PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

20 April 2004

(extract from Book 2)

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By authority of the Victorian Government Printer

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Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Eren, Hon. John Hamdi	Geelong	ALP	Somyurek, Mr Adem	Eumemmerring	ALP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Strong, Hon. Christopher Arthur	Higinbotham	LP
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Hirsh, Hon. Carolyn Dorothy	Silvan	ALP	Vogels, Hon. John Adrian	Western	LP

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TUESDAY, 20 APRIL 2004

Tuesday, 20 April 2004

The PRESIDENT (Hon. M. M. Gould) took the chair at 2.03 p.m. and read the prayer.

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Message read advising royal assent on 6 April to Nurses (Amendment) Act.

PETROLEUM (SUBMERGED LANDS) (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. T. C. THEOPHANOUS (Minister for Resources).

LIMITATION OF ACTIONS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

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

MARINE (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms BROAD (Minister for Local Government).

ROAD MANAGEMENT BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Ms BROAD (Minister for Local Government).

MONETARY UNITS BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

QUESTIONS WITHOUT NOTICE

Land tax: transmission easements

Hon. BILL FORWOOD (Templestowe) — I direct my question to the Honourable Theo Theophanous, Minister for Energy Industries. I refer the minister to the government's decision to impose land tax on transmission easements and to the Treasurer's announcement on 24 March 'that electricity prices will not rise as a result of the new arrangements'. Was the minister aware last December at the time he reached a four-year price agreement with the electricity retailers that this new tax was under consideration?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question and for drawing the attention of the house to the fact that when the announcement was made by the Treasurer part of it was that there would not be a rise in electricity prices as a result of the decision. The reason is that the government had already negotiated with the electricity retailers a historic, four-year price path on electricity, which will deliver — wait for it — at the end of four years electricity prices that are up to 5.6 per cent lower.

That was a historic negotiation that took place. It was a tough and difficult negotiation, but it was done in the best interests of Victorian electricity consumers. As a result, whatever changes occur in relation to additional costs that might be suffered by the electricity companies during that period of four years will not affect that price path except in specific and defined circumstances. This is not one of them.

I am happy to be able to inform the honourable member and the public of Victoria that the decision to impose land tax on transmission easements will have no impact at all on prices for Victorian small businesses, large businesses, domestic consumers or anyone else using electricity in this state.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I am sure that the house noticed that the minister did not

answer my question about whether he was aware at the time of the deal whether or not this tax was being contemplated by the government. Will the minister admit that in fact he has deceived the retailers in negotiating and entering into an agreement when there was a fundamental fact that he knew and they did not, and that the result of that fact will be that the retailers will bear the cost of the new tax?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — This really does show why the honourable member opposite is no longer the leader of his side. He has absolutely no idea of what is talking about. In fact the retailers are happy with the decision that has been made by the government. It may have escaped the honourable member that another levy which was imposed for a considerable period of time to pay for the Alcoa subsidy has now been removed. From the point of view of the retailers there is absolutely no difference. That just shows that he has not done any research and he does not know what he is talking about.

Small business: *Victoria — Leading the Way*

Ms CARBINES (Geelong) — My question is for the Minister for Small Business, the Honourable Marsha Thomson. Earlier today the Premier and Treasurer announced an economic statement designed to ensure that Victoria continues to lead the way in economic growth and opportunities. Can the minister outline to the Council how Victoria's small businesses will benefit from the measures outlined in the economic statement.

Hon. M. R. THOMSON (Minister for Small Business) — I thank the member for her question. I had the privilege of being at the announcement this morning together with a large number of business associations, which certainly welcomed the announcement today and saw it as a boost to Victoria's economic growth and future. Today's economic statement will assist the more than 270 000 small businesses in Victoria to grow even stronger. This statement builds on the $1 billion tax cuts that were announced in the last term of the Bracks government. Over the last five years Victoria has seen record productivity and economic growth well above the national average as well as consistently low unemployment figures, but we cannot afford to rest on that. The Bracks government's economic statement *Victoria — Leading the Way* is the next step forward. It is there to ensure strong economic growth that will continue into the future by concentrating on 19 priority actions. Those actions will drive new investment in Victoria, stimulate the creation of new jobs, lower the cost for Victorian businesses and increase the export of our goods and services.

Victorian small businesses will benefit with direct savings to business of $2.3 billion over the next five years. One billion dollars of that will be in land tax cuts. There will be a 10 per cent cut in the average WorkCover premium and over $220 million savings to households and businesses per year from the abolition of mortgage duty. Greater export opportunities will be driven as a result of the open doors export plan and the next generation food strategy.

Business will also benefit from quicker planning approvals and streamlined building regulations. The Bracks government will continue to lead the way in reducing the time and cost of doing business in Victoria by ensuring that regulation does not unduly impact on business productivity and growth.

The Victorian business master key will cut the red tape faced by businesses in their dealings with government by laying the foundation for a fully integrated online case management system across the whole of government.

There are new investment projects as well with initiatives such as the channel deepening, the Dynon port link rail, the development of Melbourne's wholesale market and a new 5000-seat Melbourne convention centre, which will position Victoria as a leading destination for conventions, exhibitions and major international business events.

Victoria — Leading the Way shows the Bracks government's commitment to driving economic growth across Victoria which will make Victoria a better place to do business and a better place to be if you are a small business.

Commonwealth Games: filming and broadcasting

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — My question is to the Minister for the Commonwealth Games. I refer to the government's proposal to legislate to control filming and broadcasting of Commonwealth Games events, and I ask: who did the government consult with prior to introducing the legislation to Parliament?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — I welcome the question and thank the member for it, because the member opposite has been running around scaremongering media outlets in relation to this piece of legislation. He will appreciate, given the briefings on this legislation, that it has been formulated by Melbourne 2006 in conjunction with the Office of Commonwealth Games

Coordination. He will also appreciate, if he has done his research, that this legislation replicates what took place in Sydney across the course of the games there. He will also appreciate if he refers to the appropriate pieces of legislation and not just state legislation that this replicates what took place in Sydney for the Olympic Games.

Supplementary question

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — Why did the government fail to consult with Channel 10, Channel 7, ABC TV and SBS prior to introducing the legislation to Parliament?

Hon. J. M. MADDEN (Minister for Commonwealth Games) — Again I welcome the member's question. It reflects the way in which the opposition has failed to support Commonwealth Games legislation coming into this chamber in a manner that would be expected if it were fully supportive of the games and in a manner that would reflect its support for the games.

We in the government appreciate when we place our stamp on the Commonwealth Games in terms of environmental, social and economic benefits — different from the one proposed by the opposition — that it hurts the opposition. It wishes it was part of this government which is delivering the Commonwealth Games so that it is a games that all Victorians can be proud of and one that will — —

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

Small business: *Victoria — Leading the Way*

Hon. KAYE DARVENIZA (Melbourne West) — I refer my question to the Minister for Small Business, Marsha Thomson. In answer to a previous question the minister mentioned that the Bracks government's economic statement *Victoria — Leading the Way* contains measures to reduce costs for Victoria's small businesses. I ask the minister to advise the house on the details of these measures.

Hon. M. R. THOMSON (Minister for Small Business) — I thank the honourable member for her question, and I know that members on this side of the house are very interested in the contents of our economic statement, *Victoria — Leading the Way*, and what it means for their constituents. As I mentioned earlier, this builds on the billion dollars worth of tax cuts that were announced under the previous Bracks government.

Since 1999 Victoria has gone from being the state with the highest number of business taxes to now having the equal lowest. The tax cuts we have already implemented — —

Honourable members interjecting.

Hon. M. R. THOMSON — The opposition does not like hearing it, I know, but the tax cuts we have already implemented include the abolition of stamp duties on non-residential leases, a reduction in the rate of payroll tax and increases in the land tax threshold.

Hon. R. G. Mitchell — Undoing the damage.

Hon. M. R. THOMSON — Absolutely.

Cutting the cost of doing business in this state will encourage business investment, and that will lead to job growth. *Victoria — Leading the Way* outlines new cuts to business costs which, combined with the abolition of mortgage duty from 1 July this year, will be worth $2.3 billion over five years.

Honourable members interjecting.

Hon. M. R. THOMSON — Because it is so noisy in this chamber I will repeat that: $2.3 billion over five years.

The land tax relief of $1 billion over five years will be achieved by a reduction in the top rate from 5 per cent to 4 per cent from July 2004. It will go down to 3 per cent by 2008–09. There will be an increase in the tax-free threshold of a further $25 000, up from $150 000 to $175 00, doubling the threshold since we came to office in 1999. As a result of these reforms around 24 000 Victorians will no longer be required to pay land tax. Not a bad achievement!

The Premier also announced today a 10 per cent cut in the average WorkCover premium and a far simpler and fairer system than the one we inherited from the other side of the chamber. Teamed with the other initiatives announced today, small businesses will now be able to spend more time doing what they do best, and that is growing their businesses and providing more jobs for Victorians.

Consumer and tenancy services: delivery

Hon. B. W. BISHOP (North Western) — My question without notice is directed to John Lenders, the Minister for Consumer Affairs. I ask the minister why local telephone numbers for tenancy and consumer services were removed from telephone directories by

Consumer Affairs Victoria before the end of the consultative process?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Bishop for his question and his ongoing interest in the delivery of consumer and tenancy services in regional Victoria. The specific issue Mr Bishop raises is one that was not connected to the review of consumer and tenancy agencies conducted by my colleague Mr Scheffer. However, as Mr Bishop has asked a question about that survey I guess we need to consider it in the context that the government has reviewed the way we deliver consumer and tenancy services throughout Victoria. It has looked at the model it presently uses, and Mr Scheffer has presented for the government's consideration *The Way Forward*, which is a very comprehensive plan which the government will implement.

We are acutely aware that our key requirement is to deliver services to vulnerable consumers wherever the demand may be, and as part of doing that in *The Way Forward* we are looking at how we can reach out not just to Melbourne or the large provincial cities but to all the small communities in electorates such as Mr Bishop's.

Mr Scheffer's program suggests that the vulnerable consumers in Mr Bishop's electorate, be it the Aboriginal community in Robinvale which has not traditionally accessed consumer services, or the fruit-pickers who go to Mildura and are probably some of the most exploited consumers and tenants in the state because they are itinerant and temporary, are the most vulnerable. We are seeking a model that reaches out to all vulnerable consumers wherever they may be. Our view is that a mobile unit that travels through regional Victoria, coupled with telephone and local advocacy services and networking into local communities, will deliver an effective service to vulnerable consumers more so than has occurred under the current regime.

We believe we need to move beyond bricks and mortar as the answer to everything. The assumption is that the vulnerable consumer will somehow find a building to outreach those people and help deliver services, coupled with, of course, specialised professional services on the end of the telephone for the 80 per cent of consumers who seek support from Consumer Affairs Victoria in that way. The government has been into the communities, listened and acted, and has come up with a program to deliver services, particularly to vulnerable consumers.

Supplementary question

Hon. B. W. BISHOP (North Western) — Will the minister tell the house when the decision was made to remove the telephone numbers from the local directories?

Mr LENDERS (Minister for Consumer Affairs) — As I said in my main answer to Mr Bishop and the house, the decision was made by the Department of Justice as part of its way of dealing with the cost of telephone calls, as any government department would prudently do when talking about millions of dollars of government costs in the *White Pages*. Going to the heart of the matter, most calls come to the Consumer Affairs Victoria switchboard and are diverted to local services where required. That will continue to happen. That decision was not one made by me.

Small business: *Victoria — Leading the Way*

Ms MIKAKOS (Jika Jika) — I refer my question to the Minister for Small Business. The minister has previously advised the house of the Bracks government's initiatives to improve regulations to maximise the chances of providing a fair, competitive economy for Victorian small businesses to operate in. What new initiatives are included in the economic statement that build on past initiatives?

Hon. M. R. THOMSON (Minister for Small Business) — It was obvious there was a lot of detail in the statement announced today that benefits small business. I am proud that I was able to attend to hear the Premier and the Treasurer address those present and provide the detail which, I reiterate, was welcomed by those business associations which saw the capacity to drive the Victorian economy into the future.

The measures in place today build on Victoria's commitment to easing the burden of compliance on small business. Today's statement, *Victoria — Leading the Way,* strengthens and adds to the position of the Small Business Commissioner. The government has delivered on an election commitment to ensure regulation is fair and easier for small businesses to comply with. *Victoria — Leading the Way* outlines another series of measures because the government knows that regulation burden on small business is particularly hard.

As I travel around Victoria and talk with small business people, one of the things they say they want the government to take into account is that they do not have a bevy of people behind them to assist in meeting the compliance requirements that governments across the

various tiers impose upon them. They seek flexibility and understanding. The government is committed to demonstrating that it understands that need and requirement.

We will help address these issues by adopting international best practice in scrutinising new legislation proposals through the introduction of a business impact assessment for all legislation with significant effects on business. This will specifically include the impact on small business. Teamed with the creation of the Victorian Competition and Efficiency Commission, these measures will ensure that the Bracks government is the preferred government of small business.

The Victorian Competition and Efficiency Commission will be the state's foremost advisory body on business regulatory reform. With its operation commencing on 1 July this year, the VCEC will study ways to improve the design of regulation, remove unnecessary regulation and work to consolidate and streamline regulatory bodies within this state. As I said, combined with the work of the Small Business Commissioner, these measures will cut the cost of doing business in Victoria and the time that it takes to do business. This can only help Victoria's economic performance into the future, and it will certainly help Victoria's small businesses.

Ordered that answer be considered next day on motion of Hon. B. N. ATKINSON (Koonung).

Small business: casual employees

Hon. B. N. ATKINSON (Koonung) — I direct a question without notice to the Minister for Small Business. I note the policy position reaffirmed this week by two federal shadow ministers that seeks to convert casual employees to permanent staff and the concern expressed by industry associations about the adverse impact of this policy on employment and our economic performance. As employment flexibility is identified as one of the most important issues nominated by small business owners in industry surveys, I ask the minister: what is the state government view of the federal opposition's policy on casual employment?

Hon. M. R. THOMSON (Minister for Small Business) — I know that the member regrets the fact that this government does represent small business, does understand the concerns of small business and does work to provide responses within its jurisdiction towards helping meet the needs of small business, which happened today with the announcement of the *Victoria — Leading the Way* document, which saw the lowering of the average WorkCover premium by 10 per cent, taking it down to under 2 per cent, clearly leading the way in WorkCover reform for small businesses, which will benefit them no end. The land tax announcements today will also go a long way in assisting small businesses, with the lowering of the land tax bracket at the top level from 5 per cent to 3 per cent over the next five years and with the threshold being increased from $150 000 to $175 000.

We are doing all that we can within our jurisdiction to alleviate the pressures on small business and to ensure that small business can grow in Victoria and look forward to strong economic growth.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — It is an extraordinary thing that a minister cannot cope with a very simple question. Either that, or she does not know what the state government's position is, or indeed what her own position is. I wonder if the minister will at least provide this house with an assurance that, as the Minister for Small Business, she will support small business employers by seeking to maintain in state and federal legislation a continuation of flexible employment options, including casual employment, irrespective of the outcome of the federal election?

Hon. M. R. THOMSON (Minister for Small Business) — It is the pot calling the kettle black, given that the opposition has repeatedly had nothing to say to its federal government colleagues on issues such as the GST, and the finance minister mentioned the burden that that has imposed on small business.

I have said before that this government will continue to represent the needs of small business and will continue to take those needs into account, both in its legislative program and in its regulatory program, to ensure it makes it as easy as possible for small business to do business in Victoria.

Energy: government initiatives

Hon. R. G. MITCHELL (Central Highlands) — I refer my question to the Minister for Energy Industries, the Honourable Theo Theophanous. Can the minister inform the house of new initiatives in today's economic statement, *Victoria — Leading the Way*, that will help maintain Victoria's low-cost and reliable energy advantage?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for what is an excellent question. Let me firstly indicate that the Bracks government is at the forefront of supporting

leading-edge research in its efforts to ensure that we have a reliable and sustainable energy industry in this state.

Today's economic statement contains a number of initiatives to make sure that Victoria maintains its strong economic performance and prepares for the future. Among them are initiatives in the area of research into how to use our vast brown coal resources as a cheap, reliable and secure source of energy in a sustainable way.

I will mention two specific initiatives contained in the statement made today. The first is to increase the government's financial support for the Cooperative Research Centre for Clean Power from Lignite to $1.5 million per annum from the 2005–06 financial year. I will come back to that initiative. The second of the initiatives is to contribute $750 000 to identify and assess geological sites in Victoria with potential for geosequestration, which involves the storage of carbon dioxide deep in underground storages rather than releasing it into the atmosphere.

Both these important research initiatives are part of the government's securing the long-term future of this state. Members would know that much of the manufacturing base of this state has been built on the availability of cheap coal and energy from the Latrobe Valley over the last 100 years or so. But that carries a cost with it. The cost is in high emissions of CO_2, which contribute to greenhouse effects on our planet. The government has tried to bring forward research that will address this issue. We have 500 years worth of coal down in the Latrobe Valley. Our challenge as a community is to find how to use that coal in an environmentally acceptable way.

The initiative involving clean power from lignite includes looking at technologies such as mechanical thermal expression, clean-bed drying and others which would allow us to put drier coal into our power stations and thereby reduce the level of CO_2 emissions. The second initiative, which involves geosequestration, is where we take the carbon from the power station and inject it deep underground. This is an emerging technology, and it is one in which Victoria is leading the way. I attended the first world conference on carbon sequestration, the Carbon Sequestration Leadership Forum, and we have the second one coming up here in Victoria in September. This is just part of the commitment of this government to addressing our greenhouse issues whilst we also develop our vast brown coal resources in the Latrobe Valley.

Docklands: boundary review

Hon. J. A. VOGELS (Western) — I direct my question to Ms Broad, the Minister for Local Government. I refer to the statement by Cr Julian Hill, former Labor mayor of the City of Port Phillip, that the government's review of the Dockland's boundaries was a sham. I ask the minister: does she agree with the statement of Cr Hill, who is currently the manager of the government's Melbourne 2030 implementation strategy in the Department of Sustainability and Environment?

Ms BROAD (Minister for Local Government) — In response to the first part of the member's question in relation to the process followed by this government in making its decision on the future governance of Docklands, there are a number of points I wish to make. The first is that in its first term the government established under my predecessor, the former Minister for Local Government in the other house, Bob Cameron, an interdepartmental committee (IDC), which received submissions on the question of the future governance of Docklands. Its terms of reference allowed it to consider a range of issues in relation to the surrounding areas of Docklands as well. That was a public process in which everyone was free to make submissions, and the City of Port Phillip made an excellent submission. That report is now publicly available together with the government's response to it.

When I was appointed to the local government portfolio following the 2002 election I followed up that public consultation process by the IDC by meeting personally with a number of the major stakeholders, including the City of Port Phillip, so I could hear first-hand the matters they wished to raise, and many important issues were raised. The member will note I hope from the government's response to the IDC's report that the government has responded positively to a range of the issues raised by the City of Port Phillip, particularly those issues which go to the area of Fishermans Bend, which includes the Webb Dock area.

As the former Minister for Ports I am well aware of the importance of these areas and the City of Port Phillip's strong interest in the future of those areas. That is why the government in its response to the IDC's report committed to the establishment of a precinct committee, which will involve the City of Port Phillip in the planning and management of those very important dock areas.

I welcome the City of Port Phillip's strong interest, and I wish to be involved on an ongoing basis in the planning and management of those areas and repeat the

commitment the government has given in its response to the IDC's report that the government will take up that interest and ensure its ongoing involvement in the future development of those areas.

Supplementary question

Hon. J. A. VOGELS (Western) — Cr Julian Hill obviously believes the process was a sham. What assurances can the minister provide that the other consultation processes involving local government are not also shams?

Ms BROAD (Minister for Local Government) — Given that the earnest questioning on treating local government seriously is coming from a member of a party which sacked every council across the whole of Victoria when it was last in government, it is a bit much to take.

Putting that to one side, I have already indicated that I understand and am sympathetic to the disappointment which the City of Port Phillip has expressed in relation to the government's decision on the future governance of Docklands. However, the government strongly believes that its decision is the best decision for all of Victoria and will stand the economy in good stead.

Docklands: local governance

Ms ROMANES (Melbourne) — My question, which is also on Docklands, is for the Minister for Local Government, Ms Broad. Can the minister advise the house how the Bracks government's decision in regard to local governance arrangements for the Docklands precinct complements initiatives announced in today's economic statement, *Victoria — Leading the Way*?

Ms BROAD (Minister for Local Government) — I thank the member for her question and for her continuing interest in how the Bracks government is further strengthening local government in Victoria. The government today outlined in *Victoria — Leading the Way* a range of initiatives to drive $10 billion of new investment in Victoria and generate around 20 000 new jobs. I am pleased that in the local government portfolio we have been able to take action that will no doubt benefit the future development of Victoria. I announced on Sunday that municipal responsibility for the Docklands precinct would be returned to the City of Melbourne before council elections scheduled for November 2008 — delivering on another Bracks government election commitment. We believe this decision protects and enhances the momentum of the Docklands development and is in the interests of the whole of Victoria. It provides developers and industries around the area with certainty and stability in terms of local governance and planning.

The growth of Docklands is an urban renewal success story, with over 15 000 people set to call Docklands their home by 2010, and they will now have local democracy restored. In keeping with today's statement, the government has also acted in this way to ensure the preservation of integrity of one of Victoria's most vital economic assets, the port of Melbourne. The port supports the employment of over 80 000 people in Victoria and generates wealth for the whole of Victoria. It is Australia's largest and busiest container port, handling some 36 per cent of the nation's container trade. We are acting to ensure that it is under one local government authority — indeed under the capital city local government authority — and this will be crucial in coordinating and increasing the road, rail and shipping movement of freight, which are also key elements of the Bracks government's *Victoria — Leading the Way* statement. This decision delivers on the Bracks government's longer term vision of Melbourne's role as the capital of our great state.

The decision also returns the Docklands to the local government authority from which it was excised by the previous Liberal-National party government some five years ago. As I outlined in my answer to the previous question, the government will be closely working with the City of Port Phillip and City of Maribyrnong to address the issues raised in their submissions on the future of Docklands and adjacent areas. To ensure maximum economic benefit to Victoria, we will be putting a very high priority on the integrated planning and management of the Fishermans Bend industrial precinct as well as the docks, rail and market precincts in partnership with surrounding councils. Partnerships with councils are a bit foreign to the party on the other side of the house, but it is something which this government is committed to delivering on, in stark contrast to our predecessor. The Bracks government is getting on with the job of building a better future for local government in Victoria and building for the future of Victoria's economic lifeblood — the port of Melbourne.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 969, 1027, 1077, 1079, 1120, 1301–4, 1314, 1323, 1348,

1350, 1351, 1379–82, 1384, 1386–92, 1402–4, 1411–37, 1439–51, 1457–61, 1463–87.

Hon. BILL FORWOOD (Templestowe) — I wish to raise with the Minister for Aged Care the fact that question 880, asked on 5 November through him to the Minister for Community Services in another place, and question 1324, asked on 2 December through him to the Minister for Victorian Communities in another place, have again not been answered. After the last time the Council sat I wrote to the minister about these two issues. I recollect that I sent him two separate letters.

Mr Gavin Jennings — Yes, I have them.

Hon. BILL FORWOOD — I wonder if the minister could explain to me why those questions have yet to be answered.

Mr GAVIN JENNINGS (Minister for Aged Care) — Yes, indeed I can confirm to the chamber that in fact Mr Forwood wrote to me on 8 April; I have the two letters that he wrote to me about questions 880 and 1324.

Hon. B. N. Atkinson — Are you going to do anything about them?

Mr GAVIN JENNINGS — Yes, I am about to provide an answer to you. Of the 118 answers to questions that were tabled today, I can proudly say that I facilitated 83. In relation to Mr Forwood's request, I have a confirmation from the Minister for Community Services in the other place that she has signed off an answer to his question, and it should be at the papers office — I hope — as early as tomorrow. In relation to the other, which is a very cumbersome question concerning 47 funding programs through the Department for Victorian Communities, my office has been in correspondence with the minister's office today and can confirm that that elaborate piece of preparatory work — perhaps it is something that will be prosecuted at great length through the Public Accounts and Estimates Committee — is being done and we are expecting it to be facilitated out of the process very shortly.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for his answer and look forward to receiving the answers to the questions.

I would also like to ask the Minister for Information and Communication Technology about question 1061, which was asked on 28 October last year. I point out that this question was asked of the minister herself, not for referral to a minister in another place. I think I wrote to the minister on 8 April also, and I wonder if she could explain to the house why she has not replied to a question asked in October last year.

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I apologise for the fact that it has not arrived. I have signed off on it; I am surprised it is not here today. But Mr Forwood should have it for tomorrow, without delay.

Hon. BILL FORWOOD (Templestowe) — I thank the minister for her commitment.

Hon. R. G. Mitchell — Maybe it's just you, Bill!

Hon. BILL FORWOOD — Yes, maybe it is just me!

I have two matters I would like to raise with the Minister for Finance. The first relates to question 1176 asked on 29 October of the Minister for WorkCover in the other place. This was a matter I actually raised in debate as well, but I am pretty sure the Minister for Finance received a letter on this particular question from me on 8 April, and he also received a separate letter relating to question 1410 asked of the Premier through him on 4 December. I seek from the minister an explanation of why neither of those questions has been answered.

Mr LENDERS (Minister for Finance) — I thank Mr Forwood for his two letters with the coloured letterhead, which I received. I assure him that both questions are being followed up with the respective ministers' offices for reply.

MEMBERS STATEMENTS

Victorian Association of Forest Industries: chief executive officer

Hon. E. G. STONEY (Central Highlands) — I rise to wish Trish Caswell all the best on her appointment as chief executive officer of the Victorian Association of Forest Industries. Trish Caswell has very strong environmental credentials. She is in a position to explain the strong message that the timber industry has to sell. It is not properly understood that the timber industry in Victoria has adopted world best practice with its public land forestry management. The public simply loves products that come from our forests but is still concerned that those forests may be threatened.

I believe Ms Caswell has the ability to make the connection in the public's mind between beautiful forest products and good forestry practices that are required to produce these products. It is important that

the public understands that every hectare of trees that is taken for timber products is resown in the same year. The industry is certainly not ravaging our public land, as portrayed by some sectional interests. It is very important that it is explained that the industry is environmentally responsible and that modern timber harvesting and timber management practices are environmentally responsible.

Ms Caswell has the credentials and ability to explain these messages and perhaps prevent the state government from using the timber industry as a political football, as it has done for the past five years. I wish her well.

Italian festivals

Hon. KAYE DARVENIZA (Melbourne West) — I want to let Parliament know how delighted I was to attend two Italian festivals on Saturday, 17 April. The Carrette Siciliani Multicultural Festival was held in Tatura and involved a very colourful street parade, including a traditional, beautifully decorated horse and cart symbolising what was once the only form of transport in Sicily. I congratulate the Italo-Australian and Friends Club, particularly its president, Ms Agata Formica, for organising the festival.

The second function I attended was the Cobram ItalFest gala dinner dance, which was also attended by my parliamentary colleague Mr Ken Jasper, the member for Murray Valley in the other place. The dinner was part of a weekend of festivities where the Italian community of the region shared and celebrated its culture, traditions and heritage with the community.

The region was pleased to have Dr Orlando Fazzolari, the mayor of Varapodio, Calabria, as a guest of the festival. The town of Cobram has enjoyed a relationship with Varapodio for more than 50 years. I congratulate the Italian community in Cobram for organising the festival, and I congratulate the organising committee and its chair, Mr John Germano.

Judicial Remuneration Tribunal: decisions

Hon. ANDREW BRIDESON (Waverley) — According to legislation any government can reject or accept recommendations by Victoria's Judicial Remuneration Tribunal, which is currently headed by former federal Labor Party member and commonwealth Attorney-General, Michael Duffy. However, it is considered that the recommendation bears more weight given that the reason the tribunal exists is to enable the judiciary to remain independent from the state. Professor Cheryl Saunders, a member of the tribunal, said that although it was subject to disallowance by Parliament, the tribunal's decision carried the weight of a determination and was not a mere recommendation. Yet the state government has shown contempt for this independence by deeming that the tribunal's recommendation to increase the salaries of judicial officers by 13.6 per cent is out of step with community expectations and therefore it has decided to block the recommendation.

It should be noted that Victoria's judicial officers are the lowest paid in the country, despite the fact that they preside over the second-largest court system in the nation. What the government has done, therefore, is to undermine the independence of the tribunal, making it a political debate, pitting the government against the judiciary. The resulting uproar from the judiciary is justified as the government has treated judicial officers as public servants.

Local opposition has come from the Supreme Court chief justice, Marilyn Warren; the County Court chief judge, Michael Rozenes; the Chief Magistrate, Ian Gray; and Victorian Civil and Administrative Tribunal president, Stuart Morris, who is a former defeated Labor candidate for Waverley Province.

Glen Eira: ratepayers association

Mr PULLEN (Higinbotham) — I want to place on record my concern about an organisation known as the Ratepayers Association of Glen Eira, or RAGE. This organisation held its inaugural meeting at the home of Mr Frank Greenstein, president of the Alma branch of the Liberal Party, on 23 April 2003.

I have seen the minutes of this inaugural meeting, and although Glen Eira Liberal councillor Alan Grossbard was present, his name was omitted from the minutes. I wonder why? I understand that at the meeting Cr Grossbard began organising people to join various council committees, including eventual RAGE president, another Liberal Party member, David Feldman, to nominate for the finance committee, although I believe he has no background in finance.

Before long RAGE decided to become incorporated — it had only eight members according to its minutes of 25 June 2003 — and thought maybe it could ask council for a $1000 to $2000 community grant. Then the president of RAGE, David Feldman, took it upon himself to submit a budget document to Glen Eira council. When questions were asked about the document at council by the secretary of RAGE, do you know what RAGE did? It kicked the secretary out.

Other matters that concern me are that a visitor at the meeting, Peter Grove, a Bentleigh Liberal Party branch member, attacked the Bracks government. The minutes of the meeting also refer to Cr Veronika Martens as 'Fräu' Martens, which this wonderful councillor finds offensive. It also disturbs me greatly that RAGE has apparently refused membership to other decent ratepayers who have shown interest in joining the group.

I put it to you, President, that this underground organisation is nothing more than a secret front for the Liberal Party.

Aged care: nursing scholarships

Hon. ANDREA COOTE (Monash) — I commend the federal Minister for Ageing, the Honourable Julie Bishop. Aged care is a complex issue and it can be confusing and perplexing for those entering the sector for the first time. The federal government has realised this and the importance of the aged care sector and has implemented some visionary programs to enable Australians to have better aged care.

As I travel across Victoria I hear many aged care services bemoaning the fact that they simply cannot get sufficient staff. Today we have seen the Australian Nursing Federation putting the government to the high jump, threatening and bullying it, but the government has been absolutely hopeless in addressing the impending nurses strike. In fact the state looks as if it will be held to ransom by the ANF and the nurses' decisions being made today. It is not good enough, especially for our aged care facilities, and it is going to put a lot of elderly and very vulnerable people in difficulties. The peak organisations, not-for-profit organisations and private operators all say the same thing.

Minister Bishop has implemented the Australian government aged care nursing scholarship scheme and the aged care support scheme pilot project, and I encourage nurses to consider these generous scholarships which are available to contribute towards each of the programs. The schemes provide financial assistance up to $30 000 — $10 000 a year over three years — in undergraduate, continuing professional development and honours programs up to a total of $10 000 per applicant — —

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

Lang Lang and Cannons Creek foreshore committees

Hon. J. G. HILTON (Western Port) — During the Easter break it was my pleasure to attend a lunchtime celebration to acknowledge the contribution of Bruce Ridgway, Colin Fell, Ted Butler and Laurie Meagher, who have been longstanding members of the Lang Lang and Cannons Creek foreshore committees.

Bruce Ridgway was the secretary of the Lang Lang Coast Action Group as well as the Lang Lang committee and the recipient of the inaugural Lifetime Achievement Victorian Coastal Award for Excellence. He joined the foreshore committee in 1957 and remained on the committee until 2000. Colin Fell was an active member of the Lang Lang committee for over 20 years and served some time as secretary. In his own words, he 'only retired due to age' when he was 82. Ted Butler was president of the Lang Lang Foreshore committee and a member from 1981 to 2000. Laurie Meagher is a resident of Cannons Creek who joined the committee group of residents to help protect and manage the Cannons Creek foreshore. Laurie was a member of the committee for over 15 years.

These gentlemen are just four of the thousands of volunteers who are members of committees of management or coast action groups that care for our coastal and marine environments. The contributions of these four and many others like them are invaluable in preserving our environment. We owe them a great debt of gratitude.

Somerville secondary college: Aboriginal relics

Hon. R. H. BOWDEN (South Eastern) — My statement today is likely to be of intense interest to Mr Gavin Jennings in his capacity as the Minister for Aboriginal Affairs, and it is a pity that the minister is not in the chamber. I want to express concern about the yet-to-be-built Somerville secondary college. Prior to the election in 2002 the Bracks government promised to build and open a secondary college in Somerville for students in January 2005. Early in 2003 it became very clear that there were significant issues to do with Aboriginal artefacts on the site. Those artefacts were the subject of considerable debate between several community groups and also members of the indigenous community. But nothing in those artefacts and the issues related to them would have prevented construction of the school.

We now have reached the situation where every day several hundred students are bussed away from Somerville; they need their secondary college. The

secondary college was promised to the community and there are thousands of parents waiting for that college to be built. As of today I am aware that construction has not commenced, and unless it commences immediately the school will not open on time and the community will be denied the secondary college it was promised.

Australasian Law Reform Agencies Conference

Ms HADDEN (Ballarat) — Last week I had the great pleasure of attending the Australasian Law Reform Agencies Conference 2004 entitled Access to Justice: Rhetoric or Reality, hosted by the New Zealand Law Commission in Wellington, the arts and culture capital of New Zealand. Representatives from over 20 countries gathered together over four days to discuss access to justice, to listen to other views from other jurisdictions, to make new friends and to renew old friendships. Victoria was well represented at the conference by the Victorian Parliament's Law Reform Committee and the Victorian Law Reform Commission.

Topics discussed at the conference included law reform potential in the Pacific region; models for protection of traditional knowledge and expressions of culture; law reform and accessibility; trans-Tasman law reform potential; alternative dispute resolution and tribunals and delivery of justice for all; children's access to justice; law reform and indigeneity; courthouse design and processes for delivery of justice, and law reform and politicians.

The conference delegates were also the guests of the Victoria University law school for the lectures, as well as of Government House, Parliament House, the High Court, and the Te Papa Museum of New Zealand for dinner and receptions. As a second-term member of the Parliament's Law Reform Committee, I wish to record my sincere thanks to the president of the New Zealand Law Commission, Justice Bruce Robertson, Associate Christine Kleingold and the organising committee for a very successful conference.

Rail trails: Gippsland Plains

Hon. P. R. HALL (Gippsland) — I commend the very hard-working committee of management of the Gippsland Plains rail trail for its sterling work in converting into a recreational rail trail a disused rail easement that runs from Traralgon to Stratford via Maffra. Four sections of that rail trail are now open. Over the long weekend in March I had the opportunity to open the latest of those sections, an 8 kilometre section between Toongabbie and Cowwarr. This dedicated committee, headed by Mrs Helen Hoppner, and its fellow Gippsland rail trail committees in both East and South Gippsland are to be congratulated for all they have achieved on a very limited budget.

Today I want to make a plea to this government to use the forthcoming budget to establish a solid funding base for all rail trail committees throughout the state. They have much costly work to do, particularly in restoring bridges to enable rivers to be crossed. Without a solid funding base the full potential of rail trails in Victoria will never be realised, so I am calling on the government to establish an ongoing funding program to facilitate the completion of all rail trails throughout Gippsland. Again I particularly commend the Gippsland Plains Rail Trail Committee for its sterling work in achieving a very difficult but important piece of tourism infrastructure for Central Gippsland.

Norwood Football Club

Hon. C. D. HIRSH (Silvan) — Last Saturday I had the pleasure of attending the Norwood Football Club for the unfurling of its 2003 premiership flag in division 2 of the Eastern Football League. I congratulate the club on its win last year and I wish it well in the 2004 season as it faces the challenge of moving up to division 2. I also congratulate its president, Mark Etherington, secretary Jenny Hall and treasurer Colin Brush for their great work.

They have recently completed fantastic renovations to their clubrooms, voluntarily and with their own funding. They have done a wonderful job and the clubrooms are very pleasant indeed and are a very civilised place to spend some time. The club will of course be hoping eventually that the minister will visit and it looks forward to it.

I also congratulate the club on its junior section with a total of 230 players currently registered and the great commitment of parents and families to the junior component of the club. The Australian Football League Auspice group also has 120 registered participants. That got going under Terry Minette on 3 April and is doing very well indeed. It is a great club.

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

Maryborough: education precinct

Hon. J. A. VOGELS (Western) — In a couple of weeks the Bracks government will be delivering its fifth budget. Once again as in previous years Maryborough's $21 million education precinct is in the local news. Each year the local members, Joe Helper and John McQuilten, announce the commencement of

this facility. Also last year the Minister for Education and Training promised that students would be on site by the start of 2005. If any of those students are there, they will be wearing hard hats and not carrying books, because the first sod has not even been turned. Before the 2002 election we also had the Deputy Premier, the Honourable John Thwaites, standing next to the member for Ripon promising $9 million for stage 2 of the Maryborough hospital. Once again that was just spin. If and when these projects ever see the light of day, $21 million in 1999 dollars or $9 million in 2002 dollars will obviously be nowhere near enough to build either of those facilities.

The Maryborough community has every right to be angry and disappointed by the spin it has been fed by this Labor government. Once again it will be carefully scrutinising this year's budget to see if there is any funding in the forward estimates.

Reservoir District Secondary College: Dulin project

Ms MIKAKOS (Jika Jika) — On 17 February I had the pleasure of attending the launch of Dulin at Reservoir District Secondary College by the Minister for Aboriginal Affairs, Gavin Jennings. Reservoir is but one of my local schools participating in this program which also includes Northcote High, Northland Secondary College and Thornbury Darebin Secondary College.

Dulin is a body dedicated to empowering young indigenous people and helping them develop life, educational and employment plans. It is specifically designed to help young indigenous people aged 13 to 18 years in the northern metropolitan region of Melbourne as they begin to form their life goals. It works to create links between indigenous and non-indigenous agencies to aid young indigenous people's understanding of their rights and to support them through the education system.

I congratulate the Dulin young people's mentoring service for its efforts in assisting young indigenous people to form life goals and in building networks between support agencies. I wish them every success in their endeavours.

Commonwealth Games: media coverage

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — During question time we heard a rambling and incoherent answer from the Minister for Commonwealth Games, Justin Madden, regarding the government's handling of Commonwealth Games Arrangements (Further Amendment) Bill. The government likes to claim that it consults; whenever a government project is behind schedule the government says it is because it is going through a consultation process. Yet with a bill like this with the potential to exclude electronic media coverage of Commonwealth Games events it failed to consult with Channel 10, Channel 7, ABC TV and SBS. When asked why, the government's chief Commonwealth Games bureaucrat, Meredith Sussex, said 'We didn't think they would mind'.

The minister in his answer tried to blame the M2006 organising committee for the government's failure to consult, but the minister and the minister alone is responsible for the legislation for the Commonwealth Games that comes into this Parliament. The minister's inept handling of this legislation risks undermining the good work of Ron Walker, John Harndon and the M2006 organising committee. Last night the government pulled the legislation from debate in the other place — a clear acknowledgment that it has mishandled its introduction. Justin Madden must accept responsibility.

Malvern Valley Primary School: fire

Mr SCHEFFER (Monash) — Members will know that on Friday, 5 March, Malvern Valley Primary School was burnt to the ground. I pay tribute to the many members of the school community who supported each other through the shock of the fire itself and through the confusion of the days that followed.

The fire burnt fast and furiously. It consumed virtually the whole school within an hour, and there were embers flying over nearby homes. Fortunately no lives were lost, but the fire destroyed the school community memorabilia that was being collected for the school's 50th anniversary. That is irreplaceable, and it upset many people.

I would like to express my deep appreciation to all the on-duty firefighters led by Commander Michael Coombes, Assistant Chief Terry Hunter and Commander David Youssef of the Metropolitan Fire Brigade southern zone for their excellent work in suppressing the fire and saving the library. Stonnington City Council also deserves very high praise for its immediate response and hard work in making sure that the nearby Phoenix Park facilities were made available to the school.

I publicly recognise the strong and even leadership shown by the principal, Gay Fehlberg, the president of the school council, Charles Boyd, and the many

parents, teachers, children and community members who rallied so generously. The children are now located in good temporary facilities, and work has started on planning the new Malvern Valley Primary School. The worries of many were put to rest — —

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

Greythorn: shopping strip accidents

Hon. RICHARD DALLA-RIVA (East Yarra) — I rise to express my appreciation for the response to a spate of accidents with cars crashing into the Greythorn shopping centre shops on Doncaster Road. Over a six-week period in early 2004 three motor vehicles at various times crossed over the footpath and smashed into the shop windows, going deep into the shops. On 28 January a car ploughed into the Greythorn drycleaners; six days later another vehicle smashed into Dorice Boutique women's fashion shop; and on 6 March a car mounted the curb, crossed the footpath and struck trolleys at Greythorn Fruitland, unfortunately pinning a woman in her fifties against the shop front.

Each of these accidents had great potential to create enormous mayhem and further injury. The Greythorn Traders Association under the leadership of Janet Busby took immediate action and engaged the council. Already this week there has been a report that numerous car bumpers have been bolted in each car parking bay. I am told that the bollards that will be installed have already be approved by council.

I am pleased to acknowledge that Cr Gina Goldsmith, the City of Boroondara, VicRoads, the Greythorn Traders Association and the community have worked very quickly and effectively in delivering a safe place to shop in Greythorn.

PETITIONS

Planning: urban growth boundary

Hon. P. R. HALL (Gippsland) presented petition from certain citizens of Victoria requesting as an urgent priority that the new urban growth boundary be corrected to include within its borders the land of impacted stakeholders of Ironbark Road, Diamond Creek, and Pioneer Road, Yarrambat (6 signatures).

Laid on table.

Taxis: multipurpose program

Hon. P. R. HALL (Gippsland) presented petition from certain citizens of Victoria requesting that the Legislative Council not support the introduction of a financial cap to the multipurpose taxi program and that any proposed changes be delayed until full and proper consultation has been held with stakeholders, including the taxi industry, to consider other options for the efficient operation of the program, so that the special circumstances and needs of the elderly and the disabled in rural Victoria are fully considered (28 signatures).

Laid on table.

COUNTY COURT JUDGES

Hon. J. M. MADDEN (Minister for Sport and Recreation) presented, by command of the Governor, report for 2001–02.

Laid on table.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Auditor-General's performance audit

Ms ROMANES (Melbourne) presented report on review of Auditor-General's performance audit report on reducing landfill-waste management by municipal councils, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

Ms ROMANES (Melbourne)— I move:

That the Council take note of the report.

Waste management is a significant environmental issue for Victoria, and as in most other parts of the world, current practices are not sustainable. Although waste reduction and recycling are now internationally accepted as the basic principles in all waste management, we know that today the main method of managing waste in Victoria has been to use landfills. There are, of course, many concerns about the fact that Victorians are producing more and more waste. The latest figures from 2001–02 show that waste to landfill actually grew by about 17 per cent over the previous four years to that period. A large part of that increase is due to commercial and industrial waste.

In May 2000 the Victorian Auditor-General tabled performance audit report no. 65 on reducing landfill-waste management by municipal councils. The performance audit identified many significant weaknesses in the state's waste management framework and service delivery and raised the whole spectre of the difficulty with sustainability into the future.

The committee's review of developments since the Auditor-General's audit was undertaken back in 2000 has found significant progress on several issues, including reforming the waste management framework throughout the state and improving waste management practices of councils and the level and type of waste services provided. There has certainly been a massive growth in recycling throughout the state.

I mention a media release from the Minister for the Environment just a few days ago on 16 April which reported that the Publishers National Environment Bureau cites Victoria as leading not only Australia but the world with 77 per cent of its newsprint being reused.

There have been significant achievements, but the committee's review found many opportunities for further improvements including moving towards sustainability and avoidance of waste, developing markets for recycled products and improving performance information relating to waste management.

In this house over the last two or three years we have seen various legislative amendments introduced to tackle not only the need for clarification of the roles and responsibilities of the EPA, EcoRecycle Victoria and the regional waste management groups but also new funding arrangements to utilise the landfill levy to support waste management activities in Victoria. However, the committee reached the conclusion that there is a need to more formally recognise and record the very important role of local government in Victoria's waste management policy, given its vital role in the front line of delivering information, changing culture and practices and providing services.

The Auditor-General highlighted the need for a leading policy statement for the waste management sector, and while that has been largely addressed in the Towards Zero Waste strategy, further work is to be done on performance targets and measures. The committee hopes that the Towards Zero Waste strategy will act as a catalyst to improve further the delivery of waste management programs and services in this state and not least to develop markets for recyclable materials including green and organic waste.

I would like to pass on the thanks of the committee to the staff of the Public Accounts and Estimates Committee, especially Fleur Spriggs, the research officer, and Michele Cornwell, the executive officer, and to acknowledge the contributions of other parliamentary colleagues on the subcommittee — the honourable members for Pascoe Vale, Box Hill and Monbulk from the other house and Mr Baxter.

Hon. BILL FORWOOD (Templestowe) (*By leave*) — Briefly, I congratulate Ms Romanes on her chairing of this subcommittee. One of the things the Public Accounts and Estimates Committee does well is to take work done by the Auditor-General and review and comment on it to try to keep what he said going and on track. Each year the committee chooses a number of reports of the audit office. As I said, Ms Romanes chaired the subcommittee, and Mr Baxter has a long history and knowledge in the waste minimisation area. The members for Box Hill and Monbulk in the other place also worked hard to ensure that the work originally done by the audit office and the activity that had taken place was properly assessed and that reinforcement or direction was also given to the matters that had been raised in the original report.

I look forward as the year goes on to further reports of this kind being brought before the house. I encourage honourable members to use the Public Accounts and Estimates Committee reports in a proactive way to ensure that better outcomes are achieved across a range of issues for the people of Victoria.

Hon. RICHARD DALLA-RIVA (East Yarra) (*By leave*) — I did not intend to speak on this report, but after listening to the presentation on the committee's report I realised that it reflected on a motion we discussed last year. That motion concerned significant problems related to recycling and in particular the impact it was having on this state. I particularly recall that the issues related to local government and its involvement.

I raise again the hypocrisy of the other side of the house. We have here a great report, and I acknowledge the work that has gone into it, but in the sense that this report reflects on a motion that was raised last year I draw the attention of the house to the hypocrisy of the other side when it has identified issues to be brought to the attention — —

The PRESIDENT — Order! When the honourable member takes note of the report he is taking note of the

report that is before the house, not some other motion that has been dispensed with by the house. He should speak on the report and cease speaking on other matters.

Hon. RICHARD DALLA-RIVA — President, I had intended to sit down, but this is a report that I encourage. Clearly it is about concerns associated with recycling, and it also talks about the need for local business to be involved. I encourage members opposite to read the report in depth and reflect on what they said last year. In particular the report probably counters what they said last year. Thank you, President, for that opportunity.

Motion agreed to.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 3

Ms ARGONDIZZO (Templestowe) presented *Alert Digest* No. 3 of 2004, together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Ballarat University — Report, 2003 (two papers).

Commonwealth Games Arrangements Act 2001 — Commonwealth Games Project and Venue Orders, pursuant to section 18 of the Act (6 papers).

Deakin University — Report, 2003.

Essential Services Commission Act 2001 — Final Report of the Special Investigation – Proposed Retail Tariff Amendments, December 2003.

La Trobe University — Report, 2003.

Melbourne University — Report, 2003.

Melbourne University Private Limited — Report, 2003.

Monash University — Report, 2003.

Planning and Environment Act 1987 —

Notices of Approval of the following amendments to planning schemes:

Ballarat Planning Scheme — Amendment C66.

Bass Coast Planning Scheme — Amendment C30 (Part 2).

Bendigo — Greater Bendigo Planning Scheme — Amendments C29 and C53.

Brimbank Planning Scheme — Amendments C62 and C74.

Casey Planning Scheme — Amendment C56.

Colac Otway Planning Scheme — Amendment C24.

Dandenong Planning Scheme — Amendment C31 (Part 1).

Hume Planning Scheme — Amendments C19 (Part 2) and C21.

Kingston Planning Scheme — Amendment C37.

Knox Planning Scheme — Amendment C21.

Manningham Planning Scheme — Amendment C32.

Mansfield Planning Scheme — Amendments C2 and C3.

Maribyrnong Planning Scheme — Amendment C40.

Melton Planning Scheme — Amendment C35.

Mildura Planning Scheme — Amendment C21.

Mitchell Planning Scheme — Amendment C28.

Moorabool Planning Scheme — Amendment C3 (Part 1).

Moyne Planning Scheme — Amendment C12.

Towong Planning Scheme — Amendment C5 (Part 1).

Warrnambool Planning Scheme — Amendment C18.

Whittlesea Planning Scheme — Amendment C55.

Casey Planning Scheme — Amendment C66.

RMIT University — Report, 2003 (two papers).

State Superannuation Fund — Actuarial Investigation as at 30 June 2003.

Statutory Rules under the following Acts of Parliament:

Electricity Safety Act 1998 — No. 24.

Fisheries Act 1995 — Nos. 26 and 27.

Prevention of Cruelty to Animals Act 1986 — No. 23.

Tobacco Act 1987 — No. 25.

Transport Act 1983 — No. 28.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 24 to 26.

Swinburne University of Technology — Report, 2003.

Victoria University of Technology — Report, 2003.

Youth Parole and Residential Boards — Report, 2002-03.

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

Fisheries (Further Amendment) Act 2003 — section 5 — 8 April 2004 (*Gazette No. G15, 8 April 2004)*.

Port Services (Port Management Reform) Act 2003 — sections 10, 24, 26(2), 30, 31, 32, 33, 34(2) and 35 — 1 April 2004 (*Gazette No. G14, 1 April 2004*).

BUSINESS OF THE HOUSE

Program

Mr LENDERS (Minister for Finance) — I move:

That, pursuant to sessional order 20, the orders of the day, government business, relating to the following bills be considered and completed by 4.30 p.m. on Thursday, 22 April 2004:

Wrongs (Remarriage Discount) Bill

Unclaimed Moneys (Amendment) Bill

Public Prosecutions (Amendment) Bill

Gas Industry (Residual Provisions) (Amendment) Bill.

Hon. PHILIP DAVIS (Gippsland) — Consistent with the general approach the opposition has taken to government business motions I indicate that we are not very happy about this, but for particular reasons. I put on record that nearly a fortnight ago in a discussion I had with the Leader of the Government he indicated that the government would be seeking some cooperation in regard to legislation to be dealt with in the Parliament this week. In those discussions I made it clear that it has always been the position of the opposition that it would not set out to frustrate the government's legislative program just for the sake of being pedantic. I think the evidence to date indicates that when it has been necessary to expedite urgent legislation that cooperation has been achieved.

It is the case that the government has had further discussions with the opposition over the past few days. I understand legislation now being considered in the Legislative Assembly is proposed to be introduced in this place later in the week and dealt with urgently. This highlights how disappointing and what a waste of time it has been for the government to have introduced procedures to regulate the way the house operates, given the history of 140 years of cooperation on both sides in a bipartisan way to ensure that the Legislative Council is a proper parliamentary chamber with members arguing vigorously the merits of legislation, but at least reflecting the fact that government processes need to be respected.

Sessional order 19 sets out clearly that:

> Before the house meets for business in any week, the Leader of the Government or his or her nominee may meet and consult with the leaders of other parties or their nominees with a view to reaching agreement on the manner in which the house is to deal with government business in that week.

That discussion has clearly occurred. As I have related, the Leader of the Government indicated that some cooperation was being sought. The opposition has indicated that, consequent upon certain undertakings being given expressly by the Treasurer in regard to that legislation in another place, there would be the necessary cooperation in that respect.

Notwithstanding the approach the government has taken to seek cooperation from the opposition parties, it has ignored the premise of what I understand the word 'consult' to mean. For the edification of the chamber, *Macquarie Dictionary* states:

> consult — 1. to seek counsel from; ask advice of. 2. to refer to for information. 3. to have regard for (a person's interest, convenience, etc) in making plans —

and so on. The point is that consultation implies an act of good faith. I believe the government in consistently coming into this place and introducing a business program and now in seeking the cooperation of the opposition is being hypocritical. I would prefer that the government did not come to us and ask for cooperation and then come into this house and impose a business program on the house. It demeans members of this chamber when, if the government comes and asks for agreement to expedite urgent legislation and members of the opposition give that undertaking, the government does not take the opposition's word at face value.

The government needs to take on notice from this day forth that there will be a different attitude to dealing with requests for cooperation if the government persists in bringing in a government business program. I am opposed to the program, notwithstanding the discussions that have already taken place.

Hon. P. R. HALL (Gippsland) — I agree with the comments of the Leader of the Opposition. It seems ludicrous that we have a motion to pass a business program for the week when we all fully know and have

privately agreed that we will do beyond this business program this week. This business program encompasses four pieces of legislation, and as the Leader of the Opposition has done, I have also indicated privately to the Leader of the Government that we will not refuse leave for the introduction of urgent legislation to come before the house. It seems ludicrous that we have a motion to establish a program for the week with full knowledge that during the course of the week there will be an amendment to the program and something other than this will be adopted. It makes a farce of the process of putting in place a business program. I cannot do more than agree with the views that have already been expressed by the Leader of the Opposition.

Motion agreed to.

WRONGS (REMARRIAGE DISCOUNT) BILL

Second reading

Ordered that second-reading speech, except for statement under section 85(5) of Constitution Act, be incorporated on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

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

That the bill be now read a second time.

The bill amends section 17 of the Wrongs Act 1958 to provide that in an action for damages for wrongful death, the court may not take into account the plaintiff's prospects of remarriage or of forming a new domestic partnership in order to make a separate reduction in damages awarded to the plaintiff.

Until very recently, courts assessed the likelihood that the plaintiff — almost always a woman — would remarry on the basis of her 'appearance, credentials and demeanour'. In late 2002 the High Court overturned this outdated precedent in the decision of *De Sales v. Ingrilli*, clearly stating that the 'remarriage discount' no longer applies in Australia.

This bill protects the plaintiff in a wrongful death suit from outdated judicial considerations in which the court made a specific discount based on how likely the court considered it was that the plaintiff would remarry. The bill does this by reflecting the High Court decision in *De Sales v. Ingrilli* in which the High Court found that the 'remarriage discount' as it was known, no longer applied in Australia.

Making a specific discount for remarriage or repartnering or the prospects of remarriage or repartnering is fundamentally flawed in two ways.

Firstly, there is simply no way to predict whether, or when, one human being will form a permanent relationship with another person. Predictions made upon the basis of the attractiveness, age and demeanour of the plaintiff are subjective, outdated and frankly offensive.

Secondly, to discount the plaintiff's damages on the basis that she is likely to remarry or repartner presupposes that remarriage or repartnering will be financially beneficial. This is not an assumption that can be made with any certainty. It is based on outdated notions about a woman's role in society. When the common law in this area was developed in the 1800s a woman was completely dependent on her husband not only for income, but also for property. Times have changed. Not only is a woman likely to be contributing significantly to the finances of the marriage, but there is no way to predict the earning capacity of her new partner.

The bill states that the court may not take these factors into account in order to make a separate discount when apportioning damages for wrongful death. This is consistent with Victorian and federal antidiscrimination law, which clearly states that it is inappropriate to discriminate against a person based on a number of characteristics, including their sex or appearance.

What does the bill do?

Sections 16 and 17 of the Wrongs Act 1958 provide that if the death of a person was caused by a wrongful act of neglect or default, the person who committed the wrongful act is liable to pay damages to the dependant or dependants of the deceased. Section 17(2) provides that the word 'dependants' means, 'such persons as were wholly mainly or in part dependent on the person deceased at the time of his death or who would but for the incapacity due to the injury which led to the death have been so dependent'.

The bill amends the act to make it clear that in apportioning damages in an action for wrongful death the court may not take into account as a separate discount the plaintiff's:

remarriage;

new domestic partnership;

prospects of remarriage; or

prospects of forming a new domestic partnership.

This prohibition applies regardless of whether the plaintiff is a man or a woman and regardless of the sex of the new partner.

The extension of the prohibition to all domestic partners, regardless of sex, is consistent with reforms to Victorian law in 2001 under the Statute Law Amendment (Relationships) Act 2001 and the Statute Law Further Amendment (Relationships) Act 2001, which together amended over 50 Victorian acts to ensure that in most cases, same-sex and heterosexual domestic partners now share the same rights and responsibilities as married couples.

As marriage rates decline and the rate of domestic partnerships rises, extending the prohibition on the court's consideration of the prospects of remarriage to the prospects of forming a domestic partnership is necessary and appropriate.

However, the bill in no way prevents the court from making a general discount in these cases for those things recognised as the 'vicissitudes of life'. The vicissitudes of life are factors

which would potentially increase or decrease the financial needs of the plaintiff throughout their life — for example, the plaintiff may die earlier than could be expected in the normal course of life, win the lottery or develop an illness or disability.

I note that nothing in the bill prevents, for example, the court from taking into account the fact that the plaintiff has married or may marry a wealthy partner. However, this would simply be one of many factors considered in the context of the vicissitudes of life, given no more or less weight than any of the other general factors which make up the vicissitudes of life.

Former spouses and domestic partners

The bill extends the prohibition on the court's consideration of the plaintiff's remarriage, formation of a new domestic partnership or their prospects of remarriage or forming a new domestic partnership, to former spouses or domestic partners of the deceased.

Under section 17 of the Wrongs Act any person who was wholly or partly dependent on the deceased is eligible to make a claim for damages for wrongful death. A former spouse of the deceased who was receiving spousal maintenance payments under the commonwealth Family Law Act 1975 would be classified as a dependant of the deceased and would therefore be eligible to make a claim for damages.

If a person was not dependent on the deceased, they will not be eligible for damages and therefore, the question of the prohibition on the consideration of remarriage or repartnering would not apply. However, where the former partner or spouse was a dependant of the deceased and therefore eligible to apply for damages, the prohibition on the court's consideration of their prospects of remarriage or repartnering would apply.

This is appropriate and necessary because the prospects of remarriage or repartnering of the former spouse or domestic partner are not relevant on the basis that it is not possible to predict that the applicant will remarry or repartner nor that if they do remarry or repartner, that that relationship will be financially beneficial.

Section 85 statement read pursuant to sessional orders:

Section 85 of the Constitution Act 1975

Clause 4 of this bill proposes to insert new section 23AD into the Wrongs Act 1958. Section 23AD states that it is the intention of section 19(2) to alter or vary section 85 of the Constitution Act 1975.

Section 19(2) provides that in an action under part III of the Wrongs Act 1958 that is commenced after the commencement of the bill, no separate reduction of damages may be made on account of the remarriage or formation of a domestic partnership, or the prospects of the remarriage or formation of a domestic partnership, of the surviving spouse, domestic partner, former spouse or former domestic partner of the deceased.

The purpose of the new section 19(2) is to restrict the powers of the court in the assessment of damages in these types of actions in order to ensure that plaintiffs are protected from any possible future application of the 'remarriage discount'. While the bill reflects the common law set out by the High Court in *De Sales v. Ingrilli*, the government considers it important to make a clear legislative statement to ensure that this outdated, discriminatory and offensive discount no longer applies in Victoria.

I commend the bill to the house.

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

Debate adjourned until later this day.

UNCLAIMED MONEYS (AMENDMENT) BILL

Second reading

Mr LENDERS (Minister for Finance) — I move:

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

Hon. C. A. Strong — On a point of order, I understand that where a bill has been amended in the other house the incorporation under sessional orders requires some explanation of the amendments made in the other place.

Mr LENDERS — I acknowledge Mr Strong's point. I apologise to the house for not drawing attention to that convention. There was a minor amendment to the bill in the Legislative Assembly, in that the financial industry was anxious that the definitions in the bill may mean that some trust funds that were being held for more than a year would be deemed to be caught when the intention of the beneficiaries was known. For that reason an amendment was passed in the Legislative Assembly last year.

Motion agreed to.

Mr LENDERS (Minister for Finance) — I move:

That the bill be now read a second time.

The primary purpose of the bill is to amend the Unclaimed Moneys Act 1962. These amendments are necessary to ensure the act:

operates in accordance with the Information Privacy Act 2000;

clearly defines the powers of the Registrar of Unclaimed Moneys; and

reflects contemporary practices.

With the exception of some minor amendments in 1993 and the introduction of part 4 dealing with unclaimed superannuation benefits, the Act has remained unchanged

since 1962. During this time some of the processes relating to the collection and publication of unclaimed money information have become dated.

With the introduction of the Information Privacy Act 2000, new standards were introduced for the collection, use and disclosure of personal information. As the Registrar of Unclaimed Moneys is required to collect and maintain information of a personal nature, it is important that the Unclaimed Moneys Act 1962 be updated to reflect these new standards.

The Information Privacy Act 2000 also places particular importance on the issue of purpose. While the Unclaimed Moneys Act 1962 contains an implied purpose, it is not clearly specified. This is a significant deficiency that must be addressed by including a clear statement of purpose in the act.

The act is also deficient with respect to the powers of the Registrar of Unclaimed Moneys to collect, use and disclose information. It is unclear what information can be collected and maintained using these powers. There is also some uncertainty about the powers of the registrar in relation to the publication of information on unclaimed moneys.

In addition to the several specific deficiencies with the act, there is a need to restructure the overall administration of unclaimed moneys and provide for a more up to date approach to the management of unclaimed moneys.

This bill proposes a number of amendments to the act that address all of these deficiencies. This will result in an act that reflects contemporary practices, meets information privacy requirements, provides clear powers for the Registrar of Unclaimed Moneys, and provides an improved service for Victorians seeking their money.

The bill proposes the introduction of an overall primary purpose to the principal act and, additionally, a special purpose to part 3 of the act, which will explicitly outline the intentions of the act. The introduction of these clauses will amend the act to meet the requirements of the Information Privacy Act 2000.

To address any uncertainties relating to the powers of the registrar, sections 12 and 13 of the act will be amended.

Section 12 will provide specific detail on the collection, use and disclosure of information on unclaimed moneys. This will include the power to publish information on the unclaimed moneys web site. This web site continues to be very popular with the public as a means for locating their moneys. The wide discretion given to the registrar, to advertise and publish the collected information, will be exercised in accordance with the purposes of the amended act and the Information Privacy Act 2000.

Section 13 of the act will be amended to broaden the inspection powers of the registrar to ensure compliance with the act by businesses and trustees. In line with current government recommendations on inspection powers, the amendments are consistent with the Victorian parliamentary Law Reform Committee report.

This bill amends the definition of unclaimed money to be any amount equal to or greater than $20.00, which will bring Victoria into line with other states in Australia. The change is designed to reduce the administrative burden on business and government, as 67 per cent of the current administrative effort is being applied to amounts less than $20.00.

As part of the proposed amendments, the definition of a 'business' for the purposes of the act will be changed to capture any organisations that are operating in Victoria but which may be incorporated in other states. The Victorian operations of those organisations may currently be remitting their unclaimed moneys to those states rather than to Victoria.

Trustee companies who are holding unclaimed moneys will also be included in the definition of a business and will therefore be subject to the same provisions of the act. This is considered imperative to ensure that unclaimed moneys are treated in the same way regardless of who is holding it.

The amendments in this bill also require trustees to distinguish between unclaimed moneys and unclaimed property, which are currently treated as the same. After consultation with the finance industry, the new provisions for trustees have been clarified in line with the newly introduced purpose of the act.

Under the act, businesses are currently required to advertise all individual unclaimed moneys equal to or above $100. The proposed amendments raise this threshold to $200 and bring Victoria into line with other states. Furthermore, businesses currently advertise unclaimed moneys in a large number of different government gazettes during the year. Businesses will now only be required to advertise in one special, annual edition of the *Government Gazette*. This is a significant improvement and will greatly benefit owners by making it much easier to locate their money.

A further amendment proposed in this bill is the introduction of a requirement for businesses to provide a return to the registrar that incorporates the lodgment statement that is currently provided. The return will include a compliance statement indicating that a reasonable effort has been made to locate the owners of the unclaimed moneys. The return will also show for the 12-month period prior to lodgment a summary of the total amount of unclaimed moneys at the start, the total of unclaimed moneys paid to owners and a breakdown of costs incurred in that process.

In line with the scale in the Sentencing Act 1991 and the Department of Justice recommendations, the structure and value of penalties in the act have been revised in the proposed amendments. For example, the penalty for not lodging a return with the registrar will be up to a maximum of $12 000.

To enable the finance industry of Victoria sufficient time to adapt to the new act, the new provisions will not come into operation until 1 January 2005.

The proposed amendments to the Unclaimed Moneys Act 1962 will result in the more efficient and effective management of unclaimed moneys and an improved service to all Victorians. This will contribute to the key government strategic areas of sound financial management and the promotion of the rights of all Victorians.

I commend the bill to the house.

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

Debate adjourned until later this day.

PUBLIC PROSECUTIONS (AMENDMENT) BILL

Second reading

Debate resumed from 31 March; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In dealing with the Public Prosecutions (Amendment) Bill it is worth explaining that this very short bill seeks basically to provide statutory immunity to the Director of Public Prosecutions and various people who work in the Office of Public Prosecutions. Essentially there is a feeling that some degree of statutory immunity is required for this office to ensure that the law of the land can be proceeded with without fear or favour.

We all know that we live in a very much more litigious society today. Although there are various immunities given to the court — for instance, already statutory immunity is given to various prosecution practitioners and also to witnesses and judges and there has generally been perceived to be some common-law immunity for other members who are acting in the court and bringing cases to the court — the fact remains that there is perceived to be the potential for some actions to be brought against the Director of Public Prosecutions as the individual who puts together the case, recommends that a prosecution be commenced et cetera.

If the Director of Public Prosecutions is at any risk of not being able to proceed with his recommendations without fear or favour — if he perceives that he may be proceeded against in some form of civil action for the decisions that he made in bringing a case to court — that may well bear on the decisions that he makes to proceed with particular cases. All members would agree that that would be a miscarriage of how justice is meant to work, because the Director of Public Prosecutions should recommend that cases be brought without any personal duress being put upon him or her.

As I said, in this litigious society there is the potential for that duress to be put on a Director of Public Prosecutions or members of the Office of Public Prosecutions. To put the situation beyond any doubt the bill seeks to give statutory immunity to the Director of Public Prosecutions and various of those who work in his office and for him. In due course I will run through precisely who they are.

Although it may seem to be a bit of a belt-and-braces measure to provide statutory immunity to the office of the Director of Public Prosecutions, it quite clearly puts beyond doubt that the Director of Public Prosecutions can go about his work without any fear that some personal damage or a personal action may be brought against him or her as a result of making a particular decision. Therefore the legislation enhances the operation of the law in this state, and as such the Liberal Party supports it.

As I said, the statutory immunity applies to the Director of Public Prosecutions. It will also apply to the Chief Crown Prosecutor, Crown prosecutors, associate Crown prosecutors, solicitors for public prosecutions, members of the staff of the Office of Public Prosecutions acting on behalf of the Director of Public Prosecutions, and members of the Committee for Public Prosecutions appointed by the Governor in Council. That statutory immunity will apply to those officers when they are acting in good faith. If the officers were acting not in good faith or in some way that was not within the proper scope of the carrying out of their duties, of course action could be taken against them. So long as they are acting in good faith in the carrying out of their duties, they will have that statutory immunity.

The statutory immunity will apply also to past holders of those offices, to put it beyond doubt that if they were acting in good faith they will not be subject to any civil litigation calling their actions into question. It is important to note that although this is, as I said, a belt-and-braces measure in a way, the extending of this statutory immunity to past holders of these offices is relevant and important because actions could be brought against past holders of the office of the Director of Public Prosecutions and the other members of the office whom I have mentioned. Those actions, if they were not knocked out for being frivolous, would tie up the resources of the court unnecessarily. We are all painfully aware of how important it is that the court carries out its functions efficiently and expeditiously and with the minimum amount of waiting to bring important cases to court.

In essence, then, the issue is to make it quite clear that the Director of Public Prosecutions and those other members of his office who are covered by the legislation when acting in the public interest in good faith need be under no duress or fear that they will be proceeded against in a civil court. This is to ensure that the decisions they make are in the public interest rather than being motivated by any concerns they might have about action that could be taken against them. As such, this is an appropriate piece of legislation to strengthen the carrying out of the law in this state, and I commend the bill to the house.

Hon. W. R. BAXTER (North Eastern) — The Nationals are pleased to support this small bill. It is an important bill, and the office of Director of Public Prosecutions is a very important office. It is fair to assume that when the office of the DPP was established — and it was not that long ago, in the time of the Cain government — it was taken for granted that the immunity and the protection afforded by this legislation was in place at that time. The need for the legislation is probably an indication of the more litigious society we live in and the capacity of some legal people and their clients to endeavour to take opportunities that might arise, even at the margin, to seek damages for some real or — more often, I expect — perceived or imagined slight.

As Mr Strong said, it is absolutely essential for the operation of the DPP's office that prosecutors and other staff are able to go about their duties in full knowledge that they will be indemnified from any action mounted against them if their duties have been undertaken in good faith. No-one is suggesting for the slightest moment, of course, that malicious actions should somehow or other be safeguarded; they are certainly not.

I am pleased the Parliament is acting to make this perfectly clear. I am not sure whether there have been any cases run, whether there have been any threats of cases being mounted or whether this has simply resulted from someone in the Department of Justice believing there is a possible opening in the legislation which might be exploited by some aggrieved litigant in the future. Whatever is the case, it is appropriate that Parliament act. As I said, when the original act was passed in the 1980s it was probably assumed that this situation was covered in any event.

The office of the Director of Public Prosecutions, as I have noted, is a very important office. I recently read as a matter of interest the memoirs of the late departed Honourable Vernon Wilcox, who at one stage of course was Attorney-General of the state of Victoria at a time predating the establishment of the office of the Director of Public Prosecutions. In his memoirs Mr Wilcox runs the interesting argument that the establishment of the DPP was in fact a diminution of the powers of the Parliament and the accountability of the government of the day and that those decisions as to whether to proceed with prosecutions or lodge nolle prosequi ought to have remained the responsibility of the Attorney-General.

I had a lot of time for Mr Wilcox. He was a very good member of Parliament, a very good transport minister and, as far as I know, an excellent Attorney-General. But I tend to disagree with this particular view of his. The number of cases before the courts now, their complexity and the sensitive nature of many of them would make it an impossible task for an Attorney-General to be personally making these decisions — always of course with advice from his department. I believe the establishment of the DPP in the 1980s was an appropriate move and that by and large — although an Attorney-General in the Kennett government did have some difficulties with the then Director of Public Prosecutions — the office has proved its worth, it has been well conducted, it has added lustre to legal proceedings in Victoria and it has provided some protection not only for the public of Victoria but for some of those who have transgressed.

I will make one observation, though. It could be said that the present Attorney-General of this state is no stranger to grandstanding and that, in view of the recent machinations about judges' pay rates, he probably now regrets the words he put in the second-reading speech of this bill back in November. At that stage he pointed out that the Director of Public Prosecutions receives the same salary as a Supreme Court judge, and he talked in that second-reading speech about the desirability of maintaining the independence of the judiciary and attracting the best people to the task. He said that governments should keep at arm's length from that position — and rightly so; I agree entirely with the Attorney-General on that.

But what have we seen in the last fortnight? There has been a recommendation from the remuneration tribunal in respect of law officers of this state being rejected by the government. It appears that either the Attorney-General's remarks last November in the second-reading speech were hypocritical or — more likely, perhaps — he was rolled on this particular issue and that he in his own heart believes that remuneration tribunal recommendations on judicial salaries ought not be tampered with for populist political reasons by the government of the day. That might well serve as a lesson to ministers in this government who have tended to make very political second-reading speeches that if they do that they often get hoist on their own petard. I think that is where the Attorney-General finds himself uncomfortably right at this moment.

As indicated, The Nationals believe this bill is desirable. We have no problems with it, and we think it is a useful addition to the statute book of Victoria, even if it is simply confirming a circumstance which we all believed, at least in our laymen's experience, existed in any event.

Ms MIKAKOS (Jika Jika) — I am very pleased to be able to speak on this bill. I say at the outset that an independent Director of Public Prosecutions is something the Bracks government considers critical to a stable and effective justice system. Indeed the Westminster system on which our government structure is based relies on a clear separation of the judiciary and those from government exercising judicial functions.

This bill will introduce a statutory immunity for the Director of Public Prosecutions and certain other specified persons associated with his function. It builds on changes made by the government in 1999 to enhance the independence of prosecutorial decision making in Victoria from governmental or political interference. The statutory immunity will provide specified persons with immunity from negligence and other non-intentional torts for all things done and said, whether in or out of court, arising from their duties as a prosecutor. This immunity differs from the common-law immunity that already protects Crown prosecutors, witnesses, judges and advocates from civil proceedings for anything done or said by them in preparation for or in the course of judicial proceedings.

In technical terms, the bill amends the Public Prosecutions Act 1994 to include a statutory good-faith immunity from civil proceedings to certain persons in the performance of their duties under the act, with liability reverting to the state.

Those persons to whom the bill refers are the Director of Public Prosecutions, the Chief Crown Prosecutor, Crown prosecutors, associate Crown prosecutors, the solicitor for public prosecutions, members of staff of the Office of Public Prosecutions acting on behalf of the DPP, and members of the Committee for Public Prosecutions appointed by the Governor in Council.

Other entrenched office-holders under the Constitution Act already have statutory immunity: these are the Auditor-General and members of his office who have a statutory good-faith immunity from any liability, and the Ombudsman and his officers who have a statutory good-faith immunity from civil and criminal proceedings, where proceedings can be brought only with the leave of the Supreme Court.

Rightly it is government policy that statutory immunities are now rarely provided to agents and servants of the Crown unless there are sound public policy reasons for doing so. Instead government policy provides that an indemnity is granted on a case-by-case basis for the legal representation of ministers and other Crown servants and agents in respect of legal proceedings arising out of the discharge of their duties. This is, of course, in situations when they have acted in good faith.

The sound public policy reason for granting a statutory immunity to the Director of Public Prosecutions is that it will strengthen his or her independence. As an entrenched office-holder under the Constitution Act who does not act on the direction of the executive, the DPP should not be, and should not be seen to be, subject to the discretion of the executive in seeking an indemnity when performing his or her duties in good faith.

It is in the public interest that the DPP and those persons acting on his or her behalf perform their work without restrictions imposed by an unqualified civil liability. The DPP acts for the public as a whole in the public interest and has a role that is independent of the interests of the government of the day.

The community will also benefit from having confidence in the ability of the Office of Public Prosecutions to attract skilled staff and maintain the conduct of criminal prosecutions as its primary function. A statutory immunity will allow staff to continue to act without regard to their own circumstances. The Public Prosecutions Act requires that prosecutorial staff are able to perform their work in an effective, economical and efficient manner, and this legislation will assist them in doing exactly that.

We all hear about our increasingly litigious society. It is certainly true that prosecutors are now at greater risk of being sued by people who are unhappy about their treatment in the criminal justice system. I am sure that as members of Parliament we are all accustomed to receiving emails from many such individuals on a regular basis. Unfortunately, while an accused cannot sue their own counsel, prosecutors are not immune from civil litigation and the potential for very high damages resulting. Moreover, the current in-court immunity may not extend to advice work, decisions to prosecute and nolle prosequi decisions.

The rights of members of the community to seek compensation in relation to criminal prosecutions will not be affected by this bill. The difference will be that the state will be able to be sued rather than a specified person as long as the prosecutor has acted in good faith. If it is found, for example, that a Crown prosecutor has not acted in good faith, the prosecutor will not be protected by the immunity and will be liable for his or her own actions.

As proposed by the bill, the statutory immunity for the persons specified will apply to any cause of action

whether arising before or after the commencement of the act except the rights of parties in proceedings that are already on foot. Specifically, the bill preserves the rights of the parties in *Tahche v. Cannon and Ors*. The right of members of the community to seek redress against the state has been retained, however, because again retrospectivity only applies to the specified persons and not to the state.

I note that during the debate in the other place opposition members queried why private members of the bar who are briefed by the DPP should not also be granted statutory immunity. Simply, when members of the private bar are representing the Crown they are already protected by the indemnity provision in the government policy on indemnities and immunities. Under this policy, as I have already explained, private members acting as Crown prosecutors are eligible for an indemnity on a case-by-case basis. Additionally, members of the bar also carry professional indemnity insurance.

These two protections are considered to be sufficient for members of the bar representing the Crown. Members of the bar have therefore not been included in the category of persons specified under the immunity provision as it is considered that they are already adequately protected. Furthermore, the grant of statutory immunities must be limited to entrenched office-holders in order to prevent a flow-on to other prosecutors, lawyers and advisers to government.

On only one occasion has the independence of the Victorian DPP been severely threatened. I refer of course to the attempt by the Kennett government to make the DPP subject to political interference and control. Thankfully the most damaging measures proposed by the then Attorney-General were withdrawn after considerable outrage was expressed by the Victorian community including the legal profession.

Shortly after its election in 1999 the government moved to strengthen the position of the DPP. I strongly welcome those changes. The DPP is now appointed under the Constitution Act, paid the same salary as a Supreme Court judge — quite an adequate salary, I might add — and can only be removed from office by Parliament in accordance with procedures set out in the Constitution Act.

The government has put the DPP beyond the grasp of politics, and the protection afforded by the statutory immunity will ensure that the DPP and his or her staff can operate efficiently and with true independence and impartiality. I commend this bill to the house.

Hon. RICHARD DALLA-RIVA (East Yarra) — It is a great privilege to make a contribution — albeit a brief one — on the Public Prosecutions (Amendment) Bill 2003. It is an important piece of legislation which is before the house. From my view, having had past experience in law enforcement — as many would know — —

Ms Hadden interjected.

Hon. RICHARD DALLA-RIVA — Ms Hadden would know that I would have been a hardworking detective, and she would understand that often when I presented cases before the court I had direct involvement with the Crown prosecutors. Obviously, as part of that process a variety of people would be involved in the trial, including the committal hearing, when coming to whatever result the jury would determine.

It is important that we have this legislation to provide a level of immunity. While I do not wish to go into other areas of the work that the Law Reform Committee is working on, clearly there is the need to ensure that the office-holders, who are in very important positions, are suitably dealt with by providing them with support and security with respect to those people who are, unfortunately, vexatious and take unfounded actions against others. Those who are involved in the court system can often do that when they are aggrieved by legal outcomes**.** I am sure members of this house would have constituents, or know of people who fall outside of their constituency base, who raise issues of concern about how they were dealt with or how they perceive they were dealt with in relation to matters before various courts.

What this bill does is to provide statutory immunity from non-intentional torts — that is, negligence — for prosecutors who are acting in good faith. Ms Mikakos indicated that had those persons not acted in good faith, then they would not fall within statutory immunity and may be subject to the non-intentional torts that have been outlined in this bill. It is important also to note that this immunity extends to past cases and prosecutions and present prosecutions that are covered by the bill before the house. I also note that the legal profession supports this bill in its entirety.

I wish to put something on the record about those who act in good faith in terms of prosecutions — and this is my view based on past experience. I would have liked the bill to provide law officers who acted in good faith with some statutory immunity. There are a number of situations where police officers or others who have been acting appropriately, for whatever reason, have

been subject to the tort law. I reflect on my own experience where, acting in good faith, members of the police force would present a case and work towards a conviction and later find themselves involved in that process. I do not wish to elaborate any further on that, other than to say that I support the bill. I wish it a safe and speedy passage through the house.

Ms HADDEN (Ballarat) — I rise to speak in support of this bill before the house. It has been thoroughly discussed by Ms Mikakos, the Parliamentary Secretary for Justice. I shall add a few words about the bill. The bill amends the Public Prosecutions Act 1994 to include a statutory good faith immunity from civil proceedings for specified persons as set out in the bill, with liability reverting to the state. Those persons are: the Director of Public Prosecutions, the Chief Crown Prosecutor, Crown prosecutors, associate Crown prosecutors, the Solicitor for Public Prosecutions, members of staff of the Office of Public Prosecutions acting on behalf of the Director of Public Prosecutions, and members of the Committee for Public Prosecutions appointed by the Governor in Council.

The statutory good faith immunity will provide those specified persons in the bill with immunity from negligence and other non-intentional torts for all things done and said in good faith in relation to a case, whether in or out of court. That immunity will apply to both former and current Office of Public Prosecutions members and other specified persons. It will apply to any causes of action whether arising before or after the commencement of the act, except for the rights of the parties in the ongoing Tahche proceedings and any other proceedings that may be currently on foot.

The main policy reason behind this bill and the proposed statutory immunity for the Director of Public Prosecutions is that it further reinforces the very important independence of this office. The DPP is now appointed, as we know, under the Constitution Act 1975 and can be removed from office only by the Parliament of Victoria in accordance with procedures set out under that act.

Other entrenched office-holders under the Constitution Act who also have legislative protection are the Auditor-General and members of his office, who have a statutory good faith immunity, and the Ombudsman and his officers, who have a statutory good faith immunity from both civil and criminal proceedings and also where proceedings can be brought only with leave of the Supreme Court.

Five other states and territories provide statutory immunity under their Director of Public Prosecutions legislation. These are New South Wales, the Australian Capital Territory, the Northern Territory, Queensland and Western Australia.

The proposal to provide a statutory immunity for the Director of Public Prosecutions as an entrenched office-holder under the Constitution Act will act to quarantine further requests from other Crown servants and agents for a similar immunity provision on the basis that such office-holders are an exceptional case.

The Attorney-General introduced this bill and the amendments relating to the statutory good faith immunity for the Director of Public Prosecutions and members of the Office of Public Prosecutions late last year. As the Attorney-General said, those amendments will ensure that the DPP and the prosecutorial staff employed by the Office of Public Prosecutions are able to perform their very important work in this state on behalf of the public in an effective, economical and efficient manner as required under the Public Prosecutions Act without restrictions imposed by the threat of unqualified civil liability. Of course, quite rightly, the Attorney-General noted that there was a need to prevent unfounded and vexatious actions being brought against both current and former prosecutors and other members of the Office of Public Prosecutions.

This is an important bill. It ensures that those very important persons as specified under the act are able to perform their duties with the statutory good faith immunity. It is very important that that immunity fits in with other states in this country and affords them the ability and capacity to perform their duties without fear of being prosecuted by vexatious litigants. I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — In many ways the bill is a legislative response to a trend towards our becoming a more litigious society, a society where people seek redress in the courts, not so much for actual damage and circumstances that might have affected them directly but also to establish, if you like, pyrrhic victories or technical victories in matters where they are concerned about damage particularly to reputation.

Certainly, though, the Director of Public Prosecutions, by way of example as one of the officers covered by this legislation, is involved in a wide range of advices to government and actions on behalf of government that go well beyond any circumstances that might simply involve one's reputation. However, in the context of the society in which we live today people are increasingly

looking at exercising their legal rights, looking for somebody else who might be blamed for an issue or seeking to challenge a judgment or finding that has gone against them.

It is important that in both our system of government and our legal system, which obviously are two of the very important tenets of our democracy, it is possible for officers to act without fear or favour. The officers who are involved in discharging their responsibilities under various pieces of legislation must be able to act in a way where they do not show favour to particular people and are not intimidated by anyone because of the perception that the circumstances of their decisions, their advice or their actions, both in the courts and even in the preparation of materials, documentation and so forth for proceedings, are likely to be subject to some sort of challenge. That person might face the very worrying, intimidating and sometimes humiliating prospect of being taken through the courts when they have in fact acted properly and sought only to discharge their responsibilities that were allocated under various pieces of legislation.

We are likely to see an increasing move in many areas towards more and more aggrieved litigants — and indeed even vexatious litigants, notwithstanding the legislation that was recently passed in this place about vexatious litigants — resorting to the law to try to set aside judgments with which they have some concerns. In many cases there are strong and compelling reasons for them to seek either a technical opportunity to overthrow a particular judgment or to challenge a real point of law or an area of negligence within the law. Obviously some judgments have significant ramifications in terms of people's opportunity to go about their business and to transact other matters in their lives; those things can very much be affected by court judgments. People are very concerned about that and will increasingly resort to the law to pursue their opportunities.

To this point we have relied to a large extent on the fact that the officers of the court have been seen as being a difficult target for such litigants to assail with legal action because those people are in most cases acting in good faith, and I think the courts give due deference to that and by and large are supportive of officers of the court who have gone about their duties in good faith and have not acted outside their jurisdictions or their legislated powers. But with the trend towards this more litigious society I think it is appropriate that this sort of legislation come before us and that we make it absolutely clear that certain officers who hold significant and important positions in our legal system are granted immunity so that they can go about the very important work they do on behalf of our society with every confidence that their positions will not be called into challenge where they have indeed acted in good faith.

It is appropriate that this legislation does not take away the right of a member of the community to seek redress against the officers named in it, such as the Director of Public Prosecutions, the Chief Crown Prosecutor, Crown prosecutors, associate Crown prosecutors, the Solicitor for Public Prosecutions, members of the Committee for Public Prosecutions appointed by the Governor in Council, or indeed members of staff of the Office of Public Prosecutions acting on behalf of the director. It is appropriate that is there because it continues to be a check and an opportunity for people to take action in the event that one of those officers aforementioned operates outside their jurisdiction, irresponsibly or in a context which would not be construed or found to be in good faith.

We would like to think that in all cases those officers did act appropriately, but there is still provision under this legislative change for action to be taken where they do not act in good faith. That is not something we would rely on in many instances, if ever. It is important that the legal system is given a good deal of support by the Parliament, that it is recognised as being something special in our society and that we do in fact protect its integrity. But I would have to say that the legal profession is not a sanctified profession; it is not immune to criticism and certainly not immune to public scrutiny.

One of the things that interests me as a person who has been involved in journalism is that on a couple of occasions people in legal offices have launched defamation suits against journalists because of concerns about comments on their behaviour in the legal profession — there was a classic one recently, between Popovic and Andrew Bolt — but my concern is that the legal profession should not see itself as sacrosanct or beyond public scrutiny. However, in the context of its going about discharging its responsibilities in an appropriate fashion and in good faith, I believe this legislation is appropriate and provides due legal immunity which will ensure the integrity of our legal system.

I would suggest that in fact the immunity, as was indicated in the second-reading speech, effectively exists for the benefit of individuals as specified in this legislation, but it is also a benefit for the general public because it is in the public interest. As I have said, the integrity of our system is maintained and therefore this

legislation is appropriate and should be passed by this house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

I thank all members for their contributions in relation to the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

Second reading

Debate resumed from 31 March; motion of Hon. T. C. THEOPHANOUS (Minister for Energy Industries).

Hon. BILL FORWOOD (Templestowe) — Honourable members will not be surprised to know that the Liberal Party supports the Gas Industry (Residual Provisions) (Amendment) Bill before the house today. Members will know that the previous Liberal government undertook a privatisation process of the gas industry that has led to a fully owned but highly successful gas industry at the moment. One part of the gas industry, Gascor, remained in government hands longer than other parts of the industry because it was the gas wholesaler and the intermediary that purchased gas from Bass Strait, and then passed it on as a wholesaler to the retailers. But the intention always was that it would become privately owned.

At the time of the privatisation a put option was available to the government to put to the retailers Gascor, and that ultimately happened. A number of issues flow from that. The put option was exercised late in 2000 and there was a period of some negotiation with each of the retailers to finalise issues to do with that sale, which took place at the end of 2003.

If honourable members will look at the Gas Industry (Residual Provisions) (Amendment) Bill, particularly division 2 of part 2, regarding the establishment of Gascor, they will see that in the original act Gascor was a body established by act of Parliament and that its function was with the wholesalers. Gascor was a public authority but did not represent the Crown; the bill gave the minister particular rights and responsibilities and gave Gascor particular statutory responsibilities.

When it became privatised as a result of the exercising of the government's put option, obviously some of the residual powers were no longer appropriate, so the bill before the house removes from Gascor statutory powers and obligations which are no longer relevant or appropriate now that Gascor has been sold to the retailers. Among the powers and obligations which have been removed are certifications that assets and liabilities have occurred. There is no longer any requirement for that, particularly as it relates to the transfer of easements and authorisation of proceedings for offences under the act. Given that this is now a private company it is entirely inappropriate to have authorisations for proceedings for offences under the act.

In the act there was a power for the Treasurer to appoint an administrator to Gascor. There is no reason at all why the Treasurer should have the right to appoint an administrator to a private company as it now is. It is entirely appropriate that that clause should be repealed.

The bill removes the clauses that gave the Treasurer the right to give directions, that gave Gascor the obligation to report to the Treasurer and the requirement that Gascor pay dividends to the state. It is not sensible for legislation to have a requirement for the Treasurer to demand payment of dividends to the state by a private company. Honourable members will accept that this is a very sensible piece of legislation that finalises the process of privatisation of the gas industry. What has happened in this case is a continuation of the work done under the previous Liberal government. The Bracks government has not seen fit to change the structure or the intent of the original legislation. It has not gone out of its way to rewrite the record book or to restructure the arrangements; it has just purely followed the original provisions.

It is not surprising that the Liberal Party supports this bill. It is the last structural legislative change as a consequence of the privatisation of the gas industry. The industry, which we consulted with, is comfortable with it and sees no reason for any of these clauses to be maintained. It supports it, we support it and the government brought it in here, so I presume it supports

it. I am sure The Nationals will speak for themselves soon on this issue. As I said, the Liberal Party fully supports this bill, and I commend it to the house.

Hon. P. R. HALL (Gippsland) — I will not keep the Honourable Bill Forwood waiting too much longer to announce the decision that The Nationals will also support this piece of legislation. As he said, this being the Gas Industry (Residual Provisions) (Amendment) Bill, it is a tidy up and a further refinement of the processes associated with the organisation called Gascor. Mr Forwood suggested this was the final step in the privatisation or restructure process. I have heard that said before — that this is the final piece of legislation on electricity and gas that will come before this house — and I would bet that this is probably not the last piece of legislation associated with the gas industry restructure privatisation. Inevitably I am sure we will deal with further legislation in time to come in relation to this industry.

As the minister said in the second-reading speech and as the Honourable Bill Forwood said in his contribution, this is essentially a minor machinery bill which removes from Gascor some powers, obligations and responsibilities. The removal of those provisions is sensible given the fact that Gascor as of September last year became a fully privately owned organisation and as such some of its roles and responsibilities defined under the act are now inappropriate and need to be dealt with. In some cases those roles have been removed to the Office of the Administrator of the former State Electricity Commission of Victoria. That being a state-owned entity, it is appropriate that some of those functions be transferred across to that organisation. The Nationals are happy to support the provisions within this legislation without the need to go through each clause in particular.

I want to make a comment about the process, and I refer the house to the second-reading speech where on the first page in about the fifth or sixth paragraph it states:

> The transfer of Gascor to the gas retailers is wholly consistent with this government's objective of ensuring that Victorians enjoy the benefits of a competitive and efficient gas industry.

Well done to the government for acknowledging and admitting that the previous government had the right policy of privatising the gas industry. That paragraph in itself is a ringing endorsement of the policies of the previous government. We saw the government endorse that policy with legislation last year to take up the option to transfer the ownership of Gascor to the three private gas retailers we have in this state; now we are taking those final steps. The government is at last acknowledging the fact that the previous government got it right with respect to the restructure of the gas industry.

Further in that same paragraph in the second-reading speech, the minister talks about the important role of the Essential Services Commission. Those who have followed the whole process of privatisation within the electricity and gas industry will know that the Essential Services Commission started as the Regulator-General. The Regulator-General under a privatised electricity and gas market was put in place to perform various regulatory functions and to have an overview and oversight, set minimum tariffs and matters of that nature. Once again, here is an endorsement of the regulatory process and the oversight of that process that was first put in place by the previous government. That role has now been expanded and is now titled the Essential Services Commission.

I noticed in the chamber earlier today another report of the Essential Services Commission was tabled, that being the final report of the special investigation into proposed retail tariff amendments relating to the gas industry. I have not had a chance to read all of that report yet, but I have had a quick look at the summary. The recommendations made by the Essential Services Commission are good, sound recommendations. I am pleased to see that this government acknowledges that the very foundation of the regulatory part of the industry put in place by the previous government continues to work very well. Over the years I have had the highest regard for the Office of the Regulator-General, now the Essential Services Commission, and the work it does.

There is no need for me to take the time of the house and delve into each of the singular small amendments contained within this bill. Essentially they are a tidy-up procedure, a removal of responsibilities and functions which are no longer appropriate to be held by a private organisation, and we in The Nationals are certainly prepared to lend our support to the passage of this small bill.

Mr SMITH (Chelsea) — It has been mentioned already that the Gas Industry (Residual Provisions) (Amendment) Bill is a minor procedure. I note that there is raging unanimous support for the bill, and I am pleased about that, although I did take note of the previous speaker's remarks regarding privatisation and how the previous government had got it right. That is a debate we could have on another day when we have a little bit more time.

Hon. P. R. Hall — The minister agreed with me.

Mr SMITH — Mr Hall might like to reflect on those comments with regard to the trams and trains, but, as I say, that is another debate for another day.

The bill contains provisions to repeal some parts of the act that are now redundant as a result of full privatisation being completed. The previous legislation allowed scope for the government to control the company, et cetera, and again it is no longer relevant. This bill will commence the day after it has received royal assent. The bill, as I said, is quite minor and the proposed changes are entirely appropriate — for example, the ability of Treasury to demand dividends, et cetera, is — I will not say illogical — no longer relevant. It is in fact redundant. The duties of directors, for instance, in the previous act no longer have any relevance, and therefore, as I say, these are minor amendments to the bill. I commend it to the house.

Hon. C. A. STRONG (Higinbotham) — In rising to support the Gas Industry (Residual Provisions) (Amendment) Bill, I think, as previous speakers have said, it is a bill that tidies up and to a large extent completes the very successful privatisation process which has transpired with the gas industry.

It certainly has been very successful because we have seen, contrary to the doomsayers and those who say that many of these public services should remain in government hands purely for ideological reasons, that there have been no significant problems with gas distribution across the state in terms of the pricing of gas. Of course, very much on the record, the efficiencies that have come through from the private sector operation of the gas industry have resulted in very significant reductions in the price of gas to Victorians, and this has been a major benefit to consumers, whether they be residential or business consumers, or the like.

It has also been very successful in terms of the price impact. One of the potential problems with the moving of the gas industry from public ownership to private ownership was how competition would be guaranteed, because I think we all know — even the ideologues on the other side — that competition is the best driver of price reductions and service improvements. The question that had to be dealt with was how was competition to be incorporated into this system where really there was one major supplier of gas, and that, of course, was Esso-BHP in Bass Strait. That is one of the key reasons why Gascor came into being — to try and find a way around that particular situation, which it did with relative success.

But since privatisation real competition has started to flow through. We have seen the underground gas storage built and operating very effectively. We have seen very significant exploration of the waters on the western side of the state off Portland and so on where there have been new gas discoveries which will relatively soon come into production. One could well argue that under the old Gas and Fuel Corporation system with its long-term contracts to Esso-BHP there would have been no great incentive for those gas fields to be discovered, let alone exploited. We have the new gas pipeline which runs from Gippsland to the north to supply gas to New South Wales and also ultimately to bring gas from the New South Wales fields into Victoria.

We have seen, as a result of the privatisation of the Gas and Fuel Corporation, competition in the marketplace come in, which will ultimately provide protection to consumers to guarantee a continually reducing price path and also greater service as those new entrants into the market go out and try and get market share. One can only say that the whole privatisation process has been enormously successful, as, of course, has been the process in electricity, which likewise has brought very significant benefits in reduced prices and increased services to all Victorians, whether they be domestic or industrial.

I believe it is worth reflecting on some of the background to the privatisation of the gas industry because quite clearly this was a very positive thing to do, whatever the circumstances. However, we must remember the circumstances that existed in 1992–93 when the state was basically broke, and it was necessary to create more efficient industries and also to get rid of some of the debt that the Cain and Kirner governments had built up. Of course it is interesting to look at the parallels that exist today because we can all recollect — those of us who were around at that time — that Victoria was very much going through a boom time in the late 1980s, how the property market was basically on fire, and there were huge revenues coming into the state Treasury through various property taxes and so on, and the government of the day, of course, happily spent all that money as fast as it could go.

We have parallels to a certain extent today where we have had a real estate boom, where we have had the current government spending that money as fast as it can go and where we have, be it all at this point in time and hopefully never as severe as the 1980s, a turndown in the property market, and we have a turndown in the velocity of transactions in the whole real estate area, which will have without doubt a very significant impact

on revenues flowing into the Treasury coffers. This is a challenge for this government as it was a challenge which the Cain and Kirner governments failed to meet, and it brought them to their knees through total mismanagement. One can only hope this government has the foresight not to put itself in quite the same position. The privatisation of the gas industry also was a major saviour in dealing with the debt crisis induced by the Labor government of the day.

In general terms the whole process has been very successful not only in reducing the debt and going a long way towards healing the economic wounds caused by the previous Labor government but also in delivering gas to domestic and industrial Victorian consumers at significantly reduced prices and significantly enhanced levels of service. I am very happy to support this bill, which closes the door on that process.

Ms ROMANES (Melbourne) — Thank you, Acting President, for the opportunity to speak on the Gas Industry (Residual Provisions) (Amendment) Bill. This bill flows from wider gas industry reforms which began in 1999 when state-owned gas distribution and retail businesses were sold to the private sector. The privatised retailers that currently operate in Victoria are Origin Energy (Vic) Pty Ltd; AGL Victoria Pty Ltd; and TXU Australia Pty Ltd.

For a time the state retained control of Gascor Pty Ltd, which is the gas wholesaler for Victoria. Gascor's primary activity is the purchase of gas from Esso-BHP Billiton under the gas sales agreement and the provision of this gas to retailers. As part of the gas reform arrangements implemented in 1999 the state entered into options that gave it the right to transfer one-third of the shares in Gascor to each of the retailers. Those options were exercised by the Treasurer in December 2002 following the enactment of enabling legislation in this Parliament — that is, the Gas Industry (Residual Provisions) (Amendment) Act 2002. The transferring of Gascor to the retailers was completed on 15 September 2003. Gascor, however, has certain powers and obligations under the Gas Industry (Residual Provisions) Act 1994 which today are inappropriate for it to retain following the cessation of state ownership.

The bill before the house is aimed at removing from Gascor certain powers and obligations under the act. Those powers are procedural in nature and are unrelated to Gascor's primary activity as a gas wholesaler. The principal power dealt with under the bill is the power that Gascor currently has to certify the ownership of property rights or liabilities of gas pipeline easements transferred by it where the transfer of such easements is not reflected in the records of the Victorian Land Titles Office. This power, as outlined in the bill, is to be assumed by the administrator of the former State Electricity Commission of Victoria.

That deals with the principal power that we are addressing today, but the obligations being removed by way of the passage of this bill through the Parliament are the obligation to perform non-commercial functions as directed by the Treasurer and the obligation to pay dividends to the state.

I think it was Mr Forwood who mentioned earlier that the Bracks government has not changed arrangements put in place by the previous government and has continued to transfer these functions to privatised retailers. The wholesaling has now gone in that direction as well. We do need to remind the house that the Bracks government has paid a lot of attention to the energy sector and put in place an independent regulator, the Essential Services Commission. This was an initiative of the Bracks government and the commission has the job of overseeing gas pricing. It is worth noting that the changes included in the bill before the house today leave unchanged the mechanisms by which gas prices are fixed in Victoria. They will continue as before, regardless of the transfer of Gascor to the gas retailers.

It is also worth remembering that under this government we have seen the continuing development of Victoria as the most vital gas hub in the national energy market. Earlier this year — actually at the very end of last year — the new network of high-pressure interstate gas pipelines was completed when the SEA Gas pipeline came online. It came online and was commissioned just a day before the devastating Moomba fire in the Cooper Basin in South Australia on New Year's day 2004. It meant that there was an immediate shortfall of gas supplies in South Australia and consequently in New South Wales. Through this new network of high-pressure gas pipelines, including the SEA Gas pipeline, Victoria was able to supply gas to South Australia and New South Wales and ease the impact on domestic and business gas users in those states. Completion of the vital infrastructure has enabled the security of supply to be enhanced in the south-east of Australia to shore up Victoria's position as a vital gas hub and as the manufacturing centre of Australia.

The Minister for Energy Industries, who is also the Minister for Resources, wrote a foreword in the March 2004 edition of Victoria's earth resources journal *Discovery*. He made the point that, while Victoria has abundant, affordable and secure electricity and gas

supplies which have contributed to Melbourne being the manufacturing centre of Australia, those supplies have also enhanced our reputation as the most livable city in the world. However, with that comes certain responsibilities. I am sure members are aware that the burning of fossil fuels such as coal and gas, as the minister points out in the foreword in the monthly magazine, produces large amounts of carbon dioxide and we have a greenhouse gas problem because of the use of such fuels. While we want to ensure that our economic development continues in a robust fashion, we do not want to see that go hand in hand with the unnecessary production of greenhouse gases and the effect that they will have on the environment.

The minister points out in his foreword that in response to this the Bracks Labor government has put in place a greenhouse strategy, which is currently under review. It has also invested funds to provide incentives for the development of renewable sources, such as solar energy, wind energy and others. This extends even into the areas of schools, kindergartens, child-care centres and community health centres in the public sphere, as well as incentives through the public housing sector and in many ways throughout the community to encourage people to continue business as usual but to use less energy in the process.

The Bracks Labor government has set a target for increasing the share of Victoria's electricity expected from renewable energy sources from the current 4 per cent to 10 per cent by the year 2010. The Bracks government will continue to push the commonwealth government to ratify the Kyoto protocol, thereby making a commitment to greenhouse abatement and to setting targets for the achievement of energy savings into the future.

Along with the commitment to greater reliance on renewable energy is the investment in finding technologies to reduce greenhouse emissions from power stations and natural gas wells. During question time today the minister mentioned that there is also discussion about geosequestration technologies. There is a discussion under way in the community to be fostered by a conference in Melbourne in September about using that process and technologies to put carbon from the use of coal and gas back underground. There is much to contribute to a better and more efficient industry in the future through various government initiatives which aim at further greenhouse gas abatement.

Before concluding I refer to a paper entitled *A Clean Energy Future for Australia* produced by the Clean Energy Futures Group and released in March 2004. At pages 12 and 13 mention is made of the role that natural gas can play in working towards a cleaner energy scenario in the year 2040. It says that natural gas has certain advantages because it can produce electricity with less than half of the carbon dioxide emissions that burning coal creates.

Victoria will be dependent on gas as one of its key sources of fuel and energy in the future, but that is a cleaner and less carbon dioxide-producing form of energy than burning coal to produce electricity. The gas industry continues to play a vital role in the economy of Victoria. I note that the opposition is supportive of the bill, and I commend it to the house.

Hon. J. A. VOGELS (Western) — I wish to make a few comments on the Gas Industry (Residual Provisions) (Amendment) Bill. It is interesting to hear Labor Party members wax lyrical about privatisation and the movement of Gascor to private sector ownership. One would have thought that the Bracks Labor government on coming to office, after all the rhetoric we heard about it being anti privatisation before 1999, would have taken the opportunity to keep Gascor in government hands, but it decided not to.

The Labor Party, as always, secretly embraced privatisation. It started privatisation of the former State Electricity Commission under the former minister, David White, in the Cain and Kirner years. The government also had an opportunity to take back the leasing of some of our train and tram networks, but once again it has continued with privatisation. The introduction of tollways was roundly condemned.

Returning to the gas industry, the second-reading speech states:

> The transfer of Gascor to the gas retailers is wholly consistent with this government's objective of ensuring that Victorians enjoy the benefits of a competitive and efficient gas industry.

This bill transfers Gascor to three private companies, Origin Energy, AGL and TXU, and it is hopefully these companies that will distribute gas throughout Victoria. It should never be forgotten that the Labor Party privatised Gascor. Gascor was the government-owned entity that ensured that natural gas would be provided by Esso and BHP with Gascor acting as a distributor to the three retailers. Government, by being there as a vital link, would have been able to exert an important amount of leverage on companies to ensure the distribution of natural gas into rural and regional Victoria.

I often listen to the responsible minister carry on about the wonderful projects started in Victoria in the

gasfields since the election of the Bracks government. I shake my head in disbelief at what I hear.

I turn to some history. In the 1960s in the Western District where I grew up I worked for a company called Frome Broken Hill as a juggie. We went around putting jugs in the ground. A big drill would drill holes, gelignite would be put into those holes and set off and the vibrations would be picked up by the jugs along the cable. That company was looking for gas 40 years ago.

Hon. E. G. Stoney — You must have been young.

Hon. J. A. VOGELS — I was; I was only a kid, actually. And I was earning big money — I was getting £17 or something a day; it was huge money. And I was actually driving at 17 without a licence — but I should not say that here.

Over those 40 years, Santos, Woodside, BHP and many other companies came down to the Western District looking for gas and oil. They found heaps, but it was never in huge enough quantities to do much about. Then in the late 1990s we had the disaster at Longford, and a decision was made by the Kennett government to build a second pipeline from Iona field down near Port Campbell to hook up gas to Melbourne from the other end and also to act as a storage facility if ever it were needed so that that could not happen again. If we had a disaster we would have two pipelines coming to Melbourne which could be used.

To hear Mr Theophanous you would think that he had turned on the tap. I was there with Jeff Kennett when he turned on the tap in 1999 to let the first gas go through to Melbourne. Because of that infrastructure down there, we now have another pipeline that has been put in in only the last four months that is feeding gas to Adelaide. That was very fortunate, because when the Moonie gas field had trouble around Christmas/New Year that pipeline came into service and Adelaide did not have any gas restrictions. Because the pipeline was put from the Iona field to Melbourne, all of a sudden the 40 years of work that all the companies had been doing finding small gas fields all around the district became worth while. Since then many more pipelines have been put from small fields to the Iona field, and they bring the gas to one central field. It is then distributed to Melbourne, Adelaide or wherever it is wanted.

Under the Kennett government, gas was connected to many parts of Victoria. In the Western Province, where I come from, gas was connected to Portland, Hamilton, Stawell, Horsham, Cobden and Warrnambool. This process continued in a natural and orderly way. Since the election of the Bracks government in 1999 and again in 2002 we have heard promises. We have had press release after press release with the Minister for State and Regional Development standing beside a Labor candidate as they announced that gas would be delivered to every town and region across Victoria in a $70 million promise. We all know that $70 million would not make it possible to connect every town, city or village in Victoria, so it is only a start. We should not knock it; it is a good start. Labor candidates all over Victoria have stood beside the minister somewhere saying, 'Gas will be delivered to this town'.

In the past 12 months or so I have visited 70 councils across Victoria. Every rural council has put in a submission to receive natural gas to their towns or districts out of the $70 million fund. They have spent tens of thousands of dollars preparing submissions once again to be in line to be connected to gas. A lot of this money was completely and utterly wasted. However, the councils were caught between a rock and a hard place. Their local communities demanded that they put in submissions to receive some of this funding to hook up their areas to natural gas, so they were forced into it, knowing full well they would not — at least in this term of government and probably not even the next term of government — have gas connected to their towns. It just was not feasible.

We need to look into the future. In this budget $70 million was promised. The government should have some vision and say to councils further down the track, 'Put in an expression of interest. You will not get it in this term of government, but perhaps in the next term. Do not waste tens of thousands of dollars putting in submissions through your officers which are never going to get there'.

Natural gas is very important for Victoria. As Ms Romanes said, we live in a lucky state. We have a tremendous amount of energy — we have gas and oil. We are probably the energy capital of Australia, which is fantastic for Victoria. We should be making sure that that is shared equally between city people and rural people. It is quite possible to do that. We have the budget coming up in a couple of weeks. I had a bit of a look at past budgets. The last three budgets of the Kennett government totalled about $45 billion over three years, with an average of about $15 billion. I think the last year was $17 billion, but if you added them up it was about $45 billion. In the next three budgets, this one and the next two, the Bracks government will double that; it is predicted to collect $90 billion. So it has doubled its taxes and charges over a period of six or seven years. So there should be enough capital in there to work with the gas companies to make sure that the

pipelines are put in place to deliver gas to rural and regional Victoria.

I support the bill, but I plead with the government to work closely with Origin Energy, AGL and TXU and to start delivering on some of the promises rather than just always and endlessly talking about it. Out in rural and regional Victoria we are sick of promises and sick of listening to things, because we never see a spade stuck in the ground. All that most country people have seen over the last four or five years of the Bracks government is control and regulation — plenty of spin but very little action.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing, I thank members for their contributions.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

WRONGS (REMARRIAGE DISCOUNT) BILL

Second reading

Debate resumed from earlier this day; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. C. A. STRONG (Higinbotham) — In rising to speak on the Wrongs (Remarriage Discount) Bill, one has to reflect initially on whether the parliamentary draftsmen had a bit of a sense of humour here and that the title of the bill means: if I got it wrong I can be remarried at a discount. You could read all sorts of things into this particular title.

To be serious, in essence the bill will bring the law very much into the 21st century. The Wrongs Act provides that action for damages can be taken for wrongful death. Where there is a wrongful death of a husband, for instance, an action for damages can be taken by the other partner to that marriage. The current situation is that in assessing the extent or quantum of those damages that can be awarded to, for instance, the widow of a person who was killed in some way, the court has been able to take into account the prospects of the widow.

For instance, was she a nice-looking young woman who had high prospects of being remarried, and therefore the extent of the damages she could receive for the wrongful death of her husband could be discounted on the basis that she would be adequately supported because of the nature of her appearance, credentials and demeanour? Those of us who have seen — or alternatively been forced by their wives to watch — the various television programs depicting the Jane Eyre-type stories which show in great detail how, in Victorian times, women had to go out there and work hard to get married to support themselves would understand the culture in which the prospects of a woman whose husband has died would very much depend on her appearance, credentials and demeanour.

Clearly this is a concept which is outdated in every way. It is quite amazing that a provision like this is still allowed in statute, because not only would it be demeaning for a woman applying for damages for the wrongful death of her husband to be told, 'You can't get any damages because you are of an appearance and you have the credentials whereby you are obviously going to get married to some wealthy man, and therefore it would be totally unjustified for you to have any damages awarded to you', it is also clearly a concept that is rooted in the Victorian era and that is not appropriate today. It is doubly inappropriate because it flies in the face of all the various equal opportunity pieces of legislation and principles we have in place today, which clearly say that just because a person claiming damages is a good-looking and talented young woman it does not mean she is not entitled to the same damages as an old, less good-looking and decrepit woman. Equal opportunity legislation clearly comes into play in this situation.

There are also community standards that differ from those that simply deal with a husband-and-wife situation. We now have relationships — they might be heterosexual relationships — where the partners are not married, and we have all sorts of other relationships to which equal opportunity legislation and other legislation we have brought into this house over the years apply. This concept of appearance, credentials and demeanour, which is a Victorian concept, simply does not apply to the type of cohabitation arrangements that exist today. It is inappropriate for people not to be dealt with in the same way.

In essence this bill picks up on the concepts that have arisen out of a recent High Court decision, *De Sales v. Ingrilli*, which found it was inappropriate for damages to be discounted on the basis of remarriage. This bill picks up the basic concepts in that judgment and says that you cannot discount a damages payment on the basis of the prospect of a person's remarriage or, presumably in this day and age, repartnering. As I say, that is eminently appropriate in this day and age and brings the law into line with the way we live in the 21st century.

The bill amends the Wrongs Act to make it clear that in appropriating damages in any action for wrongful death the court may not take into account as a separate discount things like remarriage, new domestic partnerships, prospects for remarriage or prospects for forming new domestic partnerships. Of course the law does allow discounting of damages for all sorts of things, and in a tangential way some of these issues may well remain in the discounts that the court may award, but a remarriage discount is clearly prohibited. As I said, various situations in life can potentially increase or decrease the amount of a settlement. The act does not rule those out; it simply rules out the specific discount for remarriage.

The bill is therefore quite simple in that it seeks to bring the provisions for claiming damages out of the 18th century mode and into the 21st century. The Liberal opposition supports the bill in every way. It believes discounting an award for damages based on a person's appearance, credentials and demeanour is totally inappropriate. It is an 18th-century concept that is no longer appropriate today, and it is, of course, contrary to equal opportunity legislation. With those few comments, I am happy to urge the Council to support the bill.

Hon. W. R. BAXTER (North Eastern) — Like Mr Strong, I have absolutely no hesitation in supporting this piece of legislation, because the concept it deals with is repugnant, offensive and clearly very much outmoded. If ever it did have any currency, it belongs to the 18th century and should be dispensed with — and rightly so. I am not so sure the legislation has actually had much impact for many years, and to that extent I think our grandstanding Attorney-General in Victoria has made a bit of a meal out of it, bearing in mind that the High Court made it clear at least in 2002, if not before, that the concept of remarriage discounts were not part of the Australian law and had no standing.

Yet we saw our Attorney-General take it upon himself to appear in a media frenzy some months ago with a grieving widow who had lost her husband in 2003 — well after the High Court of Australia had ruled this concept to be not part of Australian law in any event. It ill behoves our Attorney-General to allow his high office as the first law officer of the state of Victoria to be demeaned by his taking part in what was simply, for want of a better word, a media stunt — and possibly worse — at the expense of a grieving widow.

Be that as it may, the bill which is before the house will put in place and make absolutely clear what I am sure each and every one of us in this place believes have been the common community standards for many years in any event. I do not think anyone is suggesting for one moment that there have been people in recent times who have somehow or other been dudded by the use of this provision, but it is time to dispose of it once and for all. The bill does that, and therefore The Nationals are pleased to support it.

Ms MIKAKOS (Jika Jika) — It is with great pleasure that I rise to speak in support of this legislation. At the outset I acknowledge the government's appreciation of both the opposition and The Nationals support of this bill. This bill is a much-required piece of legislation, because it will provide certainty in the law. It will remove an anachronism that currently stands, and it will ensure that what is known as the remarriage discount is not able to be reinstituted in the future. Specifically, this bill will remove the ability of a court to engage in conjecture about an individual's future close personal relationships based on subjective and outdated assumptions.

I find it quite extraordinary that in the 21st century our law could still be subject to discriminatory and biased notions that involve a judge assessing the attractiveness of a person, which of course is subjective, when awarding damages for a person's loss. Thankfully the High Court of Australia removed this outdated provision in late 2002, but we are ensuring that the High Court of Australia cannot have a change of heart in the future. It will provide greater certainty in the law in the Victorian jurisdiction.

It is important to give a bit of the history of this legislation, because the remarriage discount principle has been in place since 1846 when Lord Campbell's statute was passed in the United Kingdom. It allowed a court to make a judgment about a plaintiff's prospects based on their — we are talking about widows in particular — appearance, age and demeanour. If the court judged that the plaintiff was young and attractive enough to marry again, the damages the widow was seeking were able to be reduced accordingly. That is quite an extraordinary proposition by current standards,

but it is important to note that at the time Lord Campbell's statute was regarded as a reform of the law because previously a dependent widow was not able to recover damages at all for the death of a family breadwinner.

In the middle of the 19th century the options for widowed women were limited, particularly if they had children. There was no social security system, and due to economic necessity and in the wake of social expectation many widows felt pressured to seek remarriage. So obviously we have had a change in economic circumstances and social expectations and attitudes. When Lord Campbell's statute was enacted in the mid-19th century it was seen as a reform, and it made its way into Australian law.

The Victorian version of Lord Campbell's statute is the Wrongs Act 1958, which allows the dependants of a deceased person to bring an action for damages for losses incurred as a result of a person's death. The Wrongs Act in Victoria defines a dependant as a person who is:

> ... wholly, mainly or in part dependent on the person deceased at the time of his death or who would but for the incapacity due to the injury which led to the death have been so dependent.

It is important to note that dependants are in many instances women and children. So we had this law in place until November 2002 when by a slim majority of only four to three the High Court of Australia pulled the common law from the 19th century into the 21st century in the case — —

An honourable member interjected.

Ms MIKAKOS — Long overdue. The case involved Mrs de Sales, who lost her husband in an accident in Western Australia. At the time Mrs de Sales was not in paid employment; she was at home caring for her two children on a full-time basis. So Mr de Sales's salary was the only financial support for her and her children.

In quite an extraordinary decision the Supreme Court of Western Australia decided that Mrs de Sales was entitled to compensation for her husband's death, but it decided to discount her award of damages by 5 per cent on the basis of Mrs de Sales's youth and appearance, because it thought she had good prospects of remarriage. The extraordinary thing is that when she appealed to the full court of the Supreme Court of Western Australia the court actually increased the discount to 20 per cent on the basis of her youth. This was a backhanded compliment and also a slap to Mrs de Sales; it reduced her compensation by 20 per cent on the basis of quite outdated and outmoded assumptions that I am sure members of this house would find quite insulting.

The case proceeded on appeal to the full bench of the High Court, where a majority found in favour of Mrs de Sales and concluded that no separate deduction should be made on the basis of her prospects of remarriage. Members of the court pointed to changes in social and economic conditions as the key reasons for changing the law. Justice Kirby said in his judgment:

> ... a time arrives when courts, and particularly this court, must alter their approach in order to escape the justifiable criticism that they are perpetuating expressions of the law that are anachronistic or impermissibly discriminatory.

It is obviously very heartening that the High Court has made this decision, but I will emphasise — and this point has been raised by members of both the opposition and The Nationals — that this change to the common law was handed down only by a slim majority of the full bench, by only one member. It is possible that a future High Court of a different composition could take a different approach. This bill is to ensure that we do, for once and for all, repeal such outdated notions by passing this important legislation. The Bracks government believes the possibility of such a separate discount applying to future cases should be entirely removed and that it should establish that certainty from now on.

It is important to note that this legislation is not discriminatory in any way; it will apply to dependants whether they are men or women. In many instances it is women who are the dependant spouses who have been adversely affected by this remarriage discount in the past. But the legislation is phrased in accordance with our commitment to removing discrimination from the law and the provisions applied will benefit both men and women.

We also make reference to the concept of domestic partnerships in the legislation. That is in accordance with this government's change to legislation, during its previous term, to remove discrimination in relation to same-sex relationships. The government recognises the equal status of all such relationships before the law and has done so by passing legislation in 2001. This legislation adopts a similar definition of domestic partnerships that will ensure that same-sex and heterosexual domestic partners have the same rights and responsibilities at law as married couples.

The other matter I want to refer to is that the bill acknowledges that there is currently a general discount

for the vicissitudes of life that the court can apply in actions for wrongful death. This is a long-established principle. The bill does not seek to remove the power of the court to consider such vicissitudes of life. For example, it may well be that the court could take into consideration possible windfall gains or in fact an early death or long-term illness that a plaintiff might be subject to. Of course a court will look at both negative and positive things that can occur in a person's life and will be able to apply such a discount on a case-by-case basis, obviously having regard to the individual circumstances of any particular plaintiff in a particular case.

The final matter I wish to refer to is something the government does not do lightly — that is, the inclusion of a limitation on the Supreme Court's jurisdiction. This government has taken the view that limitation of the Supreme Court's jurisdiction should be undertaken only in very appropriate circumstances and in a way that actually works to the benefit of the general community and potential plaintiffs and having regard to the need for a reform to the law. I believe this is in fact a case where it is entirely appropriate that we limit the jurisdiction of the Supreme Court to ensure that these types of outmoded and anachronistic attitudes are not able to be taken into consideration in the future.

The bill amends section 19 of the Wrongs Act, which currently contains a number of factors that the court may not take into account when apportioning damages for wrongful death — for example, the superannuation or pension entitlements of the deceased. The bill seeks to expand that list by prohibiting the court from taking remarriage and repartnering into account as a separate discount with respect to certain plaintiffs.

In conclusion, I was pleased to read in the *Age* in February 2003 that Mrs de Sales had become engaged. I applaud her for her persistence in taking her case to the High Court, and I wish her all the best for the future.

In November last year we saw the High Court throw away the crystal ball and determine that a change to the law requiring a separate assessment of a plaintiff's likelihood of remarriage in actions for wrongful death was needed. I am very pleased that assumptions can no longer be made as to who the main income earner will be in a relationship or even whether a person will be better off financially by repartnering. The worth and moral virtue of a woman are no longer to be measured by marriage and motherhood, and of course women in today's society have a multitude of choices regarding education, employment and relationships. I am not saying that the war has been completely won on that front — just look at the way women are still portrayed in advertising! — but of course there are more options for women today than there have been in the past. With those words, I commend the bill to the house.

Hon. ANDREA COOTE (Monash) — I have great honour in speaking on this bill. I speak on behalf of all those progressive women here in Victoria, because I think they would be absolutely shattered to know that the legislation exists in its present form and would be very pleased to think that there is bipartisan support to make certain that we bring it into line with today's beliefs and direction.

The purpose of the bill is to amend the Wrongs Act 1958 and to prevent a court from applying a separate discount to reduce damages in actions for wrongful death on account of the remarriage or repartnering or prospects of remarriage or repartnering of certain dependants of the deceased persons.

We have heard some very interesting contributions today about the possible ramifications of the legislation. I would like to correct something the previous speaker, Jenny Mikakos, said. She said that in 2001 same-sex couples were given the same rights as married couples. I would just like to correct her: they were given rights in the Statute Law (Relationships) Act in 2001, but they were similar rights to those of de facto couples rather than married couples. I just want to put that on the record at this stage. This bill applies to domestic partners irrespective of gender, which is a prohibition that applies regardless of whether it is a man or a woman. I think this is another modernising of the legislation and a recognition of what in fact is current in Victoria. This is a very important step.

This legislation basically arises from the case of *De Sales v. Ingrilli* that was heard in the High Court in Western Australia, and it was documented earlier. I would like the chamber to have a look back. The original part of this legislation was in fact established on something that happened in the 1850s in England. It is very interesting to go back and see what was happening with women in 1850s England. I came across an article from the Michigan State University by a man called Hiam Brinjikji. He wrote a paper on the property rights of women in 19th century England. It makes fascinating reading:

> The property rights of women during most of the 19th century were dependent upon their marital status. Once women married, their property rights were governed by English common law, which required that the property women took into a marriage, or acquired subsequently, be legally absorbed by their husbands ...

> However, whatever the distribution, the property which women took into the marriage, whether in goods, money, or land, passed into the ownership of their husbands, which was dictated by common-law doctrine of coverture ... Therefore, after marriage, women had no control of property disposal or distribution.

But there was a very famous case in 1836 of a woman called Caroline S. Norton. She was a popular poet and novelist, and she was a beautiful English socialite. She attempted to separate from her husband in 1836. After leaving her marital home her husband prevented her from seeing their three sons, and he severed her financial support.

After he had done this to her and tried unsuccessfully to prove she had had an adulterous affair — that was in fact unproven — she decided to file for divorce on the grounds of cruelty, something that today we take for granted. Her claim was rejected as the English law did not recognise cruelty as a just cause for divorce. She had no rights to sue for divorce and could not force her husband to maintain her financial support. She was also unable to gain access to any of the marital property. Abandoned financially by her husband she began writing to support herself. However, because she was still married, her husband was legally able to secure all of her earnings.

Caroline Norton decided to publish a very important pamphlet in 1855 to draw attention to what she saw as great and grave inequities. She wrote a pamphlet entitled *A Letter to the Queen on Lord Chancellor Cranworth's Marriage and Divorce Bill,* in which she reviewed the position of married women under English law. There were twelve points, including the final statement:

1. A married woman has no legal existence whether or not she is living with her husband;

2. her property is his property;

3. she cannot make a will, the law gives what she has to her husband despite her wishes or his behaviour;

4. she may not keep her earnings;

5. he may sue for restitution of conjugal rights and thus force her, as if a slave, to return to his home;

6. she is not allowed to defend herself in divorce;

7. she cannot divorce him since the House of Lords in effect will not grant a divorce to her;

8. she cannot sue for libel;

9. she cannot sign a lease or transact business;

10. she cannot claim support from her husband, his only obligation is to make sure she doesn't land in the parish poorhouse if he has means;

11. she cannot bind her husband to any agreement.

> In short, as her husband, he has all the right to all that is hers; as his wife she has no right to anything that is his.

She spurred on the debate, and I think we all owe Caroline Norton an enormous vote of thanks.

It is interesting to see that the act we are repealing today actually has a residual of what was happening in 1850s England — which is absolutely extraordinary when we look at that litany of what women could and could not do. This bill has been prompted by the very unjust ruling of the West Australian courts dealing with Teresa de Sales and her husband, who, as Ms Mikakos said, died in a dam accident. He was drowned in a dam while his wife was working. She was the mother of two small children and she received $600 000 from the court, but $120 000 was withheld because the court believed she was attractive and would be able to remarry.

This bill recognises that even if a woman does remarry it does not mean she will be better off financially. In fact, I can think of a number of cases where people have been worse off when they married a second time. But going back to Mrs de Sales, there is a summary in the *Age Quarterly* of 18 April 2002 that puts this case rather clearly. It states:

> Mrs de Sales applied for compensation under the Fatal Accidents Act that allows for surviving spouses to claim financial loss. But in December 2000 the Full Court of the Supreme Court of Western Australian cut Mrs de Sales's compensation payment after it took into account her 'age and credentials' in regard to her prospects of remarriage and any subsequent financial gain.

We are not talking here of 1850s London, we are talking about 2002 Western Australia!

> Mrs de Sales was awarded more than $600 000, but she estimates she lost an additional $120 000 when the court increased a discount — relating to remarriage chances — from 5 per cent on the initial payment to 20 per cent.

However, she took it further, and there was a happy outcome. The *Age Quarterly* of 15 November 2002 states:

> Chief Justice Murray Gleeson said courts had in some cases cited a plaintiff's attractive physical appearance or pleasant demeanour in the witness box as meriting a higher discount for remarriage.
>
> 'However, there is no sound basis for assuming that factors such as appearance, education or job prospects will affect a

> person's chance of financially beneficial remarriage in a predictable manner', he said.
>
> Concepts of marriageability can be dangerously misleading.
>
> Justices Mary Gaudron, William Gummow and Ken Hayne said seldom if ever would a court be able to make any useful prediction about whether or when one human would form a close emotional attachment with another.
>
> 'But most importantly it cannot be assumed that any new union will be or will remain of financial advantage to any of those for whose benefit the action is brought,' they said in a joint decision.

This bill is bringing the law into line with what the federal court decided, and I think it is timely. The act was an anachronism that needed to be fixed. I am very pleased that the Liberal Party is supporting this bill. I think in the future women in Victoria are going to be an enormous part of our community and great contributors to it; I believe they need equality, and this is a step towards that. I commend the bill.

Mr SCHEFFER (Monash) — The Wrongs (Marriage Discount) Bill introduces amendments to the Wrongs Act 1958 that are overdue as they go to correct a longstanding injustice particularly against women. Courts have been entitled to provide for reduction in damages awarded to plaintiffs on the basis that they held that the plaintiff stood a good chance of gaining an economic benefit due to a subsequent marriage and that this warranted a reduction or discount in their payout. As the Attorney-General pointed out in his second-reading speech, this practice does not stand up, because it is impossible to know whether anyone will form a relationship after the death of a partner. He also pointed out that predictions made on the basis of the attractiveness, age and demeanour of a plaintiff are offensive and can only be based on highly subjective impressions and guesses. We can never assume that a subsequent marriage will be of financial benefit.

The Wrongs Act 1958 provided that the dependant of a person who had been killed by a wrongful act may claim for damages. Under the Wrongs Act courts have been required not to take into account matters such as sums made payable under a contract of assurance or insurance, sums made payable out of any superannuation benefit or pensions, benefits, allowances or gratuities. This bill adds new sections to the Wrongs Act so as to prevent a court from reducing or discounting a payout because of the likelihood of the surviving partner remarrying or forming some other kind of domestic partnership.

The new provision includes with the surviving spouse a domestic partner, a former spouse or a former domestic partner of the deceased so that courts cannot discount awards for damages where the partner is not married to the deceased or where the partner is no longer in the relationship at the time of death but is still entitled to be a plaintiff. A court will be prevented under this legislation from reducing or discounting the level of a payout to a spouse or domestic partner, past or present, because it believes they are likely to form a new relationship that would be financially beneficial to them. The practice of reducing or discounting the level of damages awarded to a plaintiff who remarried or who had good prospects of remarrying was a longstanding practice in English law and it had taken root in Australia. The practice generally impacted on women and as such was discriminatory as well as unfair. Previous speakers have noted that the practice originated in England in the middle of the 19th century and persisted in Australia until the High Court overturned the provisions in 2002.

Under this bill courts will still be able to take into account a plaintiff's marriage or repartnering status or the likelihood of a plaintiff repartnering in the future as a general discount which can be applied to a damages award in an action for wrongful death. However, this would be one of various financial losses and gains that can be expected in the life of any person — the windfalls or illnesses or death that could befall someone.

In 2002 the High Court overturned the remarriage discount. It found that no separate deduction or discount should be made in action of wrongful death against the possibility that a claimant was likely to form a new relationship which might bring them some economic benefit. The present bill enshrines that decision in Victorian legislation to protect plaintiffs in wrongful death actions; the bill makes it clear that marriage discount does not apply in Victoria.

New section 19(3) of the bill defines the terms 'domestic partner' of the deceased and 'spouse' of the deceased. Importantly a domestic partner:

> ... means an adult person to whom the person was not married at the time of death but with whom the person was in a relationship as a couple ... irrespective of their genders and whether or not they were living under the same roof.

The new provisions in the bill therefore apply equally to men and women. It would not be right in view of modern antidiscrimination law for these provisions to apply only to women.

It is worth noting at this point, paraphrasing Justice Michael Kirby's judgment in November 2002, that there comes a time when courts, and I add parliaments, must alter their approach in order to escape the

justifiable criticism that they are perpetuating expressions of the law that are anachronistic or impossibly discriminatory. I think this is good legislation that corrects our statutes and a longstanding wrong, particularly against vulnerable women, and I commend the bill to the house.

Hon. W. A. LOVELL (North Eastern) — It is a pleasure to rise and contribute to the debate on this bill. As the Liberal Party spokesperson for women's affairs, it gives me particular pleasure to contribute to this bill, because this is a draconian law that judges women by their assumed remarriageable status. I am pleased to say that the Liberal Party supports the bill.

This legislation reflects the current common-law position on the so-called remarriage discount. It essentially meant that the prospect or likelihood of a claimant's ability to remarry had to be taken into account in a wrongful death claim. This discount could reduce an award of damages that could flow from a wrongful death made under the Wrongs Act. The legislation places clearly into the act that in an action for damages, prospects of remarriage or repartnership cannot be taken into account. This of course is a very good thing, because there is no real way for a court to ascertain remarriage or repartnership. And the assumption that this would improve finances is not necessarily true.

There are number of interesting considerations about this bill. The first is whether this legislation is necessary at all. I would say it is necessary, because it removes this draconian law that should never have existed in the first place. The question is whether it is necessary at all, because the legislation reflects common-law practices that are already in place. The High Court of Australia has also endorsed this in a motion. This bill was introduced into the Parliament in October of last year, and it has taken the government more than six months to guide its passage while the courts have long ago established its practice. Clearly the courts and our legal system are far ahead in recognising the issues of real importance to Victorians and acting on them well in advance of the government. This is a sad and sorry reflection on the government of this state. While the Liberal Party certainly supports the bill, it is another example of this government being slow to act on matters of importance.

As a Victorian and a member of the Parliament I understand that the government is slow to act on many matters of importance across Victoria. In my electorate there are many issues of significance which are having a real impact on our community. The government is aware of them but is failing to address them. I would like to outline a few of those issues. The first one is the Peter Ross-Edwards Causeway. The government has been aware of this issue for some time. VicRoads conducted a safety audit of this road in 2001 and identified that it is completely inadequate and does not meet safety standards. A causeway upgrade study was conducted in September 2002, but the government sat on the report for two years and only released it after I lodged a freedom of information claim for the document.

Hon. J. G. Hilton — On a point of order, President, I question the relevance to the bill.

The PRESIDENT — Order! I have been listening to the member's contribution, and I believe there has been a wide-ranging debate with a number of issues being brought in. However, I remind the honourable member of the contents of the bill before the house, and I ask her to ensure that her comments are addressed to it.

Hon. W. A. LOVELL — I was merely pointing out that the bill has taken some time to travel through this house, and the government has ignored a matter of importance to the state. It has also ignored a matter of importance in my electorate on the causeway, and I call on the government to act swiftly — —

The PRESIDENT — Order! I have just made a ruling asking the member to come back to the bill, and she has ignored that. I ask her again to ensure that her comments are related to the bill and not other issues.

Hon. W. A. LOVELL — As I was saying, the Bracks government has been slow to act on these issues in my electorate and the bill highlights how it is slow to act on matters of importance to most Victorians. The Liberal Party supports this bill.

Hon. C. D. HIRSH (Silvan) — I rise to support this bill with great enthusiasm. I was not aware of this provision in Victorian law until such time that the bill was being developed to come before the house. Not having a legal background, and never having faced this particular piece of discrimination, I did not know about it. I found it absolutely appalling that such discrimination could still exist when I discovered that up until 1992 when women — and it was usually a woman — applied for compensation for a wrongful death of a person on whom they were dependent the money could be discounted on the grounds of their appearance or some possible potential for future remarriage or finding another person to support them.

So it is a highly commendable bill in terms of removing from the act the possibility of any court discriminating

against a woman for compensation. I listened with great interest to the history of women's rights, or lack of rights, in the 19th century that the Deputy Leader of the Opposition presented to the house. I recall also some 30 years ago a series of discriminatory behaviours that I was subjected to that I would like to share with the house, given their relevance to this particular bill. After my husband's death over 30 years ago I had a bunch of small children, had been dependent and needed to get a different sort of housing loan to the one we had. The bank manager said to me, 'But you're a widow. You're a young woman. I can't give you a loan. We don't loan money to women'.

Hon. S. M. Nguyen — You still are!

Hon. C. D. HIRSH — Thank you, Sang.

The bank manager said at the time, 'Look, you're pretty young and you look okay. You will probably be remarried any minute, so you probably won't need a loan. I'm sure you'll be able to manage'. That was pretty scary. Luckily an uncle of mine was a bank manager and he sorted things out, but it was necessary to have the intervention of a male relative for me to be able to get a housing loan.

The next thing that happened concerned the service station franchise that my husband and I had with an oil company. Which oil company? The Shell Oil Company. Certainly this is 30 years ago, and it may be that its practices have changed — I would hope they would have as this particular bill is belatedly changing practices in the courts in relation to discrimination against women — but we had this franchise which I was a partner in, I worked in, did all the books and collected debts, which was very interesting. I was an equal partner in this business, so I assumed after my husband's death that I would put in a manager and continue the run the service station. After a couple of weeks one of the representatives from the oil company came to see me and said, 'Look, I really need to talk to you to tell you that we do not franchise to women, so you are going to have to sell and find a job doing something else'. That was the second extraordinary act that happened, so I went back to teaching, and what a good thing I did because in the long run it was far better for my offspring at that time.

This whole time was quite extraordinary because I had married very young and had not ever thought about the fact that I could possibly be discriminated against, although I only earned three-quarters of a male wage, and I have to say as a teacher when I married I had to resign because married women were not allowed to be employed in the public service, which is, of course, why under the Bolte government we had so-called full employment because there were not any women in the work force.

The third thing that happened at this time concerned the renting of a house. We had been renting a house waiting for our new place to be built at the time my husband died, so shortly after we were ready I had sorted out this loan and so on and we were ready to move into the new house. The landlord would not give me back the bond. It was terrifying. He said, 'I'm not giving you back the bond'. I said, 'The place is in wonderful order', and he said, 'Well, I'm not giving it back'. I think he thought he could put it over me. I can recall sitting on the bonnet of his car and saying, 'Well, I'll get off the bonnet of your car when you give me the money — in cash'. This stand-off or sit-off, or whatever it was, went on for about 3 hours, and in the end I have to say I won. He went off, because he could not really drive, and came back some half an hour later with the bond in cash, so I removed myself from the bonnet of his car and went about my business. I do not know whether that last act was discriminatory or an attempt to discriminate against me on the grounds that I was a female or whether he was just a scummy landlord who did not like to give the bond back. With the things that had been happening to me, it was very pleasing to win on this occasion.

Thirty years ago there was still extraordinarily strong discrimination against women, although by that time at least there was equal pay in the public sector, and when I went back to work women were allowed to participate in the superannuation scheme, which, of course, I had not ever been able to do previously. We should think back on some of these things. They are fairly scarily recent, and to find that at this stage in 2004 we are only just changing the act so that women cannot be discriminated against on the grounds that they might be attractive enough to find another partner or another person on whom to be dependent — —

Hon. D. K. Drum — Another sucker to marry!

Hon. C. D. HIRSH — I do not know about that. But to find at this time of this century that we have to change the act is quite astonishing. There are still other countries and other areas where there is appalling discrimination against women. It is very sad that in some countries women are still treated as chattels. Even in this country some women still do not appreciate or understand that they have the rights of males in society.

Recently the father of a person of my acquaintance died quite suddenly. It turns out his mother has never paid a bill in her life and feels she does not know how to. She

is finding herself in a very difficult situation because as a woman in her 80s she has been truly very dependent from another age on her partner for managing a range of issues in her life.

My grandmother was discriminated against in many ways. She married at 18 — and I perhaps should not raise this in the house — but already pregnant at the time she was married, and I do not think she really knew what had been happening. She had nine children, and she used to say to me, 'Well, I beat the old — —

Hon. C. A. Strong interjected.

Hon. C. D. HIRSH — She worked out in the end what was going on.

Hon. M. R. Thomson interjected.

Hon. C. D. HIRSH — She did in the end. He left her. He moved in with a woman in one of his grocers shops. She finally worked out that she could not keep doing it and did not want to keep doing it, because they had nine children, and after the youngest one died, she felt she had to give it away. She did not know any other way to stop having children. But she did beat him in one respect. My grandfather was a Catholic and my grandmother was a Protestant. She always said, 'I beat the old person' — I guess I need to say. She said, 'I got them all christened Presbyterian in the hospital before I came home'. And, of course, I do not think my grandfather ever forgave my grandmother for doing that, but she said, 'I won on that one, anyway. I didn't win on much else, but I won on that'. Life was pretty difficult for women in those times, when they perhaps did not have the rights that women have now. She certainly would not have ever been able to leave him. My mother loved him dearly. He was her father and he was probably a very good man in many respects, but these are some of the stories the women in my family tell to one another.

Girls now in secondary school regard themselves as independent and equal in every way. My granddaughter is an example of this. If you asked many of these young women who are nearly 18 what they want to do with their lives not one would say, 'I want to get married and have children'. They all talk about having careers. Some want to take a gap year and travel; some want to go straight to some sort of tertiary institution; and some want to go straight into the work force. But not one of these young women would say in the course of a discussion, 'I want to get married and have children'. It may be that they will in the end marry and have children, but compared to when I was young it is certainly not one of the priorities of any of these young women.

Going back into history a little, when I was at school girls had the option of working at the box factory or the bank or taking up nursing or teaching. People would say, 'You won't be doing it for long, because you will be getting married pretty soon. You only need to do it for a few years until such time as you find a husband, get married, and give up work', and so on. It was quite a different environment in those days.

A woman who was living in a violent relationship in those days would have found it very difficult to leave that relationship. There was no financial support. A woman I know, a neighbour of mine, was in a very violent marriage. She had three or four children, and she was regularly beaten up. She came to my house from time to time, and sometimes she sent the children to my place. She would not go to the police, because they would not interfere. They would have nothing to do with the situation. They said, 'This is a family matter; nothing to do with us'. Rather than violence at home being a criminal offence it was considered to be part of a domestic scenario. This woman was powerless. She had nowhere to go, no money, no means of support, no qualifications, no job and she had young children. She stayed in that marriage not because of the psychological dependency reasons that some women stay, but because there did not appear to be anywhere else for her to go. In the end she went back to her mother's house, but it was a very tricky situation because there was no money and no means of support.

Life has changed dramatically, and I commend the government for amending this legislation and removing the discriminatory right of the courts to discount women's compensation after the wrongful death of a spouse or a partner. I commend the government for removing that provision from the act despite arguments I have heard from some opposition members to the effect that perhaps it was not necessary because the High Court had already made that decision. That could always be changed. Therefore by removing it in Victorian legislation we have removed the problem for good. I commend the bill to the house.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In so doing I thank the Honourables Chris Strong, Bill Baxter and Andrea Coote and Ms Mikakos, Mr Scheffer and Ms Hirsh for their contributions.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.21 p.m. until 8.03 p.m.

LAND TAX (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Mr LENDERS (Minister for Finance).

UNCLAIMED MONEYS (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr LENDERS (Minister for Finance).

Hon. C. A. STRONG (Higinbotham) — The Unclaimed Moneys (Amendment) Bill is an important bill because all of us have a desire to see that unclaimed moneys end up in the right hands. In truth, with the mobility of the population today and with the mail the way it is, there is a significant opportunity for cheques and money to go astray. There is a need for a mechanism to ensure that moneys which are destined for a particular individual but which do not, for whatever reason, make it to that individual — and the most common reasons are that the person may have changed his address or something may have gone wrong with the mail or there may have been some misadventure and a cheque or other payment, discount, dividend or whatever, has gone astray and not ended up in the hands of the person for whom that particular payment was destined — end up in the hands of the person who is entitled to them.

The statistics are amazing. The unclaimed moneys web site, www.statetrustees.com.au, averages 600 000 hits a month. That is obviously a highly significant number of hits. It would have to be one of the most popular web sites as individuals look for moneys which were due to them but for some reason have not arrived. That is the Victorian web site, and there are obviously unclaimed money regimes in all the other states of the commonwealth. The commonwealth government itself has an unclaimed moneys regime. This is an important aspect of ensuring equity and seeing that justice is done because, as the hits on the web site show, there is potentially a great deal of money out there which belongs to people but which for various reasons goes astray in some way. The unclaimed moneys process enables people to be reunited with the money that was destined to be theirs but for some reason went astray.

The Attorney-General in his second-reading speech made great meat of the fact that there was a need to review the unclaimed moneys process as a consequence of the information privacy legislation. You would think that would be so, and logically it would be, because how does an individual who may surmise that there is some unclaimed money out there belonging to him or her know that it is out there unless there is some mechanism to enable them to look it up and track it? Part of that mechanism by its very nature requires information about the owner of that money to be put on the public record. In other words, if I or anybody else were tracking some unclaimed money then we would have to be able to go through the register or some documentation saying that this is unclaimed money that belongs to Chris Strong, and given that there are potentially quite a few Chris Strongs in Australia, the Chris Strong who lives at such and such an address or has lived at such and such an address and so on. By its very nature the mechanism by which one tracks down unclaimed moneys must contain information about that individual — that is, his name and his address or former address and so on. There is clearly a significant information privacy aspect, because one of the things that happens — and there may be members to whom this has happened or they may know of constituents to whom it has happened — is that people out there go through the registers of unclaimed moneys. If they find on the register that a certain amount of money is in the name of, say, Chris Strong, they then contact me and say, 'Hey, there's some unclaimed money there. We'll help you get it back, for a fee'. In general terms, those who are not familiar with the unclaimed moneys system often give 20 per cent or 25 per cent of the unclaimed moneys to get the funds back. I guess they

say, 'Well, I didn't know I had the money, so if I give 25 per cent of it away, 75 per cent of something is better than 100 per cent of nothing'.

There is an issue here of the privacy of information and the extent to which individuals who appear on the register of unclaimed moneys can be approached by various individuals, ranging from those who really seek to help them to those who are sharks and want to take a large percentage of the money. Many of the people who have unclaimed moneys often fall into the category of people who are fairly easily exploited, particularly if they are old or infirm. They may have moved from one address to another, such as from a home to an old-age home and so on, and money and cheques addressed to them have gone astray. These people are perhaps more easily exploited than others. So there is the dichotomy of how you let people know that there is unclaimed money out there and at the same time protect their privacy. In many ways you could say that it is close to impossible to find a solution, because you cannot have a register of unclaimed moneys which people can inspect unless it has people's personal details on it.

Although one of the rationalisations for bringing in this new legislation was to make it compatible with the Information Privacy Act, in truth that is extremely difficult. The Victorian Privacy Commissioner, who looked at this legislation and made a submission to the Scrutiny of Acts and Regulations Committee on this subject, had very serious misgivings about the legislation from an information privacy point of view. In his submission he said in essence that there is very little in this legislation that protects the privacy of information about individuals. I must admit that from reading his various submissions you would have to say that the rationale put forward for these changes — namely, to make it compatible with the Information Privacy Act — is not borne out by the facts.

That being said, there are certain things in the bill that streamline the process and are marginally beneficial. To make the changes clearer it is probably worth outlining the process. I take the example by way of illustration of a dividend cheque that is sent to an individual and that, for whatever reason, is not received— he or she may have moved or whatever. The company that forwarded those moneys is required to hold them on a register for a period of 12 months. In other words, if any moneys are sent out by a company in payment of an account or whatever, the corporation or body that sends out the money that has gone astray is required to keep a register of that for 12 months. During that 12 months the person or persons to whom that money was correctly owed are able to claim it from the organisation holding it. At the expiration of 12 months all the unpaid moneys are rolled together and forwarded to the government which then keeps them in its unclaimed moneys register forever. So two organisations are involved: we have the enterprises whose money has been paid out and not claimed for whatever reason, which look after it for 12 months; and then we have the government, which looks after it from thereon in.

The bill sensibly looks at the administrative load on the businesses that have to maintain unclaimed moneys registers for 12 months. The facts of the matter are that a very large number of the unclaimed moneys are very small amounts. We might have $10 here, $5 there and $15 over there, so there is potentially a very significant administrative load on organisations or businesses keeping track of relatively small amounts of money for 12 months. They then pass the money on to the government, which likewise over years and years — it might be 20 or 30 years — could quite clearly end up with an enormous volume of unclaimed moneys comprising very small amounts.

One of the key changes is that the bill sets a limit of $20 for unclaimed moneys. In other words, amounts under $20 are simply written off — if an individual, for whatever reason, does not receive a payment under $20, it is lost. Although that may seem inequitable, I do not think that in this day and age $20 is a large amount. One can imagine the administrative load that is built up over 5, 10, 15 or 20 years by keeping a register of those relatively small amounts which in truth most people would probably not even worry about. They would not bother to try and find it, and if they knew the moneys were out there, given the mechanisms for claiming them in terms of statutory declarations, the form filling and other bureaucracy that is required to get $20 back, most people probably would not be bothered. The concept of putting a $20 threshold on the amount is reasonable. Although the act does not deal with it, it could well be that over time that threshold could be indexed so that in another 10 years the threshold may be $30. There is some logic in that.

The bill contains another significant change that will make this process more streamlined administratively for an organisation that has sent money out to people and, through no fault of its own, the cheques have not been presented for whatever reason or they have been lost and the organisation has the responsibility of maintaining a register of unclaimed moneys. The way things now stand, that register has to be maintained on an ongoing basis, and it has to be available for interrogation basically at the whim of anybody who wants to interrogate it, which once again places a significant administrative burden on the organisation to make sure the register is up to date, complete and

accessible. The bill changes that situation and says that essentially these registers must be made available on an annual basis and published in the *Government Gazette*. Once again that is a significant administrative saving for the people who have to maintain this information.

Furthermore, the bill allows the people who hold these registers to impose some reasonable charges for the cost of holding them. It seems to us in the Liberal Party that it is not unreasonable for somebody who is holding this money, and who has to go through a process of proving who it belongs to through the various statutory declarations et cetera that are required to get that money out of the unclaimed moneys account, to charge the person who is claiming that money if they incur any legitimate costs in the process.

The other issue I will touch on very briefly — and this is an area which has caused the government a little bit of concern — is that in this bill the government has significantly widened the definitions of businesses and property. As a result of that — and remember that this unclaimed money is held basically in trust for the ultimate owners — the government has inadvertently caught legitimate trusts. As we all know, there are trusts out there in which people put money for legitimate reasons. This is not unclaimed money; it is money that is held in trust. The trusts may not be particularly active, but under the original proposed changes these legitimate trusts would have been caught up in the unclaimed moneys definitions and would have been caused very significant problems. They are legitimate trusts which people do not want to have wound up. They want to keep them in existence and they certainly do not want the money in them returned to the beneficiaries of the trust. In many cases, of course, that is why the trusts are there. At the last minute the government has had to introduce a whole series of amendments to make it quite clear that these trusts are not covered by the unclaimed moneys provisions. Once again that shows the fairly sloppy and ad hoc way in which the government has dealt with this legislation.

As I said, one of the main rationales behind the bill was information privacy, but the Victorian Privacy Commissioner said there is no enhancement of information privacy as a result of this proposed legislation. Because of the changed definitions of what constitutes businesses and moneys, at the last minute the government had to introduce amendments to the proposed legislation to make it quite clear that traditional trusts were not caught up in this bill.

In conclusion I will put on record one of the issues the Victorian Privacy Commissioner raised with me in the consultation process, because it seemed to me to be an eminently sensible suggestion. The point he made — I think it is a valid one, but he indicated that unfortunately it is one that the government has rejected — is that when you put out there on the public record that Mrs Macgillycuddy, for instance, of 26 Brown Street, Mount Waverley, has an unclaimed money amount of $20 000 standing in her name, then she is at significant risk of having various sharks and smarties coming to her to try to get their hands on some of that money. It needs to be said that traditionally these sharks and smarties have sought to take 25 or 30 per cent of an amount of unclaimed money for doing no more than identifying it and then saying, 'We will help you get it back', when in truth it is quite simple to get it back. A claimant just has to make the appropriate declarations, saying that they are, for instance, Mrs Macgillycuddy of 26 Brown Street, Mount Waverley. That is all they have to do. There is no great skill involved.

So these people with significant sums standing in their names are at risk of being approached by various smarties and sharks who make a business out of doing this sort of thing. Approaches could be made by all sorts of people, ranging from the most benign end where a charity might say, 'This is the amount of money you have standing in your name, Mrs Macgillycuddy. How would you like to donate some of it to our very worthy charity?', to people at the other end who might say, 'Here is a little old lady we could rob or defraud in some way'. The mere fact of people knowing that a particular person has a significant amount of unclaimed money puts that person at significant risk. It is an information privacy issue, and the larger the sum a person has standing in their name the more approaches they are going to receive from people who will generally harass them and try to take advantage of them.

The proposal that the Victorian Privacy Commissioner made, which I must say seemed to me to be eminently sensible, was that rather than putting the amount of unclaimed money beside the name of Mrs Macgillycuddy, for instance, the process would be better served from an information privacy point of view if unclaimed moneys were dealt with in bands — that is, it could say, 'These people have unclaimed moneys of $1000 or less; these people have unclaimed moneys of up to $3000; and these people have unclaimed moneys of $5000 or more'. In other words, the amounts could be placed in bands, so that people with large amounts of unclaimed money would not have the amounts exposed to people who, for whatever reason, might seek to approach them. All that would be exposed would be that they had an unclaimed amount within a certain band. So the individual would know

there was money there worth claiming, but the rorters, fraudsters and other people would not know the amount and would therefore be less likely to try to exploit the situation.

It is regrettable that the government did not pick up that idea, because it certainly seems to me to be most eminently sensible. It seems to me that it would not in any way militate against the successful operation of this bill, and it certainly seems to me and to the Victorian Privacy Commissioner that it would go a long way towards meeting the assumption behind introducing this bill — which is that it will increase the information privacy of individuals with unclaimed money.

I have signalled that the Liberal Party supports the bill. It is not necessarily the best solution, but on balance it is certainly a step forward. The consultations the Liberal Party has had with the Victorian Privacy Commissioner indicate that improvements can be made to this bill in the future. With those comments I urge the Council to support the bill.

Hon. W. R. BAXTER (North Eastern) — The Unclaimed Moneys Act was passed in 1962, and with the exception of two relatively minor amendments it has not been amended or updated since then. In 1962 it predated even bankcards. It certainly predated web sites, Internet banking and the like, so it is appropriate that it be brought up to date. The Nationals support this legislation on the basis that it is a worthy revision of an important but relatively minor act on the statute book of Victoria.

A remarkable sum of money is unclaimed, and one wonders at times how that can be so. I know in some cases it is because people shift their places of residence but do not advise of their change of address and mail gets returned to senders. In particular there are literally hundreds of millions of dollars outstanding throughout Australia in unclaimed dividend cheques to people who have shareholdings. I was interested to read some correspondence I received not so long ago from a corporation of which I am a shareholder which encouraged its shareholders to convert to direct crediting of dividends. This middle-sized Australian corporation had more than 50 000 dividend cheques outstanding — not $50 000 but 50 000 individual cheques had not been banked by the recipients. I do not believe those 50 000 cheques had gone astray in the mail or had been sent to people who had changed their addresses and failed to notify the company. A lot of those cheques must be in people's pockets, behind the kitchen clock or wherever. People have forgotten about them and overlooked banking them.

As Mr Strong rightly remarked, keeping a register of unclaimed moneys is a huge administrative burden on those corporations, and, particularly in the case of dividend cheques, a lot of them are for very small amounts. I for one would join with corporations and the Australian Securities and Investments Commission, which is involved in this now, in encouraging shareholders to arrange to have dividends paid to them by direct credit. Not only does it save the cutting down of a lot of trees it certainly overcomes some of the problems of mislaid or misdirected dividend cheques and cheques that simply do not get paid into the bank.

As Mr Strong has also indicated, there is tremendous interest in the State Trustees Ltd unclaimed moneys web site, which presents a view that is in some respects contrary to the fact that people are not very careful with their cheques if they do not cash them. I wonder whether the people hitting the web site are the sort of people Mr Strong alluded to — some of them are the sharks and smarties, as he described them, and some are people such as me, I must admit, who on occasion go on spec searches to see if they can find an amount of money that they may have overlooked at some stage! Regrettably, it is a bit like Tattslotto, and I have not had any success yet!

I have experienced the operations of the people who do this work professionally in that I hold a power of attorney for two elderly relatives. Each of them has received a letter of this ilk. One case involved a bank account with the now-defunct State Savings Bank which had clearly been forgotten by the elderly gentleman, and about $880 was recovered by me on his behalf. The person who drew my attention to it sent me an account for drawing my attention to it. I actually felt some responsibility to him, so I cut it in half and sent him a cheque for half of what he asked for. I think he was well satisfied, because I did not hear from him again; I certainly did not get an account rendered!

Mr Lenders interjected.

Hon. W. R. BAXTER — Too generous you think, Minister? From Mr Strong's view, 95 per cent of something is better than 100 per cent of nothing! The other one was a much smaller amount, and it was recovered. I allowed the person who drew my attention to it to recover it, and I have to say to Mr Strong: he was not one of your smarties and sharks, because the amount he retained was quite reasonable.

No doubt under the current act it is a very cumbersome business to advertise unclaimed amounts in the *Government Gazette* on a regular basis. In the days before we had the *Government Gazette* on the Internet I

was a subscriber to the paper edition, and I used to note quite often when flicking through the journal Pacific Dunlop, as I recall, or Western Mining, for example, advertising from time to time that 100 or so dividend cheques were outstanding and that the period during which they needed to be advertised as unclaimed moneys had reached an end. That appeared willy-nilly and ad hoc, whereas this legislation is going to regularise the advertising in the *Government Gazette* to once a year, at a set time. That will assist many people and it makes a lot of sense. It will be a more practical measure than the current act provides for. Companies are able and should be entitled to deduct reasonable expenses for that advertisement and for trying to find the rightful owner of the unclaimed money.

In regard to the minimum of $20 that is now incorporated in the bill, I agree with Mr Strong's contention. In this day and age $20 is a very modest sum indeed. The administrative costs of dealing with $20 or less far outweigh any advantage that might be had in locating the rightful owner. I am also pleased that the amount is able to be adjusted upwards by regulation and prescription. It seems to me that it could easily be $50. I do not think too many people would complain, because this is a costly business. I do not see any purpose in chasing owners of very minor amounts of money.

A different situation applies with misplaced superannuation benefits. This is going to be a huge problem in the future. I understand there are already many millions in unclaimed superannuation benefits that have been lost because their owners are unable to be located. That is understandable. People change jobs, particularly in this age of casualisation of the work force. We have employees who might work for many businesses and have a superannuation guarantee contribution of only a few dollars made on their behalf to particular superannuation funds, and they lose track of it.

I commend the federal government for the work it is already doing, but more needs to be done. The superannuation funds need to do more to encourage people to aggregate their small superannuation benefits and to be assiduous in notifying their superannuation fund when they change their address. I know that it is hard to do when you are in your 20s and 30s — retirement seems like a long way away and chasing after a small amount of money seems hardly worth while — but, as we all know, when benefits compound over 40 years it might add up to a reasonably significant sum that people would benefit from. There is not enough understanding in the community. It is not only the responsibility of the superannuation fund to keep these things in order, but the actual beneficiary also has a responsibility to make sure that he or she keeps their superannuation fund apprised of his or her current mailing address.

The second-reading speech talks a good deal about the Information Privacy Act and its provisions. Mr Strong dealt with it at some length as well. I actually have some grave reservations about the Information Privacy Act. It is going to prove to be a very difficult piece of legislation over time. It is already being misused by some companies and particularly by some bureaucrats to withhold information which, quite rightly, could be in the public arena or could be disclosed to an inquirer on the basis that they are transgressing the Information Privacy Act. It can include even quite sensible things — for example, I was advised that a consumer had changed her address, the gas company had got the name of the premises wrong and her son-in-law phoned the company to correct that mistake but was unable to do so because the company said that under the Privacy Act it needed to speak to the consumer. Bearing in mind that it was correcting a mistake the company had made, I thought that was just taking it to ridiculous lengths, and obviously there needed to be better management in that company to explain to its employees that it was not Parliament's intention to take the Information Privacy Act to those sorts of extremes.

I think there is a range of information which seems to be now deemed to be personal information which in the past was quite freely available in the public arena. I do not think anyone was particularly disadvantaged by that or particularly worried about it. I just think the pendulum has swung too far the other way, and parliaments in the future will have to do something to address the fact that the Information Privacy Act is being administered far too tightly. It is causing immense expense to the community, to say nothing of huge volumes of paper being used up to print companies' policies. Those of us who happen to be shareholders in companies will notice when we get communications from companies now, whether it is the dividend cheque, the notice of the annual meeting or whatever, that there is usually a card in it which sets out the company's privacy policy. I am sure no-one reads it; they might have the first time around, but it goes straight into the bin. It is a waste of paper; it is a waste of trees. It has got out of hand, and Parliament will have to act in the future to get it back on track.

Mr Strong used an example put to him by the Victorian Privacy Commissioner that was not taken up by the government, about banding the amounts of sums outstanding to try to save Mrs Macgillycuddy, to use his example, from being approached by people who

might be wishing to help her recover that amount of money. I do not want to disappoint Mr Strong, but I do not think banding will help much at all. It might be that you do not put the amount of money in at all and that you just list the people who have amounts of money outstanding, and if the smarties want to go on a fishing trip and approach everyone, maybe they can, but I suspect they would not.

However, frankly, if Mrs Smith does not know that she has $20 000 unclaimed and thousands of other people do not know that they have money unclaimed, I would have thought that on the balance of benefit to the community we could actually put up with the fact that on the odd occasion Mrs Macgillycuddy might get approached by someone who may be behaving in a way that is less than ethical in that they might be wanting to claim a commission for recovering that money that is a bit excessive. But I think I would rather run the gauntlet of that happening and provide plenty of opportunity for people to learn one way or another that they have outstanding sums owing to them, particularly if they are substantial sums, than worry too much about the odd case where unethical behaviour might be proven to exist. If it does, let us deal with that some other way; let us not throw the baby out with the bathwater in making the thing all too difficult.

As I said at the outset, I think it is timely that the 1962 act is being updated to bring it into line with present-day practices in the transmission of funds and so on. I have studied this bill at good length, and I think the provisions are workable. Only time will tell, of course, but in terms of relieving the administrative load on individuals and companies I think there is some benefit in it. Certainly the web site has proved to be a remarkable instrument in directing some of this unclaimed money to its rightful owners. This bill can only enhance the capacity of the web site and the registrar of unclaimed moneys to at least get the money back to where it belongs. The Nationals are pleased to support the bill.

Mr PULLEN (Higinbotham) — It is good to follow the speeches of Mr Strong and Mr Baxter. They have already said most of what I was going to say, so I will not take up too much of the time of the chamber. I can remember back to Mr Baxter's remarks on a condolence motion when he said that the late Vern Wilcox took him under his wing when he first came into Parliament. Mr Baxter might have to do that with me, because sometimes I have a bit of trouble with some of these bills. But I have had a good look at this one, and I am only too pleased to add my contribution to the debate on it.

Mr Baxter finished up talking about the Information Privacy Act. Of course this bill ensures that the Unclaimed Moneys Act operates in accordance with the Information Privacy Act. It clearly defines the powers of the Registrar of Unclaimed Moneys and reflects contemporary practices. The amendments ensure consultation with the Information Privacy Act, which contains provisions relating to the disclosure of personal information.

The bill removes uncertainties relating to the registrar's powers in such a way that particular details can be published on the unclaimed moneys web site. The web site was launched in November 2000 — another great initiative of the Bracks government. Mr Strong has already pointed out that it has something like 600 000 hits a month. I have worked out that that is about 18 000 to 20 000 a day. I am surprised it has so many hits. It has to be a world first for a site to have that many hits. I do not look at the web site because I do not think there are any unclaimed moneys out there for me, unless someone has found a lost TAB ticket or something like that. But it is wonderful to see that this initiative is being used by so many people.

With the exception of some minor amendments, as Mr Baxter said, the Unclaimed Moneys Act was introduced in 1962. Of course in those days Sir Henry Bolte was Premier, belting the workers around the ears and things like that. There have been a few changes, as Mr Baxter mentioned. I wish the web site had been around back in 1962, because it was at about that time that, in one of my other lives, I was working in the Commonwealth Bank and I had to try to find people with unclaimed moneys by going through all the possibilities, including looking up the telephone books and even the death notices. You would go through the electoral rolls and everything you possibly could. I was absolutely staggered at the amount of money that was left behind by so many people. It is a tragedy really. I do not know how much is held in the unclaimed moneys fund, but I reckon it would be a fairly large amount. That was when I first realised the sorts of things that go on.

It should be noted that only amounts of over $200 will now be advertised, but all the amounts will be listed on the web site. Also the redefinition of 'unclaimed moneys', as has been mentioned earlier, includes amounts of $20 or greater, because the figures I have seen show that 60 per cent of the current administration relates to amounts of less than $20, and that has to be a waste, particularly for business and for the government.

The redefinition of 'business' is designed to capture any organisation that is operating in Victoria — this is very

important to ensure they are not remitting the unclaimed moneys to their home states rather than to Victoria. That could create some problems — I do not know — but I think that is a very good initiative in the bill. Our business requirements have been modernised to lessen the administration involved in the process and therefore provide better service to the public in regard to unclaimed moneys.

The practice of defining reports, periods and compliance statements has also been introduced. Currently a business is required to maintain a register of unclaimed moneys which it must hold for at least 12 months, and amounts of $100 or more are to be advertised in the *Government Gazette*. That usually runs over 20 or 30 editions of the gazette, but it will now be lodged in just one particular *Government Gazette*. That is also a very good move.

I refer to the role and powers of the registrar in the Unclaimed Moneys Act. These are pointed out quite clearly in the second-reading speech. New sections 12 and 13, set out in clauses 7 and 8 of the bill, will remove any uncertainty relating to the powers of the registrar. New section 12 clearly defines what details of unclaimed moneys the registrar can collect, and section 13 broadens the inspection powers of the registrar in ensuring compliance by business and trustees.

It is particularly interesting to me that clause 6 of the bill lists the definitions of businesses. This is most important. I am not sure people realise that unclaimed moneys can be held by councils, hospitals and these sorts of bodies. Whether or not it is incorporated, if it is holding unclaimed moneys it comes under this definition. I do not think a lot of people are aware of this, and that is why it is important that they can check the web site.

A new clause which I think is very important, particularly for business, is clause 7, which inserts section 11(5) in the act:

> ... A business may deduct out of unclaimed moneys payable to an owner an amount in respect of the reasonable expenses of the business in holding unclaimed moneys and locating the owners.

I think that is very good. As I said at the start, Mr Strong and Mr Baxter have covered the bill in full, and I will not take up any further time in support of it.

Hon. W. A. LOVELL (North Eastern) — It is a pleasure to contribute to the debate on this bill, and in doing so I say that the opposition supports it. This legislation will amend the Unclaimed Moneys Act 1962. That act is particularly important because it provides the community with a central place to find moneys belonging to them after many years, if they exist.

The bill also enables businesses to hand over unclaimed moneys to the state trustees, freeing businesses from the significantly time-consuming and costly task of maintaining records and administering unclaimed funds. This bill before the house will make a number of changes to the act which are important and are welcomed by the opposition. It will change the definition of 'unclaimed moneys' to amounts of more than $20. This is a very practical change because it removes significant administration time and costs. The bill also changes the definition of 'business' so that it applies to any organisations that are operating in Victoria, even though they may be incorporated in other states.

The bill also addresses the issue of unclaimed property other than money and how it is to be dealt with. The handling of unclaimed property other than money is referred to in new section 8A to be inserted in the act. There is also a new section 12A that relates specifically to unclaimed trust property. The bill makes a number of amendments to bring the Unclaimed Moneys Act into line with the Information Privacy Act 2000. The role of the registrar involves the routine handling of personal information which is the subject of the Information Privacy Act.

There are a number of concerns about this bill. The first is the lack of specific detail in it, which will create ambiguity in the wording of the act. This is particularly so in the provisions relating to the registrar's handling of personal information. It is a concern for those who have to administer the legislation, because it needs to be specific in its content, and it is not good practice to be amending acts and creating ambiguity in them. A number of amendments to this bill were also introduced at the last minute during its passage in the other place. The opposition supports the bill, which I commend to the house.

Mr SOMYUREK (Eumemmerring) — I am pleased to rise to speak on the Unclaimed Moneys (Amendment) Bill. The primary purpose of this bill is to amend, in order to bring clarity to it, the Unclaimed Moneys Act 1962, which, besides some minor changes in 1993 and the introduction of part 4 dealing with unclaimed superannuation benefits, has remained unchanged. The introduction of the Information Privacy Act 2000 brought with it new standards with respect to the collection, use and disclosure of information. Since the registrar of unclaimed moneys is required to collect

money and maintain information of a personal nature it is imperative that the act reflect contemporary practices concerning information privacy requirements.

Furthermore the Information Privacy Act 2000 gives a clear purpose to an act which otherwise lacks an explicit purpose and leads to much confusion. Both a clear statement of overall purpose and a special purpose in part 3 are introduced in the Unclaimed Moneys Act to show that the intent of the act is not only to collect information but also to publish this information in order to locate owners. The introduction of these clauses will amend the act to meet the requirements of the Information Privacy Act 2000.

Changes to sections 12 and 13 remove any uncertainty about the registrar's powers by clearly defining the powers of the registrar of unclaimed moneys. Section 12 has been amended to define what details about unclaimed moneys the registrar can collect. It also clearly states how the registrar will hold this information, and it gives the registrar the power to release such information as the registrar considers appropriate in order to locate owners. This will include the power to publish an unclaimed moneys web site. Section 13 has been amended to broaden the inspection powers of the registrar for compliance from business and trustees. The amendments are consistent with the Victorian Parliament's Law Reform Committee report and are in line with the current government's recommendations on inspection powers.

In order to more accurately reflect contemporary practices this bill redefines 'unclaimed moneys' and 'business'. 'Unclaimed moneys' is redefined as any amount equal to or greater than $20. At the moment it is estimated that 67 per cent of the current administrative effort goes into unclaimed moneys that are less than $20. The change will reduce the administrative burden on the registrar of unclaimed moneys and will also bring Victoria into line with other states with similar thresholds. The redefinition of 'business' is designed to capture any organisations which are operating in Victoria but which up to now have been remitting their unclaimed moneys to states other than Victoria. Trustee companies which are holding unclaimed moneys will now be required to treat them differently from unclaimed property.

Trustee companies which are holding unclaimed moneys will also be included in the definition of a business and will in future be subject to the provisions of the act governing businesses. While some may criticise this as adding a further layer of administration, I believe it is important for money to be treated in a standard way regardless of who is actually holding it.

The amendment of the advertising requirements for businesses recognises that they have not been changed since 1993. The current threshold of $100 was set in 1993, and this requires businesses to advertise all individual entries equal to and above this amount. The present amendment raises the threshold to $200 and brings Victoria into line with other states. These amendments will ensure that Victoria has a modern, efficient and fair process in place in relation to the management of unclaimed moneys. I commend the bill to the house.

Hon. A. P. OLEXANDER (Silvan) — It is a pleasure to make a brief contribution to debate on this bill, and as has already been stated by my colleague Mr Strong, the opposition supports this legislation. We will be voting in favour of its passage through the house. This legislation amends the Unclaimed Moneys Act 1962. It enables businesses which have unclaimed moneys from their clients or customers to transfer these funds to the state trustee for management. This is important because it frees business from the costs and administrative duties which are often associated with the keeping of such moneys and enables those businesses to focus on their current and live clients and existing business. We see this as a very positive step. It is often onerous for businesses to manage so-called dead money.

The act also benefits consumers in that it enables them to go to one central source, that being the state trustee, to seek money that might be theirs, or to be reunited with money that might rightfully belong to them. That is a very good thing. If you were a consumer who had been parted from a significant amount of money or even a not so significant amount of money, being reunited with it would be a priority for you. In order to do that you certainly do not want to be searching around a range of financial institutions or businesses or trying to track back where businesses might have been taken over by another or might have been brought into another business grouping. The central repository aspect of this legislation is positive.

The introduction of Internet technology has also greatly assisted the search process for those who are seeking to be reunited with funds. I note that the unclaimed moneys web site, as has already been pointed out in this debate, receives approximately 600 000 hits a month. That seems to me an extraordinarily high level of hits, but it is indeed the number that is quoted as a reality. It seems that either there are a huge number of people seeking to be reunited with their cash or people are just very curious about what the unclaimed moneys web site is all about. It is probably a combination of both.

There certainly is a huge amount of interest from the public.

The bill before the house makes a number of changes to the principal act which are important, and the opposition supports them. The bill will bring the Unclaimed Moneys (Amendment) Act into line with the Information Privacy Act 2000. The state trustee's role involves trying to find those persons whose moneys are unclaimed. This often requires the use of personal information and can involve advertising some personal details of individuals. There are significant privacy concerns where that is the case. Individuals who might find themselves in a range of situations might have concerns over their details being published in such a manner. Bringing the Unclaimed Moneys (Amendment) Act into line with the Information Privacy Act institutes a series of protections which are sensible and justifiable.

The handling of unclaimed property other than money is referred to in new section 8A, which is being inserted in the act by this legislation. It relates to property other than money, which may for example be items left for repair at a business and unclaimed or other property which has been left for whatever reason with a commercial entity.

The bill also changes the definition of unclaimed moneys to amounts of more than $20. This again we feel is a sensible move; it is a change we welcome, because it removes the burden of administering very small amounts of money which cannot themselves sustain the cost to a business administering them or even the cost of the search process to reunite that money with its owner or owners. It also will enable efforts to be more properly directed to unclaimed moneys of more significant amounts which are probably more of a priority in the context of this legislation.

The bill also changes the definition of what a business is so that it applies to any organisations that are operating in Victoria even though they might be incorporated in another state. The definition of 'business' in section 9 of the principal act, which is amended by clause 6 of the bill, is of significant interest to me because it relates to bodies corporate.

The amendment removes clear reference to bodies corporate incorporated by or under an act which is in paragraph (j) of the definitions in section 9 of the principal act. That is replaced with the opening words:

> ... 'business' means any body, whether or not incorporated, or any sole practitioner, that carries on any business in Victoria ...

The existing legislation recognises a business as any incorporated body being a body incorporated under the act. Under the amendments the act applies only if that body carries on a business or is live or is active as a business.

This is an interesting change, because there are a number of incorporated associations which are more accurately defined in other ways. They might be social clubs, for example, which perhaps have membership fees and may hold events. They may have a small charge for membership or they might sell merchandise with the club's logo on it or something of that nature. Whether you could really define them as carrying on a business is an interesting question and is open to interpretation. Perhaps that could be clarified by the government in its summing up, because under the new definition the law certainly would apply to a large number of organisations in Victoria.

The changes introduce, however, a certain level of uncertainty, which concerns me. Organisations and the community in general should not be subject to increased red tape and legal confusion about what they are or are not or how they are defined and what may or may not apply to them. And I believe that is potentially the case here. It is reflected in the bill, which is frequently unspecific throughout a number of its clauses. This could be significantly tightened up and perhaps better defined or clarified by regulation.

I would also like to express concern about the passage of the bill, which, like a significant amount of legislation before this place this week, began its passage in October last year. This legislation — and I have already said the opposition supports the bill — has been waiting for progress through both houses of this Parliament for approximately six months now. Amendments were made to the bill in the other place in this very autumn session, which really is an example of policy change on the run. But it is worse than that, because it creates uncertainty for those who work with or are guided by the rules set down in this legislation. There are many commercial and other organisations that will be so affected. That uncertainty about legislative change and amendment at the last minute is something we should be trying to avoid, particularly when the bill has been sitting awaiting passage for just over six months. The broader community and businesses in Victoria should certainly be given more than that.

Policy delays and policy on the run, however, are becoming hallmarks of this government, and the number and degree of last-minute changes to legislation and the resultant delays in the passage of legislation are

of concern. We in this chamber are acutely aware of that because we see the legislation in the last part of the process, and we are not seeing very much that has not had some significant change to it or some significant delay.

With that I will seek to conclude my comments. The Liberal Party supports the bill. It is a step in the right direction. It institutes some sensible and overdue changes to the way that unclaimed moneys and their administration are handled in this state, but there are some concerns with the bill and there is room for further clarification on the part of the government.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

In doing so I would like to thank Mr Strong, Mr Baxter, Mr Pullen, Ms Lovell, Mr Somyurek and Mr Olexander for their support for the bill. I thank the house for its progress so far and wish the bill a speedy passage.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Water: irrigators

Hon. W. A. LOVELL (North Eastern) — I wish to raise with the Minister for Water a matter regarding the proposed water price increases for irrigators. The Bracks Labor government's plan to increase the cost of water to irrigators by up to 25 per cent has caused anger and frustration amongst the irrigators in my electorate. Irrigators are struggling to survive the impact of the drought, low water allocations and falling milk prices and cannot afford a massive price rise for their water allocations. Farmers are angry that a massive 9 per cent of the increase is needed to fund the dam improvement program, including the $30 million upgrade of the Eildon dam wall. Under the first stage of the dam improvement program the then Kennett government set a precedent of a fifty-fifty cost-sharing basis between government and water authorities. Unfortunately the Bracks Labor government has not matched the funding and has provided only $8 million, or approximately 25 per cent, of funding for the Eildon dam wall upgrade.

It is important to recognise that the improvements to the Eildon dam wall are necessary purely because dam safety standards have changed. These works will not increase the storage capacity of Lake Eildon or provide any additional water for irrigation. Clearly the greatest beneficiary is therefore the broader community. For that reason it is unfair that the Bracks government expects irrigators to fund 75 per cent of the cost of these works. Last week the Minister for Water attended a meeting in Tatura and confirmed that the Bracks government would not be contributing additional funds to the Eildon dam wall upgrade. For a minister and a government who claim to care about rural and regional Victoria and who claim to be serious about water this refusal is a stark and disappointing example of the government rhetoric not being reality.

One protester outside the meeting said, 'Water is the lifeblood of the Goulburn Valley. Without it there would be no more industry'. This is the reality. These water price increases threaten to cripple local irrigators who are still struggling with drought and who for the first quarter of this year have experienced some of the lowest rainfalls on record. The Minister for Water, Mr Thwaites himself said last week that he expected to see more and more periods of low rainfall.

I ask the minister to consider the importance of the contribution irrigation makes to the economy of this state, the difficulties faced by irrigators due to the drought and other circumstances and the benefits that water storages like Lake Eildon provide for the wider community and to provide the appropriate funds for infrastructure upgrades, including the Eildon dam wall, to relieve irrigators of these massive price increases.

Glen Eira: councillors

Mr PULLEN (Higinbotham) — My adjournment matter this evening is for the Minister for Local Government. I want to correct a statement by my Higinbotham colleague, Mr Chris Strong, that Glen Eira councillor Rachelle Sapir was an endorsed ALP candidate at the last council elections. She was not. Rachelle certainly is a proud member of my party, and Mr Strong is obviously still upset that she got a swing

to her of more than 7 per cent in Brighton at the last state election.

Hon. Andrew Brideson — President, on a point of order, Mr Pullen is in fact making a statement in correcting a statement he has attributed to another member of this chamber. I do not believe that that fulfils the purpose of an adjournment item, and I ask you to bring the member back to raising an issue or a request with the minister. To date he has not done exactly what is required of him.

Hon. J. G. Hilton — President, on the point of order, Mr Pullen has 3 minutes to raise his adjournment matter. He has been speaking for 28 seconds. I would suggest that he has not yet had sufficient time to develop his argument.

The PRESIDENT — Order! The member knows the rulings I have given in this house with respect to the daily adjournment. The member has had less than 30 seconds of his 3-minute allocation, but I remind him of the criteria that I have set out and suggest they be adopted with respect to the adjournment. I ask the member to ensure that he adheres to the rulings I have given.

Hon. Bill Forwood — Don't flout the ruling.

Mr PULLEN — Thank you, President. I was learning from Mr Forwood after his performance last time!

I am most concerned about the goings-on and possible conflict of interest surrounding Cr Peter Goudge in Glen Eira. Cr Goudge lives a long way from the City of Glen Eira, in Eltham, and rarely attends any council gatherings or meetings. He qualifies as a councillor because he is a nominee of a company. He was also the Liberal Party candidate for Oakleigh at the last state election.

At the time of his election to council, Cr Goudge was a nominee of Briar Grange, a company owned by Mr Frank Penhalluriack, which was developing the Churchill Green estate on the corner of North and Murrumbeena roads in Murrumbeena. Churchill Green estate was an issue that Glen Eira City Council had been dealing with for some time. Cr Goudge was appointed to act as mediator at the meeting to be held between the residents of Churchill Green estate and the developer in an attempt to resolve the issues. Not surprisingly, the residents were alarmed because they claimed this was a blatant conflict of interest.

At a council meeting on 8 September 2003 Cr Goudge made a statement that there was no longer a conflict of interest because he had resigned his nomineeship of Briar Grange. However, he failed to inform the council that he was now a nominee of a company called Poohawk Pty Ltd, which is also a company owned by Frank Penhalluriack. This same councillor has run up a mobile phone bill of $4486 in the last 12 months, compared to a total of $3393 for the other eight councillors. I am advised that when he was asked about this by a resident, Cr Goudge sent three emails demanding that the resident give him her private telephone accounts. He also wrote to the resident's place of employment requesting information.

I inform the minister that this is the same councillor mentioned in an article in the *Age* on 25 March 2004 making outrageous accusations against another councillor, Noel Erlich. The *Age* reporter, Martin Boulton, was not even present, and I am informed that Cr Erlich was in fact the innocent victim.

I consider the possible conflict of interest by Cr Goudge to be contrary to the recently passed local government bill, and I ask when will the guidelines for councils code — —

The PRESIDENT — Order!

Hon. D. K. Drum — On a point of order, President, there was no question asked of the minister. There was no direction asking for specific action to be taken. There was no question asked of the minister; it was a statement.

The PRESIDENT — Order! With respect to the last 5 to 10 seconds of the contribution, I was on the point of calling the Honourable Damian Drum for a point of order and I did not actually hear any question — —

An honourable member interjected

The PRESIDENT — Order! I know the honourable member directed a matter to the minister in the initial stages of his contribution — the first 20 seconds or so — but I did not hear the last couple of seconds, because I was calling the Honourable Damian Drum who stood for a point of order. Because there was noise in the house, I ask the member to repeat his words in the last couple of seconds whilst I was calling the Honourable Damian Drum. I have checked with the Clerk, and he did not hear it, and I am not sure whether Hansard got it. I am sorry, I did not hear it. I ask the member to repeat those last few words, so I can rule on the point of order raised by the Honourable Damian Drum.

Mr PULLEN — I ask when can we expect the guidelines for councils code of conduct to be issued.

Hon. E. G. Stoney — On the point of order, President, I listened carefully and I could hear from here. I do not believe the member got that out in the time allowed. The clock went to zero before he got it out.

The PRESIDENT — Order! I asked the member to advise the house what he said in the last few seconds of his contribution, because I did not hear it.

An honourable member — He did not get to it.

The PRESIDENT — Order! I asked the member to state it, and the member stated that that is what he said. If the member has a concern that that is not the case, I am not sure where that leads us — if he is stating that the member has not indicated to me what he actually said in the last few seconds of his contribution which I had him repeat because of the noise in the house.

Hon. C. A. Strong — On a point of order, President, council guidelines and procedures are not an issue for the minister.

The PRESIDENT — Order! With respect to the minister's responsibility it is for the minister to respond to the member. It is not for me to say that that is within or outside the minister's responsibility. I understand it is, but that is the minister's call. It is not for me to give a ruling on that particular point.

Hon. Philip Davis — President, on the point of order raised by my colleague the Honourable Graeme Stoney, he made it quite clear — and I agree — that the words spoken by the member in response to your invitation to elaborate on his concluding remarks were not the same words spoken during the contribution to the adjournment debate before he ran out of time. In fact the member did not say those words, and I suggest that the only way to clarify this is to check the tape.

The PRESIDENT — Order! On the matter raised by the Leader of the Opposition, and following advice from the Clerk, I took the words that the honourable member indicated as being the words he uttered. The Honourable Graeme Stoney and the Leader of the Opposition have a different view. I will check the tape with Hansard to see what was recorded and what was heard on the tape, and I will advise the house in due course.

Local government: caretaker period

Hon. J. A. VOGELS (Western) — I also raise a matter for the Minister for Local Government, Ms Broad. It concerns a decision by the Bracks government to enforce a three-month caretaker period for all 25 councils going to elections in November this year. Between the period from August to November these councils cannot award contracts in excess of $100 000, or 1 per cent of their rate base. For most councils that is the exact time frame during which they let out contracts for major roadworks, bridge building, footpaths, infrastructure et cetera. These contracts need to be let out at that time of the year, because they are contracts that are affected by weather. Most contractors do their tendering and their contracting out before Christmas. After the Christmas-New Year break, as soon as everything gets back to normal in about the middle of January, these works can start. Councils also need to make decisions on machinery, trucks, graders and tractors. All these costs are well above the guideline of $100 000 or 1 per cent of the rate base.

Will the minister take action and amend the Local Government (Democratic Reform) Act to sort out this issue, which will impact heavily on councils going to the polls this year? All we have heard so far is a suggestion by a spokesperson that councils just bring these sorts of decisions forward to beat the system put in place by this very government.

If councillors are trusted to make decisions about contracts of this value three months prior to an election — in other words, to make a hasty decision to beat the time frame — then surely they are competent enough to make more informed decisions if the caretaker mode began only, say, one month before the election. With councils in a three-month no-decision mode, then the Christmas period, the New Year break and perhaps a whole new council to deal with and educate on the council corporate plan, in some instances very few contracts will be entered into.

What does the minister advise councils should do with staff whose jobs will eventually become redundant because of the councils' inability to tender for any major contracts over this extended period, and what is the minister's advice to council staff whose jobs depend on winning in-house contracts?

The action sought is to revisit the legislation and bring it more into line with state and federal government elections, where no major financial decisions are made once an election is called, which is usually between three and four weeks.

Consumer affairs: International Biographical Centre

Hon. C. D. HIRSH (Silvan) — I raise a matter for the attention of the Minister for Consumer Affairs. I ask the minister to investigate an issue regarding literature I received in the mail the other day. Having chaired the committee which recently produced a report on electronic fraud and other fraud issues, I am suspicious of an organisation called the International Biographical Centre, which says that in honour of my biographical excellence it is offering me an order of excellence. In fact, it says:

> Your name has been short-listed and brought to the attention of the awards board of the International Biographical Centre to receive this most prestigious honour.

I am pretty good, but I do not think I am quite up to this. When you go through the literature you see there is mention also of a web site, with not a lot on it, but if you send the organisation US$495 or £295 it will give you a plaque saying that you have been awarded an order of excellence of the 2000 outstanding intellectuals of the 21st century.

As soon as I read this I thought that this must be a problem. Then I discovered that it is only given to a few people, a select group, except on the back of the letter it says that it wants to 'Assist our researchers and editors', and there are spaces to list 20 other individuals, organisations and friends you might like to send in for recommendation for this order of excellence. I think possibly Andrew Olexander could be in this. I also wonder, given that the organisation offers fellowship with other excellent people, whether it may be a singles web site. Will the minister investigate this group and ensure that gullible individuals are not caught up in it and do not send it any money?

Opera Australia: Victorian performances

Hon. A. P. OLEXANDER (Silvan) — I seek the attention of the Minister for the Arts in the other place. The issue I raise is the crisis involving opera in Victoria, which is of significant concern to Victorian audiences and the opposition. Opera in Victoria is currently running second-best to Sydney. The total number of operas in Victoria has fallen to just seven this year. Historically we used to have 11 performances, but last year we had just 8. This problem is not new, and the arts minister has been aware of it for a long time, yet she has failed to deliver outcomes which will foster or even save opera in this state.

Indeed the arts minister has a history of refusing to speak about opera. I refer to an *Age* article of 21 August 2002, which says:

> Inexplicably the arts minister, Mary Delahunty, would rather not talk about opera. The former TV journalist declined invitations to talk about opera in Victoria with the *Age* face to face, on the phone, and finally even declined to respond to emailed questions this week.
>
> 'It'll have to be "The state government declined to comment" at this stage the *Age* was told by one of her staff in an email'.

Currently the New South Wales government is committing $1.7 million per year to Opera Australia, and the Victorian government is committing just over $700 000. While the cost of productions has increased, the Bracks Labor government funding of opera has decreased since 1999. The last funding round of the Kennett government allocated $800 000 to Opera Australia; it is now receiving just over $700 000 from this government.

Victoria is the cultural capital of Australia, and I fear, as many Victorians do, that Sydney is fast positioning itself to overtake us, if indeed it has not done so already. Victorian artists, Victorian business, Victorian tourism operators and, importantly, Victorian audiences, will be left behind if the current Victorian arts minister, Mary Delahunty, does not immediately engage in proper negotiations with Opera Australia and develop a comprehensive forward strategy for opera in this state. What action will the minister take to ensure opera in Victoria is properly supported and developed and that it prospers now and into the future?

Thompsons Road, Templestowe: upgrade

Ms ARGONDIZZO (Templestowe) — I wish to raise a matter with the Minister for Transport in the other place. During the 2003 sittings of Parliament I raised the issue of Thompsons Road, Templestowe, with the Minister for Transport, which led to a meeting between the parliamentary secretary, Mr Carlo Carli, the residents committee, known as the Thompsons Road Action Group, me, VicRoads and the minister's representative.

The residents at that meeting strongly expressed their concerns about the safety and efficient operation of Thompsons Road. Included in these concerns were the location and operation of the bus stops, which in the view of the residents are unsafe, and the primitive nature of the drainage of the road, which is through simple, open, unconstructed drains.

There is a real need to provide safety for the road users and surrounding residents. There have been 23 casualty

crashes on Thompsons Road in the last five years. The committee also raised the issues of the delivery of mail by Australia Post, which has presently refused to deliver mail to certain locations on the road, and the safety of pedestrians trying to access buses. There have been a number of accidents with older people and students falling while trying to get on or off the buses due to the lack of gutters.

I have inspected Thompsons Road on many occasions and have found these concerns to be legitimate. I would request the Minister for Transport, as a matter of urgency, to investigate the possibility of approving a safety upgrade to Thompsons Road, Templestowe, to ensure the safety of nearby residents and users of that road and provide them with a safe and efficient road.

Rail: freight and passenger services

Hon. B. W. BISHOP (North Western) — I raise with the Premier the great opportunity that exists for the state, and in particular the users of rail, both freight and passenger, in country Victoria. This opportunity, of course, is the proposed sale of Freight Australia to Pacific National, where part of the process will involve the 45-year lease of the rail lines.

Since the election of the Bracks government in 1999, the Victorian rail network has been bogged down by constant bickering between the government and Freight Australia. The Bracks government has used the blame game, first with the federal government but particularly with Freight Australia, as an excuse for its inability to upgrade and standardise rail lines as it promised. A case in point is the Mildura line. These works are crucial to the mineral sands industry to allow access to the deep-water port of Portland and, of course, the return of the passenger train.

The other crucial issue is access to the track, which has become a problem under the Freight Australia lease. There is no doubt that an open, competitive rail system would deliver benefits to all Victorians. For the sale to Pacific National to proceed, the rail track must return to government control. This will ensure fair and open access to the rail network for all providers and prevent the establishment of a monopoly operator on the east coast of Australia. The government can then put the revenue from track access charges towards the upgrades that are necessary.

There is real concern in the Victorian transport industry among customers who use the rail system, road operators and multimodal freight forwarders that Pacific National — or any other potential buyer — may simply cherry pick and ignore the sectors that, while being hugely important to regional Victoria, may not meet their profit-making criteria.

There is also concern that unless the control of the track goes back to the government Pacific National may use its power as a dominant player in road, rail and the ports to create a barrier to those wishing to operate their own businesses by utilising the rail system.

I am advised that the Australian Competition and Consumer Commission will be considering these issues of vertical integration between road, rail and port facilities and also the current control of the Victorian rail track by Freight Australia and how control of the track by Pacific National may affect competition. However, my request to the Premier and his government is to grasp the opportunity and take back control of the track so that we can ensure an open and competitive rail system that will benefit all Victorians.

Disability services: Newton House

Hon. ANDREW BRIDESON (Waverley) — I ask the minister at the table, the Minister for Finance, to raise my issue with the Minister for Community Services. It concerns the fact that the government is closing down the Newton House residential facility, which provides disability services to clients who suffer from paraplegia and quadriplegia.

Newton House is run by Newhurst Securities Pty Ltd and has been providing disability services at Newton Street, Chadstone, for the last 12 years. During that time there has never been any communication between the Department of Human Services and Newhurst Securities raising concern about the provision of service to clients. There has been no communication regarding any problems with the funding arrangements provided by DHS as an untied subsidy payment. I am told that the funding arrangement constitutes 85 per cent of the total funding. On 16 January DHS decided not to renew the current service agreement between Newhurst Securities as of 1 July. No avenue for review or appeal was offered by DHS to the provider, and it claims this is a gross denial of natural justice.

Most — in fact, 60 per cent — of the residents at Newton House are over 65 years of age. Most of them have been living together for many years. The staff has been very stable and consistent and has a very good relationship with the clients. It would appear that DHS has decided that these clients are to be dispersed to facilities run by the Yooralla Society of Victoria. The clients are extremely concerned, of course, that they are going to be split up. They are a family who are living together, and they are going to be split up. Staff are

most uncertain about their future. There are no jobs for them to go to because presumably the Yooralla society will replace them. It means a purpose-built facility has no contemporary application — it would be very difficult to sell the facility at Newton Street.

I am requesting that the minister meet with Newhurst Securities to discuss the future not only of the clients but also the staff at Newton House. She will need to meet with them pretty quickly. Newhurst has a set of rational outcomes it would like the minister to implement but to date the minister will not even meet or discuss the issues with the current service provider. It is an appalling situation that this government, which claims to be a champion of the underdog — —

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

Rail: Ararat service

Hon. DAVID KOCH (Western) — My matter is for the Minister for Transport in the other place. It relates to rail timetables for the yet-to-be-implemented train service for the people of Ararat. The government's so-called commitment to reopen a rail service for Ararat residents is wearing a bit thin. Indeed, the people of Ararat fear their delayed train service will be reopened only to be shut down again.

The timetable, as published in the *Herald Sun* late last week, does not allow Ararat and Beaufort residents to arrive in Ballarat for work or school before 9.00 a.m., so workers and students wishing to use this service to commute to Ballarat regularly will be denied that opportunity. The timetable indicates that the first train service of the day out of Ararat would not arrive in Ballarat until 9.10 a.m. and not get to Melbourne until 12.08 p.m.

There are many people in the Ararat community who, for a variety of reasons, would gladly use and be loyal to this re-established service if they could be assured of getting to Ballarat before 9.00 a.m. Ararat residents and those en route to Ballarat, the potential users of this service, are very concerned about the long-term viability of the rail service and fear that once the service is operational it would be axed at the first opportunity due to a lack of patronage. In fact, potential users of this re-established service from Ballarat have been told that unless they patronise it by 2006 the government will close it again.

The timetable must be reviewed, making it attractive to passengers so that the service will be viable, user friendly and permanent. The Bracks government promised before the 1999 election that it would reopen a rail service to Ararat. Again it promised that the service would be operational by June last year; then it said it would be by the end of 2003. Ararat residents are still patiently waiting. Additionally, people wanting to travel to Ararat for the day by rail will have only a 2-hour visit — not enough time for taking in the sights of Ararat and its environs before they will have to reboard the train.

Regrettably the train to Ararat will probably not last until 2006, not because the people of Ararat do not want or deserve it but because the timetable will mean that it does not meet the needs of potential users. My request is: will the minister tell the people of Ararat when he plans to reopen their rail service and have it operating to a timetable that meets their needs?

Police: Malvern station

Hon. ANDREA COOTE (Monash) — My matter is for the Minister for Police and Emergency Services in another place. I wish to commend the excellent work done by the Malvern police in Glenferrie Road. There is disturbing evidence of an increase in crime in and around Malvern. It is comforting to know that the Malvern police are there to assist the community — and they do an excellent job. My concern is actually for the police officers themselves. I am sure I am not alone when I comment on the dreadful conditions under which they work.

Hon. Andrew Brideson — They are appalling.

Hon. ANDREA COOTE — As Mr Brideson said, they are appalling. The outside of the police station is a disgrace — it has peeling paint and weeds. The inside is cramped and has evidence of dry rot. In fact, the building is located adjacent to the Stonnington Town Hall. The station building is a disgrace — it is absolutely appalling.

I am most concerned with the attitude of disregard for the problems faced by the Malvern police. However, it does not seem to stop the minister from commenting on and opening very large complexes in other places. For example, in Richmond there is a new $8 million police station. At the opening of that station, the minister said:

> Modern, state-of-the-art stations like Richmond ensure police have the best possible facilities to help them keep the community safe, giving them access to the latest technology and security devices.

When he opened a $1.7 million upgrade for the Camberwell police, the minister said:

The old station was in poor condition and functionally inadequate for modern-day policing.

I ask the minister to go and have a look at what is happening at the Malvern police station so that we can hear what he has to say about the conditions in which these excellent police officers are working. It is an absolute disgrace. Dry rot, weeds, peeling paint — it is absolutely appalling. I ask the minister when he is going to improve the working conditions of the Malvern police.

Aquaculture: commercial licences

Hon. P. R. HALL (Gippsland) — Tonight I raise a matter for the attention of the Minister for Agriculture in the other place concerning fishery licence fees and other regulatory costs. I raise this matter on behalf of Gippsland yabby growers. Yabbies are a fledgling aquaculture industry in Gippsland, and, as such, very little money is being made out of the production and growing of yabbies at the moment. However, there is a lot of potential for this important and growing aquaculture industry. The increase in annual fishery licence charges that has now been signalled and also the fact that there will be some new charges arising from PrimeSafe's oversight of the aquaculture industry will virtually mean the end of yabbies as an aquaculture industry in Gippsland and, I might add, in other parts of country Victoria as well.

Under the Fisheries (Fees, Levies and Royalties) Regulations of 2004, from 31 October of this year there will be some massive increases in licence fees for the aquaculture industry — for example, an aquaculture licence on private land will be increased from the current $276 per year to $425 per year and an aquaculture multiwaters licence will increase from $391 to $1247 per annum. That is a 300 per cent increase in those fees. In addition, the fact that we are now going to have PrimeSafe overseeing food safety matters relating to the aquaculture industry will impose an additional burden on the yabby growers of Gippsland and other parts of country Victoria. I might add that there is a good argument that PrimeSafe should not be involved at all in the aquaculture industry, particularly with yabbies, given that they are sold as a live product and indeed are cooked live. There is very little role for PrimeSafe to play in respect of the processing of yabbies.

Quite frankly there will not be a future for this emerging aquaculture industry if it is made to bear these huge increases in fees. It will simply not be economically viable for many of the small yabby growers around country Victoria to continue in an industry where such fees exist. This issue was debated at The Nationals conference at the weekend just past in Echuca, where there was strong condemnation of the government for increasing these fees.

Ms Hadden interjected.

Hon. P. R. HALL — Thank you for the free publicity. I call on the Minister for Agriculture to think again about these fee increases and to do more to encourage the aquaculture industry here in Victoria, particularly as it applies to yabbies.

Responses

Mr LENDERS (Minister for Finance) — Ms Lovell raised an adjournment matter for the attention of the Minister for Water in the other place, and I will refer that matter to the minister.

Adjournment matters were raised by Mr Pullen and Mr Vogels for the attention of the Minister for Local Government, and I will refer those to her.

Ms Hirsh addressed a specific question to me as Minister for Consumer Affairs regarding the International Biographical Centre. Like Ms Hirsh, I am very concerned about the International Biographical Centre and the fact that it would ask consumers for US$495 to subscribe to a plaque. I will certainly investigate that further. During this adjournment debate I went to the Consumer Affairs Victoria web site and looked under 'Scams' to see if it is one of the prescribed organisations that have been listed there. I will not grace the house with the list of the many organisations we issue warnings about, but I can inform the house I have gone through that list and the International Biographical Centre is not on the list at the moment. I will certainly refer the matter to Consumer Affairs Victoria to investigate, but on face value it seems to be an organisation with the sort of credibility held by the people selling real estate on the moon. Nevertheless I will investigate the matter, and if it is what Ms Hirsh fears it is, it will certainly be included on the Consumer Affairs Victoria list of prescribed organisations with a warning to all consumers. The basic message on these things is always that if it looks too good to be true, it almost certainly is.

Mr Olexander raised an issue for the attention of the Minister for the Arts in the other place, and I will refer that to her.

Ms Argondizzo and Mr Koch raised issues for the attention of the Minister for Transport in the other place, and I will refer those to him.

Mr Bishop raised a matter for the attention of the Premier regarding rail, and I will certainly refer that to the Premier, although I would comment that it would probably have been more appropriate to have referred it to the previous Premier when the rail services were being privatised. But I will certainly refer the matter to the Premier with the very useful suggestion from Mr Bishop.

Mr Brideson raised a matter for the attention of the Minister for Community Services in the other place, and I will certainly refer that to her.

Mrs Coote raised an issue for the attention of the Minister for Police and Emergency Services in the other place, which I will refer to him.

And Mr Hall concluded the evening with his plea on behalf of Gippsland yabby farmers, which I will certainly refer to the Minister for Agriculture in the other place on his behalf.

Motion agreed to.

House adjourned 9.50 p.m.