Ombudsman, bearing in mind that he is an officer of this Parliament. I am not sure that there should not be some more vigorous process and some opportunity for members of Parliament to understand that when issues are brought to the Ombudsman they are not only investigated but that there is some assurance that they will be carried forward and dealt with in a different way. I am certainly troubled by this office having a responsibility within the Office of Police Integrity, as the opposition is troubled by that position. It is a responsibility that is totally out of context, illogical, and unsatisfactory by any measure of justice — and integrity itself — to have that office operating in the same fashion as one might expect an Ombudsman's office to operate. There is value in reviewing the office itself and in understanding whether people are happy with the service they get from the Ombudsman's office, whether he is happy with the legislative constraints within which he works, and whether there is a better way of undertaking the sorts of processes he is involved in.

In terms of the legislation before us I very much agree with the Honourables Bill Forwood and Bill Baxter that the Ombudsman's only responsibility here is checking on process and administrative reviews. There is no capacity for him to change policy, and there is no capacity for him to arbitrate on or to change clinical decisions that have been made on behalf of somebody. However, I would hope in the role he will play he will bring some certainty to the process and that he will encourage both authorities to be very mindful of delays in the process which cause people a lot of anxiety when their cases are before the WorkCover authority or TAC. I hope he is able to audit the processes to ensure that the assessments are fair and thorough and that at all times staff of the agencies act with sensitivity.

Recently I referred another matter to the Ombudsman in respect of somebody who had a claim before WorkCover. I must say that I certainly did not agree that all the matters that were brought to me were relevant to the complaints that were made. But it was interesting that in this case my constituent also had concerns about her legal representation in the matter she was pursuing as a claim. I referred her to the law institute for consideration of whether she was given fair and proper legal advice and advised of all her rights in that respect. That situation is another dimension of the process in which the Ombudsman will be involved.

One of the very real issues about this legislation— and, as I said, some of it is almost unnecessary because the Ombudsman already has the power to look at matters within the two government agencies; it is only with some of the third parties that he now has an extended power — is that for many people it raises expectations that they will have a new avenue of appeal. In reality this is not a new avenue of appeal. It is not an alternative to the Victorian Civil and Administrative Tribunal (VCAT) or to the courts in many respects, because what it does is ensure due process is followed. I think a number of people will have expectations that

the Ombudsman will overturn clinical decisions or will take other matters into account beyond what is the jurisdiction suggested in this legislation. There will certainly be an ongoing role for VCAT, as has been mentioned in this debate. I am pleased that the process will provide employers with an opportunity to have their concerns relating to the handling of certain claims assessed properly and thoroughly investigated.

As the opposition spokesperson on small business I hear many concerns from small businesses about the delays, lack of certainty and some of the processing hiccups, as they perceive them to be, in the management of claims. In some cases they are concerned about their exclusion from decision-making in the process when they think they have material matters to put before WorkCover. There is less concern with the Transport Accident Commission, because it would be unusual in most cases for the TAC to be involved with employers. Employers feel they have information to bring to bear on those claims, and very often they believe they are outside the information flow because of the process that is adopted. Hopefully in some of the work the Ombudsman does as he goes forward — as members have indicated in the debate, with the greater awareness that he is prepared to undertake these sorts of investigations — policy changes will be recommended that might provide a more streamlined and better system for employers and more effectively meet the needs of people who have claims before the two authorities.

The opposition does not oppose the legislation, but I hope at some point in the not-too-distant future a parliamentary committee will review the Ombudsman's office. That is not being critical of the office, but if the individual is an officer of the Parliament and the Parliament has expectations of the office, Parliament is duty bound to ensure it is operating effectively. We need to be confident that people we send to the office with issues will be dealt with appropriately and will be satisfied with the investigations made on their behalf. We need to be confident those investigations are in accord with Parliament's expectations of the office. I hope that happens in the future. I add that as another dimension in this issue for the sake of this debate. I hope in relation to the two authorities being involved this will be a fruitful exercise and will not be window-dressing in part, as some of the legislation seems to suggest.

Mr SCHEFFER (Monash) — The changes set out in the Accident Compensation and Transport Accident Acts (Ombudsman) Bill represent a part of a broader set of policies that the government took to voters in the 2002 election.

The Bracks government has a reform program that it steadily implements, and it is important that the present bill is understood in this wider policy context. In 2002 Labor committed to update the Occupational Health and Safety Act. After the election the government commissioned Chris Maxwell to conduct a review of the 1985 act. Chris Maxwell wrote in his report that there was widespread agreement across the Victorian community that workplace health and safety are of paramount importance. He is right. The 2004 Occupational Health and Safety Act updated the law to ensure that it meets the needs of the diverse range of workplaces and promotes involvement and cooperation between workers and employers in finding strategies to solve workplace health and safety issues. The act ensures that workplaces can expect more help to find safety solutions and that stepped-up support and advice to employers and employees will be available.

I know that everyone in this chamber believes it is a fundamental right of Victorian workers to have safe and healthy workplaces. Both sides of this house also know that this objective is best achieved through the active participation of employees, employers and their representatives in the development of health and safety. To help make this happen the government promised at the 2002 election that it would ensure a strong and consistent approach to workplace health and safety requirements through the establishment of a specialised office of the Ombudsman to deal with complaints in relation to the administration of WorkCover and the Transport Accident Commission and ensure that benefits were maintained at a fair level, particularly for non-economic loss. The government also introduced reforms that make it easier for workers to get back to work as quickly as possible after the workplace injury or illness. Workers want the security of continued employment but most need assistance in returning to work. Any return to work must be consistent with sound medical advice and continued medical monitoring to ensure the steps being taken to return to work are safe and manageable. Everyone knows that successful return to work involves cooperation between the employer, injured workers and their health practitioners. These are the ways the state government is tackling reform through cooperation and support.

The diverse cultural backgrounds, languages and abilities of Victorians are a major social and economic benefit. For workplace safety initiatives to be effective, they need to be understood in the communities they impact on. Occupational health and safety information needs to be accessible, targeted to specific communities, industries and sectors, and distributed in a way that maximises its effectiveness. It is very important that communication strategies are put in

place to ensure a greater understanding of workplace health and safety issues across the community. We need to make sure that all Victorian workplaces have access to first-hand information and support for workplace safety issues by improving support and training for health and safety representatives.

Earlier this year the Premier announced the government's decision to establish a WorkCover ombudsmen to handle WorkCover and Transport Accident Commission complaints. The intention of the changes is to ensure that injured workers or road users who believe they have not been treated fairly can lodge a complaint and have their issue looked into in a fair, impartial and transparent manner. This is the objective of the bill, and the bill will facilitate this happening. The bill will bring into effect the government's 2002 election promise I referred to earlier to establish a specialised office of the Ombudsman to deal with complaints relating to the administration of claims by both WorkCover and the TAC. A new joint Victorian WorkCover Authority (VWA) and Transport Accident Commission complaints unit will be established within the Ombudsman's office to give effect to the provisions of the bill. The unit will be made up of four staff, who will focus exclusively on issues relating to the Victorian WorkCover Authority and the TAC. This complaints unit will be a single access point for all complaints relating to the handling of WorkCover and TAC claims. The unit will be able to assist individual claimants, but systemic improvements that will emerge as a result of the broader work of the unit will also bring about long-term efficiencies across the system which may lead to a decrease in disputation and a reduction in the overall costs of the schemes to both employees and motorists.

The bill will enable the Ombudsman to investigate complaints made in relation to Victorian WorkCover Authority agents or self-insurers without, as is currently the case, having to rely on contractual arrangements between the authority and its agents or self-insurers to establish a basis for the Ombudsman's jurisdiction to investigate complaints about the agents or self-insurers.

The Ombudsman will now, under this bill, be able to investigate these complaints directly and on the same legal basis as he investigates complaints against the VWA itself.

The Attorney-General in his second-reading speech indicated that the Ombudsman had agreed to give additional attention to WorkCover and the transport accident scheme to address problems that have been identified. The Ombudsman has agreed to improve the collection of data so as to get a better sense of volume and the types of complaints. The Ombudsman has also agreed to examine and improve administrative systems and expand the educational role of his office, including the production and distribution of information publications and resources targeted at the general public and the industry.

The government undertook extensive consultation to ensure that the reforms set out in the bill were informed by the views of stakeholders. The Treasury consulted with employer groups such as the Victorian Employers Chamber of Commerce and Industry, self-insurers, disability support groups, the Royal Automobile Club of Victoria, the privacy commissioner, the Victorian WorkCover Authority, the Transport Accident Commission and the Victorian Ombudsman, as well as the trade unions. There was broad support for the concept of a Victorian WorkCover Authority-Transport Accident Commission specialist ombudsman. Stakeholders felt that it would make more sense to establish a new specialised function for the Ombudsman within the present Ombudsman's office rather than establishing a stand-alone service. Stakeholders felt that there was sufficient expertise within the Ombudsman's office to justify expanding investigative activities into non-government entities.

The Attorney-General also stated in his second-reading speech that the initiatives contained in this bill provide a simple, cost-effective and efficient means of delivering the government's commitment to establish a specialised office. I commend the bill to the house.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1

Hon. BILL FORWOOD (Templestowe) — The press release that was issued from the Premier's office on Saturday, 21 May, said the WorkCover ombudsman's main functions:

> … will include investigating and resolving individual complaints, educating the public and industry about the role, as well as recommending solutions to systemic problems.

Can the minister explain to the committee how he thinks the systemic problems will be identified and what process will be followed in recommending solutions? How does he think this will work?

Mr LENDERS (Minister for WorkCover and the TAC) — The purpose of the ombudsman being set up is that the government has strong confidence that both the Victorian WorkCover Authority and the Transport Accident Commission have generally dealt quite well with these complaints, but there is always scope for improvement in this. Regarding the systemic issues that Mr Forwood raises, clearly one of the issues is if the ombudsman sees a pattern where, in an administrative sense, either authority is not responsive or it takes a long time to respond to a particular form of claim, or in those types of areas. This has been addressed in debate on the bill before. There are not a lot of complaints but where there are complaints there are clearly dissatisfied people who have been given what they see as a run-around. A systemic issue might be a complaint that comes in that form or area that a response takes a long time or is insensitive, or in some way administratively cumbersome. That is the sort of systemic issue I would then see the ombudsman identifying when he reports back, to allow both authorities to respond to it expeditiously.

Hon. BILL FORWOOD (Templestowe) — Page 40 of the Ombudsman's 2003 annual report says:

> Another frequent cause of complaint to my office is the claimant's dissatisfaction with the TAC's decision on a request for the funding of treatment or medication. It is also not uncommon for the TAC to cease to pay for the costs of previously covered treatment or medication, following a review of the client's accident related needs …

Is that a systemic issue?

Mr LENDERS (Minister for WorkCover and the TAC) — Certainly on the face of it it would be a systemic issue. Sometimes there are systemic issues that go by the nature of the system, in a sense. There are others where an outside, independent body, looking at it with fresh eyes, can actually give better advice than an organisation can through its own internal procedures. That would be a systemic issue but, without wishing to raise hopes, having an ombudsman will not necessarily address the issue but it will certainly alert the Transport Accident Commission, the government and the Parliament to the fact that there is a problem that we need to find a way of addressing.

Hon. BILL FORWOOD (Templestowe) — On a separate issue, we in this place are clear that the ombudsman's jurisdiction only extends to administrative decisions, but I think there is some confusion over what an administrative decision is. Let me give an example. If a person categorised as seriously injured has received benefits for a certain time and then the benefits stop, is that an administrative decision or a medical decision? I put it to you that it could be either. It could be, for example, that administratively something has occurred that leads to that decision, but also it might be that the person is no longer ill enough. In those circumstances, whose task will it be to decide whether it is administrative or not?

Mr LENDERS (Minister for WorkCover and the TAC) — The assumption of the bill's passage through this place, its proclamation and the rest of those things — some of those details will need to be worked out between the authorities and the Ombudsman's office. Obviously there are a number of definitions in the bill, but fundamentally they will need to be tested. One of the tests would clearly be whether it is a decision that in the end is to be determined by the Victorian Civil and Administrative Tribunal (VCAT) or other bodies. That would be one test — that is, is it an administrative decision or not?

Presumably in that sense both the ombudsman and the authorities would need to start working out some protocols for how it would work, but I certainly envisage that if it is a decision where either body says with very little foundation that it is not going to look at or deal with that form, that would be something the ombudsman would quickly form a strong view on. If it is one that in the end needs a determination either by the authority itself or its agent or by VCAT on the nature of entitlement to a claim, that is where the line would be drawn. However, in some of this, as in most of these areas, the devil will be in the detail. That will be when it comes forward and individual cases are determined, and on that basis precedents will be set. I cannot be more helpful to Mr Forwood on that. The principles are there; the detail and guidelines will come later.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for the answer. It does seem to me to be a mechanism of exclusion — for example, if it is not a medical issue to be resolved before a medical panel it is therefore an issue that can be dealt with by the ombudsman. I think that is important.

I want to pick up on an issue that Mr Baxter also raised. The Ombudsman says he will not look at things that can be resolved at VCAT. I understand that to be sensible because, as he said in his report which is there for all to read, this particular mechanism is already in place, he is not going to second-guess and we do not want to open the floodgates. But I put it to the minister that the Ombudsman says in his report that there have been cases where there are try-ons — in other words, knowing that people do not have the capacity to go to court and therefore are not able to argue against

decisions that have been made. In those circumstances there needs to be some system that enables the Ombudsman or some other body, despite the fact that these matters can go to VCAT, to resolve these issues without people having to put their house up in order to take it on. I do not expect an answer to that, but that is an issue that I think needs to be looked at, particularly in light of what the Ombudsman said in his two reports.

On a totally different topic, I ask the minister whether an employer can use the Ombudsman if he has concerns about remuneration.

Mr LENDERS (Minister for Finance) — Presumably the main issue of an employer would be the determination of a premium, so if we are talking about a process clearly the ombudsman would have jurisdiction. If the Victorian WorkCover Authority said arbitrarily, 'We are not going to look at certain things at certain times' or 'We will do so once we get to a certain limit or artificial thresholds', that would be a process issue that would be under the jurisdiction of the ombudsman. However, the actual determination of a premium on the facts would not be at the discretion of the ombudsman.

Again, the purpose of this is to clarify the law, to provide some systemic advice and to give greater resources to the Ombudsman to do those things. We will be watching to see how this emerges so we can get some commonsense solutions and have the capacity to do that. We will be looking with great interest at how this evolves, but the intent is to give the Ombudsman a greater resource to deal with those process issues. I guess we will need to deal with some of those definitional issues as they emerge. In abstract it is easy to answer, but the detail of some of these will need to be dealt with as they arise.

Hon. BILL FORWOOD (Templestowe) — I thank the Minister. I will not detain the committee any longer. I just want to pick up a comment by Ms Romanes in her contribution that one of the key performance indicators could result in a diminution in my workload. I would be quite happy to talk to anybody who might want to have a discussion with me, and I look forward to my workload decreasing.

Clause agreed to; clauses 2 to 7 agreed to.

Reported to house without amendment.

Report adopted.

Third reading

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

That the bill be now read a third time.

In doing so I would like to thank the house for its positive contribution to this debate and its speedy deliberation.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

HOUSE CONTRACTS GUARANTEE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. M. R. THOMSON (Minister for Consumer Affairs) on motion of Mr Lenders.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Pest plants and animals: control

Hon. ANDREA COOTE (Monash) — My adjournment matter is for the Minister for Environment in another place. I refer to an article in yesterday's *Herald Sun* about a new party that is apparently going to be formed and called the Country Alliance. The man behind this is called a Mr Bate. He has been extremely critical of Parks Victoria. The article states:

> Mr Bate said 16 per cent of the state was now devoted to national parks and state forests, but neglect by successive governments had turned them into breeding grounds for feral animals and plants.
>
> 'The Department of Sustainability and Environment is known in the bush as the neighbours from hell,' he said.
>
> 'This is because it makes little or no effort to control pests or prevent bushfires at enormous cost to farmers.'

As I have mentioned in this place before, Parks Victoria has been criticised by a whole variety of politicians in

both this and the other place — for example, it has been called Perks Victoria. Other comments that have been made are that the Bracks government and Parks Victoria are the neighbours from hell because they mismanage their land and put communities at risk. Poor practice is being adopted. There used to be eight Parks Victoria rangers in the Croajingolong National Park and Alpine National Park; that has been reduced to only three.

In the debate on the mountain cattlemen I mentioned that I had been a member of the inaugural Parks Victoria board, and that many people associated Parks Victoria at that time were disappointed by the way it now operates. My comments in no way reflected the views of board members, and in particular they did not reflect on the former chairman, Mr Peter Buzzard. However, I do not retract anything I had to say. The current chief executive officer of Parks Victoria, Mr Mark Stone, took the extraordinary political step of circulating my *Hansard* contribution to all former and current members of the board of Parks Victoria. He also sent it to former members of the Melbourne Parks and Waterways board, which was completely out of order. This was quite an extraordinary thing for a chief executive officer to do. I hope he circulates all the other negative comments about Parks Victoria to current and past board members as well.

I ask the minister what action he will take to ensure Victoria's national parks are free from noxious weeds and feral animals and what date will it be completed by.

Brimbank: councillor

Hon. J. A. VOGELS (Western) — I raise a matter for the Minister for Local Government. It concerns the failure of a councillor to disclose an interest under section 77A of the Local Government Act when voting on a matter in which her brother and father had an interest. Section 77A clearly states that if a councillor is closely associated with a person who would receive a direct or indirect pecuniary or non-pecuniary interest from a matter being decided by council, the councillor must declare that interest. I quote from a press release issued by the Sunshine Residents and Ratepayers Association:

> At a council meeting on 8 March 2005 the Brimbank mayor, Natalie Suleyman, voted to move the Albion soccer club to Cairnlea Park. This decision also included a commitment by the Brimbank City Council to provide $650 000 to construct club facilities for this club.
>
> In voting for this move Cr Suleyman did not disclose that her brother … was a current committee member of the Albion soccer club and her father … was the club's public officer in 2000.

I believe this is directly in contravention of section 77A. The press release further states:

> Some of the facts surrounding this issue are:
>
> > The president of the Cairnlea Residents Association (Paul Aquilina) presented a petition of more than 700 signatures to Brimbank council requesting a review of this decision. He claims that the Albion soccer club has no connection to Cairnlea and that there was no consultation with residents and ratepayers regarding this decision.
> >
> > Effectively, this decision will result in outsiders (from another suburb) coming in and taking over the Cairnlea community's public land.
> >
> > No other sporting clubs were provided with an opportunity to be considered for this move and the generous funding associated with the move. Only the Albion Soccer Club was considered.

So far the minister's department claims that because the mayor did not have a pecuniary interest in the Albion soccer club there was no conflict of interest. This is despite the fact that Cr Suleyman voted to provide $650 000 to a soccer club in which her brother was a committee member.

The action I seek and request is for the minister to investigate whether this was a breach of section 77A. In the opinion clearly of the Sunshine Residents and Ratepayers Association, and I believe of most fair-minded people, section 77A(2) applies:

> … were the matter to be decided in a particular manner, the Councillor or member, or a person with whom the Councillor or member is closely associated —
>
> (a) would receive or have a reasonable expectation of receiving, a direct or indirect pecuniary or non-pecuniary benefit …

For the department to claim that a father and brother are not close associates beggars belief.

Banyule: councillors

Hon. BILL FORWOOD (Templestowe) — The issue I wish to raise with the minister at the table, the Minister for Aged Care, is also for the Minister for Local Government. I have, as this house knows, been concerned for some time about governance and probity issues at the City of Banyule. This is a general concern I have about the whole council. Members who heard me last Thursday night would know that I have asked for a municipal inspector to be appointed. I am particularly concerned about the behaviour of Cr Mulholland, who I believe does not understand the meaning of the word 'governance'. One need only go into some detail about her shambles with the mayoral vehicle to understand that.

I have here before me the latest copy of the Fairy Hills newsletter, no. 13, dated July 2005. Its editors are Angela Harridge and Robyn Roberts. They describe themselves respectively as the Fairy Hills coordinator of the Banyule planning network and the convenor of the Banyule planning network. The newsletter also says:

> The editors wish to thank the Australian Greens Victoria for the kind use of their photocopier for this edition of the Fairy Hills newsletter.

A paragraph in this newsletter has a heading 'Council elections' and says:

> These will be held in November across the state. This time it's Banyule's turn to vote for our ward representatives. Our current Griffin Ward councillor — Ms Jenny Mulholland — is standing again. She would like your help to get re-elected. If you would like to help Jenny please phone 9490 4222 and speak to Sue Saele.

I make no criticism of Sue Saele, whom I know well and is a most obliging person, but the phone number is the number of the Banyule City Council and Sue Saele is the executive assistant to the chief executive officer (CEO). I put it to the house that it is odd behaviour for any person running for council election to ask people to ring the council and speak to the CEO's executive assistant if they would like to help Ms Mulholland run for council. I have already said I do not think Ms Mulholland knows the meaning of the word 'governance', but I do think that this is pushing it just a little bit far.

I make no criticism of Doug Owens, nor of Sue Saele. Sue is obviously doing something she has been asked to do by the deputy mayor, but she should not have been asked to do it by the deputy mayor. The deputy mayor ought to know better than — —

Mr Gavin Jennings — The Greens have fitted her up.

Hon. BILL FORWOOD — The Greens have fitted her up! No, the Greens have not fitted her up; this is her own doing. She has no capacity to understand the meaning of the word 'probity'. She is on the record as saying, 'Greg believes I deserve some sort of reward, which is why he gave me the mayoral car'.

The PRESIDENT — What was the question?

Hon. BILL FORWOOD — I asked for an investigation. At the very beginning I asked for an investigation into the activities.

Rail: rural and regional crossings

Hon. DAVID KOCH (Western) — I raise an important matter for the Minister for Transport in another place concerning the danger country motorists face at railway level crossings.

Last week my colleague the Honourable John Vogels drew attention to the tragic death of 18-year-old Brian Fisher of Streatham who was killed a month ago when his car was hit by a goods train at the Mininera level crossing. Brian was on his way to play football at the nearby Mininera football ground. The accident was witnessed by many at the ground and the match was cancelled out of respect for Brian and his family. This level crossing, like so many on local roads throughout country Victoria, has no warning device and is regularly used by locals and those attending sporting activities at the sports ground. I fully support the close-knit Mininera community in its calls for warning lights to be installed at this level crossing.

Then just over a week ago another accident on the Wire Lane level crossing at Camperdown almost cost the life of Mr Adrian Daly when his car was crushed by a Melbourne-bound passenger train. Camperdown residents have been calling for lights at this crossing since the death in 1987 of a policeman and his passenger who were killed when their car was hit by a train. Local residents have witnessed several near misses at this level crossing over the last six months. If these crossings had warning devices, these tragic accidents might have been avoided.

Front page headlines in last Friday's *Wimmera Mail-Times* again drew our attention to yet another horror smash where 65-year-old Helen Connelly was killed when her car was hit by a goods train as she crossed Horsham's Edith Street crossing last Thursday afternoon. There are reports by witnesses that the warning lights at this crossing were not operating at the time of the accident.

Regrettably it is not until a crossing has had a history of fatal accidents that funds are made available to upgrade crossings. This is a shocking method to use to rectify dangerous crossings. There are over 2000 level crossings across country Victoria and almost two-thirds remain potential death traps. Unfortunately when there are so many dangerous and unprotected crossings, accident histories must be considered when allocating funds to make crossings as safe as possible.

My request to the minister is: will the government, as a matter of priority, make funds available to expedite the installation of warning lights at the Mininera level

crossing and at Camperdown's Wire Lane level crossing in an effort to minimise the risk of future accidents and fatalities at these railway level crossings?

Water: Tungamah supply

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Minister for Water in another place that goes to the Tungamah stock and domestic water supply system. The minister made a very welcome announcement a month or so ago in association with the Living Murray initiative that this stock and domestic scheme, which has been in existence for more than a century, is to be pipelined. That is a very welcome initiative. However, a number of residents, particularly in the township of Tungamah, are concerned that the proposal is based on the premise of returning the Boosey and Broken creeks to the condition they were in prior to the construction of the original scheme all those years ago. They perceive a problem with that because these two creeks have not been in their natural condition for more than a century, and it is very difficult to assess exactly what that natural condition was. We do know that both creeks went dry in most years except for some deep holes in various localities. It is difficult to envisage the Boosey Creek returning to its natural condition because its headwaters are in the Warby Ranges and most of the run-off from these ranges is now being captured by irrigation dams on farms. It is not really possible to return the Boosey to its natural condition as it existed prior to the installation of the Tungamah stock and domestic scheme.

The citizens of Tungamah are requesting — and I think there is some validity to their argument — that if wildlife such as brolgas, which are quite common in the district, are to survive, there might need to be an injection of water into the creeks on occasion to maintain at least the deep holes with water, if not a regular flow. This is one of these difficult situations where any action taken will have tremendous benefits on the one hand and perhaps create some unintended non-benefits, particularly for wildlife, on the other hand. I invite the minister to have another look at how the system will operate following the completion of the pipeline so that we can be sure wildlife and citizens who rely on the Broken and Boosey creeks to have at least some sort of regular flow are able to exist in that area in the future.

Tatura Abattoirs: funding

Hon. W. A. LOVELL (North Eastern) — I raise a matter with the Minister for State and Regional Development in the other place regarding an application by Tatura Abattoirs for regional development funding. Tatura Abattoirs is an Australian family-owned business which was established 21 years ago and which currently employs 30 local people. In order to expand its business, Tatura Abattoirs has identified a need to focus on export market development. However, extensive expansion and redevelopment of the existing site would need to be undertaken to provide a world-class product.

Tatura Abattoirs has plans for a significant redevelopment that would see its site become a world-class meat processing establishment. If such an expansion were to proceed there would be up to 140 direct jobs created. It is predicted that an increase in indirect jobs via transport operators et cetera would also occur and that there would be increased demand for local livestock. In addition, the development would have far-reaching benefits for our local economy due to money remaining in the local area through local buyers and livestock providers, creating a multiplier effect. There would also be increased job security in the region for both existing and new employees. This is particularly important in our local region, which has recently suffered 70 job losses at Rosella and 140 at the Tongala Nestlè Factory. The regional benefits that would flow from the increased employment opportunities created by an expansion at Tatura Abattoirs would be significant, and the opening of international markets in addition to existing local markets can only enhance opportunities for our region. This project has the potential to be a very exciting development for the entire Goulburn Valley.

For this important project to proceed Tatura Abattoirs will need to obtain the maximum support possible from government and utility providers to enhance the economic viability of the expanded facilities in a market that is dominated by large multinational entities, many of which enjoy substantial direct and indirect support from governments. Tatura Abattoirs has lodged an application for a regional development grant with the Department of State and Regional Development. However, the progress of this application has been extremely slow. My request of the minister is that he meet with a delegation from Tatura Abattoirs to discuss avenues to progress the application for regional development funding to enable the proposed expansion and development to proceed without delay.

Dangerous goods: regulation

Hon. B. W. BISHOP (North Western) — My adjournment issue is directed to the Minister for WorkCover and the TAC. The action I request from the minister is that he personally intervene to ensure the

rules and regulations regarding the transport and storage of high consequence dangerous goods such as ammonium nitrate for farmers be inexpensive and uncomplicated. Victorian farmers understand the concern that federal and state governments have about such goods being used to make explosives for terrorist activity. However, we are really concerned that overbureaucratic and restrictive rules may be put in place in a knee-jerk reaction in an attempt to cover all bases. I understand that a farmer must get a licence. I hope that such licences would cover all activities of storage and transport. To get the licence a need must be demonstrated by the farmer, and that is fair enough, but there will be security assessments on farmers' backgrounds which will involve the local police right through to the Australian Security Intelligence Organisation. I am unaware of the cost of the licence, but it will be another cost and layer of red tape for the farming community to deal with. Farmers will be required to have a secure storage, perhaps under surveillance. No-one knows exactly what the rules are, but it is clear there will be a cost involved at the end of the day.

The Dangerous Goods (HCDG) Regulations 2005 come into effect on 1 October 2005, with the licensing regulations operating from 1 January, 2006. This puts huge pressure on our farmers to complete all the paperwork by that time, and there may be planning issues with the municipalities over storage that would make that difficult. We can add to that the cost of each producer complying with what many feel will be expensive, unworkable and unnecessary rules in comparison with our overseas competitors, who seem to have far more practical rules and regulations to comply with.

The action I require from the minister is that he personally intervene to ensure that these new rules and regulations are fair and reasonable and do not contain excessive regulatory demands on storage and transport of high consequence dangerous goods for the farming community.

Planning: Kyneton Bowling Club

Ms HADDEN (Ballarat) — The matter I raise tonight is for the attention of the Minister for Planning in the other place, the Honourable Rob Hulls. The matter concerns the ongoing issue of the Kyneton Mechanics Institute, public hall, library, public recreation reserve, children's playground and soldiers memorial on gazetted and reserved Crown land at Mollison Street, Kyneton. The action I seek is for the Minister for Planning to establish an immediate independent inquiry into the circumstances surrounding the Macedon Ranges Shire Council's recommendation to the minister to approve a 21-year lease to a private licensed gaming facility on gazetted and reserved Crown land at Mollison Street, Kyneton.

The Crown land committee of management, the Macedon Ranges Shire Council, has enabled and allowed a private licensed gaming facility, the Kyneton Bowling Club, to take over more and more of the reserved Crown land — namely, the public hall and library, public recreation reserve and children's playground, all of which are gazetted and reserved Crown land under the Crown Land (Reserves) Act. The private licensed gaming facility currently encroaches on around 60 per cent of the reserved Crown land and proposes to increase its occupancy to around 80 per cent. The council has, without proper consultation, altered public car parking conditions outside the Kyneton Primary School and opposite the Safeway supermarket to angle parking to accommodate expansion of the proposed redevelopment of the private licensed gaming facility.

As well as limiting the public's use of its own building in the public hall and library, the council has also failed to maintain and preserve the Kyneton Mechanics Institute, this heritage-listed state icon, despite being given substantial grants for specific restoration works. The Kyneton Mechanics Institute is heritage listed and is recognised as one of the oldest and continuously used public buildings since 1858. The Kyneton municipal band and the Kyneton senior citizens have recently been thrown out of this public building by the council in order to make way for the proposed redevelopment to a bigger, dazzling pokies palace. The institute building is also where the Kyneton District Mounted Rifles were formed in October 1860 and where the ANA members, including Alexander Peacock and Alfred Deakin, met in March 1893 before the famous Corowa federation conference.

The Macedon Ranges Shire Council, as committee of management, as lessor and as council granting planning permits to the Kyneton Bowling Club and recommending that the minister approve a 21-year lease to a private organisation for its private use of gazetted and reserved Crown land, all smacks very much of a conflict of interest. The minister, of course, cannot be satisfied that under section 17D of the Crown Land (Reserves) Act such a recommended 21-year lease is not detrimental to the reserved purpose of the public hall, public library, public recreation reserve and children's playground. I understand there is no legal lease in existence for the minister to even consider. Since I raised this issue with the minister over 15 months ago — —

The PRESIDENT — Order! The member's time has expired. Before I call the minister to respond I have some concerns about whether in raising his adjournment matter the Honourable Bill Forwood asked for some action of the minister. I will check the *Hansard* and report back to the house in the morning. I ask the minister not to refer to that until I make my ruling tomorrow.

Responses

Mr GAVIN JENNINGS (Minister for Aged Care) — I have to come to terms with the fact that I cannot comment on Mr Forwood's adjournment matter.

The Honourable Andrea Coote raised a matter for the attention of the Minister for Environment in the other place and asked the minister to give a guarantee about the time frame in which he will free parks from noxious weeds — a big call indeed.

The Honourable John Vogels raised a matter for the attention of the Minister for Local Government seeking her review of certain matters in the Brimbank council and in particular whether there had been a conflict of interest under section 77A(2) of the act.

The Honourable David Koch raised a matter for the Minister for Transport in the other place concerning dangerous crossings within his electorate, in particular the Mininera and Camperdown crossings. He sought funding for those at the earliest opportunity.

The Honourable Bill Baxter raised a matter for the attention of the Minister for Water in the other place. After my tour of his electorate I now understand that those good citizens in Tungamah would be concerned about the pipeline redevelopment if it had a detrimental effect on the environmental flows within the Broken and Boosey creeks and in particular a potential adverse impact upon brolgas and other wildlife. The member is seeking the minister's attention to ensure that adequate water flow is generated in that creek system.

The Honourable Wendy Lovell raised a matter for the attention of the Minister for State and Regional Development in the other place seeking a delegation to meet with the minister to discuss a regional development grant toward the redevelopment at the Tatura abattoirs.

The Honourable Barry Bishop raised a matter for the Minister for WorkCover and the TAC seeking his personal intervention — that was the phrase he used — to ensure that the high consequence dangerous goods regime, particularly as it relates to items such as ammonium nitrate, is not overly restrictive on the farming community.

Ms Hadden raised a matter for the attention of the Minister for Planning in the other place. She outlined a case, if I could describe it as a case, and sought his independent inquiry into matters relating to recommendations of the Macedon Ranges Shire Council concerning a gaming facility in Kyneton.

Motion agreed to.

House adjourned 6.30 p.m.