PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Wednesday, 16 November 2005

(extract from Book 8)

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

By authority of the Victorian Government Printer

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JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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Legislative Council committees

Privileges Committee — The Honourables W. R. Baxter, Andrew Brideson, Helen Buckingham and Bill Forwood, Mr Gavin Jennings, Ms Mikakos, the Honourable R. G. Mitchell and Mr Viney.

Standing Orders Committee — The President, the Honourables B. W. Bishop, Philip Davis and Bill Forwood, Mr Lenders, Ms Romanes and Mr Viney.

Joint committees

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

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

Education and Training Committee — (*Council*): The Honourables H. E. Buckingham and P. R. Hall. (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton.

Environment and Natural Resources Committee — (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell. (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz.

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

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

Law Reform Committee — (*Council*): The Honourables Richard Dalla-Riva, Ms Hadden and the Honourables Geoff Hilton and David Koch. (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan.

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

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

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

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

Rural and Regional Services and Development Committee — (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell. (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh.

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

Heads of parliamentary departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Deputy President and Chair of Committees: Ms GLENYYS ROMANES

Temporary Chairs of Committees: The Honourables B. W. Bishop, R. H. Bowden**,** Andrew Brideson, H. E. Buckingham, Ms D. G. Hadden, the Honourable J. G. Hilton, Mr R. F. Smith and the Honourable C. A. Strong

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The Hon. ANDREA COOTE

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

Deputy Leader of The Nationals:
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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Coote, Hon. Andrea	Monash	LP	Olexander, Hon. Andrew Phillip	Silvan	LP
Dalla-Riva, Hon. Richard	East Yarra	LP	Pullen, Mr Noel Francis	Higinbotham	ALP
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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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WEDNESDAY, 16 NOVEMBER 2005

Wednesday, 16 November 2005

The PRESIDENT (Hon. M. M. Gould) took the chair at 9.34 a.m. and read the prayer.

INVESTIGATIVE, ENFORCEMENT AND POLICE POWERS ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

COMMISSIONER FOR LAW ENFORCEMENT DATA SECURITY BILL

Introduction and first reading

Received from Assembly.

Read first time for Hon. T. C. THEOPHANOUS (Minister for Energy Industries) on motion of Mr Lenders.

PETITION

Albert Park: parking fees

Hon. B. N. ATKINSON (Koonung) presented petition from certain citizens of Victoria requesting that approval for the introduction of the parking strategy within the Albert Park precinct be deferred until an independent study is conducted as to the impact these fees will have on the sports and other users of the park (496 signatures).

Laid on table

PREMIER'S DRUG PREVENTION COUNCIL

Report 2004–05

Mr LENDERS (Minister for Finance), by leave, presented copy of report 2004–05.

Laid on table.

HEALTH SERVICES COMMISSIONER

Report 2004–05

Mr GAVIN JENNINGS (Minister for Aged Care), by leave, presented copy of report 2004–05.

Laid on table.

Hon. Bill Forwood — On a point of order, President, is leave required for those reports to be tabled?

Mr Lenders — On the point of order, President, I am advised that these reports are not required to be tabled in the Parliament. They are brought before the house as a matter of courtesy and therefore leave is required.

LAW REFORM COMMITTEE

Warrant powers and procedures

Hon. RICHARD DALLA-RIVA (East Yarra) presented report, including appendices, together with minutes of evidence.

Laid on table.

Ordered that report be printed.

Hon. RICHARD DALLA-RIVA (East Yarra) — I move:

That the Council take note of the report.

I will speak briefly to the report. In response to an interjection during the tabling of the report, I advise the house that it contains 761 pages. It is a detailed and quite substantial report which, as it should in my view, recommends that law enforcement in this state needs to take a more cohesive and responsible approach to the issues associated with the execution of warrants.

It is fair to say that the committee — it comprises the chair, Rob Hudson, the member for Bentleigh in the other place; the deputy chair, Noel Maughan, the member for Rodney in the other place; the Honourable Andrew Brideson, until 14 September 2004; Ms Hadden; the Honourable Geoff Hilton, from 5 May 2005; the Honourable David Koch, from 14 September 2004; Ms Dympna Beard, the member for Kilsyth in the other place; Ms Liz Beattie, the member for Yuroke in the other place, from 5 May 2005; Mr Tony Lupton, the member for Prahran in the other place, and I — set out on this task not expecting the report to be as large and as detailed as it is. There is no doubt that we

provided a comprehensive examination of the issues in this particular inquiry.

The inquiry was detailed. The staff was headed by the executive officer, Merrin Mason. I put on the record that the principal research officer, Jon Cina, should be commended on the amount of work he did. Jon came to this inquiry, I suspect — as we all did — with the view that there would be a fairly simple and straightforward report. It is a credit to the researcher and the committee that we went around the country to examine how warrant powers and procedures are applied in other states. It is important to put on the record also the workload that Jon undertook and his commitment and dedication, which I understand involved working long hours on weekends and the like to try to get the report done within the required time frame. It is to his credit, with the guidance of committee members and others, that he put forward the results that we see tabled in Parliament today.

Members of Parliament know that often the real work is done behind the scenes by those people who provide us with support. This is a clear example of one man whose sole dedication was to ensuring that this report will move us forward with a range of recommendations on a variety of areas that I think will be found to be profound for years to come. I hope the government will take up many of the recommendations put forward in the report. We have tried to be balanced, we have not disagreed on many issues, and the report has support from all parties. That is important in the framework of this house.

I also put on the record my thanks to others who assisted in various ways: to Nathan Bunt, who provided research assistance; to Michelle McDonnell for her support — I know she is working on other research projects, so it was important; to the office manager, Jaime Cook; and to the others who assisted, Hannah McHardy and Rebecca Steinberg.

This is a significant report of over 760 pages of detailed examination. I wholeheartedly recommend that those who have a lazy Sunday afternoon and wish to sit down and read it do so, because it is quite enthralling. I just hope that the government will take up some, if not all, of the recommendations, which will provide for better, clearer and more effective management of warrant powers and procedures in this state. The report is to be commended.

Hon. J. G. HILTON (Western Port) — (*By leave*) — As my friend the Honourable Richard Dalla-Riva said, it is a most comprehensive report. As members will know, I came quite late to the committee and so really did not make too much of a contribution to the report, but I think it is an important document.

The committee was asked to consider Victoria's existing warrant powers and procedures, including arrest warrants, warrants to seize property and search warrants, and to recommend reforms that would promote fairness, efficiency and consistency.

Over 80 Victorian acts authorise the issue of over 20 000 search and arrest warrants and 600 000 penalty enforcement warrants each year. As the Honourable Richard Dalla-Riva said, it is obviously important that warrant powers strike an effective balance between the need for effective law enforcement and the protection of individual rights that the community expects.

A large number of recommendations — 147 — have been made. Obviously I cannot go through them all, but they include applying an expiry period of seven days to all warrants, with the possibility of an extension to a maximum of 30 days when this can be justified, and introducing uniform civil procedures legislation to provide for a single warrant to seize property under a single act, regardless of the issuing court.

The committee worked very hard on the report. I would like to congratulate all members of the committee who made a contribution, and also the executive, who did a tremendous job in putting it all together. I share the Honourable Richard Dalla-Riva's view that the government will take notice of the report and respond accordingly.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Alexandra District Hospital — Report, 2004–05.

Alpine Health — Report, 2004–05 (three papers).

Alpine Resorts Co-ordinating Council — Minister's report of receipt of 2004–05 report.

Ambulance Service Victoria — Metropolitan Region — Report, 2004–05.

Anderson's Creek Cemetery Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Auditor-General — Report on the Finances of the State of Victoria, 2004–05, November 2005.

Austin Health — Report, 2004–05 (two papers).

Bairnsdale Regional Health Service — Report, 2004–05 (two papers).

Ballarat General Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Ballarat Health Services — Report, 2004–05.

Barwon Health — Report, 2004–05.

Bayside Health — Report, 2004–05.

Benalla and District Memorial Hospital — Report, 2004–05 (two papers).

Bendigo Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Bendigo Health Care Group — Report, 2004–05.

Boort District Hospital — Minister's report of receipt of 2004–05 report.

Calvary Health Care Bethlehem Ltd — Report, 2004–05 (two papers).

Casterton Memorial Hospital — Report, 2004–05 (six papers).

Central Gippsland Health Service — Report, 2004–05 (two papers).

Cheltenham and Regional Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Cobram District Hospital — Report, 2004–05 (two papers).

Cohuna District Hospital — Report, 2004–05.

Colac Area Health — Report, 2004–05 (two papers).

Coleraine District Health Services — Report, 2004–05.

Djerriwarrh Health Services — Report, 2004–05 (two papers).

Dunmunkle Health Services — Minister's report of receipt of 2004–05 report.

Eastern Health — Report, 2004–05.

Echuca Regional Health — Report, 2004–05.

Federation Square Management Pty Ltd — Report, 2004–05.

Geelong Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Goulburn Valley Health — Report, 2004–05 (two papers).

Hepburn Health Service — Report, 2004–05.

Hesse Rural Health Service — Report, 2004–05.

Heywood Rural Health — Report, 2004–05.

Infertility Treatment Authority — Report, 2004–05.

Inglewood and Districts Health Service — Report, 2004–05 (two papers).

Kerang District Health — Report, 2004–05.

Kooweerup Regional Health Service — Report, 2004–05 (two papers).

Kyabram and District Health Services — Report, 2004–05 (two papers).

Kyneton District Health Service — Report, 2004–05.

Lilydale Memorial Park and Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Lorne Community Hospital — Report, 2004–05 (three papers).

Maldon Hospital — Minister's report of receipt of 2004–05 report.

Mallee Track Health and Community Service — Report, 2004–05.

Manangatang and District Hospital — Minister's report of receipt of 2004–05 report.

Mansfield District Hospital — Report, 2004–05 (three papers).

Maryborough District Health Service — Report, 2004–05 (three papers).

McIvor Health and Community Services — Report, 2004–05.

Melbourne Health — Report, 2004–05.

Mercy Public Hospitals Incorporated — Report, 2004–05 (fifteen papers).

Moyne Health Services — Report, 2004–05.

Mt Alexander Hospital — Report, 2004–05.

Nathalia District Hospital — Minister's report of receipt of 2004–05 report.

Necropolis Springvale — Report, 2004–05.

Northeast Health Wangaratta — Report, 2004–05 (two papers).

Northern Health — Report, 2004–05 (two papers).

Numurkah District Health Service — Report, 2004–05 (two papers).

Nurses Board of Victoria — Report, 2004–05.

O'Connell Family Centre — Minister's report of receipt of 2004–05 report.

Optometrists Registration Board of Victoria — Minister's report of receipt of 2004–05 report.

Osteopaths Registration Board of Victoria — Minister's report of receipt of 2004–05 report.

Otway Health and Community Services — Report, 2004–05.

Peninsula Health — Report, 2004–05 (two papers).

Peter MacCallum Cancer Centre — Report, 2004–05.

Physiotherapists Registration Board of Victoria — Minister's report of receipt of 2004–05 report.

Portland District Health — Report, 2004–05 (two papers).

Preston Cemetery Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Prince Henry's Institute of Medical Research — Report, 2004–05.

Queen Elizabeth Centre — Report, 2004–05.

Podiatrists Registration Board of Victoria — Minister's report of receipt of 2004–05 report.

Radiation Advisory Committee — Report for the year ended 30 September 2005.

Regional Development Victoria — Report, 2004–05.

Robinvale District Health Services — Report, 2004–05.

Rochester and Elmore District Health Service — Report, 2004–05.

Royal Children's Hospital — Report, 2004–05.

Royal Victorian Eye & Ear Hospital — Report, 2004–05.

Royal Women's Hospital — Report, 2004–05.

Rural Ambulance Victoria — Report, 2004–05.

Seymour District Memorial Hospital — Report, 2004–05 (two papers).

Southern Health — Report, 2004–05.

South West Healthcare — Report, 2004–05.

St Vincent's Health [incorporating the financial statements of Caritas Christi Hospice Limited, St George's Health Service Limited and St Vincent's Hospital (Melbourne) Limited] — Report, 2004–05 (four papers).

Stawell Regional Health — Report, 2004–05 (two papers).

Swan Hill District Hospital — Report, 2004–05.

Tallangatta Health Service — Report, 2004–05 (two papers).

Templestowe Cemetery Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Terang and Mortlake Health Service — Report, 2004–05.

Timboon and District Healthcare Service — Minister's report of receipt of 2004–05 report.

Tweddle Child and Family Health Service — Minister's report of receipt of 2004–05 report.

Upper Murray Health and Community Services — Report, 2004–05 (two papers).

Urban Growth Boundary — Notices of Approval of the following amendments to planning schemes:

Cardinia Planning Scheme — Amendment C81.

Casey Planning Scheme — Amendment C85.

Hume Planning Scheme — Amendment C66.

Melton Planning Scheme — Amendment C51.

Whittlesea Planning Scheme — Amendment C83.

Wyndham Planning Scheme — Amendment C80.

Victorian Industry Participation Policy — Report, 2004–05.

Victorian Institute of Forensic Mental Health — Report, 2004–05.

Victorian Health Promotion Foundation — Report, 2004–05.

Western District Health Service — Report, 2004–05 (two papers).

Western Health — Report, 2004–05.

Wodonga Regional Health Service — Report, 2004–05 (three papers).

Wyndham Cemeteries Trust — Minister's report of receipt of report for the period 1 January 2004 to 30 June 2005.

Yarrawonga District Health Service — Report, 2004–05 (two papers).

Yea and District Memorial Hospital — Minister's report of receipt of 2004–05 report.

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL and MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Concurrent debate

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

That this house authorises and requires the President to permit the second-reading debate on the Mineral Resources Development (Brown Coal Royalties) Bill and the Mines (Aluminium Agreement) (Brown Coal Royalties) Bill to be taken concurrently.

Motion agreed to.

MEMBERS STATEMENTS

Industrial relations: federal changes

Hon. BILL FORWOOD (Templestowe) — This morning I attended a breakfast at which the guest

speaker was the federal Minister for Employment and Workplace Relations, the Honourable Kevin Andrews. It was most important to note that there were many, many people there most interested in the issues that he had to raise. I was seated at a table with a manufacturer whose business is located in West Heidelberg. He works in the automotive industry. He was telling me that in the last two years he has had 15 cases of wrongful dismissal brought against him and that he cannot wait for the new legislation to go through in order that he will be able to continue to manage his business in a way that will benefit his employees who wish to work, of whom there are several hundred.

What is really apparent is that the scare campaign is being run by the union movement and its acolytes, the political wing of the trade union movement, people in the Labor Party, who I have absolutely no doubt do not at any stage or in any way, shape or form have anything to do with the good of Australia. All they want to do is march in the streets. Let me reiterate what former Premier, Sir Henry Bolte, said: they can march up and down until their feet are sore, but it will make not one jot of difference — —

Honourable members interjecting.

The PRESIDENT — Order! Mr Forwood will sit down.

Hon. BILL FORWOOD — I will have to do it again!

The PRESIDENT — Order! Mr Forwood will sit down.

Hon. Kaye Darveniza interjected.

The PRESIDENT — Order! I ask members to desist from interjecting. Members are entitled to be heard with at least a semblance of silence in the house, so that the member who is on their feet does not have to increase their volume by 3 or 4 decibels. I ask members to show each other a little bit of respect.

A Fairer Victoria

Ms ROMANES (Melbourne) — In Australia the concept of a fair go is widely understood and supported. That is why around 200 000 Victorians joined the protest rally yesterday in Melbourne to show their opposition to John Howard's industrial relations changes, which will attack the working conditions of families, the most vulnerable and those with the least bargaining power in the workplace.

By contrast, the Bracks government's April commitment in *A Fairer Victoria* to increase substantially our efforts to assist the most disadvantaged groups and individuals has been widely embraced across the state. As MPs our correspondence with local government often tends to focus on local problems and issues. However, recently I was heartened to see that Moreland City Council took time to write to the Premier and local MPs to express its very strong support for the government's commitments in *A Fairer Victoria* to strengthen services and enhance opportunities for the most disadvantaged community members. In turn, Moreland council committed itself to working in partnership to address these issues at a local level.

The policy and funding in *A Fairer Victoria* was the first start in the Bracks government's efforts to tackle disadvantage. I look forward to the first review and building further on that initiative.

Melbourne Health: finances

Hon. D. McL. DAVIS (East Yarra) — My statement concerns the annual reports that have been tabled in this chamber today. I draw the chamber's attention specifically to the Melbourne Health annual report. Whilst there is a significant deficit recorded by Melbourne Health — $5 million is a very significant deficit by any account — I want to make the point that there are still issues to be resolved at Melbourne Health.

We still do not know the full extent or the details of the financial and administrative mismanagement at Melbourne Health which saw $20 million recorded as income and spent when it did not exist. I am aware that financial and auditing firms — three different groups — have been working at Melbourne Health to discover what went on there. I wish the Minister for Health would release the reports of those three groups. We as a community need to get to the bottom of what has gone on at Melbourne Health and how on earth a major network could misaccount, misallocate such an enormous amount of money.

Ms Romanes — You don't want to truncate an investigation, do you?

Hon. D. McL. DAVIS — I want to see what goes on, Ms Romanes, and I believe you should be committed to transparent reporting here. The fact is those reports should be made public. The community should know the truth. The minister is covering up. I have no doubt that there is still much more to come out on what has occurred at Melbourne Health.

I equally put on record my concern about the fact that at the end of this financial year the government will cut resources to North West Mental Health. That is a great concern given the need in the community. I ask the minister not to make that cut.

World Diabetes Day

Mr SCHEFFER (Monash) — Monday, 14 November, was World Diabetes Day. Established by the International Diabetes Foundation and the World Health Organisation in 1991 the day aims to promote awareness of diabetes worldwide. World Diabetes Day campaigns reach millions of people around the world. I take this opportunity to pay tribute to the International Diabetes Institute situated in my electorate of Monash Province, adjacent to the Caulfield General Medical Centre. The institute was established in 1985. Its objective is to find a cure for or a means of preventing diabetes and its complications, and to provide care to meet the needs of those who have diabetes or are at risk of developing it. The institute is led by Professor Paul Zimmet who pioneered this first institute in the country to be exclusively dedicated to diabetes research, education and clinical care. Professor Zimmet is the institute's foundation director.

The institute assists approximately 8000 patients, making it the largest diabetes centre in Australia. The institute also offers an integrated medical and education service, with an experienced diabetes care team comprising specialist physicians, diabetes nurse educators, dietitians, a counsellor and ophthalmologists. The remarkable thing is that the International Diabetes Institute is an independent, volunteer-based charity that relies almost entirely on fundraising to maintain its internationally recognised programs.

Globally more than 170 million people suffer from diabetes and this number is expected to double by 2030. Diabetes and its associated complications are a serious problem for people's health and for economies worldwide. I pay tribute and give thanks to all those working to alleviate the suffering of people with diabetes.

Industrial relations: WorkChoices rally

Ms CARBINES (Geelong) — Yesterday the state parliamentary Labor Party was proud to support Australian workers and their families in our fight against the Howard government's draconian attack on workplace conditions. We joined some 200 000 Victorians who came together on the streets of Melbourne and at similar rallies around the state, including in my hometown of Geelong, to protest the worst piece of anti-family legislation ever to come before the Australian Parliament. Collectively we wanted to send a clear message to the Howard government that with its so-called WorkChoices legislation it has gone too far. Australians expect workers to be treated fairly and to have proper working conditions and rights. At its peril the Howard government seeks to erode the very foundation upon which the Australian way of life has been built — family life. Under threat are public holidays, family time and weekends, protection against unfair dismissal and a just bargaining system for workplace conditions. Yesterday's demonstration on the streets of Melbourne was the largest in our state's history. As today's *Age* editorial states:

> Rallies won't change legislation, but a government that defies public concern invites a response at the ballot box.
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> …
>
> It would be a mistake to conclude that the unions' morale-boosting exercise is not reflective of broad public concern … Fairness and job security are the essential foundations of a happy, productive work force and of consumer confidence; the absence of these qualities is an alarming feature of the legislation.

Environment: greenhouse gas emissions

Hon. W. R. BAXTER (North Eastern) — Last Friday at Beechworth I had a bit of a wake-up call. I attended a conference on climate change sponsored by the North East Catchment Management Authority and I commend the authority and its chief executive, John Riddiford, for arranging the seminar which was attended by more than 100 people and addressed by some experts in the field including Dr Harvey Stern from the Bureau of Meteorology.

I have to admit that I have been somewhat of a sceptic on climate change; I am still not entirely convinced that our records are over a sufficiently long enough period of time to be clear that climate change is upon us but there is no doubt from the graphs I saw on Friday that the trend lines are indicating that. The point I learned was that temperatures may only increase by 1 or 2 degrees, which in itself does not seem very much and is not much — the real difference, however, for inland Australia is that very minor temperature increases actually lead to an exponential increase in evaporation rates.

As people in the Murray-Darling Basin know, it is a rainfall-deficient area in any event and evaporation rates are already very high; it was demonstrated to me on Friday that a small change in temperature leads to a very great increase in evaporation and that will cause us

problems, so I have to say that I am much more convinced now that we as a society have to do much more in terms of greenhouse gas concerns.

Health: home enteral nutrition program

Mr PULLEN (Higinbotham) — I was contacted by one of my very good constituents regarding the proposed charge for the home enteral nutrition (HEN) program recently. I admit I was not aware of this program, so I made inquiries. I found that, as usual, the Bracks government listened and acted. I congratulate the Minister for Health in the other place on her decision to advise Victorian hospitals not to compulsorily collect a co-payment for the program when she became aware of the situation.

Compare that response with that of the opposition health spokesman, the Honourable David Davis, who ran off to the *Herald Sun* and was reported on 4 November 2005 as saying that 'Steve Bracks has slapped desperately ill, tube-fed patients with an outrageous and cruel charge'. Mr Davis is either silly or he is deliberately attempting to undermine his leader, Mr Doyle. The facts are that the current HEN policy dates back to a report of 1997 by the then parliamentary health secretary, Mr Doyle, who recommended the charge. The policy has been in place since that time.

Now Mr David Davis has elbowed the Deputy Leader of the Opposition in this place aside to lead the Liberal Party ticket in the southern suburbs of Melbourne. He would not even know where Brighton is. If someone in Southern Metropolitan Region feels they must vote Liberal, I urge them to vote for the Honourable Andrea Coote, who will be the no. 2 candidate, and place Mr David Davis last.

Industrial relations: federal changes

Mr VINEY (Chelsea) — Yesterday I was very pleased to join my colleagues in the parliamentary Labor Party, along with a quarter of a million Victorians, in the march against the Howard government's draconian workplace changes. These changes will alter the concept of fairness and justice in the workplace in this country.

I join with Ms Carbines in saying that any government that ignores the view expressed emphatically by a quarter of a million Victorians on the streets, as well as by 250 000 Australians in other places around the country, will do so at its peril. Members opposite need to ask themselves whether they support these changes that are going to transform so dramatically the workplace relations system in this country. Do they support the removal of unfair dismissals for people in companies of less than 100 people, and in companies where there are over 100 employees that a worker can be sacked for 'operational reasons' and not even be able to challenge that reason in any court? Do they support the removal of penalty rates? Do they support the removal of leave loadings? Do they support the reduction in entitlements? These laws are about one thing: crunching down on unions. You only need to look at the fact that a worker needs to go to the courts to take justice but an employer only needs to go to the Industrial Relations Commission.

Aurora School: opening

Hon. H. E. BUCKINGHAM (Koonung) — On Saturday I was delighted to attend the opening by the Premier of the Aurora School in Blackburn, which is a new world-class centre of excellence for young deaf and deaf-blind Victorians.

Aurora is the combination of three excellent schools on one new purpose-built campus: the Princess Elizabeth Junior School for Deaf Children; the Monnington Early Intervention Centre, and the Carronbank School for Deaf-Blind Students. This state-of-the-art facility came about with $5.5 million in funding from this government, a contribution of $1.35 million from the commonwealth government and, importantly, a further $1.5 million from the school community. I particularly congratulate the school community for its outstanding effort which has paid for new playground equipment, outdoor learning areas, extra space within the new building and two self-contained units for parents accompanying children to the school from regional areas.

Aurora School is now unique in Victoria as it caters for children from birth to 18. It offers wide-ranging programs, tailors courses to meet the needs of individual students and uses all the latest acoustic technology, including sprung floors and acoustic padding in the walls and ceilings. I congratulate the school council; the acting principal, Anne Spence; the staff; parents and volunteers who made this such a fantastic facility.

Parliament House: Ramadan dinner

Hon. J. G. HILTON (Western Port) — At the end of October, I was very pleased to accept an invitation from the Australian Intercultural Society and the Victorian Multicultural Commission to attend a Ramadan Iftar, or fast-breaking dinner, at Parliament House. The dinner was facilitated by my colleagues Mr Somyurek and the Honourable Gordon

Rich-Phillips, who stood in for Murray Thompson, the member for Sandringham in the other place.

Over 200 people representing a wide variety of religious faiths and community groups were in attendance. Those at my table included my friend Mr Scheffer, a Catholic bishop and a professor of Jewish studies at Monash University. Given the pressure which our Muslim community is facing at the present time, this Ramadan break fast was a great opportunity to show solidarity with Muslim Australians and to indicate to them that they are well regarded, fully contributing members of our community. Christine Campbell, the member for Pascoe Vale in the other place, read a message on behalf of the Premier, and the Minister for Police and Emergency Services in the other place, Tim Holding, gave a very eloquent address indicating the importance of the Muslim community to the wider Victorian and Australian community. I congratulate everyone involved who made the occasion such a success. I hope the event went some way to giving comfort to the Muslim community.

Court of Appeal: Ballarat sitting

Ms HADDEN (Ballarat) — On 17 October I was very privileged to attend the Court of Appeal sitting at Ballarat. It was a very important occasion in which the Chief Justice of Victoria, Justice Marilyn Warren, together with Justices William Ormiston and Geoffrey Eames, sat as the Court of Appeal. It was an historic occasion in that it celebrated the 10th anniversary of the Court of Appeal's sitting at Ballarat. Circuit sittings were actually the vision of former Chief Justice Winneke, and he is to be commended for that vision.

Chief Justice Warren spoke about the history of the Supreme Court since its establishment in 1851. The Assizes reached out of Castlemaine and Geelong from 1863, and *Regina v. Ash* was an 1876 rape trial in which capital punishment was invoked. Rape attracted the death penalty until 1949. Openness and transparency are key important features of the Court of Appeal especially in its sittings across rural and regional Victoria. Nine different locations are visited by the court each year. I have had the great pleasure of attending the Court of Appeal sittings at Ballarat since they commenced in 1995.

Responses were given to the chief justice's warm welcome by Colin Hillman on behalf of the Director of Public Prosecutions — —

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

TRANSPORT LEGISLATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Second reading

Ordered that second-reading speech be incorporated for Ms BROAD (Minister for Local Government) 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:

This bill provides for a series of mainly technical amendments to transport legislation to facilitate the smooth operation of road transport and public transport in Victoria.

Engine-reading devices

Under the Road Safety Act 1986, police and VicRoads officers are able to use equipment to download data recorded on a heavy vehicle's engine management system to determine whether the act or the regulations made under the act are being complied with. This information can assist in determining whether speed-limiting devices which are required to be carried on heavy vehicles are working effectively or have been tampered with and is therefore very important to improving road safety.

The bill allows for regulations to be made prescribing this equipment and the process by which it is operated, and provides that when a prescribed engine-reading device is operated in the prescribed manner it must be presumed, in the absence of evidence to the contrary, that the data produced by the device is a true representation of the data contained in the heavy vehicle's engine management system.

The bill also provides that if a member of the police force or a VicRoads officer reasonably suspects, on the basis of information derived from a prescribed engine-reading device which is operated in the prescribed manner, that the vehicle does not comply with the Road Safety Act 1986 or regulations made under that act, he or she may issue a warning or vehicle defect notice, impose conditions on the use of the vehicle or prohibit the use of the vehicle. The present requirement that non-compliance be 'discovered' before these actions can be taken sets too high a standard where the officer is relying on data produced by an engine-reading device. While the officer will be able to infer that a speed-limiting device is not operating effectively or has been tampered with from readings produced by an engine-reading device, he or she will not be able to pinpoint the precise cause of the problem or precisely how the speed-limiting device has been tampered with.

Public transport ticketing

One of the key objectives of the bill is to amend the Transport Act 1983 to improve legislative support for public transport ticketing systems and the enforcement of ticketing obligations. It is essential that we implement measures to help minimise fare evasion which continues to be a significant problem in Victoria. Fare evasion rates on trams and trains are particularly troubling and overall it is estimated that there is at least $50 million each year in lost revenue due to this activity.

This money could be far better spent on service improvements rather than on subsidising those who use public transport for free and at the expense of paying customers and taxpayers generally.

Clear, fair and robust legislation is an important factor in minimising fare evasion. The current provisions have not been reviewed holistically since at least the early 1980s. Some changes have been made over the years, including when automated fare collection (the current Metcard system) was introduced in the mid-1990s. However, the changes were not extensive and Victorian law compares poorly with laws that apply in other major jurisdictions in Australia and overseas.

Court challenges have also been a feature in recent years. Two Supreme Court cases, *Mounsey v. Lafayette* (2002) and *Arachichi v. Orlowski* (2003), in particular, underlined the difficulty of applying old legislation to an automated multimodal ticket system. Clearly, more contemporary and secure legislative support is needed. This is important not just for current ticketing systems such as Metcard but especially for the smartcard ticketing system being developed by the Transport Ticketing Authority. The new system is due for introduction across Victoria in 2007.

The government considers that the required changes are largely technical. Substantive and widespread change is not required to meet current obligations for people to have a valid ticket when using public transport. However, it is necessary to align the provisions so that they better match current and emerging ticketing technology and practice. It is also necessary to emphasise the primary obligation of passengers to hold a valid ticket when on board public transport vehicles and when on premises where tickets are required. Overall, Victoria's new law will bring us into line with other relevant jurisdictions and improve on their approach.

It is proposed that most provisions be included in regulations as part of providing a more coherent structure for ticketing requirements. A primary purpose of the bill is to establish clear heads of power to enable these regulations to be made. I expect the regulations to be available shortly after passage of the bill.

Enforcement

The current law requires that authorised officers must be employed or engaged by the Department of Infrastructure or by a passenger transport company or a bus company which is accredited for the purpose. The Department of Infrastructure, the Bus Association Victoria and MetLink wish to develop appropriate compliance strategies for buses to reduce fare evasion and improve safety. To facilitate this, the bill amends the Transport Act to enable the Bus Association Victoria to be accredited for enforcement purposes and to be able to employ authorised officers.

The bill will also amend the Transport Act to put beyond doubt that officers employed by one passenger transport company or bus company can enforce the law in connection with the operations of another. To facilitate more tailored enforcement activities, the bill will also provide for limited authorisations for authorised officers where these are necessary such as on V/Line passenger services.

Concerns also exist about current Transport Act requirements for verification of name and address in relation to transport offences. The requirements can lead to the provision of inadequate name and address information and are difficult for authorised officers to apply in practice. It is necessary to strengthen existing requirements to give greater certainty to the quality of name and address information provided by offenders. This will help to minimise the numbers of failed infringement notices which occur due to the provision of false names and addresses.

The Transport Act currently includes a number of offences that relate to authorised officers such as providing false and misleading information to an officer, impersonating an officer, offering a bribe to an officer and assaulting an officer. The offences are in need of revision. There are currently, for example, four false information provisions in the Transport Act when only one provision is necessary. The opportunity has been taken in the bill to update the offences in line with recent developments in similar offences in other comparable legislative regimes.

Other public transport amendments

The bill also makes miscellaneous amendments to the Transport Act, the Public Transport Competition Act 1995 and the Rail Corporations Act 1996 to ensure the smooth, safe and efficient operation of public transport, including to:

improve and clarify the powers of the director of public transport including in relation to removing trees, indemnities and guarantees and trademarks;

introduce additional criteria for the approval of non-metropolitan hire car licences;

improve the inquiry power of the director of public transport safety in relation to accredited bus operators;

extend the requirement to hold a service contract for regular passenger services to include demand responsive bus services;

ensure that the 'no smoking' signage requirements on public transport property are imposed on the persons who have the necessary control of the property;

improve regulation-making powers generally, including to enable the development of better parking controls in railway station car parks to allow these facilities to be more widely used by genuine commuters; and

allow for the change of name of the Spencer Street Station Authority to the Southern Cross Station Authority.

I commend the bill to the house.

Debate adjourned for Hon. R. H. BOWDEN (South Eastern) on motion of Hon. E. G. Stoney.

Debate adjourned until next day.

WATER (RESOURCE MANAGEMENT) 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*.

In doing so I advise the house that the bill was amended in the Legislative Assembly to provide more certainty concerning the time of long-term water resources assessments, reviews and permanent qualifications of rights. The details of those changes are spelt out in the second-reading speech.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

Incorporated speech as follows:

I have great pleasure in introducing the Water (Resource Management) Bill into the house today. This bill is an important part of the government's water reform program implementing key actions in the Victorian government's white paper *Our Water Our Future*. The bill will bring forward key components of the new water planning, entitlement and allocation framework for Victoria, and with it, significant benefits for Victoria's environment, irrigators and future generations of water users.

Released in June last year, the Victorian government's landmark white paper *Our Water Our Future* demonstrates the government's ongoing commitment to sustainable water management.

The water reforms outlined in *Our Water Our Future* will provide for the protection and long-term health of our rivers, aquifers, floodplains and estuaries; a high-value, low-impact irrigation industry supported by robust rural and regional communities; and a water sector with increased efficiency and accountability, delivering diverse water services in an innovative way.

This program of water reform is also of national importance and will implement the objectives of the national water initiative.

An extensive legislative program is required and this is being carried out in stages. The first stage of the government's water reform agenda has already been achieved, with the passage of the Water Industry (Environmental Contributions) Bill in September last year.

The bill now before the house forms the second stage of the government's water reform legislative program and makes significant and far-reaching changes to the management and planning of Victoria's water resources. Changes to the way in which water rights are structured will not take effect before the middle of 2007. However, introducing the bill now will enable rural communities to fully understand how the new water entitlement system works, well before the changes take place.

There has been substantial consultation on the bill since it was introduced into the house. A number of improvements were made to the bill in the Legislative Assembly in response to issues raised by stakeholders and, in particular, by the Victorian Farmers Federation and Environment Victoria.

I turn now to the bill before the house.

This bill will implement significant reforms to Victoria's water planning, entitlement and allocation framework by making substantial amendments to the Water Act 1989. The five main areas of reform are:

(a) the establishment and protection of an environmental water reserve for Victoria;

(b) improved long-term assessment and planning which embraces all sources of water and allows for adaptive management of the resource;

(c) changes to the structure of existing water entitlements for rural water users by unbundling those entitlements into three individual components, namely water shares, water-use licences and delivery obligations;

(d) new consultative processes for upgrading or decommissioning rural water supply infrastructure or changing level of services; and

(e) the establishment of a public water register and appointment of a water registrar.

Environmental water reserve

The first set of reforms relates to the establishment and protection of an environmental water reserve for the state. Victoria initiated the idea of an environmental water reserve for the state and others are likely to follow as it is a key reform. The national water initiative has accepted the concept of statutory recognition of water for the environment.

The main objective in legislating for an environmental water reserve is to ensure that water set aside for environmental purposes has the same status as water allocated for other purposes. Water set aside for environmental purposes can be protected and responsibility for its management can be clearly assigned, thereby maintaining the environmental values of the water system and the other water services that depend on its environmental condition.

In setting aside water for the reserve, the rights of existing entitlement holders will be recognised.

Clause 4 of the bill establishes the environmental water reserve, and describes the different ways in which water can be set aside for environmental purposes and form part of the reserve. One of the ways water can be set aside for the reserve is as an environmental entitlement.

The environmental entitlement is a new entitlement established by amendments contained in clause 24 of the bill. For the first time there will be an explicit entitlement for water dedicated to environmental purposes. The environment minister will hold the entitlement and will determine its allocation and use. Catchment management authorities will

advise the minister on the use of the environmental water reserve and will be responsible for the day-to-day operation of the reserve on behalf of the minister.

Clause 37 of the bill enables new operational responsibilities to be placed on waterway management authorities to develop and implement schemes to protect and enhance the reserve. In the metropolitan area, it is intended that Melbourne Water, as the waterway manager, will undertake this role. Outside Melbourne, it is intended that catchment management authorities will be the operational managers of the reserve.

General resource planning and management

The second area of reform involves a suite of changes to improve water resource planning and our ability to manage future risks to the resource base and protect the environmental water reserve. A new planning and assessment framework will be created which ensures that the whole of the water cycle is considered in an integrated way. Amendments contained in the bill clarify that the act covers recycled water from public systems, unless otherwise clearly stated, to ensure that the legislation embraces all sources of water.

Features of the new framework includes regular assessment by government of the status of the state's water resource base, regular reporting of results, a program of regionally based water resource strategies and a program of periodic long-term assessments of the resource base. These reforms will help to meet Victoria's commitments under the national water initiative.

Clause 8 of the bill places new obligations on the minister to ensure these programs are undertaken and to ensure assessments of the resource base cover all sources of water. The new public reporting obligations implement Our Water Our Future commitments to develop a statewide water inventory of Victoria's water resources. The inventory will identify emerging pressures and trends across the state and inform the development of regional sustainable water strategies. It will be updated every five years.

Our Water Our Future stressed the importance of planning for the future. Sustainable water strategies, and requirements governing the development of these strategies, are set out in a new division to be inserted into the act by clause 11 of the bill. Five regional strategies will be developed to cover the state. Each strategy will consider the total picture of resource management within a region: protection and enhancement of the environmental water reserve and improving river health, consumptive demand for water, the needs of industry and farms, alternative water sources and investments of water authorities.

The legislation includes principles to guide the development of sustainable water strategies and requires that they be developed in an open and consultative manner. Strategies will be developed with regional expertise in collaboration with catchment management authorities, water authorities, local government, indigenous groups and the community.

To assist in monitoring and managing resource constraints and issues regarding climate change, clause 11 of the bill also inserts new requirements dealing with long-term water resource assessments. Before the end of the 12th year after the commencement of the legislation and in each subsequent 15-year cycle a program to assess long-term changes to the resource base must be undertaken. An assessment will be independently audited by the Environment Protection Authority (EPA). The EPA must review the methodology adopted and the quality of the data used, and its report must be made public. The assessment process is also open with opportunity for public comment on draft findings.

These regular, periodic assessments of the state's water resources will provide government with the raw data it needs to manage water resources in an adaptive way. Where an assessment identifies a decline in the long-term availability of water which has fallen disproportionately on the environmental water reserve or consumptive uses, a public review must be undertaken to recommend the action required. There also must be a public review if an assessment identifies a deterioration in river health for reasons related to flow.

It is only after such a review has been carried out that the minister will be able to make any permanent changes to entitlements to water. The minister currently has powers to qualify entitlements but the new provisions make explicit the circumstances in which those powers can be exercised. The new qualification powers are set out in clause 14 of the bill. These qualification powers are consistent with the risk assessment requirements under the national water initiative.

In response to concerns raised by the irrigation community, Victorian Farmers Federation and Environment Victoria, the bill was amended to provide more certainty concerning the timing of long-term water resources assessment, reviews, and permanent qualifications of rights. The assessment, review and program for implementing the review must be completed before the end of each 15-year cycle. Also, the new section 33AAB, makes it clear that the first permanent qualification of rights cannot take effect any earlier than 15 years after the commencement of clause 14 of the bill.

New sections 33AAA and AAB clearly distinguish between powers to qualify rights as a result of temporary shortages of water, in the event of an emergency or in response to drought, and powers to qualify rights permanently. The latter can only occur as a result of the longer-term changes identified in the 15-year assessments of the resource base, and following an open and consultative review process. The government's ability to qualify water shares permanently without compensation will be limited to these 15-year assessment cycles. If new water needs to be found for the environment because of declining river health, the legislation will allow the government of the day to decide on what cost-sharing arrangements are to be made, but the present government's policy is for regulated surface water systems to invest in water savings or buy from willing sellers, rather than just qualify water entitlements.

In times of shortage the minister continues to have the ability to qualify rights other than in equal proportions.

Unbundling of entitlements — water shares, delivery obligations, water-use licences

The third package of reforms will change the structure of water entitlements for rural water users by unbundling entitlements to water into their main components.

'Unbundling' is a concept introduced in *Our Water Our Future*, and recognises that an irrigator's water right or diversion licence is actually a bundle of different types of entitlements and obligations that can be better managed when separated into three individual components. These individual

components are: a secure share of water available from a water system, namely a water share; a right to use the water on a particular piece of land, namely a water-use licence; and for irrigators who obtain their water from a channel system, an assurance that they will receive a defined volume over a defined period, namely, a delivery obligation. On rivers, the equivalent, an extraction rate, will be written into the irrigator's works licence.

For the majority of irrigators the proposed changes will make no effective difference. They can choose to stay exactly as they are now. However, irrigators who wish to maximise the opportunities afforded by the new unbundled system will have the flexibility to develop their businesses in new and innovative ways. The 'unbundling' of entitlements into their components will create many benefits. It will make trade easier and enable brokering bodies to offer products tailored to irrigator demand.

Most importantly, these reforms will make it easier for irrigators to adjust either the reliability of their water supplies — ensuring higher security for their water where this is required — or the timeliness of having water delivered, to suit their individual enterprises. For crops such as tomatoes, growers can make sure they have the delivery capacity to cope with the peak in demand caused by very hot spells in summer. As part of the unbundling process, annual sales water allocations will be converted into ongoing, lower reliability water shares to provide greater certainty to irrigators. Currently known as 'sales water', this arrangement will also deliver significant benefits to the environment. Twenty per cent of the water that has been made available in the past for sales will be reserved for environmental purposes. Irrigators and the environment will both benefit.

I will turn now to discuss each of the new products of unbundling and the safeguards that have been included to prevent the emergence of so-called 'water barons'. Before doing so, however, I will discuss the process for unbundling current entitlements.

Conversion of existing entitlements

Clause 71 of the bill inserts a new schedule 15 into the act to enable the conversion of existing entitlements. The legislation will not trigger unbundling — this will happen to declared water systems upon a date set by the minister. The declaration will specify the day on which a water system becomes a converted water system. From that day, water rights, sales water, take-and-use licences and domestic and stock allowances in the declared system will become water shares, water-use licences and, within irrigation districts, delivery obligations.

While the new schedule 15 sets out the various rights that come into existence on conversion of the declared water system, not all of the details will be spelt out in the legislation. These will be refined and adapted as required to take account of the different circumstances of water entitlement holders. These details and any procedures to apply to determine such detail will be set out in conversion rules. The rules must be established before conversion to provide certainty to water users.

On the conversion date, existing water rights and stock and domestic allowances in the declared system will become water shares with a volume equal to the volume of the pre-existing entitlements. The shares will be in the name of the landowner and, provided the water share is for a volume greater than 5 megalitres, will be subject to any mortgage registered on the relevant land parcel. A take-and-use licence will also convert to a water share with a volume the same as the volume of the licence. It will be created in the name of the licence-holder and no mortgages will carry forward due to its different nature to a water right. The class of reliability of these shares will be set out in conversion orders. The rules will specify that these water shares will all be the same high-reliability. For example, 100 megalitres of existing high reliability water right will be converted into 100 megalitres high-reliability water share.

On conversion, the former sales water will also be converted to a water share and, in the case of sales water related to a water right, with any mortgage similarly carrying forward, if the volume of the share is greater than 5 megalitres. However, the volume of the water share will only be a proportion of the prior sales water volume. Conversion rules will set out how the proportion is to reflect the volume of water that was practically available for sales water in any one year, less the volume of water to be applied towards the environment to meet the commitments in *Our Water Our Future*. The rules will specify that these water shares will be a lower reliability than other water shares.

In addition to the water share being created on the date of conversion, a water-use licence, or for stock and domestic rights, a water-use registration will be created. The water-use licence or registration will authorise the use of water on the land and the licence will carry forward any pre-existing conditions concerning water use.

Licences and registrations will provide an annual use limit on the amount of water to be used on the land. The volume of the annual use limit will be calculated in accordance with conversion rules. The rules will require any limit previously set for the property to be taken into account. If there is no such limit, the annual use limit will be based on the existing entitlement or previous use. Rules will allow further flexibility to adjust the annual use limit to account for other relevant policies such as salinity guidelines.

The third key aspect of the conversion process relates to irrigation districts only and involves the creation of new obligations upon water authorities to deliver water to a specified place and the volume and the periods over which the delivery will be made. Each of these details: place, volume and period, will be determined in accordance with conversion rules designed to ensure the translation of existing arrangements.

The new schedule 15 also makes special provision for the creation of a water-use licence where a landowner does not have any water rights but has a history of purchasing water on the temporary market, and for the creation of a delivery obligation, on application, where a person has no water rights but owns land serviced by irrigation infrastructure.

On conversion, ownership of a water share may, in some cases, be difficult to determine. For example, the ownership of a share may be complex where water rights are attached to holdings with titles in different ownership. These cases are to be to be resolved by a sequence of steps — agreement of the parties, arbitration if any of the parties wish or, as a final default, ownership is set out in the legislation. There may also be other issues that are difficult to resolve and the legislation permits the water share register to show those water shares

but to mark them as unconfirmed. Special rules will apply to dealing with those shares until the issues are finalised, to ensure that the consent of all parties who could be owners is obtained.

As part of the conversion process accurate land ownership data is required, particularly to ensure accuracy of the mortgages is maintained. This requires a comparison of some of the information in the water authority records and the land registry records, and to enable this to occur the legislation specifically authorises the use of the information in those records for cross-checking.

The conversion provisions are very detailed, as the conversion of existing rights must be very precise to provide certainty to those affected. The government has been working closely with the community, water authorities and other agencies to determine how unbundling will work in practice for individual irrigators, and that dialogue will continue in the development of the conversion rules.

The unbundling of water rights in irrigation districts will have an impact on local government rates. Currently the value of a water right is included in the value of the land to which the water right is attached. The value of the water share created on conversion would not normally be included in the land valuation.

The government is concerned that there be time to allow the rating impacts to be properly assessed and managed. For this reason clause 73 of the bill amends the Valuation of Land Act 1960 to keep the value of a water share in the value of the land described in any associated water-use licence or water-use registration until 1 July 2008. This will allow affected councils time to develop appropriate rating strategies in consultation with their communities.

Water shares

Clause 41 of the bill inserts a new part 3A into the act dealing with the newly created water shares. A water share is an ongoing entitlement to a defined share of the water available for consumption in a water system. A water share authorises the taking of water allocated in respect of that share under a seasonal allocation. The allocation of water to a share is made more explicit, as is the process for determining the water available for allocation — in new provisions to be inserted by clause 52.

Returning to the new part 3A, there are a number of matters that should be mentioned. Firstly, there is greater flexibility than with the current water rights in how a person can deal with a share. A share can be mortgaged and can be transferred for a limited term. The holder of the limited term transfer is entitled to receive water allocations made in respect of the share.

Secondly, the legislation contains new streamlined processes to facilitate interstate trade. The ability to trade, through a process known as tagging, implements a component of the national water initiative. The minister will retain the ability to refuse applications relating to interstate trade if there are barriers to all buyers and sellers participating in the market in a competitively neutral environment.

Finally, the legislation responds to concern in the irrigation community that with unbundling non-irrigators could buy up much of the water and drive up its price. While there are practical reasons for people to use their water — because it would otherwise be a financial burden on them — the bill contains safeguards against 'water barons' monopolising the market. It does this by placing a limit on the total volume of water that can be held by non-water users in each system. The term 'non-water user limit' is defined as a percentage of the sum of the maximum volumes of entitlements of water shares, of the same reliability, in a particular water system. The percentage is fixed at 10 per cent but can be varied by the minister, following a public consultative process and independent review by a panel established by the minister. The non-water user limit will need to be reviewed to ensure that it does not become a barrier to interstate water trading obligations under the national water initiative.

The owner of a water share is regarded as a non-water user if the water share is not an associated water share. A water share can become associated if the owner of the share owns or occupies land or is related to a person who owns or occupies land on which there is a water-use licence or water-use registration. There are also limitations on the volume of water share that can be held against an associated licence or registration. At conversion every water share will be an associated water share, so that at the start date, no water share will be in the 10 per cent limit.

A person will not be allowed to transfer a water share or undertake various other transactions if the non-water user limit for that system has been or would be exceeded.

Water-use licences and water-use registrations

Clause 54 of the bill inserts a new part 4B into the act relating to water-use licences and water-use registrations. Water available under a water share can only be used on land for which there is a water-use licence or registration. The purpose of the licence is to provide certainty to water users about what land can be irrigated and, through conditions, to minimise the impacts on the environment, ground water users and other persons.

A licence can be subject to either standard water-use conditions or individually tailored conditions. Standard water-use conditions will be made by the minister and will generally apply in a particular part of the state or to a particular class of irrigators. It is expected that standard water-use conditions will be made on the recommendation of a catchment management authority, following extensive consultation with affected irrigators. It is important that irrigators are a part of this development process and, in response to concerns raised by the Victorian Farmers Federation, the legislation requires persons or bodies representing affected interests to be involved in the initial stage of preparing the draft conditions for public comment. The minister will also determine water-use objectives which will provide the policy framework for conditions.

The annual use limit will limit the amount of water that can be used on land. Another benefit of unbundling is that the volume of water shares that can be held for use on land can be greater than the annual use limit, giving irrigators greater ability to manage the reliability of supply. As is currently the case, if an irrigator increases water use, a capital charge may be required to offset the impact of environmental impacts.

A water-use registration is required to use the water for non-irrigation purposes unless a water-use licence already authorises the use. It is important that non-irrigation uses are

recorded to account for total water use. The only condition of a registration will be an annual use limit.

Delivery obligations

Currently, the statutory obligation of an authority to supply water to an irrigator covers both the supply of an amount and the delivery of that water. With unbundling, the delivery obligations will be recognised separately and made explicit. The creation of obligations to deliver defined volumes of water over defined periods is the means of achieving this. These new provisions are in a new part 11 being inserted by clause 61 of the bill.

The separate recognition of delivery obligations will allow irrigators to manage their delivery more effectively and will provide many benefits. Irrigators will be able to sell water to free up capital without losing channel access. Trade in water shares will be quicker because there will be no need to determine channel capacity prior to approving a water share trade. The ability to transfer the benefits of services will give irrigators the capacity to manage their risks in times of system congestion.

Separating delivery from supply obligations also represents a fairer system by ensuring that all owners of land with access to irrigation infrastructure contribute to fixed maintenance and renewal costs, as well as protecting irrigators against price rises when water is traded out of the district. Currently when irrigators sell off their water right, they can leave a financial burden for the water authority and remaining customers to maintain infrastructure. In the future, irrigators may end the on-going obligation to pay for delivery of water if they are prepared to forfeit their access to the channel system and pay an exit fee.

To summarise, the government believes that the reforms to the entitlement system will ensure Victoria continues to lead the nation in sustainable water management. The changes will enable the government to build on the strengths of its progressive water allocation system to continue to foster and attract the high-value investment that results from our secure and reliable water entitlements.

The reforms will also build on the steady advances being made in irrigated agriculture's use of water and further accelerate progress to efficient watering of high-value crops. Regional economic benefits will also flow from increased opportunities to trade water, increased production and improved water efficiency.

Reconfiguration of irrigation infrastructure systems

The fourth area of reform involves new processes and tools to help water authorities to work with their communities to alter and upgrade their infrastructure to better reflect demands for irrigation and other rural water services. The ability to reconfigure infrastructure systems is necessary to meet the changing water supply needs of customers and ensure a financially viable and sustainable system.

Water authorities already modify channels, replace assets and decommission unused parts of the system as part of their core business. In order to deliver efficient and responsive services, the delivery infrastructure provided by water authorities must be continually adapted. Reconfiguration applies equally to meeting the increasing demand from areas that are expanding as well as downgrading or decommissioning parts of the system that are currently under-utilised or not viable. This may be because the land is not suitable for irrigation (perhaps due to poor, salinised soil) or large volumes of water have been traded out of the system, making it uneconomic to continue to supply.

Reconfiguring these systems may also create opportunities to recover water for the environment. The government will co-invest in irrigation reconfiguration programs to recover water for the environment in areas where this will also provide clear benefits to the community and to industry. A $50 million investment has been made by government for this purpose as part of the Our Water Our Future reforms.

Clause 60 of the bill inserts a new part 7A into the act, which sets out the formal processes to be followed by a water authority in developing a reconfiguration plan. An authority may reconfigure its infrastructure at any time and change levels of service by agreement with its customers. However, if it proposes to decommission any infrastructure and terminate a service it must first abide by these processes and develop a reconfiguration plan. Authorities should also publicise the circumstances in which a reconfiguration plan must be developed before service levels are changed. The minister can give directions to the authority on this and other such matters. These powers are set out in the proposed new section 161E being inserted by clause 60 of the bill.

Importantly, reconfiguration plans will involve a community consultative process and consultation with all affected customers and other stakeholders.

A water authority will be required to share information and work in partnership with customers, local government and the broader community when developing a reconfiguration plan. If changes being considered involve a system's supply capacity, the authority will need to discuss with customers various options, covering pricing and alternative management arrangements, in order to achieve the most cost-efficient method of continuing the service. The minister may issue a direction to require ministerial approval of a reconfiguration plan following its adoption by a water authority.

A person will be entitled to compensation if their service is terminated as a result of an authority adopting a reconfiguration plan. As provided in the amendments being made by clause 59, compensation will be payable for the loss of value to the land as a result of the service being terminated. Compensation will be payable by the water authority and the amount payable will be assessed during the process for developing the reconfiguration plan.

Water register

The final main reform area involves the establishment of a public water register. For the first time, Victoria will have a comprehensive database that will contain information on the environmental water reserve, water shares, water-use licences and bulk entitlements for all converted water systems in Victoria.

The purposes of the register are spelt out in amendments contained in clause 57 of the bill. These are: to facilitate the responsible, transparent and sustainable use of the state's water resources, including enabling monitoring and reporting in respect of the water resource and facilitating a market for water-related entitlements by providing publicly available records.

Clause 57 inserts a new part 5A into the act which establishes the register and sets out such other matters as the responsibilities of the registrar and other authorities responsible for keeping records, matters that must be recorded in the register, what information is publicly available and provisions for searching the register.

The information in the register will include water share information as well as specified records kept by the minister and water authorities on water-use licences, works licences and delivery services. Although the register will be a single register, both the registrar and authorities will have separate responsibilities for updating the information in the register when the holder of an entitlement changes or the details are amended. The new registrar will be responsible for records relating to water shares and with the minister and the water authorities for the information they each contribute to the register.

Specific provision is made in proposed section 84G to allow reports to be created from information in the register. These reports will enable government to monitor the state's water resources and report in a publicly accessible system, providing for open, transparent and sustainable water management. This clause also provides that the reports will be available to the public if the minister so directs, provided the report does not give out individual names and addresses.

In addition to the reporting ability, which could encompass statewide reports, members of the public will be able to obtain the information in individual records. This will assist in trading the various entitlements and related land. For example, it is proposed that a water share record could be searched to show the owner and any recorded interests such as mortgages. Unless a regulation specifically provides for its availability, address information will not be disclosed. The proposed new section 84Z provides that access to an individual's information in the water register can be denied in exceptional circumstances — for example, if access would jeopardise the security of that person. The design of access to the information by individuals will comply, so far as practicable, with the information privacy principles in the Information Privacy Act 2000.

The water register provisions and the new schedules 12A and 12B also contain many provisions in relation to water shares that are directly comparable to legislative provisions related to Victoria's land registry. These include provision for recording a mortgage of a water share and enabling a sale by mortgagee if there is default on the mortgage.

The new register will provide government and the community with greater access to information and assist the community to gain an increased awareness of issues regarding the state of Victoria's water resources. It will facilitate the trade of entitlements and farmland by providing readily accessible information concerning water-related entitlements, especially water shares and interests recorded on water shares.

Concluding remarks

In conclusion, this bill is a major step in implementing the Victorian government's landmark white paper *Our Water Our Future* and demonstrates Victoria's leadership in providing for sustainable water management. This bill will improve the way that we plan for, assess, allocate and manage our water resources to provide for all of our water needs. It will enable us to move from a system focused on allocating rights for consumptive purposes to one which balances those needs with the needs of the environment, whilst strengthening our system of secure tradeable entitlements. In facilitating the development of water markets, the legislation will also assist the movement of water to its highest value uses.

This approach will help us to deliver substantial economic and environmental benefits and redress the balance that is necessary to ensure secure water supplies and healthier waterways for future generations of Victorians.

I commend the bill to the house.

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

Debate adjourned until next day.

MAJOR EVENTS (CROWD MANAGEMENT) AND COMMONWEALTH GAMES ARRANGEMENTS ACTS (CROWD SAFETY AMENDMENT) BILL

Second reading

Debate resumed from 15 November; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. K. DRUM (North Western) — As was stated yesterday The Nationals will be supporting this bill because it attempts to bring into line greater crowd safety and greater crowd control. For some of our major sporting events it gives the government the opportunity to include other stadiums in this managed venue regime. That will give the government a great deal of flexibility when it comes to hosting major events throughout the state. It is unfortunate that we have had to move down this line but over the last 20-year period crowd behaviour at some of our major events has deteriorated. This bill will go a long way towards giving the police, crowd controllers, security staff and authorised officers greater powers when it comes to issues such as the confiscation of prohibited items and greater powers to search bags and the like.

One of more stringent measures in the legislation provides for repeat offenders to incur a five-year ban. People who are thrown out of major events will not be able to re-enter a venue. That will act as a great deterrent to people whose brains slip out of gear when they have a bit too much to drink and they invade the pitch or act in a way that is a dangerous and causes inconvenience to others.

The bill tightens up the provisions relating to what items can be brought into a major event and makes it an offence to bring into a major event or try to smuggle into a major event prohibited items such as whistles, loudhailers and flares — any sort of dangerous object, including items that can be thrown and may hurt someone in the crowd. If people want to persist with that sort of unruly behaviour at a major event and get kicked out, it will be an offence for them to try to re-enter the event.

We believe that the bill is heading in the right direction. As we have said, it is a shame that it has come to this, but it is a sign of the times. We believe that this bill will aid all of our major event venues. It will also help us prepare for the Commonwealth Games, which will be held in March next year. In closing I wish the bill a speedy passage and reiterate that The Nationals are supporting the legislation.

Hon. H. E. BUCKINGHAM (Koonung) — This bill aims to support and improve crowd safety at major sporting events in Victoria by amending the Major Events (Crowd Management) Act 2003 by broadening its applications and strengthening its enforcement powers. The bill also amends the Commonwealth Games Arrangements Act 2001 in relation to searching of bags. I thank the honourable members on the other side, the Honourable Gordon Rich-Phillips and the Honourable Damian Drum, for their contributions to the debate and their support for this legislation.

However, I listened carefully last night to the contribution by the Honourable Gordon Rich-Phillips, who stated that he was surprised — in fact he was critical — that the Commonwealth Games legislation had to be amended. I point out to him that it is the responsibility of all governments to amend legislation when it becomes necessary. Legislation is not set in stone. Situations change, and unfortunately the situation has changed to the degree where the government now feels it necessary to search bags during the Commonwealth Games, not only to open them but to ask patrons to empty them. I find that criticism a little unusual because governments of all political ilk must always be responsible enough to amend legislation when the need arises.

There is an excellent history of major sporting events in Victoria. I found out recently that more people attended the 2005 AFL Grand Final in Melbourne than the actual opening ceremony of the Athens Olympic Games. That says a lot about the passion of Victorians, indeed Australians, because people came from all over Australia to watch that game in Victoria. One has only to look at the number of people who attended the recent Spring Racing Carnival and the number who attend the Australian Formula One Grand Prix and the Australian Open Tennis Championships, which are on in January, to know that Victoria is the premier state for sporting events.

Mr Pullen interjected.

Hon. H. E. BUCKINGHAM — My colleague on my right says, 'And the world', with which I agree. On the whole, crowds are well behaved in Victoria. Some 99.9 per cent of people go along to enjoy their sport, but there is always someone who has had too much to drink and who wants to bare their body in the middle of the Melbourne Cricket Ground, or throw projectiles. Unfortunately laws have to be put in place to ensure that this does not impede the pleasure of those people watching and who go along to enjoy their sport.

This bill amends the Major Events (Crowd Management) Act 2003. It extends the operation of the act to the Bob Jane Stadium in South Melbourne and to all other elite soccer matches held at managed venues under the act if the need should arise. That will be by ministerial order and will allow other venues to be added if the need should arise, but those venues will only be added if they satisfy certain criteria to do with capacity, entrance and exit points.

The bill increases powers relating to bag searches both at managed venues and at ticketed Commonwealth Games venues, as I have already mentioned. However, there could be some concern about privacy because people may not want to open their bags and have them searched in front of others. The bill allows for that to be done in private should the person ask for that to happen. The bill also ensures that enforcement is effective by allowing police to issue infringement notices. It allows the courts to ban some offenders from venues for up to five years. The Honourable Damian Drum has already addressed that issue.

Currently the act allows for bags to be opened for inspection but not searched or emptied. Because people can tuck things under coats, put things inside lunch containers and things like that, unfortunately there is a need for a further search. These amendments allow for this to happen with the consent of the patrons. The patrons can say no, but then they will not be allowed into the venue. If a person is not willing to cooperate, they will not be allowed in.

It will be an offence to possess alcohol not purchased at the venue, or possess prohibited items like flares. It will also be an offence to throw flares or projectiles, stand

on a seat or block the view of others — we have all had that happen to us — or damage property, block exits and entrances and some of those things we see happen at soccer matches overseas, when people jump over fences and push people into exits. It will be an offence to do any of those things.

The powers and procedures under the Major Events (Crowd Management) Act have worked well. It was a good act, but recent incidents of unruly crowd behaviour at soccer matches and international cricket matches have revealed a clear need for the act to be strengthened.

The increased sanctions and enforcement powers proposed in the bill were developed following a review of crowd safety measures undertaken by the Department for Victorian Communities, in consultation with programmers, venue managers, sporting associations and Victoria Police. This review included consideration of measures introduced in other states. The consultation process was instigated in response to reports from Victoria Police and venue managers of an escalation in disruptive and dangerous behaviour as we saw at some soccer matches last April.

In April there was a violent clash between rival football fans at a soccer match at the Bob Jane Stadium which highlighted the need for increased crowd control measures. Flares were lit and thrown into crowds as well as other objects, and physical fighting occurred. The new offences and enforcement powers will help venue managers and police to bring unruly and dangerous crowd behaviour under control more effectively and quickly. They should also provide a major deterrent to poor crowd behaviour.

The amendments will help to protect Victoria's reputation as Australia's leading events state. This is good legislation. Patrons will not find it onerous to keep within the new legislation. I commend it to the house.

Hon. B. N. ATKINSON (Koonung) — I join with my colleague the Honourable Gordon Rich-Phillips in supporting this legislation, which I believe is worthwhile. It is designed to ensure that people can enjoy sports events without being interrupted or upset by unruly behaviour from other people who seem to have little interest in the outcome of the actual events and very interested in making other people's lives miserable.

The legislation is consistent with previous bills that have been passed in this place. I notice Mrs Buckingham mentioned her concerns that Mr Rich-Phillips had commented on the fact that this legislation really updated a bill that was before the house not so long ago. She suggested that circumstances have changed. In the context of the comments that Mr Rich-Phillips made, very little has changed. Indeed the circumstances which he drew attention to in the debate last night have not changed at all.

It is interesting to note that at a number of sporting events I have attended in the last 12 months — probably even over a slightly longer period — there has been testing of a lot of the security aspects of Commonwealth Games procedures — for instance, at netball games, cricket matches and so forth, bag inspection operations have been undertaken. The procedures are being tested so that people who are regular sports fans also become familiar with them and do not feel intimidated by them or set upon by officials who ask for the opportunity to inspect bags in the interests of everybody's safety and comfort at those sporting events.

Where I have seen those procedures implemented they have been very effective. I have not noticed anybody taking umbrage about them. People have recognised the importance of these events being controlled in a way that allows everybody to simply enjoy the event for what it is. People in some cases are willing to concede some of their privacy, as it were, in terms of having their bags inspected with the assurance that it is happening to everybody and it means the event they are watching will proceed without any interruption, or indeed the sorts of activity referred to by Mrs Buckingham in terms of fights and violence at certain sporting events.

This bill, as has been indicated, extends the provisions for control of crowds at the Bob Jane Stadium. That stadium is an icon stadium in the sport of soccer, which has not been without its critics over an extended period because of violence associated with that sport. Soccer in Australia, as around the world, has tended to be a tribal sport with different groups of people supporting their teams vigorously, and there have been some unsavoury incidents that have occurred around the sport.

It is interesting that the bill is being debated today, when tonight Australia will play Uruguay in a major sporting fixture that hopefully will see Australia go to the World Cup finals for the first time in some 30 years, which would be a tremendous fillip to the sport of soccer — and I place on record not just my best wishes for the team tonight but my admiration of what has

been achieved in the sport over the past 12 months in particular.

The past 12 months has seen the culmination of a lot of work over a much longer period. The establishment of the Hyundai A-League competition and in the context of Victoria the establishment of the Melbourne Victory team has been a significant step forward for soccer in Victoria and Australia. The way Victorians have embraced Melbourne Victory as a state team, not as a tribal team, should be admired. There have been a number of sell-out games in Melbourne and in the games I have attended the crowd behaviour has been exemplary. The support of the team from all sections of the community has been fabulous. It augurs well for the sport going forward.

What we have seen with the Hyundai A-League are the positive aspects of bringing that sport forward. This legislation is an insurance policy in that those people who persist in not supporting the sport in the way we expect them to, who go to some of these sports venues more with an eye to cause trouble than to enjoy the event, are dealt with appropriately so that other people's days are not ruined.

I expect the legislation will be effective in addressing the issues the government has commented on in the minister's second-reading speech and issues that we have touched on previously in 2003 when we dealt with other pieces of legislation, to do with the Commonwealth Games crowd safety management and management of major events — the two existing pieces of legislation that are in place.

Bob Jane Stadium ought to be included in the crowd management issue because a number of people attend the stadium for particular events, and it is appropriate that all our major stadiums are subject to the provisions of the legislation. I note going forward that the minister will have the opportunity to add other venues without bringing those matters before Parliament in the event he believes there is another venue or event that ought to be covered by the provisions of the legislation.

I also note — this matter was referred to by the Honourable Gordon Rich-Phillips — that the legislation will extend powers to authorised officers to search patrons' bags rather than just undertake a visual inspection. It is a more intrusive inspection of bags than we have been used to historically. It is interesting that this has come back to us after such a short time and is of some concern to us that while the provision to inspect is important and obviously those authorised officers can ask for the surrender of materials that are considered dangerous or potentially dangerous, they do not have the power to confiscate those materials.

I note the Honourable Damian Drum mentioned in his contribution that there ought to be some provision at venues for certain items to be lodged for protection. For example, a person may be carrying a pocket knife — the particular implement that the member mentioned — that may have a legitimate use but has nothing to do with the particular event being attended. The knife may be kept in their bag which the person takes to an event, where the authorised officer may ask for it to be surrendered as it represents a potential weapon.

As was pointed out by Mr Drum, it may be better if the venue were able to have a cloaking arrangement where certain items of that nature would be left with the venue management and collected after the event so that a person who is going about their legitimate business is not put to considerable inconvenience, but at the same time and in the interests of everybody, the safety of everybody at the event will be ensured.

I was at the Irish-Australia football match the other week — —

Hon. Bill Forwood — Did you raise your elbow?

Hon. B. N. ATKINSON — It was an interesting and vigorous game. It was very fast and enjoyable but was marred by some high tackles that were not in the spirit of the game. At least there were no Melbourne footballers who undertook those activities!

The game was disrupted to some extent by a number of clothed streakers; probably five or six streakers invaded the field that night, and while they may think it is clever — obviously alcohol encourages them to try for the great heights they may reach in storming onto a playing field — the reality is it disrupts these games; at least one of them invaded the field during the course of play. More importantly, that action was dangerous for a number of people and patrons. That activity needs to be stopped.

People who, because of their drunken or loutish behaviour, engage in forms of behaviour that seek to intimidate other people or just seek to spoil other people's enjoyment of an event must be stopped. That is appropriate. The expectation of everybody who goes to a sports or entertainment event, particularly a family group, is that they will not be confronted by situations where there are missiles, fireworks or projectiles of some description being launched into the crowd or from the crowd at obviously a considerable risk to other patrons, players or people who bring us these events.

This is an appropriate piece of legislation. I have had discussions with a wide range of sports organisations pursuant to my responsibilities for the sport portfolio within the Liberal Party. I have had a number of discussions with the Honourable Gordon Rich-Phillips because of his association with sporting organisations. The provisions in the bill are supported by the sports community and the Liberal Party, subject to the concerns that have been expressed both in the principal speech by Mr Gordon Rich-Phillips and reiterated by me today; the points made by the Honourable Damian Drum in his contribution need to be borne in mind. Hopefully this is the last piece of legislation on this sort of matter concerning the Commonwealth Games.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

RETAIL LEASES (AMENDMENT) BILL

Second reading

Debate resumed from 27 October; motion of Hon. M. R. THOMSON (Minister for Consumer Affairs).

Hon. B. N. ATKINSON (Koonung) — I advise the house that the Liberal Party will not oppose this legislation. But I must say there are a couple of areas of considerable concern associated with the bill before the house that I propose to discuss in my remarks. I also wish to enter into *Hansard* some comments which have been provided by some industry associations in respect of this legislation and which I think are also important.

In respect of a couple of those matters I would hope that the minister might well provide me with some comments at the end of this debate — perhaps as part of the third reading — to provide some assurances on a couple of the matters that I will raise, or subsequently in written advice, because a couple of them warrant some clarification. I will highlight those matters as I go through the legislation so that can be facilitated.

This legislation before the house seeks to amend the Retail Leases Act 2003 in respect of a range of technical and housekeeping matters. It also makes some changes to the Property Law Act with respect to the right of notice of repossession of a premises by a landlord. The bill also abolishes the Small Business Victoria organisation by repealing the Small Business Victoria (Repeal) Act. It is redundant legislation and will be expunged from the books by the provisions of this bill.

From my viewpoint, the main provisions of this bill will clarify that outgoings charged to tenants can be based on estimates rather than actuals. In the past under previous legislation — the legislation passed in 2003 — landlords have been required to apportion outgoings to tenants on the basis of actual figures that they have on their bills. Because invoices do not always come in on the day they are expected, or there is a bit of a delay in the receipt of invoices and so forth, it is sometimes difficult to bring the accounts to an effective position where outgoings can be charged to tenants. This would allow for an appropriate estimate of what the likely cost would be, and obviously the landlord would be expected to make adjustments in the event that there was a variation of the subsequent point.

The legislation also allows a landlord and a tenant to mutually agree to vary time requirements set in the principal act where a market valuation must be obtained to establish rent and for the handover of a signed lease. Both of these matters were issues the opposition commented on at the time the principal legislation was introduced, because a very prescriptive time line was established for certain matters in that legislation, including for both the handover of a signed lease and market valuations. At the time we felt — and certainly the advice of industry associations was — that it was unlikely that some of these transactions or negotiations would be able to be achieved within the time period set by the government. The requirement to get a valuer to come out and inspect premises and to provide a report within the time specified in the legislation was really unrealistic in many cases.

I might point out that this legislation has come before us after the government has consulted an advisory committee and has sought input from a range of stakeholders on retail tenancy legislation. It has accepted their advice on these matters and I am pleased to see that they are now being addressed. By mutual consent some of the time lines can be varied, I think to the benefit of both tenants and certainly landlords and their agents in respect of complying with the provisions of the principal act.

The legislation also extends unconscionable conduct provisions to the negotiating period before a lease is agreed on. This is a very sensible provision because it is far more likely that unconscionable conduct would apply in a negotiating period than in the period when the lease is agreed. In other words, it is far more likely that promises, commitments, incentives or duress will

be applied during the preliminary stages of a lease negotiation to encourage somebody to take up a retail lease — the toing-and-froing stages — than in the more formal process of arriving at an agreed lease period or a lease position. From that point of view the extension of unconscionable conduct provisions in this area is relevant and something to be applauded.

The legislation also establishes in the Property Law Act, with reference to the Retail Leases Act, that a landlord must give at least 14 days notice of his intention to re-enter premises in the event of a breach of the lease. I will come back to this one, because this is one of the areas where concerns have been raised with me. To all intents and purposes, as far as this clause goes the Liberals would support the provision. We believe that it is reasonable if a landlord thinks there has been some sort of a breach of the lease and wishes to re-enter the premises and lock out the tenant, that there be a period of notice so that the tenant has an opportunity to consider their position and either rectify the breach or seek some sort of legal advice on their position, without going through the trauma of being locked out, perhaps without adequate understanding of exactly what the landlord's claims are and what the legal position is.

The legislation also clarifies the determination-making power of the minister in respect of including certain types of premises within the scope of the legislation, and authorising four determinations that have been made to this point. The principal act that we passed in this Parliament previously allowed the minister to make certain determinations in respect of what might constitute a retail premises for the purposes of the coverage of this legislation. In retail that is a fairly important thing, because retail is a very dynamic industry and the formats in which retailers operate can change quite dramatically. From that point of view the sorts of premises they occupy or the way they deliver their retail formats can be quite different. To that extent there is some value in the minister having the opportunity to make determinations.

As I have said, four determinations have been made to this point. This legislation picks up and provides an endorsement or authorisation of those that have been made. I am assured that there was no compelling legal reason to do that — in other words, that none of the previous determinations were under any sort of challenge — but that it was felt appropriate by the advisers to the minister that they might well be picked up at this stage, given that the legislation was to come before the house, and certainly the minister's legal power to make those determinations in future is clarified. In a technical sense, rather than in a policy sense, I must say that I accept the advice of the minister and his advisers that the legislation before the house today is largely technical legislation.

It is not legislation that seeks to implement any significant policy changes; it is by and large administrative in nature and I certainly accept that in the context of this particular clause. The legislation also clarifies that a landlord need only provide one disclosure statement to a tenant, and that would be at the time an agreement for a lease was being entered into.

Some confusion has been caused by the principal act of 2003, and I add that this legislation also seeks to clarify aged provisions in previous legislation, particularly the 1998 act, because what we as members understand is that retail tenancy legislation covers a range of contracts that can be made for an extended period. In other words, quite a number of people were still operating under acts well before 2003 because they were on lease periods that provided for options that might well have taken them forward — for example, for 9, 10 or 15 years — from 1998.

While some provisions of those lease contracts would be varied by the 2003 legislation, many of the aspects of those contracts would stand. Therefore there also needs to be a degree of grandfathering of some of this retail tenancy legislation. That is accepted, and some of the changes this legislation makes to the principal act try to harmonise provisions from previous tenancy legislation — particularly the 1998 act — with the current 2003 act which is in force. Again, that is to be applauded because of the number of detailed things that this legislation has effectively picked up.

The change we are talking about in relation to the disclosure statements covers the situation where there was confusion in the industry as to when the disclosure statements had to be provided and how many times they had to be updated by a landlord. It clarifies the point at which that disclosure statement should be made. I note the provision in this legislation, that if there is a subleasing of the premises, there is a need for the tenant who has undertaken that subleasing to pass on the disclosure statement to the new subtenant. That will ensure there is an informed decision where people will enter a business premises and take responsibility for meeting the obligations under a lease, and that is certainly appropriate.

The legislation also ensures that all security deposits paid by a tenant should be returned to that tenant at the end of a lease as soon as practicable. I do not object to that provision but I find it to be an odd one. One would

`have thought that this was already happening. The minister's advisers tell me that that is not always the case, that they have concerns, and I presume the small business commissioner might well have a concern that some landlords are hanging on to security deposits for an unnecessarily extended period — that they are not returning them promptly. However, this clause says 'just as soon as practicable', so I am not sure how this clause advances us from where we are now with a landlord who wants to be obstinate. As I said, I am not opposed to that provision, but it does not seem to take us terribly far, in my view.

The bill seeks to clarify that the Retail Leases Act does not cover any part of a building used as a residence or a building used predominantly for non-retail purposes. For instance, there might be a factory where goods are being produced but where a small part of that factory is used as a factory outlet. I guess it might also include a canteen that has been tendered out to a private operator, which would provide an interesting example of the type of lease negotiations that would be involved in that sort of a transaction.

At any rate the bill before the house today seeks to clarify that the principal act is very clearly meant to cover retail lease contracts. Determining the premises covered by the legislation will require the test of a predominantly retail use. There will certainly be a test that says if part of the premises are being used for residential purposes or some other non-retail use, then the provisions of this legislation are not to apply.

This has an interesting application in terms of shop-top housing — buildings, particularly in the inner suburbs of Melbourne, where the ground floor is used for retail premises, with residential housing above. Clearly there has been some sort of concern about legal responsibilities and rights regarding those sorts of premises, depending on whether they are strata titles or a single ownership, whether the retail and residential premises are leased to the same person, and so forth. This clause attempts to address this. I will refer to this issue later as well, because one organisation has raised considerable concerns about it.

The legislation also allows the small business commissioner to use the information he collates in the lease register — which was established in the 2003 legislation — for purposes consistent with his role. For instance, he will now be allowed to provide more educational materials to tenants. At the moment under the 2003 legislation we have the extraordinary situation where the small business commissioner is able to collect information on leases but is not allowed to do anything with that information. The information just sits there because the commissioner has no authorisation to use it in any way at all.

This legislation allows him to use it, the government would obviously suggest, for the greater good. He would be able to use it for purposes consistent with his role. As I said, this would be particularly in the context of the dissemination of information on the rights and responsibilities that a tenant or a landlord has under this or other legislation that would affect retail tenancies. That is appropriate. If the information is to be collected, then we need to be mindful of what it can be used for and make sure it is there. This provision concerns section 25 of the principal act and is contained in clause 16 of the bill. The one concern I have about it, and about the lease register itself, is the currency of the information.

One of the issues I will ask the minister to make some remarks on and perhaps provide an assurance to me on at the end of the debate is what will happen to assignments of leases. It seems to be rather odd that the lease register records the details of a lease, but in fact that lease might well be assigned to someone else not recorded in those details and, as I understand it, the small business commissioner would not necessarily have the details of that assignment. It is also my understanding that there is no requirement for anybody to lodge details of the assignment of a lease. If we are to have a lease register, it needs to be kept up to date. The government needs to look at how the register can function effectively in the context of having those assignments registered and, indeed, perhaps even having information on when leases are renewed, because I am not sure that this process is as straightforward as one would expect.

The legislation before the house also seeks to limit claims that may be made under the 1998 act by a tenant who has not been provided with a disclosure statement and who seeks to make claims against a landlord for what is effectively in most instances a technical default under the 1998 act. I will refer to this matter a little later, but this is the one clause that gives me considerable concern. The remainder of the legislation really looks to harmonise provisions between particularly the 1998 act and the 2003 act.

I have spoken to a number of organisations about this legislation. The most helpful of those organisations, I would have to say, were the Property Council of Australia, Victorian division, or the shopping centres association, the Australian Liquor Stores Association and an organisation called the Property Owners Association of Victoria.

I place on the record my disappointment that the Australian Retailers Association Victoria was unable to provide any comment on this legislation. Very obviously this legislation affects its members, but this organisation has been in a state of upheaval for some 12 months or more. It is unfortunate that its internal activities and concerns have caused it to take its eye off the ball on some quite important issues for its members. As I stand in this debate today I can only assume that the fact that the retailers association has not put in a formal submission means it does not have any major concerns about the provisions of this legislation and is generally supportive of it. I am certainly aware that it was involved in the advisory group the minister established to comment on the legislation, but it is most unfortunate that the organisation has been unable to lodge any sort of submission or comments with me on its position. I know there are some people within that organisation who are very concerned that is the case.

I comment at this point in my analysis of the legislation that by and large we have taken significant steps forward in retail tenancy legislation in Australia in the last four or five years. I guess particularly in the last two years or so the retailers and the landlords have suggested that there have been some fairly major steps forward in harmonising lease legislation between three of the major states — that is, Victoria, New South Wales and Queensland. That is particularly important because many organisations, both on the landlord side and the retailer side, operate in more than one state.

There are quite a number of national operators, or certainly operators who operate in more than one state. It is important for them to have as much consistency as possible in legislation of this nature because every difference adds layers of costs and complexity they simply cannot afford. I am pleased to see a trend towards greater harmonisation. I think we need to go further. I hope we will go further in the future in achieving greater harmonisation between the various states, but certainly there has been an improvement. I know that a lot of this harmonisation started with the Victorian Retail Leases Act 2003, in which the government adopted a number of key provisions that had previously been taken up by New South Wales.

The drafting is not always identical, which can lead to inconsistencies and problems for people using the legislation. I refer to the following areas of the principal act: assignment, section 61; relocation, section 55; demolition, section 56; prohibition on early terminations, section 73; refurbishment, section 58; and compensation for disturbance, section 54. All of these have continued to be areas where there are different interpretations possible between state laws, and I think we need to address those matters.

We have seen some significant changes in Queensland. In fact it is interesting to note that both New South Wales and Queensland are currently involved in changes to their legislation as well, which is going further in terms of harmonisation. I might add that against that harmonisation objective we have also had the Victorian government deliberately going in the opposite direction to New South Wales in areas like land tax recovery, the abolition of the 1000-square metre rule, the capping of management fees and the draw-down of unconscionable conduct provisions.

New South Wales has recently made legislative changes in areas such as misleading and deceptive conduct provisions, and the regulation of security bonds, including the establishment of a body much like our Residential Tenancies Bond Authority, so that the money paid by tenants is fully paid to an agency rather than being held in trust by landlords. Despite a general trend towards harmonisation, which is welcome, each of the state governments still looks at adding its own subtle nuances to the retail lease legislation. In every case that adds extra costs and complexity for quite a number of people in industry and business, and it is something that governments should be trying to avoid. I might point out just for the record that the key differences still remain in this lease legislation. They are areas like disclosure statements. The states cannot agree on a common disclosure statement. I note that the Shopping Centre Council of Australia and the Australian Retailers Association are trying to tackle that as an independent exercise.

Even the definition of ‘shopping centres’ is different. In New South Wales and Queensland the definition will now be identical under the legislative changes those states are making, but Victoria has a different definition. The definition of ‘retail premises’ is different, with Victoria still regulating some office tenancies that are not regulated in New South Wales and Queensland. Regulated leases provide another area of difference, where Victoria excludes premises where total occupancy costs exceed $1 million and excludes public companies. New South Wales on the other hand excludes tenancies in excess of 1000 square metres but includes public companies, unless the tenancies are for an area of more than 1000 square metres. Queensland only excludes tenancies with more than 1000 square metres if they are a public company.

There is a combination of rent review systems, with New South Wales and Queensland permitting them and Victoria not permitting them. There are minimum

terms, with New South Wales and Victoria having five-year minimums and Queensland having no minimum. Incidentally, at the insistence of the retailer associations there are those who believe minimum terms actually disadvantage tenants. On land tax recovery, Victoria and Queensland do not permit it whereas New South Wales does. On management fees, Victoria has a cap on them but New South Wales and Queensland do not. On unconscionable conduct, Victoria has insisted on adding three new provisions, putting it out of line with New South Wales and Queensland. That is quite a list of differences between the legislation in each of the states. We need to be looking at those differences and determining what impact that is having on businesses.

I raise a concern that was brought to me during the consultation I undertook on this legislation by the Liquor Stores Association of Victoria. Its major concern is in regard to section 52 of the principal act. The provision is in clause 25 of the bill before the house today, and it relates to repairs to premises. The liquor stores association suggests that the repairs to premises should be carried out by the landlord to ensure the building is safe, free from hazards such as flooding, leakages, wiring and lock-up, and that they should be in an operable condition. It says the landlord should be responsible for maintaining the fittings and fixtures, plant and other equipment and for ensuring there is sufficient water pressure, power et cetera to the shop consistent with section 107, and that the tenant should be responsible for all matters around damage caused by it. In other words, the liquor stores association argues that the landlord ought to be providing premises that are in a fit state for their purpose.

What we have in the bill before the house today is that if there is an issue with regard to maintenance or necessary repairs, there is basically a reinstatement process to what it was before rather than necessarily what it ought to be, given that in many cases there have been changes in the circumstances. For instance, occupational health and safety legislation, fire regulations and building regulations can all dictate perhaps a more advanced form of remedy to defects in a premises.

Under the clause in this legislation I am not sure that a landlord has an obligation to meet those standards. There is a discrepancy. A legal argument is created by this clause and I think the liquor stores association is right in the comment it makes. I believe that under the clause that has been introduced and the way it will operate in future most landlords will be looking at a condition report when a lease is entered into for premises. As members are probably aware, there is already a condition report for most residential tenancies. The situation is it is likely under the provision here, and particularly because of some of the vagaries of this clause, as I have just alluded and to which the liquor stores association has alerted the Parliament, that in future landlords will need to look at implementing condition reports on their properties. That will be an additional administrative burden but it is almost certainly going to be something lawyers will recommend to them to protect their interests.

One of the areas I would like the Minister for Aged Care, who is at the table, to advise the house on in his comments at the conclusion of this debate is the meaning of the term ‘retail premises’. It has been raised with my by the Property Owners Association of Victoria that in this bill ‘retail premises’ means premises not including any area intended for use as a residence. I have discussed that with the Parliament today. The property owners association suggests that this would appear to put its members in the invidious position of having to install extra metered facilities, new mains water, gas, power, driveways and possibly other future changes for fireproofing, sprinklers, hard-wired smoke detectors et cetera because of the delineation in the premises.

That would result in extra rate notices, extra legal fees, extra water bills and other legal or administrative requirements being visited upon property owners for the separate uses within a particular building. In other words, creating a retail premises which is part of a residential premises might well expose property owners to a considerable administrative burden and to additional costs in regard to the treatment of utilities, rates, taxes and so forth. The property owners are also concerned that what might happen is that a tenant could use two separate consumer protection devices to stop paying rent and forestall eviction and might well be able to play one off against the other because of the vagaries surrounding what is a retail premises. I wonder if the minister might give some assurances on how that will operate going forward.

The principal thing about this legislation that concerns me and which I would like to touch on now is the provision that would address the issue arising from the 1998 act in regard to claims against a landlord where a disclosure statement has not been made to a tenant and the tenant therefore attempts to effectively repudiate the lease to the extent that they make claims for all of the rent paid and perhaps other costs over the period that lease has been in force and the disclosure statement has not been provided. A provision was put into the 1998 legislation to require a landlord to provide a disclosure statement to tenants. In the event that that disclosure

statement was not provided, the lease was not seen to be a legal instrument.

Most landlords have obviously been aware of this obligation and have gone about providing the necessary disclosure statements. However, one tenant was particularly clever. This was a business called Dog Depot in Surrey Hills in Melbourne's eastern suburbs. Dog Depot enjoyed the lease it held over premises at Surrey Hills. It had not had any arguments with the landlord over its occupation of those premises. Its businesses had traded successfully. There were no issues in regard to the landlord-tenant relationship. In other words, this business had suffered no detriment as a result of its occupation of these premises in Surrey Hills. However, Dog Depot claimed and won in the Supreme Court the return of all of the payments it had made to the landlord company for the premises in Surrey Hills on the basis of what is effectively a technicality — that is, that the landlord, or his agent in that case, had not provided Dog Depot with a disclosure statement. To all intents and purposes it did not affect the conduct of the business, it did not create any detriment to the business. However, because that statement had not been provided, the tenant made this claim.

Everybody I have spoken to argues that this claim was not a fair one, that it is a technical breach of the legislation. It is true that we as legislators expect people to comply with the legislation but in these circumstances I believe we as legislators put those clauses in because we wanted to ensure that people did not suffer detriment in that relationship between a landlord and a tenant. What has happened here is somebody has simply been very clever. Somebody has exploited that provision to enjoy a situation where they had free tenancy over the life of their lease in Surrey Hills.

The minister and his advisers have agreed that this is an untenable position and that it ought not be exploited by other tenants. I agree with that. The point of difference is that the government believes it should say that tenants will not be able to make claims similar to those made by Dog Depot from 1 May 2006. In other words, the government wants to close what it has identified as a loophole in this legislation but it does not want to close it until 1 May 2006. I am concerned about the publicity associated with the Dog Depot case.

As members would be aware, lawyers tend to subscribe to information briefs and research reports which report on particular cases and precedents that arise from time to time in the course of law. A great many people out there would be aware of the Dog Depot case, and it is quite possible that there are some tenants out there — none of us know how many; it might be 10, it might be 100, it might be 1000, but it would need to be somebody operating under the 1998 act — who could lodge similar claims to that of Dog Depot. These are tenants who have not suffered any detriment in the course of conducting their businesses or as a result of the leases into which they entered but who seek to simply exploit this technical position in the legislation, particularly now in the knowledge that the argument has succeeded at the Supreme Court. There could well be a number of frivolous cases brought before the courts.

I believe the government ought to have acted far more decisively on this matter and that it should have closed the loophole immediately. If it felt that it might infringe unfairly on some legitimate legal rights of somebody who had occupied premises under the previous legislation and had not received a disclosure statement and had suffered detriment as a result, there ought to have been an apparatus within this legislation for that person's position to be addressed. In other words, rather than leaving the lolly jar for those people who might be unscrupulous, the equation will be turned around so that the loophole is closed.

However, if somebody presents and can show detriment and that they were disadvantaged by the non-provision of a disclosure statement, then they will have a right to appeal to the Supreme Court by leave granted by the minister or through some other remedy like the involvement of the small business commissioner or the involvement of a requirement that the Supreme Court in the consideration of any future matters brought before it would need to look at detriment as a key component of any claim that was made rather than as simply a technical breach. Closing this loophole from May next year is an inadequate response to the problem, and I wish the government had come to this house with a better proposition in regard to that issue.

I return briefly to the changes to the Property Law Act and to the matters related to the re-entry of premises by a landlord. The legislation before the house today requires a landlord to provide 14 days notice if he intends to re-enter a premises in the event that he believes a tenant has breached a lease agreement. As I indicated earlier, I think that is fair and reasonable. What is not provided for, however, in this legislation or in the amendments that are made to the Property Law Act as part of achieving this result, is where there are rental arrears. In the case of a tenant not having made rental payments, there is no requirement for the landlord to give this 14 days notice. This notice applies

to all sorts of other breaches of the lease but not where there is rent in arrears.

The discussions that I have had with a range of parties suggest that my view, and that of the Liberal Party, is that the 14 days notice ought to apply in all circumstances where there is an intention to re-enter the premises and should have been what this legislation sought to establish. If there is a rental problem, the landlord should still be required to provide the 14 days notice.

I am aware for instance, of Bob Heller's problem. He is a retailer who operated in a shopping centre in Ivanhoe and has had a particularly long and protracted battle with a landlord company over a dispute that arose from his occupation of shop premises some time ago. This is quite a celebrated case and it is about to be further distinguished because, as I understand it, it is off to the High Court shortly. Mr Heller has been attempting to encourage the Victorian government to join him in his High Court challenge to some of the legal matters that are outstanding in his case. I understand the Victorian government is not enthusiastic about joining in that fight, although I note that the small business commissioner has power under his legislation to pursue legal matters on behalf of individuals or businesses in the event that they establish legal precedents and seek to confirm legislation that is acting in the interests of and regulating business activities. There is possibly an opportunity for the small business commissioner's office to be considering the merits of the Heller case in terms of his appeal to the High Court against Apriaden Pty Ltd, the landlord company in the first instance.

Mr Heller is particularly aggrieved that the changes to this legislation today only go part way in addressing some of the issues that he has been talking about for nearly 10 years. He points out that where a tenant is in dispute with a landlord and seeks to withhold funds, or where other tenants have a dispute with a landlord and seek to withhold funds as part of their negotiation of that dispute, that under this legislation the landlord can take pre-emptive action and lock them out of the premises, after which they then have a very difficult process to go through. It is pointed out that their opportunities for relief require them to go to court and establish their legal position, and to pursue a claim against the landlord, whereas in fact the landlord is in quite a strong position because there is no requirement at this point on the payment of rent or for a notification of any intention to re-enter premises.

I would agree with Mr Heller and other organisations that have put to me the case that that period of notice really ought to have applied irrespective of the breach. The non-payment of rent is as much a breach of a lease as any other area that the landlord might have sought to exercise his rights of re-entry, and it is important that this legislation and the Property Law Act, which is to be amended by this bill, ought to have been consistent.

In closing, I note the repeal of the redundant legislation for the Small Business Victoria (Repeal) Act, and I lament the fact that this government has lost a focus on small business. Small Business Victoria is only a name and it probably does not matter too much in the scheme of things, but it is my observation and in the way I have gone about my work in the small business shadow portfolio to observe that most of the small business activity of this government is consumed in a much larger department which has very little focus on small business as such. Indeed, when I have asked the Minister for Small Business a range of questions on government programs, grant programs and so forth, I have consistently been told that the Minister for Small Business is not actually responsible for those programs, they are usually the programs of the Treasurer.

Small business certainly needs advocates in government; small business certainly needs some friends at court. Whilst there is some value in small business being part of a larger organisation in terms of some of the benefits that might accrue from a more streamlined approach to grant funding and to support programs, the reality is that under this government some of that small business focus has been lost. Obviously the repeal of this redundant legislation is not a direct link to what I see as that shift in focus but it perhaps just serves as a timely reminder to me and maybe ought to be a little marker for government on the importance of small business.

Every member in this house recognises and admires small business people for what they achieve. It is important that government is always responsive to their needs and I am sorry to see a bit of a trend that I have observed where the government is perhaps very good on the rhetoric but not always delivering on some of the practicalities.

As I indicated at the outset of this debate, the Liberal Party will not oppose the legislation but we certainly believe that the government should think very carefully about a number of matters, particularly the one about landlord re-entry and the Dog Depot case which I think is an absolute mess.

Hon. D. K. DRUM (North Western) — The Nationals will also be taking a stance on the Retail Leases (Amendment) Bill, but we will not be opposing

it. We would like to point out a few of the issues that are evident from the changes made by it.

We understand that this bill will be making a number of changes to the Retail Leases Act 2003, it is said to streamline the operations of retail landlords and tenants and to clarify its applications in those lease arrangements. Hopefully this bill will ensure a greater fairness and greater balance — which is the word we have been looking for and which comes through in the second-reading speech. It also comes through in the discussions we have had with the various industry sector groups that it is hoped this bill will strike a better balance than is currently the case. If that is achieved, then it has been well and truly worthwhile.

The bill repeals the redundant Small Business Victoria (Repeal) Act 1996. As Mr Atkinson pointed out, one of the aspects of this bill is that it will make a number of changes to the Retail Leases Act and will clarify the outgoings charge to tenants based on estimates rather than on actuals. Hopefully this will create fairer leasing arrangement than currently is the case. That will be well received by future tenants.

The bill states that the landlord only has to make one disclosure statement to the tenant, and it is envisaged this will be done at or about the time the agreement is entered into in the first instance. It also clarifies that the Retail Leases Act does not cover any part of the building to be used as a residence or maybe a workshop. Any building or part of a building that is used for any purpose other than for retail will not be covered under this legislation.

Mr Atkinson spent considerable time talking about the Dog Depot court case and pointed out that it was a situation of opportunism more than genuine detriment that caused that retailer any hardship. It was simply able to use its knowledge of the existing act to lodge a claim that was a legal and technical breach, and from its point of view it had the required effect of having its rental payments returned to it. I understand from previous discussions in this place that maybe the courts have not heard the last of this case. I hope Mr Viney is going to shed some light on that and on why the government has left the inaction caused by that aspect of the bill whilst closing this loophole until 1 May 2006, and I hope the government's lead speaker will be able to point out why it is going to leave that for the next six or so months.

The Nationals have consulted widely on the bill. We are also aware that the advisory committee, which was put in place to discuss these leasing arrangements, has been meeting for the last couple of years and that most of its recommendations have been accepted in this bill. The Shopping Centre Council of Australia has been meeting with the Property Council of Australia, and the Law Institute of Victoria has also been involved in some discussions. We believe there has been appropriate consultation within all industry sectors to come up with the model we have before us.

As I said earlier, we believe this bill has the support of the retail industry and that it achieves greater balance in the lessor-lessee relationship between landlords and tenants. Looking at how it achieves that balance, we believe it will create greater security for retailers by altering the right of a landlord to repossess a premises when there is a dispute between a landlord and a tenant. A 14-day period will be put in place during which a landlord will first have to advise the tenant that in his opinion there has been a breach. In a practical sense we can envisage how this would be played out. There would be two aspects. Firstly, it would give a tenant the opportunity to correct what may possibly be just a temporary or inadvertent breach of an agreement. A breach could be remedied in the first place so that, in effect, the issue would go away. Secondly, if a dispute were expected to be ongoing, then it would be an opportunity to introduce the small business commissioner to the dispute.

As we know, the small business commissioner has been involved in some disputes in the last couple of years. Since his appointment some 1400 disputes have been handled by the Office of the Small Business Commissioner, and a large proportion of them — some 1200 — have been resolved through mediation. That is certainly a huge development on the old system, under which the vast majority of disputes ended up in the Victorian Civil and Administrative Tribunal. There have been some positive responses from the Office of the Small Business Commissioner, and we think we need to encourage and reaffirm our support for businesses having the opportunity to mediate with their landlords rather than simply end up before a panel hearing.

The Nationals are extremely vocal when it comes to supporting small business. Of the more than 1.2 million small businesses operating throughout Australia, a very large proportion of them operate in Victoria. We believe they are the engine room of our economy and the area in which we can make a genuine difference at state level. We in The Nationals talk extensively to many of our constituents in this sector, and we believe that if we are truly interested in and truly care about how we can give them greater confidence to employ people, take risks, invest in capital infrastructure within their businesses and take those next steps to grow their businesses, then we really need to look at some of the

things those businesses are putting back to us. They are saying that there is too much regulation to comply with and that too many applications for licences need to be filled out. We need to be very aware of those issues.

The Nationals understand that all of those things are necessary to some degree, but this is where it is possible that we have strong differences with the government. We believe our small business sector is being strangled at the moment. It is being weighed down with too much regulation, too much compliance and too much adherence to a whole regime of licensing. We need to look at ways in which we can assist our small businesses to operate in a manner that will enable them to grow with confidence. We need to get very serious about looking at ways to cut red tape.

However, The Nationals are happy that this bill strikes a better balance than what is currently the case. It still gives landlords the strength and teeth they need to evict tenants who do not fulfil their end of a bargain, but it gives a little bit more security and greater comfort to those people who have taken the risk and made a leap of faith by starting their own businesses by leasing a retail shopfront. They are going to be in a position of having greater security for one aspect of their business — that is, the lease agreement they have struck with their landlords. We believe the achievement of that greater balance is why The Nationals very strongly do not oppose this legislation.

Mr VINEY (Chelsea) — I rise to support the legislation before the house. I am pleased to support it, and I do not intend to go through the details of the bill as other speakers have done in this debate because it is extensively laid out in the second-reading speech, but I do want to put some context around this legislation. The legislation before us makes some refinements to the legislation put in place by this government in 2003. It is important to recognise that the basis upon which the government's approach to small business, and the retail sector in particular within that segment of small business, is to create a competitive and fair environment for the operation of small business, and in this context the retail sector. That has been the underlying principle and basis upon which the government has approached these matters.

As a secondary element quite a deal of attention — to pick up on some of the issues raised by Mr Drum in his contribution — has been given to the fact that it is not the desire of this government to in any way increase the burden on business in relation to red tape and bureaucracy. In fact in the context of our approach to this legislation we have also sought to ensure that we minimise recourse to the expensive and time-consuming formal legal system of the courts to resolve disputes. In fact this government put in place the Office of the Small Business Commissioner to minimise and reduce the requirement for disputes to be resolved through the legal system. As I understand the legislation, there is a requirement if there is a dispute that parties have an opportunity to go to the Victorian Civil and Administrative Tribunal. However, if they went to VCAT without having first had the matter resolved by the small business commissioner, then they are put at risk of having costs awarded against them.

To pick up on Mr Drum's comments, the process of this government has been very much about minimising the impact of red tape and the use of the legal system in particular for the resolution of disputes, and in that context to always pay attention to the fact that we want small business to be able to operate in a competitive and fair environment in this state.

In particular I want to take this opportunity to make a couple of very brief comments about the Office of the Small Business Commissioner. It is almost two-and-a-half years since the Office of the Small Business Commissioner was established. It is interesting that in its first year of operation the office was involved in dispute-resolution matters worth approximately $30 million. In its second year of operation this increased to dispute-resolution matters worth $50 million, which means that in those first two years $80 million of disputes were resolved by mediation through the Office of the Small Business Commissioner.

It has been an extremely successful initiative of the Bracks Labor government to put this in place with the intention of reducing the requirements for resolution of disputes in the legal system and with the intention of making and creating a competitive and fairer environment.

I was going to keep my contribution to under 5 minutes; however, I have been asked to respond to a couple of matters raised by Mr Atkinson in his contribution. He raised the question of the register of lease details with the Office of the Small Business Commissioner. The 2003 act requires basic contact details to be lodged with the small business commissioner, unlike New South Wales where the lease does not have to be registered. The government wants to keep the register current and therefore it has included in the bill a requirement to notify the small business commissioner of the renewal of a lease.

I am advised that the working group apparently considered extending the notification requirements to

cover assignments, but it was considered that this was not necessary and would be an unnecessary burden, particularly as the small business commissioner is aware of the premises, therefore in practice the assignee will update details to the small business commissioner.

Mr Atkinson also raised concern about changes to the meaning of 'retail premises' in section 4 of the act, those changes to be implemented by clause 5. The bill simply seeks to clarify the existing provision — that is, that the residential area of a premises which has both a residential area and a retail area does not form part of the retail premises. It does not require separate metering of utilities, but for the purposes of this bill the residential area is not regarded as part of the retail premises in the context of this legislation.

The third matter raised by Mr Atkinson and Mr Drum was in relation to the Dog Depot case that relates to the 1998 legislation, not to the 2003 legislation. The penalty in that 1998 legislation for a landlord not meeting the obligations under that act in relation to some element of, say, a disclosure statement or some other element of that legislation was that the tenant could end the lease, withhold their rental payments or seek reimbursement of those rental payments.

In the 2003 legislation the government put in place that provision was amended so that those penalties would apply 14 days after the advice by the tenant to the landlord that the landlord had failed to meet a particular provision of the bill. What the government put in place in 2003 was to end that opportunity that people had, such as Dog Depot exploited in this case, to get a full back payment of rent. It is probably not accurate to describe the situation under the 1998 legislation as a loophole, because the legislation clearly stated that that was the penalty — or the recompense for the tenant — for a landlord who failed in his obligation to meet certain requirements.

The government made that change in the 2003 legislation for all new leases. However, anyone operating under the previous system would still have recourse to the original means by which that lease operated under the 1998 act. I am advised that on Friday this matter is to go before the Court of Appeal and that it is a complex issue. It is by no means certain that the difficulty we are trying to deal with in this legislation will still be the case after the outcome of that appeal.

Obviously not wanting to make any comment on something that is before the courts I cannot go any further, but I am advised that, irrespective of the outcome of that appeal, the government made a decision that 1 May 2006 is the chosen date, to give everyone in the sector the opportunity to deal with this matter. In fairness that is the law under which people have been operating, and it is to give people an opportunity to consider it and to take whatever legal actions they may have wish to take. That is the advice I can give in that matter.

The only further comment I make in relation to the Dog Depot matter is that, as I understand it, there will be very few such cases that are likely to come forward and therefore it is not likely to be a major problem. However, that is something that the government will need to monitor. That is the advice I can give Mr Atkinson and Mr Drum in relation to the issues they raised about the legislation.

I conclude by saying that this bill is about continuing our commitment to creating a fair and competitive environment for small business — a commitment we are absolutely rock solid about; and I commend the bill to the house.

Ms HADDEN (Ballarat) — I do not oppose and support the Retail Leases (Amendment) Bill, which is an important bill for our economy, especially in rural and regional Victoria, so that small business is assisted in every manner possible by government and through legislation. It is hard enough to earn a living with all the onerous tasks placed on small business with compliance, with bureaucratic red tape and with increases in fees and changes which are increased annually under this government by the consumer price index on 1 July each year. Land tax is a great burden on small business, as is stamp duty and insurance taxes — the list goes on and on.

It is hard work for small businesses proprietors trying to make a living for themselves and their families. Small businesses are an important part of our economy. Approximately 96 per cent of businesses across Victoria are small businesses. They are the drivers of our employment and economy. In their daily operations they show great innovation, entrepreneurial talent and expertise. I describe them as the wheels of our local economies, especially in rural and regional Victoria. They do a great job.

We need to be forever vigilant as a Parliament in streamlining the operation especially of the Retail Leases Act to make it more practical and simpler for small business to operate under that regime. That certainly is the intent of this bill according to the minister's second-reading speech. The bill aims to promote fairness and streamline the practicality and operations of the act, and to promote fairness of

property law in regard to the notice for breach of lease requirements under the Property Law Act 1958.

The bill's main purpose is to make miscellaneous amendments to the Retail Leases Act 2003, the Retail Tenancies Reform Act 1998 and the Retail Tenancies Act 1986, to amend section 146 of the Property Law Act 1958 in relation to a breach of a lease amounting to repudiation, and to repeal the Small Business Victoria (Repeal) Act 1996.

The Retail Leases Act established a framework to regulate and govern the commercial arrangement between landlords and tenants. It has improved the certainty and fairness in relation to retail leasing arrangements. There will always be those who want to try to subvert the intention of the act and get around certain sections of it. Those types of people will always be in small business. In the main, small business operates well and it is important that we have a regime that enables it to do that.

Another feature of the principal act was to improve the process of resolving tenancy disputes by creating a low-cost and efficient alternative dispute resolution mechanism. That was through the Victorian small business commissioner. During the last week I have had the opportunity to recommend to a number of small businesses that they acquaint themselves with the Office of the Small Business Commissioner. I have explained what the commissioner does, and they are very eager to receive an information kit and check the web site, because there are still businesses in Ballarat, Horsham and in the Wimmera and Mallee that are not aware of the small business commissioner and his powers to investigate and mediate disputes between landlords and tenants. It is important that the small business commissioner and his office continue to educate and assist in services to small businesses and provide information and education to those in the regions who are still not aware of its functions.

I have had occasion recently to read the report entitled *Annual Report of the Victorian Small Business Commissioner 2003–04*. The report sets out the number of disputes that the small business commissioner settled for the period of May 2003 to 30 June 2004. Some 527 disputes were referred to the small business commissioner and of those, 420 were taken through to the dispute resolution process before the small business commissioner; 340 of the 527 disputes, or 64.5 per cent, were referred by the tenant; 153, or 29 per cent, were referred by a landlord; and 34, or 6.5 per cent, were referred by another party.

Table 8 on page 24 of the annual report shows that 69 per cent of referred disputes were successfully resolved through the Office of the Small Business Commissioner's pre-mediation activities or at the organised mediation. That is important and I would like to see an extension of the information and education program of the small business commissioner's office, especially to my electorate, because a lot more could be done to assist retail tenancies to iron out difficulties in what is often a complex area of law before they go down the path of legal action.

There are a number of aspects to the bill — for example, a landlord is required to give the tenant a notice of a breach and at least 14-days notice to rectify the breach before the landlord enters the premises. The right of the landlord to re-enter premises in the case of non-payment of rent will remain. While that may be an issue with some parties, I think it is important that the landlord's rights are preserved, but not to the point of being unconscionable. The unconscionable provisions are contained in the principal act.

The bill also addresses what is called the old Retail Tenancies Reform Act 1998 and it will enable tenants covered by the 1998 act to recover rent paid for any period for which they were not provided with a disclosure statement. We have heard about the case of the Dog Depot business at Surrey Hills which is before the courts now. The bill aims to prevent a tenant from obtaining a windfall gain by seeking to recover his rent paid over several years by saying that he was not provided with a disclosure statement. The bill aims to rectify that loophole, but it does not do that until 1 May 2006.

The bill addresses the situation of the non-provision of a disclosure statement to a tenant by limiting claims that may be made in relation to 1998 act leases by providing that claims of this nature may not be made after 1 May 2006. However, as the minister says in his second-reading speech, any court or retail tenancy disputes commenced under part 10 of the current act before then will not be prejudiced.

The issue of retrospectivity was raised by the Scrutiny of Acts and Regulations Committee in *Alert Digest* 12 of 2005. The committee raised its concerns in its report to Parliament pursuant to section 17(a)(1) of the Parliamentary Committees Act 2003. It said the retrospective provisions in the bill trespassed unduly on rights and freedoms. It noted the retrospective operation of the amendments made by the bill to the respective retail tenancies acts and the extract from the minister's second-reading speech. SARC said:

> Considering the complex policy issues involved in amending the current and predecessor acts covering the retail tenancy field the committee will seek further advice from the minister whether any tenant or landlord may be adversely affected by these provisions.
>
> Pending the minister's advice the committee draws attention to the provision.

I have not seen the minister's advice appended to *Alert Digest* 13 of 2005. I listened to Mr Viney's contribution earlier when he said the 1 May 2006 cut-off period was to give small business the lead-in time of six or seven months so it could get its head around the new provision. That is probably fair enough, but I still raise SARC's concerns about retrospective legislation which changes the regime in which businesses operate. We have to be very mindful of retrospectivity because it changes the whole scene and can often cause great hardship to small business.

The bill also contains a number of clauses that aim to improve the operational and practical operation of the act — for example, where a specialist retail valuer has been appointed, a market valuation of the rent within 14 days is required by the act, but the parties can agree to a longer period. Another example of the bill's improvement for retail tenancy is that a copy of the retail premises lease signed by the parties can be provided beyond the 28-day period, provided both parties agree in writing. The other aspect is the definition of retail tenancies, which I think is very important because clause 5 of the bill amends the definition of retail premises in section 4 of the principal act so that it does not include any area intended for use as a residence. That is important in a small business environment.

The bill also ensures that the small business commissioner's register of retail lease details is kept up-to-date by including the date that a lease or renewal was entered into in the notification requirements. That is very important, especially for the Office of the Small Business Commissioner, as people can see that it is operating with transparency and to full capacity. It also enables the small business commissioner to better inform and educate landlords as well as tenants as to their rights and obligations. I think that is a necessary ongoing criterion for the small business commissioner.

While the bill has the retrospective issue, which has been raised by both Mr Atkinson in this place and by the Scrutiny of Acts and Regulations Committee, I think overall the bill will improve the operation of small business in this state; it certainly needs as much assistance as possible. As I have said, small business is the wheel of local economies and needs to be assisted in every way — with less onerous compliance, less bureaucratic red tape and less fees and charges being imposed on it so it can go about its business of making a living and offering a service to the customers. On that note, I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

> That the bill be now read a third time.

I thank members for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

GROUNDWATER (BORDER AGREEMENT) (AMENDMENT) BILL

Second reading

Debate resumed from 27 October; motion of Ms BROAD (Minister for Local Government).

Hon. E. G. STONEY (Central Highlands) — On 14 September the Honourable Richard Dalla-Riva brought in a private member's bill. He also introduced some amendments to tidy up that bill. The house might have forgotten by now, but I have not, that at that time government members were highly critical of and derisory about some of the minor errors that were in the bill. They conveniently forgot that the government has massive resources to create its own bills and that the opposition has virtually none. Ms Romanes, Mr Viney and Ms Darveniza especially were stinging in their criticism of Mr Dalla-Riva at that time, and last night Ms Romanes was at it again. She mentioned Mr Dalla-Riva's bill and said that it was a complete debacle and things along the lines of it having become quite apparent that the bill was riddled with drafting errors and did not achieve the purpose for which it was designed.

I am making this point because at the same hour as Mr Dalla-Riva was being ridiculed for small errors in his bill, in the other place the government was in the process of virtually withdrawing one of its bills — it

was an interstate bill in that it was not only about Victoria but about South Australia as well — because it was unworkable.

'What was the bill?', members may ask. It was the Groundwater (Border Agreement) (Amendment) Bill. That shows how hypocritical the government can be and what lack of knowledge the government has, in that it can criticise one of our people for very minor errors in a private members bill and yet at the same time have one of its bills virtually withdrawn, redrafted and rewritten. It has only recently come back into the Parliament.

I pay tribute to the shadow Minister for Water, the member for Benambra in the other place, and The Nationals, because between them they doggedly pursued the minister and the government as the original bill was riddled with errors. As Mr Plowman pointed out in his contribution to the debate, the original bill simply did not make sense. And he was right. That shows how the Parliament can work because the government, to its credit, saw that the bill did not make sense and withdrew it. It rewrote it, it consulted with South Australia, and it resubmitted it, and on that basis we will be supporting the rewritten bill.

When the bill was resubmitted in the other place on about 25 October the Minister for Water admitted that there were a lot of errors in the original bill. He said:

> … a number of errors were identified in the agreement, which forms part of the bill —

and he went on to acknowledge that the shadow Minister for Water referred to them in his contribution, and that as a result of that work the government decided not to go on with the bill at that time.

As I said, it is a good result. It shows that if a bit of sense prevails in this Parliament the people of Victoria — in this case, the people of Victoria and the people of South Australia — will have a better result. For those of us who really support the workings of Parliament, it is a win for the Parliament of Victoria and a win for democracy.

This bill deals with an interstate agreement between Victoria and South Australia. It deals with a strip of land 20 kilometres wide on both sides of the border and extending the full length of the border. The South Australian-Victorian Border Groundwaters Agreement Review Committee report of 2002–03 contains a couple of paragraphs which explain the area exactly and what we are talking about. The report explains how important the area is and that:

> The Tertiary Limestone Aquifer is the most extensive aquifer in South Australia and is the prime source of water in the South Australian Mallee.

It goes on to say:

> It is the major water supply source for Mount Gambier and is used extensively for high-value horticulture, small seed and viticulture …

The next paragraph talks about Victoria and says:

> In the extreme western area of Victoria there are extensive areas of good quality ground water. The Glenelg River is the only readily available surface water supply in the region. All significant towns are dependent on ground water for their water supply, from Portland … to Kaniva in the Wimmera, to Murrayville in the Sunset Country. Agricultural and pastoral activities likewise are dependent on the tertiary limestone aquifer for ground water.

My colleague and friend Mr Koch will be making a few comments on this bill, and I know that he comes from up that way originally. He has farmed in that area, and I am sure his knowledge of the area is far superior to mine. I look forward to his contribution, even though he assures me it will be only short.

The second-reading speech identifies that the principal agreement entered into between the states in 1985 provided for the coordinated management of ground water resources in the vicinity of the border of South Australia and Victoria. It talks about the agreement providing a framework for good intergovernmental cooperation for long-term strategies to protect the water resource. It says:

> The principal agreement is expressed to operate in both states for a distance of 20 kilometres from the border and extending for its full length … The principal agreement provides that the available ground water resources be shared equitably between the two states.

It goes on to emphasise:

> It applies to all existing and future bores in the designated area, except stock and domestic bores.

So we are basically talking about irrigation, and a very valuable irrigation resource on both sides of the border.

There are concerns from a Victorian perspective that we do not use as much water from the aquifers as South Australia. We still have cases where new projects are stopped due to problems with their sustainability. There are concerns about the salinity incursion into the tertiary limestone aquifer. Dr Phil Macumber, the author of the Tutye report, has done an enormous amount of work on this — —

Hon. B. W. Bishop — He is a good scientist.

Hon. E. G. STONEY — Yes, he is a good scientist. I am sure Mr Bishop knows more about this issue than me. I am looking forward to his contribution.

It is of interest that as of June 2004 the South Australian border zone had an allowable annual volume of 9400 megalitres from the tertiary limestone aquifer, with almost all of that allocated, but in the Victorian border zone the allowable volume is much less — 6720 megalitres, only 71 per cent of that allocated to South Australia. We have about 500 megalitres unallocated. We are very concerned about the sustainability of the aquifer, even though Victoria is using less water. In the north, where the tertiary aquifer is fossil water, which is virtually non-renewable over time, South Australia has allowable annual volumes up to three and a half times greater than the adjacent Victorian zone. We are concerned about that.

Having said that, we accept that South Australia has a greater need for this water. Much of its ground water irrigation takes place in a strip down the border, and it does not have any effective surface water in the area. However, it would be better if the future water use was totally equitable between South Australia and Victoria. We are concerned about the overallocation of resources and, from a parochial point of view, we are concerned that South Australia will have a bigger benefit to its growth than Victoria. Some zones require different management due to geographical factors, but if we look at the table of permissible rates of potentiometric surface lowering — which is a mouthful in itself; I am quite proud of myself for getting it out — we see that some of the numbered zones are managed differently on each side of the border. We argue that if we had equal resource availability on each side we could make sure through potentiometric measurement that the resource was not being mined too quickly.

Dr Macumber, whom I referred to earlier, points out some of the hazards of using ground water for irrigation. He has done a lot of work on this. I quote from the Tutye report:

> Leaney and Herczeg (1999) note that land clearing and the introduction of irrigation, both of which tend to increase recharge, will displace saline soil water into the ground water and increase ground water salinity. However, they also note that in areas where the Bookpurnong formation is present and its vertical hydraulic connectivity is sufficiently high to impede recharge to the regional ground water, it is probable that a perched saline watertable will develop.

There are a lot of big words in there, but they are very important words, because he is saying in this report that a saline watertable will probably develop. I further quote from the report:

> Accelerated recharge as a consequence of irrigation can result in rising water tables, which in turn leads to land salinisation once the highly saline ground water comes within capillary reach of the surface.

Dr Macumber goes on to say this is a common occurrence across the Mallee, even when irrigation is not practised. He says this happens when water tables rise in response to land clearing. I further quote:

> The potential for land salinisation in the future depends upon the depth to the saline watertable beneath the properties and the rate of ground water recharge under the proposed irrigation scheme.

The most pertinent paragraph I could find in the report was the following:

> An additional feature not covered by Leaney and Herczeg (1999) is that as ground water levels fall, there is the threat of drawing into the area more saline ground water, infilling the aquifer around its margins and also present in the overlying and underlying aquifers.

As Mr Bishop pointed out, Dr Macumber is a very good scientist. He has highlighted some real concerns about this area, which we need to watch very carefully. In the wider scheme of things it is only a narrow strip, on each side of the South Australian and Victorian border. We are blessed that this area has water at all, because a great deal of Australia does not have the benefit of such ground water — a great deal of Australia does not have any water at all and in other areas it is saline. We have a responsibility to manage it on a sustainable basis. I hope in the future we use the best science available to ensure that resource remains in perpetuity. There are some very big questions to be answered, and Dr Macumber has highlighted some of them. A lot of work is still going on.

This agreement is very important and sensitive. This bill updates the agreement about this important water source. It appears that most of the difficulties with the bill have been overcome. We have sorted them out. It has come to this place, and the bill now deserves the support of the house.

Hon. B. W. BISHOP (North Western) — It is with pleasure that I rise to speak on behalf of The Nationals on the Groundwater (Border Agreement) (Amendment) Bill. Before I say any more, I concur with my colleague the Honourable Graeme Stoney that it was an excellent idea that the bill was virtually withdrawn, revamped and brought back again. It goes to show that the Parliament does work, and that its overview function was working well in that case.

The purpose of this bill is quite substantial. The basis of it is to amend the 20-year principal agreement between

Victoria and South Australia on the coordinated protection, sharing and sustainable harvesting of ground water resources in the border area. Increased demand and the need for more targeted management require amendments that distinguish between two aquifers and establish subzones, allow separate rules to be set for the different aquifers and subzones and update references to other legislation. As is our normal practice, we in The Nationals have consulted widely on this particular bill.

Again we see it as an important bill in the management of ground water in South Australia and Victoria, but unfortunately we believe the government has missed a great opportunity that was presented to it on a plate that it could have taken advantage of and certainly could have had a better shot at setting the scene in relation to ground water management of that area into the future. Our complaint is that in fact it has missed the opportunity to manage the aquifers as a whole, or in a global sense. Instead of that it has reverted back to the old system of simply managing the aquifers on a 20-kilometre band on either side of the border, so that is a 40-kilometre strip with a border running up the middle.

When we looked at that we thought the opportunity was there, and after some negotiation with the government it left us no choice but to move a reasoned amendment, and I would move the reasoned amendment now. The reasoned amendment is:

> That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until the interstate agreement is amended so that the designated area, and the management thereof, correlates with the boundaries of the aquifers affected, and not just a 40-kilometre-wide zone which encapsulates only sections of the aquifers affected'.

To back up the reasons for the reasoned amendment, the question is obviously why. In our area of the state, particularly in the north-west, the issues are mainly about water. I think if you asked a person in the street from the north-west of Victoria what are the most important issues in this area, they would probably answer 'Water, water and water'.

It is tough enough to manage water when it is above the ground, but it is a lot more difficult when it is below the ground. In fact when I had a look at the second-reading speech a couple of words sprang out at me. The speech talks about the 'coordinated management of ground water resources in the vicinity of the Victorian and South Australian border'. We challenge that because we believe our reasoned amendment would certainly allow for a much better management process than this bill attempts to put into place.

I am not a hydrologist by any means like Dr Macumber, who is a scientist and hydrologist, but we believe even the most uneducated person would see that our reasoned amendment certainly has some practicality about it. If I might draw a pen picture, which is often difficult to do in this place when you are speaking about a relatively complex bill like this, let me talk about the three aquifers which are in question. The first one is the Parilla Sands aquifer. It is relatively shallow and the water in that aquifer is quite salty and therefore it is not used.

The second aquifer, which is the tertiary limestone one, is the main aquifer. That is the one from where the water is pumped for stock and domestic use and irrigation use on both sides of the border. Science has indicated to us that in fact the water in this aquifer is 20 000 years old. It is fossil water. I understand there is some recharge into that particular aquifer, but we also understand it is minimal. Effectively some time ago the decision has been made to mine that aquifer. Everyone has accepted that point and said that is okay, as long as you know the rules and as long as you know where you are going in the future. Now there are some checks and balances in there because each five years a review takes place in relation to the management of the narrow band each side of the border in relation to those aquifers. But there is some concern that in fact the bill will mean that the acceptable lowering of some of the aquifers will be lifted. That is a concern, and I will touch on it later in my contribution.

It is about balance really. We have a thriving irrigation industry on both sides of the border and yet at the same time we must — and it is an absolute must — protect the stock and domestic users of the bores that draw out of the aquifer, because as the Honourable Graeme Stoney said, there is no other water, apart from rainwater. It is interesting to note in respect of bills that are floating around — in fact one will come to this house shortly — that in the past stock and domestic water were quite rightly given the highest priority.

The ACTING PRESIDENT (Mr Smith) — Order! Mr Bishop, you may correct me if I am wrong, but I am of the belief that you have not actually formally moved your reasoned amendment and read it into *Hansard* at this time. I inform you there is a requirement for you to do that; so if that is the case, I ask you to do that now.

Hon. B. W. BISHOP — I have read it, Mr Acting President.

The ACTING PRESIDENT (Mr Smith) — Order! I am not aware that you formally moved it.

Hon. B. W. BISHOP — I said 'I move'. I am happy to do it again.

The ACTING PRESIDENT (Mr Smith) — Order! I think that might be easiest.

Hon. Bill Forwood — Alzheimer's has kicked in with the Clerk!

The ACTING PRESIDENT (Mr Smith) — Order! Both the Clerk and I are not really confident that it has been done properly, so I ask that you do it again.

Hon. Bill Forwood — And let the record show the Clerk stuffed up!

The ACTING PRESIDENT (Mr Smith) — Order! Mr Bishop, to continue with formally moving his reasoned amendment.

Hon. B. W. BISHOP — I will get pretty good at this, I think. I formally move the reasoned amendment standing in my name:

> That all the words after 'That' be omitted with the view of inserting in their place 'this house refuses to read this bill a second time until the interstate agreement is amended so that the designated area, and the management thereof, correlates with the boundaries of the aquifers affected, and not just a 40-kilometre-wide zone which encapsulates only sections of the aquifers affected'.

The ACTING PRESIDENT (Mr Smith) — Order! That is a very good reasoned amendment, and I thank Mr Bishop for his cooperation.

Hon. B. W. BISHOP — I was just practising, Mr Acting President.

The ACTING PRESIDENT (Mr Smith) — Order! For Mr Bishop's information, and for the information of the house, the vote will take place on the reasoned amendment prior to the vote on the bill.

Hon. B. W. BISHOP — That is correct. That was my understanding, Mr Acting President. I would not have moved it just then if that were not the case.

I was speaking about the priority of stock and domestic water and I was saying that in the past stock and domestic water had the highest priority of water use. However, as we understand it, it is the government's intention to lower that priority and that in fact stock and domestic water will be on the same level as the water for the environment. We believe that is not a good move because, as we have said before, stock and domestic water is absolutely crucial to the people in this area. There is no other water there and therefore it is important that stock and domestic use has the highest priority in relation to water use.

Moving on to the third tertiary confined sand aquifer, we do not believe there is any pumping out of this aquifer. There are a couple of reasons for that. Generally there has been enough water in the second aquifer — the limestone one that is normally pumped out of — and it is quite expensive to go down much deeper to get into the bottom aquifer. We understand there are some monitoring bores on that bottom aquifer, the confined sand aquifer. The people we have spoken to have been concerned. They believe this bill provides an opportunity for the pumping out of that aquifer.

During the briefings we had we were advised that the bill always did that but you had to get permission, so there are checks and balances under that process. However, there is substantial local concern about that issue. This is because the water there is under pressure, and if you take water out it reduces the pressure in the aquifers. It may even stop part of the recharge into the aquifer above. That is of great concern to the locals, who take a great interest in this particular issue. As I said, it is all really about balance and how we balance the use of this valuable water in these aquifers.

To the east we have the Danyo Fault. That means that if there is too much draw-down in the limestone aquifer we believe saline water could seep back in. The water to the east of this area is salty. There are test bores along the fault line which provide quite a reasonable monitoring process in relation to that saline water movement. These are huge aquifers, they are right down the border. I believe that part of the balance of these aquifers will change over time. That is why we have that five-year review process in place, which is absolutely necessary. However, there are other things which we believe alter the balance of those aquifers. Mr Koch knows that one of them is the plantation industry. It is now a huge industry in Victoria and South Australia, and there is a view that that impacts on the recharge capacity of these aquifers. I suspect that is true. Some would say that the plantation industry should have a water right and manage its water in that way, but that is a debate for another day.

Part of the principles we are trying to put in place with our reasoned amendment is that we should be managing the whole of the area, not just a narrow strip down along the border. I will try to paint a word picture of what it is now. We have the South Australian-Victorian border. To the north of that we have Renmark and we have Nelson to the south — it is

about 460 kilometres away. There are 11 zones in that strip that runs down the border. For example, the Pinnaroo–Murrayville area is zone 10. In that strip down the border, 20 kilometres to the west in South Australia are what are known as the A zones and over the other side in Victoria are what are known as the B zones. If you look at a map, it looks a bit like a ladder as the zones are picked up as you run down the border.

It is clearly understood that water moves from the Grampians — about 100 kilometres to the east. It is also understood that the water moves north-west into the Murray River. People tell us that the water is very slow when it comes out in the Grampians. The movement of the water may be as slow as 1 metre a year, which I know is slow. That gives you some idea of the need for that five-year review to ensure we keep picking up the changes and make sure the balance is right. Others say that the limestone aquifer empties and moves water into the Coorong, which is an icon wetlands site in South Australia. It was a leading icon site in the debate about the Living Murray and whether in fact the mouth of the Murray was closed or not. I do not want to get into that debate. We are saying, via our reasoned amendment, why not have the whole aquifer managed rather than simply a couple of buckets of water on either side of the border?

It has always been very difficult to assess what is the balance between production and sustainability. It has caused a fair bit of discussion, debate and discontent. Again I say that I am not a hydrologist by any means, but during the last debate in the Tutye area Wimmera Mallee Water, which is now Grampians Wimmera Mallee Water, granted a licence in a particular area. That decision came under a lot of pressure from the locals in that area, led by a lady called Jocelyn Linder. The locals got together and objected, and the whole debate ended up in the Victorian Civil and Administrative Tribunal with the result that licence was not granted.

When my colleague the Honourable Graeme Stoney was talking earlier I mentioned that I have a lot of time for the science and hydrology expertise of Dr Phillip Macumber. During that time Dr Macumber produced a report. I would love to use parts of that report but it is not a public report so I will respect that. However, I have spoken to Phillip Macumber a number of times and I know him quite well. He informed me that the Department of Sustainability and Environment is doing an audit on his report. I think that is a good thing because it shows that there is not enough research and knowledge about the vital resource we are talking about today and there are differing views. Some say, 'Mine it', while others say, 'That is fine but for how long?'. How long do you mine it for? Is it for 2000 years, is it for 500 years? What is the time that resource will stand that sort of usage?

I can remember years and years ago when Pat McNamara was the minister. He put in place the Murrayville ground water supply protection area. The chair of that organisation is a gentleman called Kevin Chaplin. He is a great bloke and he does a good job in a tough job. As usual, in the consulting process we went through I sent a copy of the bill to Kevin and he responded by letter. This will give the house a really good snapshot of the concerns about the sustainability and the production requirements and the need to get the right balance in this area. The letter says:

> Thank you for forwarding on a copy of the amendment for the groundwater (border agreement) bill 2005 and giving me the opportunity to comment.
>
> Having read the proposed amendment there is one area of concern that I have and that is in relation to the possible development of the tertiary confined sand (TCS) aquifer which is currently not used in this area (this area being the Murrayville, Victoria and Pinnaroo, South Australia region — zones 11A-11B and 10A-10B of the border zone).
>
> In the proposal under point 19 in relation to the third schedule I see that all zones from 1A up to and including 8A have had their potentiometric surface lowering levels (or 'mining component') reduced by 0.20-0.25 metres but in the remaining zones 8B through to 11B this level has been increased by 0.4 metres. Now currently as I understand there are no licensed allocations being made available out of the TCS aquifer (South Australian-Victorian Groundwaters Agreement Review Committee, 19th annual report, June 2004) so what is the reason for this increase?
>
> When the Murrayville GSPA (ground water supply protection area) management plan was first implemented it was largely based around the Mallee region ground water model produced by Barnett, SR, and Yan, W. February 2000. In this report it was indicated that the TCS aquifer contributes largely to the recharge of the overlying tertiary limestone aquifer which in turn is extensively allocated and developed (particularly on the South Australian side). This management plan is currently in the process of review and the resulting TAP report has indicated that although the Barnett-Yan ground water model has proven to be an important and useful management tool, it has been underpredicting the effects of irrigation on ground water levels within the Murrayville GSPA. Now my concern is that if possible development is allowed to take place using the TCS aquifer then this will further erode the accuracy and performance of this model and therefore will deem all our previous judgments and decisions in relation to allocation and development of the TLA aquifer inaccurate and could result in possible overallocation of water within the Murrayville GSPA, and may lead to salinity issues as well.
>
> Now I do stress that this is a personal assessment and is by no means a professional one but by the same token, I think I can safely say that my concern would be representative of the local community and they would be very upset to see any new development proceed particularly if it was into a

currently unused water resource, without further investigation in the possible effects on all water systems within this area.

Thanks again for giving me this opportunity to comment and I hope that you will find it of relevance. If you wish to discuss this matter further, please do not hesitate to contact me at any time.

The letter reflects the view of the community in those areas.

The Nationals had a bit of difficulty getting responses to this bill, so we put a couple of articles in the *Sunraysia Daily*, which is a very good regional daily paper. They helped generate some more interest in this initiative by the government. We sent the bill off to the Mallee Catchment Management Authority and they responded very well and very quickly; it was good to catch up with them.

However, the best value from these articles was from a good friend and a man certainly known to some members of this house, Stan Pickering, who was a member of the Sunraysia Rural Water Authority for a fair while; I believe he was on the Mallee CMA as well, doing a lot of work in the water and land management area. He has a tremendous corporate knowledge of all of these issues and probably has a spare shed of papers and reports you can draw on, as have many of our agripoliticians. I can assure anyone if they want some advice in relation to water and land management in that area, Stan Pickering is the person you should go to first. He was able to give me some very good advice on this because he was appointed to that border committee to ensure that equity was put into place.

Whilst I am not a hydrologist I can remember a few years back when we had some really dry years and there was some strong pumping out of the aquifer which caused a cone of depression — the term used, I believe; as it cones out at around 9 or 10 metres but then flattens out when the pumping stops and the water seeps back into the aquifer. I am told that the aquifer itself has different sorts of balancing within it. When it happened and the strong pumping was there during those particularly dry years, the stock and domestic bores ran out of water, and the situation became quite serious.

It was interesting to note — and it is typical of country areas — that there was cooperation between the irrigators and the stock and domestic people. They lowered their pumps into the bores and the operation was subsidised fully or in part by the irrigators, so there was a very good community effort displayed to get over that problem.

As I understand the position, Victoria is fully metered but this is not so in South Australia. I understand that by 2006 they should also be metered but I am not sure whether this will go outside that 20 kilometre strip either side of the border. We do not believe that any cross-border agreement in a very sensitive issue can work properly; we believe that if the government is fair dinkum about this issue it would have accepted our amendment which would see a global management of these aquifers.

The other issue is: who is the umpire in relation to these areas? We would have thought that the Murray-Darling Basin Commission would not have been a bad umpire and if it were able to set the rules in relation to these aquifers — as they do in the Murray-Darling Basin and the Murray River with the states administering their findings — it may well have provided a reasonable balance between that elusive sustainability and production level we are all seeking. If we want equity between the states, it might pay to have a look at having the Murray-Darling Basin Commission the independent umpire in that area.

As I conclude, I want to again paint a picture of what we are suggesting. We have a narrow strip along the South Australian and Victorian border that extends 20 kilometres each side of the river — 40 kilometres in total. I paint a picture of a bucket of water that is full. If you put a ruler across this bucket of water, on one side is South Australia and the other side is Victoria. If you then put a hose in one side of the bucket and you start that hose up, it will empty the bucket — that is, relating that to the aquifer, it will empty the aquifer on both sides of the border. That is what we are talking about in the most practical of terms.

We are saying that we want a global management of the aquifers — the whole lot of them; we are quite concerned about achieving the right balance in there. We do not see from a practical sense how you can achieve that unless the proposal in our reasoned amendment is supported in this house. The bill could go back — it has been back previously, so it is getting used to that — and the government could have a much more visionary look at it to manage the aquifers as a global situation rather than that narrow strip running down either side of the border. I urge the Parliament to support our reasoned amendment for the reasons I have put forward in the most practical way; if it is not supported, The Nationals will not be able to support the bill.

Ms CARBINES (Geelong) — I am very pleased to speak today in support of the Groundwater (Border Agreement) (Amendment) Bill which is about

improving the way we manage our water resources and introduces a smarter, more sophisticated system for managing the ground water we share with South Australia. It builds onto the monumental reform which has taken place under the second term of the Bracks government and the leadership of the Minister for Environment, the Honourable John Thwaites in the other place, to manage the water in our state in a much more sustainable way in an effort to secure our water future for the next 50 years.

Ground water is a very important resource for Victoria, and we have heard some very considered contributions by the Honourables Graeme Stoney and Barry Bishop. I enjoyed their contributions very much, especially the bucket analogy used by Mr Bishop. It certainly was a simple analogy, but I think it worked.

Ground water supports a considerable amount of agricultural activity, and it provides urban supplies to many townships in Victoria. It is an essential supply for domestic and stock uses. It is an important resource that must be managed sustainably and well. The government has brought this bill before the house as a result of recommendations put to both the South Australian and the Victorian governments by the border groundwater review committee. It seeks to amend an agreement that is 20 years old. The agreement was formed in 1985. The agreement was entered into between Victoria and South Australia in relation to the management of ground water for 20 kilometres either side of our common border. The agreement states that the ground water resource should be shared equitably between the two states and sets limits on how much water can be withdrawn from the aquifers in the designated area covered by the agreement.

Ground water is derived from two main aquifer systems: firstly, the tertiary confined sand aquifer; and secondly, the tertiary limestone aquifer. The agreement currently is pretty much centred on the tertiary limestone aquifer, which is a primary source of ground water drawn for existing uses, but due to increasing demand for access to ground water resources there needs to be a series of amendments to the principal agreement to allow for this to occur in a sustainable way.

As I have already said, the bill before us reflects recommendations put to the two governments by the border groundwater review committee. The recommendations are included in the bill before us — that is, to distinguish between the two aquifer systems and to enable subzones to be established for more effective local management, to allow management prescriptions to be set for the different aquifers and subzones within a zone, and to simplify two of the management prescriptions that are currently unclear. It is a fairly straightforward bill, and I know it was subject to amendment in the lower house as a result of concerns raised by the opposition. We thank the opposition for those concerns, and we were pleased to support the amendments it brought before the lower house.

This morning the Honourable Barry Bishop on behalf of The Nationals moved a reasoned amendment basically to defer the bill until the agreement between South Australia and Victoria is amended to include all aquifers in their entirety and not just the ones that are covered by the 40-kilometre designated zone of the current agreement. Mr Bishop had a very simple but useful analogy of the bucket to compare it to the aquifer system which is jointly used by South Australia and Victoria. The government will not be supporting the reasoned amendment before us, but not because we think the consideration of aquifers in their entirety does not have some merit. The Minister for Environment in the other place, Mr Thwaites, has written to Mr Dan Baker, the president of the border groundwater review committee, and I would like to read this letter into *Hansard* so that it is clear to the opposition that the government has taken on board the recommendation of The Nationals and referred it for consideration to the border groundwater review committee.

On 18 October the minister wrote:

> During the course of Groundwater (Border Agreement) (Amendment) Bill debate in the Parliament Victorian Farmers Federation and members of The Nationals proposed that the designated area under the groundwater border agreement should be amended to include all aquifers in their entirety.
>
> I appreciate that there are a number of technical reasons why the current designated area and management arrangements are reasonable, particularly for the unconfined aquifers. However, it would seem appropriate that the issue is considered by the review committee. Accordingly I would be pleased if the review committee would consider the issue as part of its forthcoming five-year review.

It is signed by the Minister for Environment, who is also the Minister for Water. The minister has taken on board the concerns that have been raised by The Nationals and the Victorian Farmers Federation and has asked the border groundwater review committee to consider those concerns as part of its forthcoming five-year review. For that reason the government will not be supporting the reasoned amendment put forward by The Nationals this morning.

The bill before us today is important. It seeks to improve the sustainable management of ground water resources that are shared between Victoria and South Australia. It is important that those resources are

managed sustainably and equitably. I commend the bill to the house and wish it a speedy passage.

Hon. DAVID KOCH (Western) — I thank other members of the house for cutting short some of their contributions to give me 5 minutes. I appreciate their consideration. Importantly we must recognise that historically there has been some concern in relation to the use of aquifers on the South Australian and Victorian borders. As we are all aware, the zoning opportunity came forward some 20 years ago. In 1985 it was signed off by both Victorian and South Australian premiers in recognition of those concerns and in an endeavour to manage this very important resource, giving ample opportunity to producers on both sides of the border that had not necessarily been available previously.

We do appreciate that the water in these aquifers moves from east to west and, as both Mr Bishop and Mr Stoney outlined in their contributions today, there is a great history involved in relation to the use of these underground water supplies along the South Australian-Victorian border. Mr Bishop also mentioned that as we move further north in these zoned areas, especially up in the Murrayville and Pinaroo districts, we appreciate that the resource is far more finite, with less opportunity for recharge than is available to those in the south.

We must recognise that these zones are arbitrary lines and, from the review committee's point of view, I think its recommendation to further manage subzones within those 11 zone areas on both sides of the border certainly is well received by most of the people in those irrigation communities.

Importantly the other thing that has not been noted this morning is that both South Australia and Victoria are now going to come to a position where measurement of water shall be volumetric. In the past South Australia has travelled with irrigation units. I think this legislation certainly brings that to a head and corrects what we all see as inequities in the system. I believe an irrigation unit in South Australia is approximately 6 megalitres of water versus our volumetric usage and method of gauging in Victoria. This is very sensible.

As Mr Bishop indicated, there has been little measurement of water use in South Australia to date, but over the last five years we have a clear indication in Victoria from the point of view of what water is being extracted. The issuing of any bore construction licences over that period of time has been conditional on meters being fitted.

For those who are not aware of the west Wimmera — especially those areas bordered by Neuarpurr, Minimay and Francis — there has been an acceleration in the use of water and its adaptability and management. This has seen what has been predominantly and historically a grazing area turn into a garden of Eden, with the production of small seeds, horticulture and viticulture and the watering of grass. In the last 10 years horticulture has expanded from the heavier country, especially potato production, which has moved into the sandy rises where abundant water has become available. This has allowed producers to have far greater crop yields, with little bruising when they are lifted. This has been a significant advantage not only for that community but for the economies of South Australia and Victoria.

The advent of white clover production in the Minimay-Francis districts has been led by people I believe to be pioneer irrigators, such as John Adams, Charles Koch, Wayne Hawkins and Graton Trainter. This should be especially recognised in the horticultural areas. It has added a lot of value to communities which historically have been regarded as a little desert in Victoria which offered very little opportunity. Now we see that there has been an incredible turnaround in the economies of those districts.

It is terribly important that we get the management schedules right. I think the review committee does a marvellous job. The committee is principally made up of technical experts and a user representative. I believe the committee members are very conscious of the requirements and of their communities in the management of the water that is fortunately available to them. However, it is important that legislation encompasses the ongoing sustainability of these resources.

Before concluding I mention that we on this side of the house certainly will be supporting the reasoned amendment, and we look forward to the vote of the house this afternoon. I certainly hope that the reasoned amendment is supported by both sides of the house, although I do take on board the comments of Ms Carbines about the government's thoughts on that. It is important to get this right, and anything that further offers better management in this region should be given every consideration by this house.

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

Ayes, 23

Argondizzo, Ms	Mikakos, Ms
Broad, Ms	Mitchell, Mr

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

Noes, 19

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

Amendment negatived.

House divided on motion:

Ayes, 37

Argondizzo, Ms
Atkinson, Mr
Bowden, Mr
Brideson, Mr
Broad, Ms
Buckingham, Mrs
Carbines, Ms
Coote, Mrs
Dalla-Riva, Mr
Darveniza, Ms
Davis, Mr D. McL.
Davis, Mr P. R.
Eren, Mr (*Teller*)
Forwood, Mr
Hilton, Mr (*Teller*)
Hirsh, Ms
Jennings, Mr
Koch, Mr
Lenders, Mr
Lovell, Ms
McQuilten, Mr
Madden, Mr
Mikakos, Ms
Mitchell, Mr
Nguyen, Mr
Pullen, Mr
Rich-Phillips, Mr
Romanes, Ms
Scheffer, Mr
Smith, Mr
Somyurek, Mr
Stoney, Mr
Strong, Mr
Theophanous, Mr
Thomson, Ms
Viney, Mr
Vogels, Mr

Noes, 5

Baxter, Mr (*Teller*)
Bishop, Mr
Drum, Mr (*Teller*)
Hadden, Ms
Hall, Mr

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing I thank members for their contributions to the second-reading debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 1.11 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Real estate agents: unlicensed trader

Hon. B. N. ATKINSON (Koonung) — I direct my question to the Minister for Consumer Affairs. The state government has passed a number of legislative measures that regulate the operation of real estate agents and which establish qualifications, training and prudential standards. The government claims these legislative measures and the substantial compliance requirements they introduced were necessary to protect the interests of consumers. I ask: will the minister explain why she has taken no action to stop Peter Mericka, who trades as Real Estate Lawyers, from trading as a real estate agent when his application for a real estate agents licence has been refused by the Business Licensing Authority?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the member for his question. It seems there is a vast display of interest in consumer affairs issues developing on the opposition side given that members on that side could not even bring themselves to say the word ‘consumer’ when they were in government. They did not have a consumer affairs minister, so it is a nice and welcome development.

We take very seriously the regulatory environment that surrounds the sale of property and real estate. We do so because for the vast majority of Victorians it will be the most expensive purchase they make and we want to ensure that the legislation in place ensures to the best extent possible that people who are involved in the selling of property and real estate are keeping proper records and ensuring that moneys are properly stored in trust accounts, and that they understand the importance of the role they undertake and the relationships they need to develop with people who are either purchasing or selling. It is why we have such a legislative regime in place.

When it comes to who is licensed as a real estate agent, the Business Licensing Authority ensures that only people who are fit and proper to hold a licence and who have the appropriate qualifications are licensed. Consumer Affairs Victoria takes very seriously its responsibility of ensuring people meet their commitments under the legislation. As members opposite will know, Consumer Affairs Victoria is undertaking ongoing investigations to ensure people are meeting their requirements as licensed real estate agents and that action is taken against those who are not licensed.

It is not appropriate for me to comment about individuals who may or may not be under investigation by Consumer Affairs Victoria in relation to breaching the legislation, but I can stress that Consumer Affairs Victoria takes the appropriate action and that the Estate Agents Council, at my request, has an ongoing review into the Estate Agents Act and the appropriateness of the requirements in that act for dealing with the sale and purchasing of property. We deal with those issues very seriously.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — What a lot of gobbledygook. My supplementary question goes to the issue of this particular person who applied for and was denied a licence and who the minister apparently knows is continuing to conduct an estate agent practice. He is continuing to sell real estate, yet the minister has done nothing to take out an injunction against him or in any other way prevent him from trading. It is all very well to have laws, but if you do not enforce those laws they are absolutely worthless. Will the minister confirm to the house that any consumers who use the services of Mr Mericka in a real estate transaction do not have recourse to the Victorian Property Fund because he does not hold an estate agents licence under section 79 of the Estate Agents Act?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — In relation to advice that we give all consumers on property transactions, we say that they should deal with licensed real estate agents. We are very clear about the importance of using a licensed real estate agent, because with that comes not only the protection of the law and access to the Estate Agents Act and all within it but it ensures, we would hope, that the person you are dealing with is performing their duties appropriately. Let me say again that it is not for me to comment on investigations that may or may not be taking place. The sale and purchasing of real estate and property are complex, and it is therefore important that any action taken is taken appropriately.

Local government*: Moving Forward*

Hon. H. E. BUCKINGHAM (Koonung) — I direct my question to the Minister for Local Government. Will the minister inform the house what assistance the Bracks government is providing to increase the capacity of local government in provincial Victoria to respond efficiently and effectively to the challenges it faces in moving forward?

Ms BROAD (Minister for Local Government) — I thank the member for her question and her keen interest in local government, given her background before coming into this place.

Moving Forward contains a plan of action to position provincial Victoria to respond to the challenges it faces, including global competition, an ageing population, skills shortages and the ongoing need to rebuild infrastructure. Moving Forward has been developed by the Bracks government in close consultation with councils and the people of provincial Victoria, building on the strong relationships between the government and councils as well as industries and communities in regional Victoria. The plan provides many positive benefits for councils in provincial Victoria and provides many opportunities to meet the challenges they face.

Responding to the many requests from local councils for greater support for strategic planning, the Bracks government will provide $13.5 million for a new provincial planning initiative that will assist local councils to manage growth and plan for the future. This will include support for a variety of activities, including new planning cadetships and a statewide audit of industrial land. Members on the other side of the house will know that planning and access to planning skills is a big issue for regional councils.

An amount of $1.8 million will be made available over five years to create a new small towns program of support. Importantly, this will be delivered through the Municipal Association of Victoria, which is a partner with the state government in delivering this plan. Some $3 million will be made available under the investment partnerships program. That is about creating investment teams to work in partnership with councils, businesses, community organisations and agricultural producers. The government will provide $600 000 over three years to encourage regional businesses and organisations to source and purchase products from within their own local communities — something that councils are very keen to do. Grants of up to $10 000 will be available for local governments and business groups to conduct ‘buy locally’ campaigns — something which has a lot of support.

The Bracks government will work with local governments to help them access expertise that will assist them to procure privately financed infrastructure projects. As well as that, the government is providing $5.2 million to attract young professionals and their families to provincial Victoria, and that will create an awareness of study, employment and lifestyle opportunities, of which there are many. This will feature targeted advertising and marketing activities by local councils and universities, which are also partners in this enterprise.

The government is also providing a further $3.3 million over three years for targeted initiatives to skill up and secure work for disadvantaged job seekers, to make sure that people who are disadvantaged in regional Victoria do not miss out on these very significant opportunities. The government is providing services in partnership with councils, I am pleased to say, while keeping a strong, balanced budget and making Victoria the best place to live and raise a family, especially in provincial Victoria.

Bridges: Echuca–Moama

Hon. W. A. LOVELL (North Eastern) — I direct my question without notice to the Minister for Aboriginal Affairs. The construction of the Echuca–Moama bridge on the western option site has been the subject of disagreement between three of the local indigenous groups to the Echuca–Moama area. The Bangerang and the Moama Land Council believe the bridge can be built whilst still preserving any sites of cultural significance; on the other hand the Yorta Yorta have consistently said 'no' to the western option site.

In September the minister gave me an assurance, both verbally and in writing, that VicRoads would convene a meeting between the Bangerang and the Yorta Yorta to allow productive discussions between the two Victorian groups to establish if a way forward is possible. This meeting has not yet happened, and I ask the minister: when can we expect his instructions to VicRoads to be carried out?

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — In many ways I would like to thank the member for her question, but also her degree of understanding about the sensitivities of these matters. In fact, she has not raised this matter formally in the Parliament, but she has on many occasions raised it with me informally. I appreciate that she is seeking a resolution of these issues on behalf of the constituency in her electorate, and has not tried to provoke that matter but has tried to seek an amicable resolution of what is a disputed interpretation of the cultural heritage significance of the site in question, which was the proposed site for the so-called western alignment of the Echuca–Moama bridge.

The member was correct in indicating a number of things within her question, that indeed this has been subject to a dispute about the significance of the location. It has been the subject of a vexed planning approval process, where indeed at a very late stage in the planning approval process it became absolutely crystal clear to VicRoads, as the proponents of the realignment of the bridge, that the Yorta Yorta nation could, at a time of their choosing, exercise their rights and opportunities under the existing commonwealth Aboriginal heritage legislation, and indeed could invoke a sanction that would not enable the bridge to proceed. On that basis, earlier this year VicRoads made a determination that it would not proceed with that alignment, and my colleague the Minister for Transport in the other place announced that VicRoads was not going to pursue that option.

From that time until now I have tried to work within my responsibility in terms of both trying to seek an amicable resolution of this matter and trying to facilitate productive discussions about the alignment. I have worked in tandem with my colleague the Minister for Transport, as he is ultimately the minister responsible for transport matters and responsible for VicRoads. In terms of going to the heart of the member's question about what direction I can apply to VicRoads, it is not accountable to me, and I am not responsible for it.

However, I reiterate what is at the heart of the member's question and I will use my best endeavours to facilitate those conversations and the appropriate consideration of the way in which this bridge can be dealt with, so that a satisfactory resolution occurs for not only the Aboriginal communities concerned, but the communities of Echuca and Moama and all of those who seek to use the bridge alignment into the future. At all stages I am prepared to facilitate those conversations, but I am not the minister responsible for transport, I am not the minister responsible for VicRoads. Whilst I will use my best endeavours to facilitate those discussions, I do not have the capacity to give a formal direction to VicRoads to meet the objective the member is seeking.

Supplementary question

Hon. W. A. LOVELL (North Eastern) — On Monday three representatives of VicRoads Bendigo regional office met with the Bangerang, and I am told

that they appeared to have agreed with the Bangerang's point of view. However, productive discussions were not possible without the Yorta Yorta's presence. I ask: will the minister use his ministerial powers to ensure a meeting is convened between the Bangerang and the Yorta Yorta to discuss not only the western option site for the bridge, but also a number of other differences that exist between the two groups?

Mr GAVIN JENNINGS (Minister for Aboriginal Affairs) — At the heart of the question is an assumption about the scope of my ministerial powers. In fact, as I indicated in my substantive answer, which I will repeat, what we are talking about here is about me using my best endeavours to facilitate an amicable resolution of these matters and broader matters that may be of concern to the Aboriginal people and the local community in Echuca-Moama.

Very importantly, I want to alert the house to the exposure draft of the new Aboriginal cultural heritage bill that is currently being embarked upon within Victoria. By its very design it is the very instrument by which these matters could or should be determined in the future. By its design, after we hopefully repeal the commonwealth act and bring the act back to Victoria, there will be a process to be able to remedy this situation and a sequence correctly identifying the cultural heritage approvals prior to planning permits being issued — as distinct from what actually occurred in this instance.

Consumer affairs: Colac and Camperdown seminars

Mr SOMYUREK (Eumemmerring) — My question is to the Minister for Consumer Affairs. Can the minister please advise the house about any upcoming education activities that Consumer Affairs Victoria will be holding in and around Colac?

Hon. M. R. THOMSON (Minister for Consumer Affairs) — I thank the honourable member for his question. Given that tomorrow will mark a historic occasion, with the Legislative Council meeting in Colac, it is a very timely question.

The Bracks government is committed to governing for all Victoria, right across the state — for every street, every suburb and every town — and we intend to maintain that commitment.

I have previously advised the house about the new services that Consumer Affairs Victoria (CAV) is delivering in the south-west. At least a few members — including the former Minister for Consumer Affairs, now the Minister for Finance, who brought in the new arrangements, and the member who reviewed the service provisions — will be very interested in hearing how successful and welcome those services are. Monthly inquiries by consumers have risen by 17 per cent in the south-west as a result of CAV developing its presence there. More importantly, the number of complaints has risen by 71 per cent since last year. It is a much-needed service in the south-west.

That is only part of the excellent service provided by CAV. We are endeavouring to deliver an extensive education program right through that region, and we are working with the community to provide that service, whether it be by combining with seniors groups, with councils or with any number of other groups, as well as federal agencies, to ensure that an education program is out there and running.

Over the next couple of weeks we will be working with sporting clubs in the Colac and Camperdown areas to promote the responsible serving of alcohol and an understanding of the legal requirements on these clubs, how they can comply with the law and how they can support the people serving alcohol. This is an important service, because many clubs rely upon volunteers for this. It is important that we explain to them what their responsibilities are.

The Colac seminar will be hosted by the Colac Cricket Club and held in Queens Avenue on Monday, 28 November at 6.30 p.m. The Camperdown seminar will be held at the Killara Centre in Manifold Street on Wednesday, 30 November at 6.30 p.m. We are looking forward to sporting clubs — including the Birregurra Bowls Club, the Colac district darts association, the Alvie Football Netball Club and the Colac Yacht Club — getting actively involved in these seminars. We know they will find them very useful.

It is important that we engage with sporting clubs and give them an opportunity to understand their legal obligations as well as providing some helpful hints about ensuring they are meeting those obligations in ways that keep clubs and members connected as well as keeping everyone safe when they go home after celebrations.

Neighbourhood houses: funding

Hon. P. R. HALL (Gippsland) — My question without notice today is directed at Ms Broad in her capacity as Minister for Local Government with responsibility for neighbourhood houses. I ask the minister: in acknowledgment of the wonderful work performed by Victoria's 360 or so neighbourhood

houses and learning centres, will the government increase coordination program funding from the current average of 17.8 hours of coordination time to a more realistic 35 hours, as recommended by the association of neighbourhood houses and learning centres?

Ms BROAD (Minister for Local Government) — I thank the member for his question. I agree with the Honourable Peter Hall that neighbourhood houses do a great job in many communities right across Victoria, and that is the reason they have received strong support from the Bracks government.

Since the election of the government in 1999 there has been a very substantial increase in funding to neighbourhood houses. On top of that, in line with the *A Fairer Victoria* statement by the government, this year's state budget provides for a further increase in funding to neighbourhood houses. The process of allocating those funds is just commencing, and that will involve not only new neighbourhood houses but also additional resources to existing neighbourhood houses, particularly those in disadvantaged communities; so that funding will be targeted to communities which are suffering from pressures as a result of rapid growth and communities which are particularly disadvantaged for a range of reasons.

I recognise that neighbourhood houses have made a very substantial budget submission, which they have released publicly now, about which I have met with them and which I have discussed with them, and on which they are now campaigning throughout the community. I am sure many members in this place will have received representations about the neighbourhood houses budget submission. That will be considered, along with all of the other submissions that are being made, in the next budget process. As the minister responsible for the coordination program I certainly expect that it will be a priority in my portfolio to be considered along with many others.

I am looking forward to further discussions with the Association of Neighbourhood Houses and Learning Centres around its budget submission and its campaign. There is no doubt that neighbourhood houses do a great job and that if further funds were made available to neighbourhood houses, a great deal more could be done in providing support for community strengthening activities right across Victoria through all of the neighbourhood houses which exist as well as the new ones which will be funded through the Bracks government's A Fairer Victoria policy.

Supplementary question

Hon. P. R. HALL (Gippsland) — By way of a supplementary question, I ask the minister: given the importance of neighbourhood houses and learning centres, confirmed by the minister in her answer to my initial question, why then was there a complete lack of any reference at all to the importance of neighbourhood houses as building community social fabric in the provincial policy released by the government on Monday — no reference at all?

Ms BROAD (Minister for Local Government) — The A Fairer Victoria policy announced by the government just six months ago or thereabouts made very substantial commitments which are being funded through this year's state budget and in the forward estimates. That is where Mr Hall will find increased funding for neighbourhood houses. As I have indicated in relation to its budget submission for further funding, that will be considered in the next budget process.

Commonwealth Games: community participation

Ms MIKAKOS (Jika Jika) — My question is to the Minister for Commonwealth Games. I ask the minister to inform the house of what initiatives the Bracks government has implemented to ensure that every Victorian in every city and every town across Victoria has the chance to be involved in the biggest event that Victoria has ever hosted — that is, the Melbourne 2006 Commonwealth Games.

Hon. Bill Forwood interjected.

Hon. J. M. MADDEN (Minister for Commonwealth Games) — It is great to hear the opposition actually advocating one of our programs and to hear Mr Forwood actually encouraging people. I hope he is encouraging members on his side of the chamber to get involved this Sunday.

It is worth appreciating that the Commonwealth Games will be a landmark event in Victoria's history. More importantly, it will be the single biggest sporting and cultural event we have ever staged. But even more importantly, it is more than just a sporting extravaganza. I encourage all members of the chamber to get involved right across the community and make the most of the success of the Commonwealth Games.

Honourable members interjecting.

The PRESIDENT — Order! Mr Drum will put that book away.

Hon. J. M. MADDEN — While we have a fantastic record for major events and we have magnificent facilities, from the very outset the key benchmark for the success of the Commonwealth Games will be the way in which it is embraced by our community. The enthusiasm and passion for the games will really be our measure of the success of the games.

On next Sunday I hope Mr Hall and Mr Drum will be actively involved in what will be the holding of extraordinary events. For the first time every Victorian in every city and every town right across the state will have a chance to be involved in the Melbourne 2006 Commonwealth Games. This is a chance for every Victorian to take part and assist in building the momentum for the games as we head towards March 2006.

All 79 councils are hosing events at more than 200 locations all over Victoria. The themes are centred on physical activity and celebrating our communities. This reflects the spirit of the games: bringing people together and celebrating as a community. All councils within Victoria have received $10 000 from the government to coordinate activities using the Commonwealth Games as inspiration as well as promoting the Go for Your Life campaign. I encourage members to be involved in the games, to go for their lives and to include themselves whether it be in the local fun runs, the walks, the cycling or the mini Commonwealth Games that are being held right across the community.

One of the great aspects of this is not only the physical activity but also the opportunity to combine the physical activity with the cultural celebrations. Just to give some examples, the City of Yarra will host a community walk-fun run finishing at Dights Falls in a community celebration that will involve traditional Aboriginal festivities like food preparation and face painting. The Shire of Glenelg is focusing on social cohesion by connecting the townships throughout the Glenelg shire to walk the equivalent of the distance to Malawi. All the distances walked will be added together between the townships, which would be the distance that the athletes from Malawi will travel to get to the games.

But importantly, there are a number of celebrations right across the state, with activities maximizing participation. Warming Up for the Games is capitalising on the enthusiasm generated by Victorians for Victoria's largest sporting event and its largest cultural event. It is maximising participation not only in the lead-up to the games but for the longer term to make sure we are linking communities and making the absolute most of the Commonwealth Games.

Health: practitioner legislation

Hon. D. McL. DAVIS (East Yarra) — I direct my question to the Honourable Justin Madden as Minister for Sport and Recreation. I refer the minister to the government's plan to force the Psychologists Registration Board into the cumbersome new structure created by the Health Professions Registration Bill that creates a single act for the regulation of all health professionals, even though many psychologists are not health practitioners. I therefore ask the minister: was he consulted on the impact on sports psychology, and what steps has he taken to ensure the activities of sports psychologists are not adversely impacted through a 50 per cent increase in registration fees?

Mr Viney — On a point of order, President, my understanding of the responsibility for the Psychologists Registration Board is that it fits within the ministerial responsibility of the Minister for Health in the other place, and I do not believe it would be appropriate for the minister to be expected to answer this question.

The PRESIDENT — Order! I have made it quite clear in rulings in the house previously that a minister can only be asked a question within their portfolio. The minister was asked a question about whether he was consulted within his portfolio on a matter in another minister's department. In line with my rulings the question asked by the member is therefore acceptable. I call the Minister for Sport and Recreation to answer the question asked by the Honourable David Davis.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — The member's question is an interesting one. I know he goes to great lengths to try to make his portfolio relevant in this chamber even though the Minister for Health is located in the other chamber. In most instances he draws a very long bow to get a question in this chamber but I welcome the fact that he has finally gotten a question related to health up, even if it is not directly relevant to myself.

Sports psychologists play a very important role. Whether it is on a week-to-week basis with our elite professional sportspeople around the state or during the course of the Commonwealth Games those sports psychologists give that added edge, that added performance. I suggest that going into the next election the opposition might include in its motivation process a sports psychologist to improve its performance. My experience is that a sports psychologist was very beneficial in improving my performance. I understand that Mr Forwood is a tremendous golfer but even he could be assisted with a bit of sports psychology. There

is a tremendous resource available to all of us — applying sports psychology to whatever role we have, whether it be in this chamber, in sport or in any other capacity in life.

While I have not been directly associated with conversations in relation to this matter, I am sure representatives from my department have had conversations in one form or another with other agencies in relation to this matter. I am sure those matters have been discussed in some way. However, can I say that I think sports psychologists do a tremendous job of promoting increased performance. I suggest that it would not hurt the opposition to consult with one from time to time.

Supplementary question

Hon. D. McL. DAVIS (East Yarra) — It is very clear that the Minister for Sport and Recreation knows a lot about sports psychology but very little about the impact of the bill. I think it is remiss of him. He has not been focusing on what is important — that is, protecting what he concedes and we all agree is a very important professional group. I note that the minister said he had not been associated directly with any conversations about this bill and the impact it will have on sports psychology. However, he conceded that there had been departmental conversations of such nature. I therefore ask the minister to come back to the house and provide details of those departmental discussions: what was the nature of them and when were they held?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I refer to my previous answer and recommend opposition members consult a sports psychologist from time to time to improve their performance.

Seniors: age-friendly communities

Hon. S. M. NGUYEN (Melbourne West) — My question is to the Minister for Aged Care. Can the minister advise the house of initiatives undertaken by the Bracks government to create age-friendly communities?

Mr GAVIN JENNINGS (Minister for Aged Care) — I thank Mr Nguyen for his question about age-friendly communities and his concern about the wellbeing of older members of the community. Earlier this year as part of *A Fairer Victoria* the government announced an initiative to try to drive reform and review of the age-friendly nature of local communities. We announced funding of $1.3 million to support local governments in their endeavours to undertake certain projects designed to try to ensure that their neighbourhoods are age friendly, that their service planning addresses the needs of older members of the community and that the way information and services are provided is designed and implemented in an easily accessible fashion.

I am pleased to inform the house that in cooperation with the Municipal Association of Victoria and the Council on the Ageing we have embarked upon a number of projects which will provide a lead to all local governments throughout Victoria about how they can redesign their systems and evaluate their capacity to ensure that older members of their communities are active participants in community life and enjoy the range of services provided within communities.

I would like to draw the attention of the house to seven pilot projects. The first is in Warrnambool where the local government has set up an assessment of the range of access points for older members of the community in relation to information technology. This might consider their comfort in dealing with a range of services such as automatic teller machines, EFTPOS, mobile and fixed telephony, touch screens where they are used in their libraries and the way they make use of online banking. While that range of services has great potential benefits in enabling most members of the community to streamline access to services, they may inhibit the knowledge base, skill level and confidence of older members of the community. That research will be extremely useful to us in trying to drive reforms and information into the future.

The Yarra Ranges community came to some prominence in the media recently because it is a disparate and dispersed community made up a number of small towns and communities along the Yarra Ranges, and they were having some degree of difficulty in coordinating a network of service provision. They are undertaking a mapping exercise about the way older people in Yarra Ranges get access to services. It will be an important exercise in making sure that older members of the community have access to services regardless of where they live in those dispersed communities.

The Maribyrnong, Brimbank and Melton shires are involved in the tangible, hands-on development of a resource kit to provide a hard copy of the availability of service provision in their local communities. It will be provided to their constituents to assist older members of the community to get access to services within that network of services. Yarra is driving a process to try to ensure that members of culturally and linguistically diverse communities get greater access to and make

more of the services of the University of the Third Age. We recognise that we need to broaden this service and ensure that the universities of the third age are respectful of their communities.

Bendigo is establishing a community-based centre which is designed to allow co-location and consolidation of services in a senior citizens environment to try to ensure greater delivery. Casey is looking at pathways for making connections between older members of the community and community-based organisations. In Bass Coast, what price wisdom? Mr Ken Smith, a former member of this place and the current member for Bass in another place, might say the price is far too high.

State Library of Victoria: redevelopment

Hon. PHILIP DAVIS (Gippsland) — I address a question without notice to the Minister for Major Projects. On 7 February this year the minister claimed that the final stage of the State Library of Victoria redevelopment would be completed in 2007. However, the Department of Infrastructure's annual report tabled on 27 October says completion is now planned for 2008. Therefore, I ask: will the minister please advise why he is unable to keep this project on schedule?

Mr LENDERS (Minister for Major Projects) — I welcome the Leader of the Opposition's question. Clearly Ms Asher, the member for Brighton in another place, has been a bit slow in providing him with questions for a while. I welcome another question on major projects.

The State Library of Victoria redevelopment is a great project. I will read with some interest the Department of Infrastructure's annual report to see what was reported in it. However, I can enlighten the Leader of the Opposition and the house by telling them that there are seven stages proposed for the state library. Stage 6 is the penultimate stage and I have gladly and eloquently reported to the house on it. It is currently in progress; Hansen Yuncken Pty Ltd is doing the work for the government. This is the sixth of the seven stages and will bring the project close to fruition. Stage 7 is the final stage of the library redevelopment and is still under consideration by the government.

I am certainly happy to talk about the library at any particular stage to match our record on major projects with that shoddy record of the Kennett government. I find it interesting that the Leader of the Opposition would come into this place and raise a question about the state library, where his esteemed former leader, Jeff Kennett, during his tenure as Premier stuck his grubby fingers into the project again and again. He interfered with the library and the museum and a range of other things.

Honourable members interjecting.

Mr LENDERS — I take up the Deputy Leader of the Opposition's comment. Who was it that moved where the museum was going and stuck his hands again and again into the project? Who interfered with it and caused the cost overruns? The previous Premier could not have a plan for the library and could not resist putting his hands onto it and interfering with it. He disrupted it to the point that it ran over time and over budget.

This government will continue to complete stage 6 of the State Library of Victoria. We have before us proposals for stage 7. It is a great cultural institution and one where people come into the library from across the state. They come not just from central Melbourne, which was my original view when I came into this portfolio, but from the suburbs and from regional Victoria. I say: come use it. It is a great icon. It is refreshed. It is alive. It is alight. It is a pleasure to walk through the reading room — —

Hon. Bill Forwood — Has it got any books?

Mr LENDERS — It has many books. It has computers and is a state-of-the-art facility. It is a great cultural institution and one that we will continue to work on. Stage 6 will be completed, and we will consider stage 7 after that.

Supplementary question

Hon. PHILIP DAVIS (Gippsland) — I thank the minister for his response, but I have to say that I am absolutely confounded by his lack of understanding of his own department, portfolio and the fact that it was his commitment on 7 February of this year to complete this project by the end of 2007. In his response he made it quite clear that he has no idea what is contained in the Department of Infrastructure's annual report, but more critically I would suggest that the minister has made it clear he does not have a clue about the progress of this project. Is it therefore a fact that the minister and the government are unable to deliver major projects on time and on budget?

Mr LENDERS (Minister for Major Projects) — The Leader of the Opposition is absolutely off the beam. This government is delivering $2 billion a year on direct spend infrastructure projects. The Kennett government struggled to do half of that despite its hyperbole. We have great projects. I take up the

challenge of the Leader of the Opposition, who lives in Gippsland. He should just drive down the Hallam bypass and contemplate a project — not on time — and compare it with this government's ahead of time — the Kennett government's not on budget, this government's, under budget.

An honourable member interjected.

Mr LENDERS — This is a great project delivered by the Bracks government and delivered on time for Mr Davis to drive from Melbourne to his home in Gippsland. It is one example of a budget commitment. This government is building infrastructure. We are delivering the heaviest infrastructure load in the history of this state — greater than Bolte, greater than Kennett and greater than at any other time in the history of this state. We are delivering projects to make the state grow, and we are very proud of this. We are making Victoria a better place to live and raise a family.

Housing: *Moving Forward*

Ms ROMANES (Melbourne) — My question is also to the Minister for Major Projects, Mr Lenders. Can the minister please advise the house if the new provincial unit that is to be set up within VicUrban — the government's sustainable urban development agency — will have the capacity to assist provincial councils in facilitating new housing developments?

Mr LENDERS (Minister for Major Projects) — I thank Ms Romanes for her question and her ongoing interest in all things to do with sustainability, VicUrban and its predecessors, Docklands and the Urban and Regional Land Authority. The Premier announced recently a very important document, *Moving Forward*, which is about the revitalisation and regeneration of growth in regional Victoria. It is a great commitment to regional Victoria. Unlike the previous government, which called regional Victoria the toenails of the state, this Bracks government believes that regional Victoria is a great place to live, work and raise a family, and that we can make it a better place to live, work and raise a family.

As part of that and partly arising out of a mayors statement and a request from municipalities for what assistance could be provided between the state and municipalities, this government has had a big package. I refer only to the part that VicUrban is able to assist with, which is helping local councils and communities with some of the issues raised by Ms Romanes. It is not something particularly new, and it comes partly out of the mayors statement. Mayors have looked at cases where VicUrban has already assisted in an informal sense, whether it be at Tower Hill in Swan Hill, which Mr Bishop will know well — a vibrant urban renewal project where VicUrban has been assisting the council and the local community to get a lot of housing in place; whether it be at Shepparton in Ms Lovell's and Mr Baxter's electorate, where again VicUrban has been working with the council, the community and my colleague Ms Broad's department to assist in the revitalisation and growth with skills; or whether it be in Hamilton — and Mr Koch will know this — where the Southern Grampians shire has approached VicUrban for assistance to facilitate this. There is a clear need for the skills that VicUrban can offer in conjunction with local communities to build housing.

This government has a nice problem: unlike during the years of the Kennett government, when regional Victoria was declining and councils were asking what to do to stem the flow of population during that decline, this government is dealing with the problems that councils now have of how to manage growth. In large parts of regional Victoria councils are saying, 'We want the skills, we want to work in partnerships with VicUrban, which brought us Docklands and is bringing us revitalisation of central Dandenong, and which is now putting in resources so that regional councils can draw on those skills to work with local communities to identify potential sites for new commercially viable housing, to provide expert advice and information to councils and to explore mechanisms for deliverability'.

This government is absolutely committed to moving forward, not backwards, in regional Victoria. This government sees regional Victoria as the vibrant heart of the state not the toenails. This government has worked with councils, not against them, and this government is doing all of this to make regional Victoria a better place to live, a better place to raise a family, a better place to work and certainly a place we can all be proud to live in. We are moving forward. It is a great way to go, and I commend the Premier on his initiatives.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 2041–46, 4945, 4951, 5055, 5075, 5332, 5336, 5339, 5340, 5343, 5345–47, 5439, 5540, 5682 and 6480–82.

BUSINESS OF THE HOUSE

Adjournment

Mr LENDERS (Minister for Finance) — I move:

That the council, at its rising, adjourn until tomorrow at 9.30 a.m. at the Colac Otway Performing Arts and Cultural Centre in the city of Colac.

Motion agreed to.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Yarra Glen bypass: study

Hon. RICHARD DALLA-RIVA (East Yarra) — I raise a query for the Minister for Transport in the other place. The matter relates to an issue on which I seek some clarification, indeed the people of Yarra Glen seek some clarification, in relation to the proposed bypass that was being discussed some time ago. To give some guidance to the minister, I refer to some information provided to me by members of the community. The last information bulletin from VicRoads was bulletin no. 2 dated October 2002 and was entitled *Melba Highway Yarra Glen Bypass Study*. It is a brochure outlining to some degree a range of proposals for various links that would move traffic away from Melba Highway going through Yarra Glen to various alternative highway arrangements.

It appears that the community has been part of a process that started back in 1997, from my understanding, involving an order for an environment effects statement. The EES was conducted some two to three years ago. The residents are concerned because they believe that the results of the study were to be published sometime in October 2004. For those who have been to Yarra Glen, it is certainly a wonderful location to sample Victoria's finest, but it is fair to say that the Melba Highway has certainly now reached the extent of its life in terms of the amount of vehicle traffic going through the local township, which is an important part of the local wine and tourism industry.

The community seeks some guidance on the progress of this project, if indeed there is a project. As there was a study undertaken, what stage has that study reached? Will the minister take action to advise the residents of Yarra Glen on the status or otherwise of the proposed bypass study that was conducted early in 2000?

Police: Nunawading station

Hon. B. N. ATKINSON (Koonung) — I wish to raise a matter with the Minister for Police and Emergency Services in the other place, and it concerns disabled access at the Nunawading police station. A resident of Vermont, Mr Lindsay Dell, has on a number of occasions, I understand, raised his concerns about the lack of accessibility to the Nunawading police station for disabled people. Mr Dell is a sufferer of multiple sclerosis and finds access to certain buildings difficult. H makes the point that not only is his own condition a problem in accessing the police station but obviously there are a great many people with various disabilities who find access to this facility difficult.

Nunawading police station was built probably in 1970s. It has quite an extensive flight of steps up to the main reception centre. As Mr Dell said, at most buildings in this day and age one would expect a ramp to be available. Certainly from an engineering point of view it would seem to be a fairly easy exercise to put in a ramp at this particular facility. I note that my colleague Tony Robinson, the member for Mitcham in the other place, said that the station was one of the last built before disabled access became a requirement. He made this comment to the local press, and is quoted in the *Whitehorse Leader* in October as saying:

> We are all a bit frustrated because we can't get an answer from the police on what …

is holding up the process — in other words what is holding up the provision of some disabled access. I point out to Mr Robinson, and indeed to the minister, that it is the government holding up the process because it is responsible for providing funding for capital works that would enable this project to go ahead. It would certainly seem to me that this station, which is a very busy station, is one that warrants some priority attention at this stage. I urge the minister to act on this very quickly to ensure there is disabled access and, if it is a funding issue, that funds are directed to that project immediately.

Neighbourhood houses: copyright licence

Hon. P. R. HALL (Gippsland) — Last week I visited Milpara Community House in Korumburra and discussed a number of issues with staff and the committee of management — —

Hon. T. C. Theophanous — Which minister is this matter directed to?

Hon. P. R. HALL — This matter is for the attention of the Minister for Local Government and relates to her

responsibility for neighbourhood houses. Among the items we discussed was the unsatisfactory level of administrative funding received by Milpara; we also discussed the difficulty it experiences with applying the adult and community further education (ACFE) minimum charge policy; the unsatisfactory level of child care funding; the urgent need for capital works funding to establish car parking facilities at the house; and finally we discussed the problem it has with copyright law.

I am aware that the rules of the adjournment debate limit me to only raising and seeking assistance with one of those issues and I intend to do so — it is the issue in relation to copyright law — but at the same time I urge the minister to have some of her departmental staff meet with the committee of management at Milpara to try to resolve some of those other issues.

With respect to the issue of copyright law, adult and community education providers, unlike schools and technical and further education institutes, are not covered by the Department of Education and Training's licence with Copyright Agency Ltd. That licence enables schools and TAFEs to copy up to 10 per cent of a publication for educational purposes. Strictly speaking others are not able to copy and distribute a single page of a publication for the purposes of education, or indeed for any other purpose at all. Neighbourhood houses and learning centres like Milpara in Korumburra deliver ACFE programs — for example, Milpara delivers an excellent adult literacy program and many of the people accessing these adult literacy programs are from lower socioeconomic groups that cannot afford new texts.

It would be helpful if the providers were able to photocopy selected pages from an educational publication and use them for the purposes of delivering adult literacy and other educational programs, and they could do so if they were covered by the Department of Education and Training's licence with Copyright Agency Ltd.

I ask the minister to use her best endeavours to arrange for neighbourhood houses and learning centres to be included in the copyright licence of the Department of Education and Training so that Milpara and other community houses can continue to deliver the excellent programs they deliver now.

Roads: irrigation structures

Hon. W. R. BAXTER (North Eastern) — I also raise a matter for the attention of the Minister for Local Government. The minister will be aware that the Road Management Act 2004 has transferred responsibility for irrigation structures on roads to the relevant municipal authority in the area in which they are situated. That is likely to impose on some municipalities very considerable costs indeed. After the act was passed and this change became apparent, it was considered by many persons, including me, that it was an unintended consequence and that the government would act to remedy what appeared to be a defect. That has turned out to be a false hope, as was demonstrated in an answer to a question asked by the Leader of The Nationals in another place, Mr Ryan, of the Minister for Transport. The Minister for Transport made it clear that the act is the act and it stands, and that the government intends to enforce it.

What I want to say to the minister is that in terms of her responsibility for providing equity to ratepayers as Minister for Local Government this change will indeed cause a great deal of difficulty for some ratepayers whereas other ratepayers will not be affected at all. To me that does not seem to be equitable. Indeed the unfairness is compounded by the fact that the ratepayers who are going to be paying for this change are largely low-income earners in declining smaller country towns — the lower socioeconomic groups, because that happens to be where the irrigation areas of Victoria are located — as against the better-off ratepayers in Melbourne suburbs such as Toorak and elsewhere, where of course there are no irrigation structures and where there will be no impact on rates and no change at all. That seems to me to be entirely unfair. I do not believe it was what the Parliament intended, and I am not sure if it was what the government intended, but going on the Minister for Transport's answer to Mr Ryan it appears that it may have been.

I simply make a plea to the Minister for Local Government that on behalf of the ratepayers of this state she might examine the impact of the charge, particularly upon ratepayers who are not in a position to pay. For example, in the shire of Moira some 900 structures will now become the responsibility of the municipality. That is going to impose a huge cost on the ratepayers of that shire, few as they are, and particularly those in the shire's small villages and towns. Moira is not alone; about seven or eight other municipalities around Victoria are affected as well. I invite the minister to take this on board with a view to ensuring that equity is delivered across the board to ratepayers in the state of Victoria.

Responses

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The Honourable Richard Dalla-Riva raised a matter for the Minister for Transport in the other place in relation to a bypass at Yarra Glen that is of concern to him in relation to a report. I will pass on his comments to the transport minister for a direct response.

The Honourable Bruce Atkinson raised a matter for the Minister for Police and Emergency Services in the other place in relation to disabled access at the Nunawading police station. I will pass that request to the relevant minister for response.

The Honourable Peter Hall raised a matter for the Minister for Local Government, who is responsible for neighbourhood houses. It related to some copyright issues that have been raised with him by people from the neighbourhood house in his electorate. I will pass those comments on to the minister for response.

The Honourable Bill Baxter also raised a matter for the Minister for Local Government relating to the rating impact of some government changes which have increased responsibilities of local government and could have an impact on rates. I will pass that issue to the Minister for Local Government for response.

Motion agreed to.

House adjourned 3.05 p.m. until Thursday, 17 November, at 9.30 a.m.