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FIFTY-FIFTH PARLIAMENT
FIRST SESSION**

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Tuesday, 25 May 2004

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.03 p.m. and read the prayer.

ABSENCE OF MINISTER

The SPEAKER — Order! I wish to advise the house that the Deputy Premier is not present today and that the same arrangements will apply as applied in the previous sitting week.

QUESTIONS WITHOUT NOTICE

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to his claim on radio this morning that he was not aware of evidence linking gangland killings to corrupt police. I also refer to the statement by Detective Sergeant Simon Illingworth aired last night that he was threatened by a corrupt drug squad police officer in the company of a known underworld killer. Is this not evidence that police corruption and gangland killings are directly linked? Why do you refuse to acknowledge that connection?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question and for the opportunity to address this very important matter. As members would be aware, I had an opportunity to receive a briefing yesterday from the Chief Commissioner of Police, other key serving police officers and the Minister for Police and Emergency Services on the progress to date of both matters to which the opposition leader referred — that is, the Ceja task force, which is investigating alleged police corruption, and the Purana task force, which is investigating organised crime.

I can indicate to the house that significant advances have been made in those two investigations. I am pleased to report to the house in relation to Ceja, the investigation into alleged police corruption and the disbanding of the former drug squad, that 13 people have been charged — 7 former serving police officers plus 6 civilians — 2 former police officers are in jail and 2 more face charges brought by the ethical standards department. This is probably the most significant progress of any effort by any state or territory government in Australia to ensure that there is less police corruption, and I commend the Chief Commissioner of Police.

I want to pose this question, which I think is worth posing on behalf of this house, this Parliament and the Victorian public: why are these matters being brought forward, and why are they being exposed? The answer is because the Chief Commissioner of Police, Christine Nixon, made sure she put this on top of her agenda. That is the reason. Some of these matters have been going on for years and years — almost 20 years, in fact — and it was the police commissioner who indicated, upon her appointment, that she would tackle these matters and tackle them head on. I congratulate her on the success to date.

In relation to organised crime, as we know from media reports the Purana task force charged three people last week in addition to the two people who had already been charged. That is related to alleged gangland killings and organised crime in the state.

I will not discuss this matter in detail, because it is before the house, but today we will be debating the police ombudsman's powers, including the royal commission-type coercive powers that will be given to the police ombudsman to tackle the matter of alleged police corruption and ensure we have a dual-track system. I announced today that similar coercive powers will be given to Victoria Police and the Chief Commissioner of Police to fight organised crime and ensure — —

Mr Doyle — On a point of order, Speaker, on the matter of relevance, although this is such a serious matter that I am prepared to allow that it requires a wider answer — —

Mr Stensholt interjected.

Mr Doyle — Idiot stooge!

While I accept that this matter is of such seriousness that the Premier should have a reasonably wide brief in answering the question, I actually asked why the Premier would not acknowledge the direct link between police corruption and gangland killings. I would argue that any other answer is outside even the most generous bounds of relevance.

The SPEAKER — Order! I understood the question to be as the Leader of the Opposition said and that the Premier has not concluded his answer. I believe he was referring to suggested corruption in the police force as well as to gangland killings. I believe he is answering that question.

Mr BRACKS — I thank you for your ruling, Speaker. I referred earlier on, for the benefit of the Leader of the Opposition, to the briefings I have

received, and I have faithfully reported on those. Those briefings related to the progress to date on the matters which I have indicated to the house and announced publicly today. That is the sum total of the matters that were raised with me. That answers substantially the matter raised by the opposition leader.

I also announced today that as well as the coercive powers to be given to the Chief Commissioner of Police, on the request of a senior judge, there will be tough new asset confiscation laws for assets derived from unknown sources. We already have very tough laws that ensure that when someone is charged and there is unexplained wealth, those assets can be taken under a reverse onus of proof. In the future we will lower the threshold to say that it will apply to matters not only where charges are brought but also where there is a reasonable belief by police that those matters need to be investigated.

We are also giving more power to the Director of Public Prosecutions (DPP) to ensure those matters can be proceeded with quickly and effectively. In the meantime, of course, the Australian Crime Commission powers have been used by the Victoria Police and hearings have been undertaken under those ACC powers already, and they will also be available in the future.

There is progress. We are not going to impede that progress. We are going to ensure that all those advocates of criminals who want us to change track are wrong. We are not going to change track. We are going to bring these charges forward, give more resources to the DPP, greater asset-confiscation powers and more powers to police; and the Ombudsman bill will be debated today. It is not about the body, it is about the powers, and that is exactly what we are doing today.

The SPEAKER — Order! Just before calling the next question, I would remind members asking questions that they should not use the expression ‘you’ when addressing questions to members of the house.

Tourism: Jetstar

Mr LONEY (Lara) — My question is to the Premier. I note that Jetstar’s inaugural flight arrived this morning in Melbourne and I ask: can the Premier inform the house about the impact Jetstar’s services will have on tourism in Victoria?

Mr Honeywood interjected.

Mr BRACKS (Premier) — It is a very good project. I do not think Jetstar is a circus; it is a great advantage for our state.

I was very pleased to be at Tullamarine airport this morning with others to receive the first flight of Jetstar from Newcastle to Melbourne. I was very pleased also to note that the head office of Jetstar in Australia is located here in Melbourne. That will lead to some 3000 indirect jobs, and I can report to the house that at the start of today’s operations the airline has almost 900 employees, including 650 people from Impulse and approximately 250 new workers. We expect 3000 more indirect jobs. It is good to have the head office function of Jetstar here in Victoria. The airline will initially operate a significant number of flights — 246 weekly services from Melbourne Airport with a further 70 flights from 1 June operating from the second Jetstar airport, Avalon Airport.

This is good for several reasons: it is good for direct employment, good for indirect jobs which follow from it, and also good for tourism, which was the subject of the question from the member for Lara. I know that the members for Lara and Geelong and other key members in that area — the member for Tarneit also — would want to say that they applaud the fact they have Avalon as a base for Jetstar flights.

It will mean effectively the tourism market will grow. It will grow because those people who would not otherwise, because of cost, use air travel will start to use air travel. It will suck in significant interstate tourism markets to our state. Already we know that tourism figures are going very well in Victoria. We have 148 000 more international visitors to Victoria — that is a 14 per cent growth, outperforming the national growth rate of 6 per cent. There are 8.2 million more international visitor nights, which is a 46 per cent growth, outweighing the growth in the nation of some 17 per cent. Of interstate visitor numbers on which this will have a significant and direct impact, there were 830 000 more in Victoria compared to the national growth rate of 11 per cent.

This can only help. It will help certainly in direct jobs; it will certainly help in tourism; it will grow the tourism market. I do not hold the view that it will simply replace the existing services of Qantas. It will grow the market. New people who otherwise would not have used air travel will come into the market because of the competitive prices that are offered by Jetstar. I am very proud and the government is very proud to have Jetstar here in Victoria. With its head office in Melbourne it will be a great boon for the tourism industry; it will be good for jobs and good for the economy.

Hazardous waste: containment sites

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Major Projects. Why did the government maintain the charade that private land-holdings at Violet Town, Tiega and Pittong were the preferred toxic waste dump sites during the two months that it now admits it was conducting tests on public land near Mildura?

Mr BATCHELOR (Minister for Major Projects) — What we have identified in responding to the wishes of the communities of Tiega, Baddaginnie and Pittong is an appropriate alternative site in which we can locate the industrial waste containment facility. We listened very carefully to people, and the very loud, strong and unified message coming from those three areas was that they wanted that facility located on Crown land. Nobody has said that we should not find a location for this new waste containment facility. The only argument today is whether it should be located on Crown or private land, and we have decided, in accordance with the wishes of those communities, to locate it on Crown land.

Before making a decision to put forward Nowingi as an alternative site to the other three in accordance with the views of local communities, we had to make sure that it met all the 34 siting criteria. In our assessment it meets those 34 siting criteria, and accordingly the government will be going to an environment effects statement (EES) — —

Mr Honeywood interjected.

Mr BATCHELOR — The member for Warrandyte asks, ‘Why have an EES?’. This is the representative from the Liberal Party in this place on environmental issues. We reject that call. We accept the call made by local communities to locate this facility on Crown land, and we will do that at Nowingi. We are prepared to do that and to have it tested through an environment effects statement. That is our view, and the advice given to me is that this site will meet the 34 siting criteria. As I indicated — —

Mr Ryan — On a point of order, Speaker, the minister is debating the question, which was about why the owners of the private land were left dangling for two months in circumstances where the government was actively involved in testing this alternative site. Why did the government not tell these poor people what was actually happening elsewhere?

The SPEAKER — Order! There is no point of order. In fact, the Leader of The Nationals appeared to be debating the issue.

Mr BATCHELOR — The interesting thing is that the Crown land sites in this particular area were made known to the government by members of the National Party. It is interesting to note that the suggestion that we should look in this area came to us from Greg Brown, who I am informed is a member of the National Party and is a councillor of the Mildura Rural City Council. The site was also suggested to us by the mayor, Cr Peter Byrne — —

Mr Ryan — On a point of order, Speaker, I renew my point that the minister is now very obviously debating the question and is doing so on the basis of completely fallacious facts. The assertions are, of course, absolutely untrue. The minister should not debate the question.

The SPEAKER — Order! The Chair is not in a position to rule on the accuracy of any statements made by members in the house. I understood the minister was giving the background as to why this location was selected, which relates to the question regarding the selection of the public land while there was still discussion in the community about the private land.

Mr BATCHELOR — In finding an alternative site we had to carry out preliminary investigations that related to a number of environmental issues. We had to receive that information from people working on our behalf, and we had to evaluate and assess whether the site that was suggested was indeed a suitable alternative site.

We formed that opinion and we made the announcement. The Leader of the National Party may not be happy that this site, this region and this part of the north-west was made available to us by councillors and by the mayor. In fact the mayor, Peter Byrne — —

Mr Plowman — On a further point of order, Speaker, in respect of relevancy, quite clearly the minister is debating the question, and I refer to one of your rulings, Speaker, a ruling where you said that when responding to a question a minister must answer the question rather than responding generally. Quite clearly the question related to what this minister was doing to those farmers who were at threat of losing their farms for two months when in fact the government had changed course. That was the question, and that is why the minister is now debating that question.

The SPEAKER — Order! In relation to the point of order — and I thank the honourable member for citing

that ruling: it was an excellent ruling at the time, if I do say so myself — the Minister for Major Projects, as I understand it, was explaining to the house what action was taken to select the public land and that that was occurring at the same time as the private land was still a subject of discussion, which I understand is answering the question from the Leader of The Nationals. I cannot direct the Minister for Major Projects to answer in exactly the way that the Leader of The Nationals may wish him to.

Mr BATCHELOR — In concluding my answer it is worth noting that the mayor, Cr Peter Byrne, said:

If there was suitable Crown land somewhere, then ... and it happened to be in our municipality, so what. That's fine. Because that takes away the main part of our argument, that the people who own the farms are now going through hell.

What the mayor said was 'if there was suitable land'. We undertook a series of investigations and, on assessing the outcome of those investigations, we made the appropriate announcement, and you would have thought that the National Party would have been in support of that.

Questions interrupted.

DISTINGUISHED VISITOR

The SPEAKER — I have been advised that the Queensland Minister for Emergency Services is in the gallery, and I welcome him to the Victorian Parliament.

Honourable members — Hear, hear!

Questions resumed.

Crime: asset confiscation

Mr MAXFIELD (Narracan) — Can the Attorney-General advise the house about proposals to strengthen the confiscation of assets scheme in Victoria?

Mr HULLS (Attorney-General) — I thank the honourable member for his question, and I can assure the house that this is an issue on which the Bracks government has always been very strong. If crooks think they are untouchable in Victoria, then they are wrong. If crooks think they can use ill-gotten gains to purchase flash cars and penthouses and live extravagant lifestyles, then they are deluded. The truth is that the party is over. The only way to make sure that criminals pay and not their victims is actually to chase the money trail — you have to chase the money trail, and Victoria already has some of the strongest asset confiscation

legislation in this country. However, we intend to do more to strengthen the asset confiscation regime.

We will actually improve the civil confiscation scheme to ensure that a court can sanction the freezing and seizing of assets without the requirement for a charge to be laid. Yes, this indeed is a very tough stance, but we will continue to be tough on crooks if they think they can thumb their noses at the authorities. If police suspect on reasonable grounds that assets have been acquired through criminal activity, we will put the onus on the crooks to prove they have not or they will lose them. They do not have to be charged with any offence.

As we know, with modern, sophisticated means of transferring and indeed hiding assets, criminals can divest themselves of ill-gotten wealth well before any charges are brought against them. The message is clear: if you have gained assets through illegal behaviour, we are certainly coming after you. Not only will we be changing the law, but as the Premier said, we will also be beefing up the resources of the Office of Public Prosecutions to chase up assets. We will be providing \$3 million extra to the OPP to enable it to pursue the money trail and also to strengthen the corruption prosecution unit within the office of the Director of Public Prosecutions.

If crooks think they can drain the resources of the prosecuting authorities, they have another thing coming. By further strengthening our already tough asset confiscation laws and by further enhancing the OPP, I believe we are sending the clearest possible message to those involved in organised crime — you will not profit from your illegal activity!

Police: corruption and organised crime

Mr WELLS (Scoresby) — My question is to the Minister for Police and Emergency Services. I refer the minister to the revelation by Detective Sergeant Simon Illingworth that he was threatened by a corrupt drug squad police officer in the company of a known underworld killer, and I ask: will the minister ensure that photographic evidence of this incident, currently being sought under freedom of information, is released without delay?

Mr HAERMEYER (Minister for Police and Emergency Services) — Firstly, I, like many people, am concerned about the issues raised in relation to Detective Sergeant Simon Illingworth, and I reiterate that Victoria Police and the government place the highest priority on the safety and security of police members and their families. The police do a difficult job, and that means they are often coming into contact

with some of the most unsavoury members of the community. Unfortunately, in a small number of instances, some of those unsavoury members happen to be police officers. It is a very difficult job they do, and we understand the stresses they work under. Victoria Police, I understand, will spare no resources in ensuring that its officers are properly protected.

However, what the member has asked me to do is make a direction to Victoria Police in terms of how it dispatches its responsibilities under the Freedom of Information Act. Victoria Police will act under the Freedom of Information Act legally and in accordance with that act, and without direction from me.

Police: corruption and organised crime

Mr MERLINO (Monbulk) — My question is to the Minister for Police and Emergency Services. Can the minister advise the house about progress that has been made to date on combating organised crime in Victoria and how the additional powers announced today will build on the achievements to date?

Mr HAERMEYER (Minister for Police and Emergency Services) — I thank the honourable member for Monbulk for raising what is an extremely serious issue, because organised crime is really a curse in our community. It is something for which the government and Victoria Police have absolute zero tolerance. However, we are dealing with a very sophisticated group of people who have structured organisations with some very sophisticated dealings and networks.

What Victoria Police is dealing with is a code of silence, where in many circumstances a group of people would rather be killed than provide evidence to the police or in any way cooperate with the police. It is a very difficult investigation that Victoria Police is undertaking.

However, I am advised that it has already had some significant success to date, with five arrests having been made in relation to matters under investigation by the Purana task force. Purana is amassing very significant evidence; but at the same time, as honourable members would appreciate, these sorts of investigations require patient, painstaking investigation and surveillance. They are not things that should be carried on the front pages of the newspapers; they are not things that you would take a camera crew along with you to film; and they are not the sorts of things that are going to be resolved within the space of an episode of *Stingers* or *Blue Heelers*. They take a long time, and the powers announced today complement the powers and resources

that have already been made available to Victoria Police.

Firstly, as to the powers for the chief commissioner, the secretary of the Police Association described them this morning as the most far-reaching powers made available to any police commissioner in Australia in terms of breaking the code of silence that operates among the criminal underworld. They are very much the toughest powers around, so the criminals will have nowhere to hide — and they will no longer be able to hide behind this code of silence.

The asset confiscation laws which the Attorney-General just referred to will mean that these people who are driving around in Porsches and living in luxury units in Russell Street or Exhibition Street, close to their lawyers, will have to explain where they got these assets from. I watched one program recently where one person was saying, ‘We are like ordinary people. We take our kids to school, we do all these normal things, we have breakfast’. There was one thing missing: ‘We go to work’. Those people will have to explain where they got their assets from. This also gives Victoria pretty much the toughest asset confiscation in Australia and among the toughest anywhere in the world.

It is about the toughening of the surveillance legislation which the Attorney-General has introduced, enhanced DNA powers and the enhancements to the DNA laboratories to help us more effectively process the increasing use of DNA, and of course it is about power and resources. We have put over 1000 additional police on the street — not cut 800. That is a critical part of declaring war on the underworld. You cannot declare war on organised, underworld crime by cutting police numbers.

The other very important issue that needs to be understood about organised crime is that although some of these criminals may live in Melbourne their operations, financial dealings and criminal activities reach nationally and even internationally. To deal with those sorts of resources we need to ensure that the Australian Crime Commission (ACC), which was set up for those purposes, has powers and references broad enough to enable it to do the job and that it can be easily accessed by all the jurisdictions dealing with criminal, underworld figures of this nature. I will be raising this at the next meeting of the Australasian Police Ministers Council, because I think we need to —

Honourable members interjecting.

Mr HAERMEYER — You must think it’s a joke.

Honourable members interjecting.

The SPEAKER — Order! The minister, through the Chair. I ask him to conclude his answer.

Mr HAERMEYER — This is not an issue that should be politicised or be the subject of trite political jibes across the table. I think all parties, all parliaments and all governments in this country need to work together to deal with what is not just a serious issue in this state but a national issue. We need to make sure that it is taken up at a national level and that the ACC has the appropriate powers and resources to do what it was set up to do.

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to his claim on radio this morning that there has been great success in fighting corruption in Victoria. I further refer to the 27 gangland killings in Victoria, the claims of serious corruption in Victoria Police by serving officers, the involvement of the Australian Crime Commission in Victorian corruption investigations, the disbanding of the drug squad, with police charged and jailed, the connection between police corruption and gangland killings, and the statement by the chair of criminology at Bond University, Professor Paul Wilson, that things in Victoria seem to be far worse than they were in Queensland before the Fitzgerald royal commission. If this is the Premier's idea of success, what would be his definition of failure?

Honourable members interjecting.

The SPEAKER — Order! The member for Mulgrave!

Honourable members interjecting.

The SPEAKER — Order! I remind the member for Mulgrave that when the Speaker stands it is customary for members to cease speaking. I ask members to be quiet to allow the Premier to answer the question.

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I reiterate, as I indicated before in a previous answer to the Leader of the Opposition, that the fact that these matters have been exposed has been as a result of a deliberate policy of this government and this Chief Commissioner of Police. That stands in stark contrast to what has happened on previous occasions. We are getting to a stage where people are being charged and put in jail. These matters are now at an advanced stage. What we are doing is providing extra coercive powers for police to use in the long term against organised crime. The same coercive powers we are debating currently in

relation to alleged police corruption we are also giving to the police to use against criminals. That will continue the success that is already happening and make sure that we can get on top of organised crime, not just now but in the long term as well.

Hospitals: rural and regional Victoria

Mr HOWARD (Ballarat East) — My question is to the Minister for Health. Last week was Rural Health Week. Can the minister advise the house about recently announced initiatives to improve hospital and other country health services and how they compare with previous administration of such services?

Ms PIKE (Minister for Health) — I thank the member for his question. Members will be aware, and I am very pleased again to have the opportunity to remind them, that since coming to office in 1999 the government has been improving and rebuilding the health system in country Victoria. We have recruited an extra 1400 nurses. We have provided nearly \$30 million of additional funding for hospital equipment, spent \$176 million on rebuilding country hospitals and increased the recurrent funding over that time by 38.7 per cent. All of this is before the additional funding of \$2 billion that was announced in the most recent budget of which country hospitals will have their fair share.

Today I am very pleased to advise the house of an additional \$3.5 million for bush nursing hospitals, to be spent over the next 14 months. The hospitals that will benefit from this money include those at Balmoral, Sea Lake, Heyfield, Elmhurst, Pyramid Hill and Mirboo North. Another bush hospital to benefit from this funding — and perhaps the one that is most iconic — is the Walwa Bush Nursing Centre. I want to talk a little bit about that hospital. It will receive an additional \$800 000. Honourable members will remember that Walwa hospital faced closure several years ago. I think the saving of Walwa hospital is a terrific example of how rural health organisations can work together with their communities, be supported by government and continue to be vibrant community assets. The people in Walwa must be commended for their creativity and their capacity to work together. Our commitment of \$800 000 is a great boost to that community, and that funding is vital.

What a contrast to alternative approaches to dealing with bush nursing hospitals and rural hospitals! The alternative approach, of course, is to let them wither on the vine, to close them, to shut them down, to sack nurses and to starve them of funding. That is exactly what happened under the previous administration. It

gives me heart that there are some who are prepared to acknowledge the sins of the past. We know the Leader of the Opposition has said he is proud of his achievement in health, but I want to congratulate — —

Mr Perton — On a point of order, Speaker, the minister is debating the question. She must restrict her answer to matters of government administration. At present she is merely canvassing the views of the opposition. You have previously ruled that that is inappropriate in answer to a question.

Ms PIKE — On the point of order, Speaker, in fact I was asked how the government's administration of rural health compared to the previous administration of such services. I was outlining the impact on the rural health service system of other approaches that had been put in place by the previous administration.

The SPEAKER — Order! In ruling on the point of order, while it is appropriate for ministers to outline to the house the reasons why they have taken particular actions, they do have to relate their comments to the Victorian government.

Ms PIKE — Thank you, Speaker. I am happy to reiterate that the focus of this government has been to rebuild the health service in rural and regional Victoria. I am encouraged by the fact that the shadow Minister for Health, the Honourable David Davis in another place, has admitted the mistakes of the past. He has said in another place that they know they did things wrong — —

Mr Perton — On a point of order, Speaker, you have already ruled on this matter. The minister is now clearly debating the question.

The SPEAKER — Order! In relation to the point of order, the minister has to relate her comments to how it affects government business in this state or how it has affected a decision she has made.

Ms PIKE — Thank you, Speaker. The best way, of course, to continue this rebuilding process is for everyone to work together to make sure that people in rural and regional Victoria continue to enjoy high quality health services.

Hazardous waste: containment sites

Dr SYKES (Benalla) — Will the Premier apologise to the communities and land-holders at Violet Town, Baddaginnie, Tiega and Pittong for putting them through six months of hell?

Mr BRACKS (Premier) — I wonder when the National Party will apologise to the people of Victoria for putting them through seven years of hell — seven years of hell in closing hospitals, in closing rail lines, in closing schools — and sitting there compliant while this was happening.

Mr Plowman — On a point of order, Speaker, I refer — —

Honourable members interjecting.

The SPEAKER — Order! I ask members of the government to be quiet to allow the member for Benambra to raise his point of order.

Mr Plowman — Thank you, Speaker. I refer you to a ruling by Speaker Coghill that question time should not be used as a vehicle for attacks on the opposition. On that basis I ask you to get the Premier to answer the question.

The SPEAKER — Order! In relation to the point of order, the ruling by a previous Speaker is correct. I think it also responds to the nature of the questions that are asked. I understand that the Premier was making an introductory comment. He will now continue with his answer.

Mr BRACKS — Yes, Speaker, it was an introductory comment, and it was related to the question asked. I was attacking not the opposition but The Nationals in this state! We always indicated that this would be an examination of three areas in the state and that we would move on once we had discovered it was not appropriate for any particular area. Once we discovered that after six months, we moved on. We have found a more appropriate site, and that will be the subject of the environment effects statement. We will commit to those communities and get on with the job of making sure that we get a long-term, sustainable solution for prescribed waste in the future.

Rural and regional Victoria: government initiatives

Ms GREEN (Yan Yean) — My question is to the Treasurer, and I ask: can the Treasurer advise the house of any recent evidence which demonstrates the positive effects that Bracks government policies are having on regional Victoria?

Mr BRUMBY (Treasurer) — I thank the member for Yan Yean for her question. The fact of the matter is that the Bracks government's policies for country Victoria are working and are delivering record levels of investment and jobs for our state.

I will bring the house up to date on some of the recent data. Regional employment is up 11.4 per cent since the election of the first Bracks government in October 1999. We now have 623 500 people in jobs in country Victoria, up by 63 900 since the election of the government. The unemployment rate is significantly lower than it was at the time we were elected — —

Honourable members interjecting.

Mr BRUMBY — Regional building approvals continue to grow strongly, the value of building activity reaching \$3.4 billion in the 12 months to March. To put that into perspective, that is a yearly increase in country Victoria of 16 per cent, in contrast to the state average of 11 per cent and the increase in Melbourne of 10 per cent. So it is correct to say that country Victoria is booming. The population of regional Victoria has increased by more than 13 500 over the last year. That is a population growth well in excess of 1 per cent, the best population growth we have seen in country Victoria for many years.

We are working to ensure that regional Victoria is a great place in which to live, to work and to invest. The government has attracted more than \$3.3 billion worth of new investment to provincial Victoria over the past four and a half years, facilitating something like 230 new investments and creating 7800 new jobs.

Let us look at some of the examples of the wide-ranging, new investments that have occurred in country Victoria over the last month. Just last week Woodside and its joint venture partners announced a huge new energy project in the Otways worth \$1.1 billion. The Otways gas project will generate hundreds of millions of dollars of new activity for the Victorian economy and up to 1300 new jobs in the construction phase.

Honourable members interjecting.

Mr BRUMBY — Speaker, as there are a lot of interjections from the opposition, it is instructive to compare our record over the last four and a half years with that of the previous government. The fact is that country Victoria today is booming.

Earlier this month I officially opened the new \$6.5 million redevelopment of the former railway workshop at the Empire Rubber site in Bendigo with the support of the members for Bendigo East and Bendigo West. This workshop, which was closed by the discredited former Kennett government, is now being brought back to life by the Bracks government and is generating 150 new jobs. Recently in Churchill I

opened the new \$10 million Australian Sustainable Industry Research Centre, which is opening up opportunities in new, sustainable technologies.

Earlier today the Premier remarked on the first Jetstar flight coming into Victoria. Next week we will see the first flight from Avalon Airport. There will be 70 weekly flights out of Avalon, which is going to be a huge benefit to that region. It will open up enormous tourism opportunities right throughout Geelong and the Surf Coast and along the Great Ocean Road.

I heard the Deputy Leader of the Opposition refer to this particular initiative earlier today as ‘bread and circuses’. It was a silly thing to say, because this is a substantial new investment. Our vision for regional Victoria is working in terms of employment opportunities, in terms of new investment and in terms of population growth. All of these things are delivering opportunities in record numbers to people right across the state.

We have shown that country Victoria under the Bracks government really is a great place to live, to work and to invest.

The SPEAKER — Order! The time for questions has expired.

Mr Honeywood — On a point of order, Speaker, a fortnight ago when we were last in this chamber, the Deputy Premier, the Minister for Environment, was away for the full parliamentary sitting week. At the moment we are in a record low sitting period of only 21 days, and I would ask that as a courtesy to the house, if the Deputy Premier and Minister for Environment is going to be away again for the entire parliamentary sitting week, we are informed as to why he is away.

The SPEAKER — Order! The Chair is required to advise the house when members are absent. If the member for Warrandyte wants more information, I suggest he take it up with the government.

NOTICES OF MOTION

Notices of motion given.

Dr NAPHTHINE having given notice of motion:

Mr Hudson — On a point of order, Speaker, it is not usual in this house to refer to members by their first or second names, and in his notice of motion the member for South-West Coast referred to both the Minister for Major Projects and the Minister for

Manufacturing and Export by their first and second names.

The SPEAKER — Order! When giving notices of motion members can refer to other members by name.

Honourable members interjecting.

The SPEAKER — Order! It is not appropriate for the Deputy Leader of the Opposition and the members for Brighton and South-West Coast to yell out in that manner.

Further notices of motion given.

PETITIONS

Following petitions presented to house:

Maribyrnong: defence land

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

We humbly petition that for reasons of its diverse heritage values, Aboriginal, early European, equestrian, industrial, military and natural, and because of the extensive toxic soil contamination, urge the state government to retain the greater part of the Maribyrnong defence land* as permanent public open space, dedicated as a premier metropolitan park, as deemed necessary in 'Melbourne 2030'.

*comprising DSTO (AMRL), Army (LEA), and the former explosives factory; *Melway* P27, J6.

And your petitioners, as in duty bound, will ever pray.

By Mr MILDENHALL (Footscray)
(1477 signatures)

Frankston: aquatic centre

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth that a regional aquatic centre be established in Frankston to serve the people of the southern region.

Your petitioners therefore pray that the government of Victoria in consultation with Frankston City Council and local community groups facilitate the building of an aquatic centre in Frankston.

And your petitioners, as in duty bound, will ever pray.

By Mr HARKNESS (Frankston) (91 signatures)

Mitcham–Frankston freeway: tolls

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth the Parliament that the Victorian government has decided to break its 2002 pre-election pledge and introduce tolls on the Mitcham–Frankston (Scoresby) freeway.

Your petitioners therefore pray that the Parliament undertake to ensure that the government:

1. honours its pre-election commitment and policy as pledged to the citizens of Victoria not to introduce tolls on the Mitcham–Frankston (Scoresby) freeway; and
2. immediately reverses its decision to impose tolls on vehicles on the Mitcham–Frankston (Scoresby) freeway and thereby honour its commitment to the citizens of Victoria.

And your petitioners, as in duty bound, will ever pray.

By Mr COOPER (Mornington) (342 signatures)

Tabled.

Ordered that petition presented by honourable member for Mornington be considered next day on motion of Mr COOPER (Mornington).

Ordered that petition presented by honourable member for Frankston be considered next day on motion of Mr HARKNESS (Frankston).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Review, 2003

Ms D'AMBROSIO (Mill Park) presented annual review, together with appendices.

Tabled.

Ordered to be printed.

Regulation review, 2003

Ms D'AMBROSIO (Mill Park) presented annual review, together with appendices.

Tabled.

Ordered to be printed.

Alert Digest No. 5

Ms D'AMBROSIO (Mill Park) presented *Alert Digest No. 5* of 2004 on:

Ambulance Services (Amendment) Bill
Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill

Appropriation (2004/2005) Bill
Appropriation (Parliament 2004/2005) Bill
Architects (Amendment) Bill
Crimes (Amendment) Bill
Crimes (Assumed Identities) Bill
Crimes (Controlled Operations) Bill
Death Notification Legislation (Amendment) Bill
Domestic Building Contracts (Amendment) Bill
Fair Trading (Consumer Contracts) Bill
Financial Management (Amendment) Bill
Health Services (Governance and Accountability) Bill
Interpretation of Legislation (Amendment) Bill
Judicial Salaries Bill
Mental Health Legislation (Commonwealth Detainees) Bill
Mitcham-Frankston Project Bill
Monetary Units Bill
Ombudsman Legislation (Police Ombudsman) Bill
Pharmacy Practice Bill
Racing and Gaming Acts (Amendment) Bill
State Taxation Acts (Tax Reform) Bill
Surveillance Devices (Amendment) Bill
Surveying Bill
Sustainable Forests (Timber) Bill
Transfer of Land (Electronic Transactions) Bill
Transport Legislation (Miscellaneous Amendments) Bill
Treasury and Finance Legislation (Amendment) Bill

together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Auditor-General — Performance Audit Report — Delivery of Home Community Care Services by Local Government — Ordered to be printed

Commonwealth Games Arrangements Act 2001 — Order under s 18

Crown Land (Reserves) Act 1978 — Section 17DA Orders granting under s 17D leases by:

Mt Wombat Preservation of Native Species Reserve
 Tasma Terrace Reserve
 Watsons Hill Historic Reserve

Financial Management Act 1994 — Report from the Minister for Education and Training that she had received the 2003 annual report of International Fibre Centre Ltd (IFC)

Melbourne 2002 World Masters Games — Report for the period 1 July 2001 to 15 November 2002

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Bayside Planning Scheme — No C29 Part 2
 Boroondara Planning Scheme — No C16
 Glen Eira Planning Scheme — No C35
 Glenelg Planning Scheme — No C11
 Knox Planning Scheme — No C39
 Monash Planning Scheme — No C36
 South Gippsland Planning Scheme — No C18
 Victoria Planning Provisions — No VC23
 Wangaratta Planning Scheme — No C13

Statutory Rules under the following Acts:

Fair Trading Act 1999 — SR No 36
Road Safety Act 1986 — SR No 38
Transfer of Land Act 1958 — SR No 37

Subordinate Legislation Act 1994 — Ministers' exemption certificates in relation to Statutory Rule Nos 37, 38.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the house dated 26 February 2003:

Australian Crime Commission (State Provisions) Act 2003 — Paragraphs (d) and (e) of the definition of 'Commonwealth body or person' in section 3(1), section 15, Division 3 of Part 2, and section 44(1)(b) on 13 May 2004 (*Gazette G20*, 13 May 2004)

Fair Trading (Further Amendment) Act 2003 — Remaining provisions on 30 August 2004 (*Gazette G20*, 13 May 2004).

ROYAL ASSENT

Message read advising royal assent to:

18 May

Commonwealth Games Arrangements (Further Amendment) Bill
Corrections (Further Amendment) Bill
Crimes (Assumed Identities) Bill
Crimes (Controlled Operations) Bill
Estate Agents and Travel Agents Acts (Amendment) Bill
Health Services (Supported Residential Services) Bill
Heritage (Further Amendment) Bill

Justice Legislation (Sexual Offences and Bail) Bill
Land (Miscellaneous) Bill
Primary Industries Legislation (Miscellaneous Amendments) Bill
Transfer of Land (Electronic Transactions) Bill

25 May

Alpine Resorts (Management) (Amendment) Bill
Energy Legislation (Regulatory Reform) Bill
Surveillance Devices (Amendment) Bill
Victorian Qualifications Authority (National Registration) Bill

APPROPRIATION MESSAGES

Message read recommending appropriations for:

Ambulance Services (Amendment) Bill
Health Services (Governance and Accountability) Bill
Judicial Salaries Bill
Mitcham-Frankston Project Bill
Ombudsman Legislation (Police Ombudsman) Bill
Pharmacy Practice Bill
State Taxation Acts (Tax Reform) Bill
Sustainable Forests (Timber) Bill.

BUSINESS OF THE HOUSE

Standing orders

Mr BATCHELOR (Minister for Transport) — By leave, I move:

That in lieu of the matter of public importance due to be proposed by the government under standing order 38, so much of standing orders be suspended on Wednesday, 26 May 2004, so as to allow the matter of public importance to be omitted from the order of business on that day.

Motion agreed to.

Ombudsman Legislation (Police Ombudsman) Bill

Mr BATCHELOR (Minister for Transport) — By leave, I move:

That the order of the house making the resumption of debate on the second reading of the Ombudsman Legislation (Police Ombudsman) Bill an order of the day for Thursday, 27 May 2004, be read and rescinded and that it be made an order of the day for today, Tuesday, 25 May 2004.

Motion agreed to.

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 27 May 2004:

Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill

Architects (Amendment) Bill

Death Notification Legislation (Amendment) Bill

Judicial Salaries Bill

Mitcham-Frankston Project Bill

Ombudsman Legislation (Police Ombudsman) Bill.

Surveying Bill

Transport Legislation (Miscellaneous Amendments) Bill

Treasury and Finance Legislation (Amendment) Bill

In putting the government business program before the house it is incumbent upon me not only to explain to the house and the staff the procedures that will be followed this week in dealing with some very important pieces of legislation but also to enable people to understand the motions I have moved by leave and the notices of motion moved by the Attorney-General relating to tomorrow's business.

Dealing with today's business, the house has decided to bring forward the Ombudsman Legislation (Police Ombudsman) Bill from Thursday and deal with it today. It is the government's intention to bring on as the first item of business this important piece of legislation, which gives the Victorian Ombudsman additional and sufficient powers to deal with police corruption. Because leave has been granted by the house, this is clearly an issue that has the agreement of all parties. I signal to you, Speaker, and to the media that it is the intention of the Legislative Assembly to bring this forward and deal with it today in order to have it transmitted to the Legislative Council so the other place can also deal with it today. As I said, we have been able to get the agreement of other parties in this chamber to facilitate that matter, which recognises its significance and the need for it to be passed quickly. I thank the opposition for its suggestion, cooperation and assistance, which augurs well for providing the protection and security that is needed.

In addition we will have a concurrent debate, during what would have been the time allowed for discussion of a matter of public importance, on the disallowance motion regarding the Judicial Remuneration Tribunal

determination and on the Judicial Salaries Bill, which will go for 2 hours. So we will deal with that tomorrow morning, before lunch.

Also it is the intention of the government, following the debate on the disallowance motion and the Judicial Salaries Bill, to bring on debate on the Mitchell-Frankston Project Bill in order that sufficient time be provided to enable it to be fully ventilated in the chamber, given the importance of the range of elements it contains. In order to achieve these objectives and to complete debate on the other legislation before us — namely, the first six bills listed in the motion — we will hear from the lead speakers later tonight and on Wednesday. If necessary the house will sit an hour later on each of those nights to cater for that work load. I am signalling that at the moment, and we will keep it under control. There is important legislation that needs to be dealt with quickly, as well as other legislation that may need additional time for debate in the chamber.

Mr PLOWMAN (Benambra) — Ordinarily on behalf of the opposition I would be opposing the government business program, because there are nine bills listed, including the Mitcham-Frankston Project Bill, about which we are bound to have considerable debate. We also have the Transport Legislation (Miscellaneous Amendments) Bill, which is virtually an omnibus bill and which could attract a lot of debate because there are so many aspects do it. Frankly, having nine bills, together with the cognate debate on the disallowance motion and the Judicial Salaries Bill, makes for a difficult program towards the end of the session.

I note that the manager of government business did not include the suggestion he made to me that a ministerial statement will be made on Thursday. As yet we do not know how much time will be required to debate that ministerial statement. Given the openness of the situation, we do not know how much time will be available to us to complete the government business program.

As I say, ordinarily I would oppose the program quite strongly, because it leaves open ended the ability of the house to get through it. However, we have an agreement with the government over this. Therefore we support the program, because the government has agreed to delete the matter of public importance from its business program to accommodate government business and to also bring forward debate on the police ombudsman's bill, which will give the opportunity to have this important legislation pass this chamber and then go to the other place, which was the recommendation the Leader of the Opposition made by

letter to the Premier. We are grateful that that request has been accepted on the grounds that it is important to give this power as quickly as possible to the Ombudsman.

On that basis the opposition supports the program, but clearly it will put a lot of pressure on the house. As was stated by the manager of government business, we are likely to sit an additional hour both tonight and tomorrow night. There is no indication as to whether that will be sufficient to meet the totality of debate on those nine bills, and I suggest to the manager of government business that we need to do justice to the legislation before us and that if it takes additional time, so be it. I ask him to consider and allow additional time if required.

Mr MAUGHAN (Rodney) — Likewise the National Party will not oppose the government business program. As the member for Benambra pointed out, ordinarily we would oppose it because of the number of bills it contains. There are some important pieces of legislation being debated this week, but the government has been very accommodating in bringing on debate on the Ombudsman bill — an important piece of legislation that we will debate this afternoon — and in allowing the debate tomorrow on the Judicial Salaries Bill and the Mitcham-Frankston Project Bill.

Given that we will be sitting late tonight and tomorrow night, that there is the possibility of a ministerial statement on Thursday and that the National Party has been prepared to accommodate the government business program, I ask the Leader of the House to favourably consider the request by the Leader of The Nationals later today — given that I have forewarned him of the request — that he be given additional time to speak on the important Judicial Salaries Bill, because he has a great deal of expertise in this area and has much to contribute to the debate. As the National Party is prepared to accommodate the government, I hope the government might return that and accommodate the National Party. We will not oppose the government business program. It will be a fairly busy week, and there is a lot of legislation to get through.

Mr HONEYWOOD (Warrandyte) — It is important for the public record that the house notes that this is a case of 'Here we go again!'. At the end of the session we have a government that is raising the high-jump bar for so-called family friendly hours and raising the high-jump bar for a Parliament that, according to its 1999 bump — and bump it has proven to be — would sit more often and be more transparent.

Here we have nine important pieces of legislation, including the Architects (Amendment) Bill and the Surveying Bill, which make radical changes to professional standards and to the way in which architects and surveyors go about their business. Importantly, the Surveying Bill, if it passes both houses, will radically alter the position of the Surveyor-General in relation to important electoral boundary responsibilities. This is an important bill in itself when we look to the complexity of legislation that should be debated fully by honourable members in this place.

Then we come to the Ombudsman's legislation. We as an opposition have accommodated the government's desire to rush through this bill. In fact only at question time today we had the Leader of the Opposition offer to the Premier and the Leader of the House further accommodation to get this bill through both houses of Parliament, which is almost unprecedented, by close of business this evening. So nobody can argue that the opposition has not bent over backwards to assist the government with some of this crucial legislation.

We have also accommodated the government's desire to sit late every night this week, notwithstanding, as I said before, its so-called family-friendly policy, which has proved to be absolutely pitiful rhetoric that never saw the light of day. What do we find? We find that at the 11th hour this government comes forward with a ministerial statement, notwithstanding the fact that it has been accommodated and notwithstanding the fact that there are nine complex pieces of legislation before the house this week. And I should add that there would have been a tenth, the Sustainable Forests (Timber) Bill, which is a very important piece of legislation that was to have been debated this week, but because the Deputy Premier, who is the Minister for Environment, has gone missing in action that bill apparently is not going to be debated this week. We would have had 10 very important bills if it were not for the Deputy Premier going overseas.

What do we find? We find now that on Thursday the government is going to foist upon the chamber a ministerial statement. Of course we have no idea what it contains. We do not have a clue as to what this vitally important statement from the minister will be. We do not know how much time will be taken up by the chamber in having to respond to this so-called urgent ministerial statement, and therefore at the very minimum we would call on the Leader of the House to extend the courtesies that were extended by the previous government, which at least gave notification at some length prior to the statement being read by the relevant minister to enable the opposition to at least

know the topic of the ministerial statement. We call on the Leader of the House to respond in the affirmative and agree that, in line with the custom that was followed when his party was in opposition, the night before the ministerial statement is made the appropriate shadow minister will be given some indication as to what the topic is. Then we might be able to ensure that the debates proceed smoothly rather than further taking up the time of the chamber this week.

In conclusion, we have a whole range of complex legislation before us including an omnibus bill on transport legislation that deals with a vast array of transport issues rather than just one, single issue. With the Mitcham-Frankston Project Bill, many honourable members on this side of the house are passionate about this matter and have a genuine concern for their constituents with what this government is trying to foist on the outer eastern and south-eastern suburbs despite its promise not to have a toll. Members of the opposition are passionate about what will be foisted on constituents in our electorates there because of the government's backflip.

These bills deserve a full and proper hearing. The Leader of the House has the responsibility to ensure that honourable members who wish to speak on these bills have their already curtailed 10-minute maximum provided. Whilst we do not oppose the business program before us, we will just say, 'Here we go again. This government cannot manage the business of the house. It is absolutely outrageous that we have nine bills in the dying days of this session when, as I said earlier, this is a 21-day session, a record low number of sitting days. When it was in opposition the government lambasted the previous government for a 22-day session, which was its record low, but now it is quite happy to sit for only 21 days. We have the Deputy Premier, the Minister for Environment, missing in action for most of those 21 days, and for the government to come into this place and argue that it is a transparent, open, accountable government — —

The ACTING SPEAKER (Mr Smith) — Order!
The member's time has expired.

Motion agreed to.

MEMBERS STATEMENTS

Public Accounts and Estimates Committee: hearing

Mr DONNELLAN (Narre Warren North) — Last Friday I was witness to a cheap, tacky and

inappropriate stunt by a member of Parliament in the Public Accounts and Estimates Committee hearing while the Minister for Community Services was appearing. The member of Parliament decided that the proper committee rules and procedures did not apply. Not only did they not apply, but this member was happy to misuse the grief of mothers who had lost their children for the member's own grandstanding.

What I saw was a member encouraging the public to confront a minister in an aggressive way. If this member wanted questions posed, that could be done by being a member of the committee or getting a committee member from her party to ask the questions. Further, apart from the behaviour of this member, we also had staff from the office of the Leader of the Opposition sitting by and watching this stunt — —

Dr Napthine — On a point of order, Acting Speaker, standing order 118 prevents members making:

Imputations of improper motives and personal reflections on the Sovereign, the Governor, a judicial officer, or members of the Assembly or the Council ...

I ask you to rule that this is a personal reflection on members of Parliament, and I ask you to rule it out of order.

Mr DONNELLAN — On the point of order, Acting Speaker, I have not impugned any member of Parliament.

The ACTING SPEAKER (Mr Smith) — Order! I do not uphold the point of order.

Mr DONNELLAN — Apart from the danger of having stirred up members of the public to confront ministers, this member solely undertook this action for her own profile, not to help the parents. Deaths of children need to be treated sensitively, not like British tabloid stories — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Hazardous waste: containment sites

Mr HONEYWOOD (Warrandyte) — At least \$1 million of taxpayers money was frittered away on this inept government's first attempt to find a politically palatable site for its toxic waste dump. This money went down the drain on the Hazardous Waste Siting Advisory Committee chaired by the honourable member for Footscray. This was a committee that, in its own report to government, complained that it was not allowed to choose any particular site, and was

under-resourced for the 18 months of its fruitless existence.

We then had a further time lag before a minimum of \$3.5 million of taxpayers money was misspent on three sites, in Baddaginnie, Pittong and Tiega, in this inept government's second attempt to find the least politically difficult site for its toxic dump. Apart from the further 12 months time wasted during this particular exercise, let us never forget the financial cost, physical upheaval, and emotional disruption this arrogant and heartless government inflicted upon these three communities. One family alone has informed me that its home phone bill went from an average of \$700 to a staggering \$1300 during the period this government had their property in its sights. And now we have a third attempt to find a toxic waste site that is politically palatable. It is becoming a bit like Monty Python's search for the Holy Grail.

We now discover that Crown land is available after all — it is all right to put a toxic dump abutting a national park, with threatened animal species. But another 12 months of in-depth political prevarication and spin will be required before we hear more about this particular site. In the game of baseball the rules are clear — three strikes and you're out! Given what a hopeless batsman the Minister for Major Projects has proven to be, it is surely time to send him down to the junior league and let him sit on the bench with the member for Pascoe Vale.

Ms Campbell — On a point of order, Acting Speaker, the previous point of order was raised in relation to impugning members of Parliament. That is another example of it.

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

Member for Caulfield: performance

Mr MERLINO (Monbulk) — The Public Accounts and Estimates Committee (PAEC) hearing last Friday was particularly instructive about the performance standards the opposition sets for its shadow ministry. I became aware on Friday just how poor those standards are. From the opposition we have seen attacks on the president of the Children's Court of Victoria, vilification of public housing tenants, a refusal to attend departmental officers' briefings and criticisms of the government's reduced targets on child protection, completely unaware that the reduced targets are the result of less child abuse in the community.

However, all is not lost. I speak of one of the members for Templestowe Province in another place. Over the last two years he has asked more than 50 questions on notice on community services, an area that is not even within his shadow portfolio. As the minister said at the PAEC hearing on Friday, this represents both hard work and a genuine interest in community services by a member for Templestowe Province. Hard work and a genuine interest!

What we see elsewhere is embarrassing and glaring in its incompetence and laziness. Over the last two years we have had less than 10 questions on notice and 5 questions without notice, and only 1 question in the last 272 days on community services by the honourable member for Caulfield. I would humbly suggest that if community services were high on the opposition's agenda, a shadow ministerial reshuffle would be desperately needed, or perhaps the opposition prefers grubby stunts and grandstanding to hard work and — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Schools: Life Education program

Mr JASPER (Murray Valley) — One of the great success stories in north-eastern Victoria is the Life Education program delivered to primary school students. Life Education is a not-for-profit charity providing comprehensive and up-to-date drug and life education. The Life Education program, delivered from two mobile vans by three part-time educators — to now 14 000 students at most north-eastern schools — commenced 12 years ago. At that time funding was raised to commence the program with support from service clubs, charities and businesses. The current charge to schools is \$7 per head, with the actual cost of the program being \$13.50 per head — the shortfall being funded from reserves and donations, with the state government currently providing approximately 17 per cent of the staff wages.

Up until recently the border areas were supported by Life Education New South Wales, but it has now been withdrawn from Victorian schools when it was realised that the New South Wales government was subsidising the Victorian program. Information provided to me indicates that unless the Victorian government increases funding for the Life Education vans, this important service for primary school students in north-eastern Victoria will close at the end of the year. The total annual allocation from the Victorian government is \$400 000, compared to \$1.5 million to Life Education by the New South Wales government. I call on the Victorian government to review and increase

the funding to Life Education Victoria so that this important service to students can be maintained into the future.

Traralgon South Primary School: funding

Mr JENKINS (Morwell) — Last week as part of Education Week I had the pleasure of attending Traralgon South Primary School as the guest of the principal, Bruce Fulton, and the school council president, Chris Madson. Traralgon South Primary School and its 120 students have done a wonderful job creating a primary school that is now 125 years old. It is in its second beginning, having moved to its present site in 1980, as the Loy Yang power station project came on line and the Traralgon South township was relocated, including its school.

The Traralgon South Primary School has received this year, for the first time since 1980, under the government, its first permanent building, being an ablution block. Also as a result of the investment by the Minister for Education Services, it has installed four or five computers in each classroom, and the network IT system has enabled that school to deliver quality information technology and education to the students, and that will continue to grow. This year the school will be working with the Department of Education and Training in Gippsland to ensure it can continue to benefit from programs such as the Schoolyard Blitz, the \$60 million investment in maintaining school facilities and, of course, \$29.5 million in the Community Facilities Fund.

Rural and regional Victoria: fire services levy

Dr NAPHTHINE (South-West Coast) — I condemn the Treasurer and Minister for State and Regional Development for ignoring the very sound case put to him by the Geelong Manufacturing Council on behalf of its members and industry across country Victoria for a fair go with respect to the fire services levy. The Geelong manufacturing council points out that regional industry pays 68 per cent more in the fire services levy than its Melbourne metropolitan counterparts.

This levy is imposed by the state government to fund fire services, but is applied unfairly and inequitably across the state. In metropolitan areas the fire services levy is at 28 per cent of the base insurance premium, whereas in regional and rural areas it is 47 per cent of the base insurance premium, and if companies are forced to use overseas insurers to get the appropriate coverage they pay an 80 per cent fire services levy for regional and rural areas compared to only 42 per cent in metropolitan areas.

On top of that, the industry must pay stamp duty on the insurance, including the fire services levy, which further disadvantages industry in regional and rural Victoria. If the government is fair dinkum about fairness and promoting investment and jobs in regional and rural Victoria it will act to stop this disadvantage to country Victoria. As the Geelong Manufacturing Council says, the current regime is unfair to regional manufacturers, is inequitable and should be rectified immediately, and I call on the minister and the government to match their rhetoric, and to do something.

Kilvington Girls Grammar: music school

Ms BARKER (Oakleigh) — On Sunday, 16 May, I was pleased to attend Kilvington Girls Grammar in Ormond for the official opening and naming of the Kilvington music school as the Patsy Venn Centre, and the formal naming of the Kilvington Senior School as the Ken Cleghorn Building. Patsy Venn has contributed to Kilvington for 40 years. Renowned for her honesty, professionalism and candid humour, Patsy has shaped the culture of music at Kilvington by her character and commitment. The depth and diversity of the music program is a source of pride to the Kilvington community, and it had absolutely no hesitation in naming this wonderful new music centre in recognition of Patsy's significant contribution.

Ken Cleghorn has been actively involved with Kilvington since 1964, when his daughter started in prep. A council member since 1970, Ken has been a tireless worker and a staunch supporter of the school. Again in recognition of Ken's work and his commitment to Kilvington, the senior school is now named in his honour.

The road to the completion of the music centre has at times been very difficult. I congratulate the principal, Ms Judith Potter, the president of the council, Dr Robert Bell, and the school community for their dedication to seeing this vision become a reality. I also congratulate the previous principal, Ms Di Fleming, for her efforts in beginning the work on this much-needed facility. Current and future students at Kilvington Baptist Girls Grammar School will now have a state-of-the-art music centre in which they can learn, listen, sing and enjoy the benefits that music brings to all our lives.

Preschools: administration

Mr COOPER (Mornington) — The Bracks government, and in particular the Minister for Community Services, needs to pay close attention to the

parents of preschool students, who are angry because their concerns are being ignored. These parents are telling me that they are tired of the Bracks government's taking the education of their children so lightly. They do not believe the government understands that preschool is about education. They are of the view that this government and its Minister for Community Services think that preschool is just another form of child care.

Parents of preschool students in my electorate are calling for preschools to be removed from the community services portfolio and brought under the control of the education department. They say that such a move would be a tangible recognition that preschools are a genuine educational experience and additionally would assist in relieving the pressure on voluntary committees of parents.

These parents are also demanding that there should be an immediate move towards salary parity between preschool and primary school teachers. They point out that preschool teachers have qualifications and workloads equal to those of primary school teachers but are paid much less. Parents insist, however, that the move to parity should be fully funded by the government rather than amount to shifty, part-only funding, with the balance having to be borne by parents as an additional financial burden. The Bracks government is trying to ignore the groundswell of anger from preschool parents, but if it continues to do so it will see an electoral backlash of major proportions. The future of preschool education needs a major rethink from the Bracks government, and it needs it now. Preschool education is far too important to be left — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Prime Minister: Muttiah Muralitharan

Ms BEATTIE (Yuroke) — John Howard's accusations against Sri Lankan bowler Muttiah Muralitharan are demonstrative of a Prime Minister who does not believe that being in possession of the facts is a prerequisite to delivering a verdict. Our very own cricket experts, including the legendary Steve Waugh, whom the Prime Minister claims to have the highest respect for, have given their own views on this matter. In April this year Mr Waugh was quoted as saying:

He is great to watch. He is a unique type of bowler ... he makes Sri Lanka competitive in world cricket — he gets people talking about cricket. He is the sort of player you want in the game.

In May this year Brett Lee, another of our stars, had this to say:

I have been through it myself with a lot of people judging me and my action ... as far as Murali is concerned, I personally do not have a problem with his action ...

More embarrassing than the Prime Minister's lack of any legitimate understanding of the game of cricket must be his total ignorance and appreciation of the scientific abilities of our universities. His reference to the University of Western Australia's state-of-the-art operating system that tested Muttiah's actions as 'that thing' displayed both his ignorance and a lack of respect. This exceptional piece of technology, applied by senior academics, stands as testimony to our own world-class standards in education and surely deserves more respect than the ridiculous description afforded by the Prime Minister.

On reflection I should not be surprised. The absence of respect for our universities and our education system is one of the most tragic aftermaths of the Howard regime. Our Prime Minister has made his very own sport of bashing — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Self-funded retirees: concessions

Mr DELAHUNTY (Lowan) — This Labor government stands condemned for not supporting concessions for self-funded retirees. Two months ago the federal government offered \$75 million to provide commonwealth seniors health card holders with concessions for their energy, rates, water, sewerage and motor vehicle registration costs. The offer is based on joint funding, with the federal government paying 60 per cent and the states 40 per cent of the concession costs. The value to the individual Victorian self-funded retiree is approximately \$520 a year. The Western Australian and the Northern Territory governments offer concessions to commonwealth seniors health card holders. I have met in Hamilton and Horsham branches of the Association of Independent Retirees, who have gathered the support of the Horsham Rural City Council and now the North-West Municipalities Association to lobby the state government to accept the federal government's offer.

There are 70 000 self-funded retirees in Victoria, and that number is growing. They feel their contribution to their communities and to this state over many, many years means nothing to this state government. They feel discriminated against, and they are seeking some justice for those who have had the foresight and initiative to

save something for their retirement. On behalf of self-funded retirees in Victoria I again request that this government take up and fund its share of the federal government's offer on concessions for commonwealth seniors health card holders. As Cr Alan Pignatoro of Horsham Rural City Council said, there is no incentive for people to work hard and become self-funded retirees, because there is no benefit at the end of the day.

Women: soccer

Mr PERERA (Cranbourne) — Women's soccer in the electorate of Cranbourne is alive and kicking. I recently had the pleasure of being invited to a spectacular women's under-18 soccer derby between local rivals Seaford United and Langwarrin Soccer. It was an eventful game in strong wind, which the Seaford girls won with a 1-0 result. I had the privilege of presenting the trophy to the winning team. I also had the pleasure of presenting the player of the match trophy to Ms Effie Semertzidis for her sensational performance in the midfield for Seaford United.

The Bracks government champions women's soccer in Victoria. A sum of \$400 000 over four years has been allocated for the development of female participation in soccer. This funding will not only assist direct participation in the game but also strengthen the role of females in administration, officiating and coaching at all levels of the game. I wish to thank the Seaford United Soccer Club officials — president Jo Baulch, coaching staff Tony Argiriou and Will Chadwick, team manager Peter Marsh and the players. I would also like to thank the Langwarrin Soccer Club officials — president Steve Wallace, coach Ian Mackie, team manager Judy O'Grady and the players for their kind hospitality and a fantastic game of soccer.

Brothels: Manningham

Mr KOTSIRAS (Bulleen) — I urge this government to review legislation relating to the operation and closure of illegal brothels. I have been advised by Manningham City Council that a recent Magistrates Court decision in a case where the council hired private investigators to obtain evidence saw the magistrate rule the evidence inadmissible and dismiss the matter. In the meantime a number of illegal brothels are operating in Manningham, and the council has to rely on public witnesses to come forward to give evidence.

The council enforcement officers think there are at least two premises in Manningham that are being used as illegal brothels, but they do not have evidence or

witnesses who are willing to come forward to give evidence. In the past the council has used private investigators, but this is no longer possible. This is unacceptable. We do not want any brothels in Bulleen. I urge this government to review the legislation and to provide councils with the appropriate powers to close down such establishments.

Bulleen Road–Golden Way: traffic lights

On another matter I also wish to request that the Minister for Transport provide enough funding to install traffic lights at the intersection of Bulleen Road and Golden Way. As one resident said:

My problem is that in peak-hour traffic it is practically impossible to enter Bulleen Road from Golden Way. We take our life in our hands each time, especially if making a right-hand turn into Bulleen Road.

I urge the minister to take action now before someone gets hurt. I urge him to — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Gary Allsop

Mr ROBINSON (Mitcham) — Last Thursday I had the great pleasure, along with the member for Forest Hill, of attending a Tattersall's Award for Enterprise presentation in Nunawading for local Blackburn North resident, Gary Allsop. Gary, whom I nominated for the award, was recognised for his outstanding contribution to the cause of spinal cord research.

Gary's story is inspirational. He was injured whilst playing football for a suburban team about 15 years ago, and his life since then has been dedicated very much to raising funds for and awareness — now with Spinal Cure Australia — of this very worthwhile cause. Last year Gary participated in a major fundraising exercise at Flemington and raised \$75 000 largely through his own efforts. It is an award that is richly deserved.

Home Environmentalist

I also want to congratulate Blackburn resident Wendy Branagan and a number of other people for their outstanding work over a number of years in printing the *Home Environmentalist*, the newsletter of the Worldwide Home Environmentalists Network. Due to a range of circumstances their work will soon end and the organisation will be wound up, but for many years Wendy Branagan, Amy McDonald, James Henry, Linda Odgers, Melanie Kelly and Shirley Robinson have done a great job in making us all more aware of

how we as householders can minimise our waste generation.

Mitcham–Frankston freeway: tolls

Mr WELLS (Scoresby) — This statement condemns the Bracks government for breaking yet another promise regarding the Scoresby freeway. In an answer to a question without notice the Premier ruled out any road closures or narrowing of roads, especially of Stud and Springvale roads, yet in a bill just introduced to the Parliament the Bracks government has refused to include a clause banning lane or road closures on roads like Stud or Springvale roads once the Scoresby freeway opens. Instead Labor is set to close or reduce the capacity of major and local roads in a slimy, underhanded way by using any excuse to close lanes or roads.

Although the Mitcham-Frankston Project Bill 2004 says that nothing in it permits the Southern and Eastern Integrated Transport Authority to close to traffic or discontinue a road for the purpose of increasing traffic on the Mitcham–Frankston freeway, lane closures can still receive the green light. There is nothing to stop Steve Bracks closing a lane on Springvale and Stud roads in each direction, claiming that this is to improve bus transit times, when Labor's real aim would be to try to ensure that the Scoresby freeway is more heavily used.

Steve Bracks broke his promise that there would be no tolls. He must not be allowed to break another promise that there will be no traffic-calming lane or road closures. The best way to reduce traffic on Stud and Springvale roads is for the Liberal Party's vision of a toll-free Scoresby freeway — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Essex Heights Primary School: Pin a Pollie day

Ms MORAND (Mount Waverley) — On Wednesday last week I visited Essex Heights Primary School in Mount Waverley to participate in Pin a Pollie day. Essex Heights primary is a fantastic school, and it is very well known all over Melbourne for its fantastic learning environment, its welcome for all children and its provision of education to over 50 children with a disability. The school is led by the wonderful principal, June McDonald, and assistant principal, Sue Campbell, and their fabulous staff, volunteers and parents. The school has many friends in the community. It is always a pleasure to visit Essex Heights primary because it has such a wonderful, happy atmosphere and is a place

where the needs of the children, no matter what they might be, are so well looked after.

Pin a Pollie day at Essex Heights was organised by Ellen Modra, whose family I have met many times to discuss the needs of their son, Luke, who has severe autism. During national Autism Awareness Week the Minister for Community Services announced that the government would provide \$400 000 over four years to Monash University to deliver specialist autism training to early childhood workers across Victoria. Monash University's Centre for Developmental Psychiatry and Psychology will deliver training programs and provide expert advice to workers across the early childhood sector. This will include early childhood intervention workers, kindergarten teachers and maternal and health nurses.

It was great to be at Essex Heights on that particular day of the week as I was also able to inform them that they had received \$100 000 towards upgrading the toilets at the school, this upgrade being part of a \$10 million program for toilet upgrades across the — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired.

Schools: walking bus program

Mr TREZISE (Geelong) — I take this brief opportunity to commend a great education initiative currently operating in Geelong, the walking school bus program. There are currently 17 schools operating a walking school bus in Geelong. The project is funded by VicHealth and managed by the City of Greater Geelong under the management of Genevieve Sutherland. Under the motto 'It's cool to walk to school', the program consists of volunteer parents walking children to school and picking up other students on their way. The benefits of the program are numerous. It improves school attendance, improves school arrival time, assists in the prevention of bullying, improves road safety skills, improves health and fitness, reduces traffic congestion around schools, is better for the environment, enhances community connectedness and, above all, from what I saw it is also fun to be part of.

I had the pleasure last Friday of assisting in the launch of the Ashby Primary School walking school bus. Acting principal Jenny Omachen is a very keen advocate of the program, and a number of parents have already committed their time and efforts to be volunteer drivers. They are Rosemary Nugent, James Dean, Gabriel Shanahan, Chris Sanson, Nikki Van Der Pol and Carole Barlow. The walking bus project has been

entered into this year's Geelong Business Excellence awards, and I am sure it will feature prominently in the result. I congratulate and commend all those who were involved.

Bicycles: Bellarine Peninsula

Ms NEVILLE (Bellarine) — Last Wednesday I was pleased to officially open the new section of the bike lane along Shell Road. I was ably assisted by representatives from the Geelong Bicycle Association, particularly Jim Day and Janine Keating. This \$110 000 on-road bike lane project included the sealing of shoulders and installation of signs and bike symbols over the 1.2 kilometre length of Shell Road, from Banks Road in Ocean Grove to Point Lonsdale. Over three-quarters of Shell Road between Collendina and Point Lonsdale already has a sealed, on-road bike lane. This completes the bike lane along the rural high-speed section of Shell Road and will significantly improve safety for cyclists.

Shell Road is an important strategic link between Ocean Grove, Collendina, Point Lonsdale and Queenscliff and is a popular route with cyclists. Now you can travel across the Bellarine Peninsula on a bike path or on the rail trail, ensuring a safe and enjoyable day for all. It is estimated that cyclists spend about \$50 a day when they use a bike path, increasing and improving the economy of the Bellarine Peninsula.

This year's Great Victorian Bike Ride will also be held on the Bellarine Peninsula. I am certainly looking forward to participating in that, and I encourage other members to think about that for November this year.

This bike lane is going to be utilised by local bike enthusiasts, tourists and holidaymakers. I congratulate all those who have been involved in the design of the path, and I look forward to the last section being done — hopefully — later this year.

Racconti: La Voce del Popolo

Ms D'AMBROSIO (Mill Park) — I would like to inform the house that on 18 May I was pleased to attend a launch by the Minister for the Arts of the Racconti: La Voce del Popolo, a digital storytelling production at the Australian Centre for the Moving Image. Racconti: La Voce del Popolo is the first-ever digital production of its type and marks the initiation of a new collaborative relationship between Victoria's multicultural communities and ACMI. I congratulate the Honourable Giovanni Sgro, a former member in the other house, who, through the Federazione Italiana Lavoratori Emigrati e Famiglie, created the idea for

recording the working lives and stories of a group of Italians who migrated to this country many decades ago, and celebrating their unique and lasting contributions to Victoria in particular.

I would also like to recognise the Victorian Multicultural Commission for its contribution to this project through the unique Heritage program, an initiative of the Bracks Labor government, and pay tribute to the fine work of the talented professionals at ACMI who enthusiastically embraced the opportunity to create a world-first production involving ordinary people telling their extraordinary life stories.

Victorians have every reason to be proud of the Australian Centre for the Moving Image and its interrelationships with the Victorian community through the digital stories program. As the Honourable Giovanni Sgro said, ACMI should also be known as the people's place.

Southmoor Primary School: environmental program

Mr HUDSON (Bentleigh) — Last week I had the great pleasure of opening the vegetable garden developed by the students of Southmoor Primary School. This is a great project that continues Southmoor's wonderful environmental record.

When I visited the school last year the students had built a model sustainable city. I saw the work they had done in composting, looking after animals and creating a Koori garden and wetlands in the middle of the school.

Since then they have obtained two water tanks and developed a piped irrigation system to water the vines they have planted in the school grounds. Now the students have developed a vegetable garden full of delicious vegies such as bok choy and cos lettuce, which are used in the school canteen. Apart from the well-tended garden beds, several classes have made a wonderful path of bricks covered with a mosaic of tiles in many different colours.

The students are ably led by school captains Zeev Gilotviz, Yasmin Gezmish and Mitchell Vanderwert-Holman and environmental captains Aussie Kie and Rebecca Masciantonio. They have been supported in this project by the school parents, led by Chris Horton and staff such as Anne Vandenberg, Sarah Diplock, John Holtman and the environmental coordinator, Joanne Witt, under the able leadership of the principal, Marie Kick.

With this range of initiatives Southmoor Primary School is demonstrating the importance of healthy eating, physical education and the environment together. The students have even found ways to express this through their art work in the school.

The efforts of Southmoor have been recognised through numerous awards and the fact that it has been funded through the Sustainable Schools program to show other schools what can be achieved. I congratulate all the students.

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired. The member for Gembrook has 30 seconds.

East Timor: worm infestations

Ms LOBATO (Gembrook) — On 8 May a most disturbing article appeared in the *Age* — a story about a 12-year-old East Timorese girl who had died from a worm infestation. The death was caused by the worms moving up the girl's oesophagus, causing her to choke. The worms had left her stomach, as there was nothing left to feed on. I, along with my office, have resolved to take action to prevent the recurrence of such distressing and needless deaths. With the help of a 10-cent tablet, we are going to assist — —

The ACTING SPEAKER (Mr Smith) — Order! The member's time has expired. The time for members statements has expired.

OMBUDSMAN LEGISLATION (POLICE OMBUDSMAN) BILL

Second reading

Debate resumed from 13 May; motion of Mr BRACKS (Premier).

Mr DOYLE (Leader of the Opposition) — Some years ago the head of the Royal Canadian Mounted Police (RCMP) spoke at an Interpol conference. In reading some of his remarks, his introduction in particular struck me as analogous to the Victorian situation we now face. He said:

One of the essential components of a just and well-functioning society is an effective, well-disciplined and honest police service in which citizens have implicit trust.

He went on to say:

When corruption takes hold within an organisation whose very existence is based on integrity, that trust is shattered, and our entire society suffers.

I regret to say that that is where we are today with the question of police corruption, which the bill before the house seeks to address. The fact is, as the head of the RCMP said, 'No system is ever ... impervious to corruption'. We know that 'greed and weakness are the root causes' of corruption and we know that 'denial, incompetence and collusion are the reasons institutions fail to overcome corruption'. We have a police corruption problem in Victoria. This is now an undeniable fact that faces the government and this Parliament. For a long time — I think like most Victorians and most members of this house — I did not want to believe this was true, or rather, I believed that if there was police corruption it was limited to one or two incidents.

Until last week I supported the government's proposal to extend the powers of the Ombudsman to deal with police corruption, although I must say I never believed an extra \$1 million was anywhere near enough resources to do the job. I conveyed that support to the Premier and to the Ombudsman. Indeed only last week I wrote to the Premier offering the Liberal Party's support to bring on this legislation at the earliest opportunity. I offered the Liberal Party's guarantee that we would give the bill a speedy passage in both houses of the Parliament. I understand this bill will pass both houses today. I certainly hope that is the case, and I am sure every effort will be made to ensure that that happens.

Late last week, along with the shadow Minister for Police and Emergency Services, the member for Scoresby, I met police who provided us with confidential information that was impossible for us to ignore. The evidence I heard from the police officers is the most chilling I have heard in my time in Parliament. This information has forced me to change my mind. I now believe the additional powers and resources granted to the Ombudsman by the bill before the house are inadequate to deal with the crisis facing Victoria. That does not mean the Liberal Party will oppose the bill. It should proceed without delay, but it is no longer the solution to a problem that is now much bigger and more serious than we had thought. I agree with former Victorian and Western Australian senior police officer, Bob Falconer, who argues in the *Herald Sun* today that a beefed-up Ombudsman's office, and indeed the police ethical standards unit, have a critical and complementary role to an anticorruption commission.

We heard today of the police chief commissioner being given extra powers. Again that may well be welcome. We do not know what these powers are — and, by the way, neither does the chief commissioner, according to a radio interview she did this morning. Still, these are

no replacement for an anticorruption commission. They may be complementary to it, and we are disposed to look favourably upon the extra powers for the chief commissioner, allowing of course for the detail to be put before us. As I said, I now believe Victoria needs an anticorruption commission with broad-ranging powers to immediately deal with the problem of police corruption and the connections to the recent scourge of gangland killings in Melbourne. I think we have to stop skirting the issue and pretending that they are not connected. Gangland killings and corrupt police are connected.

While speaking on the merits of the bill before the house today I will outline some initial suggestions from the Liberal Party about how such an anticorruption commission could be established and how it could be effective in getting to the bottom of the very real problems we face in the Victorian police force. Such an anticorruption commission could have a number of elements. I will outline five elements worthy of consideration by the government and Parliament.

The first is an operations unit to deal with special projects such as telephone tapping, listening devices and surveillance. That operations unit should comprise forensic experts, accountants and computer experts who can follow the money trail back to the crime — something the Attorney-General outlined as part of the powers to be given to the chief commissioner in an answer in question time today. We should not underestimate the importance of that expertise.

The second is an investigations unit which could also work with those forensic experts. This unit should be reactive and could involve the existing resources of the Ombudsman's office and the Victoria Police ethical standards unit, similar to the model outlined by former Western Australian police commissioner Bob Falconer. This unit would also need to have a coercive powers team similar to the Australian Crime Commission examiners. This would involve the utilisation of investigators who could plan and execute sophisticated effective responses.

The commission would also need a proactive program of integrity testing — 'stings', if you like — to uncover involvement in corruption. The preventive power in their knowing that stings may be conducted by an anticorruption force cannot be overestimated. Apart from operations and investigations, the commission needs a major arm which has not yet been part of the public discussion but the importance of which I will spend some time today outlining — that is, a prevention and education arm to generate community programs and even advertisements to relay the right messages

about police and public corruption to the corporate and public sectors. The need for a prevention and education arm is one of the reasons I think an anticorruption commission is a better model than the government's Ombudsman model, as outlined in the bill before the house. There needs to be ongoing education, not just of the police but more broadly of the public, about the total unacceptability of corruption and the consequences of involvement in it. We also need a whistleblowers hotline for the commission to obtain the information which is vital to tackling police corruption. That could be complemented by commission web sites inviting and dealing with any public information.

They are the five headline suggestions outlining how an anticorruption commission might be structured and operate, and I will come back to some of them in detail a little later on.

I say at the outset that I am indebted to a number of police officers, especially the senior anticorruption police whose ideas I have based this model and these ideas on. The courage of the many serving officers who wish to rid this state of the stench of corruption is most encouraging. I wish to say also that I do not believe we have a corrupt police force, because that is not the case. By and large our police force is made up of hardworking, ethical and honourable police force members, but unfortunately there is a core of bad cops —

Mr Mildenhall interjected.

Mr DOYLE — Just relax! It is very important that the issue of police corruption and what to do about it does not become a political football. The strong desire of the Liberal Party is to work with the government to find the right solutions. I have tried to outline the reasons for my belief that the police ombudsman model before the house does not offer an adequate response. If the government wishes to go back to the drawing board and redesign such an anticorruption commission, we will not turn this into a political dogfight with finger pointing and accusations of blame. We will work with the government and the Victoria Police to get the best model possible for Victoria so we can be confident that we have the weapons to fight the insidious cancer of corruption. Unfortunately, as I have said, I now believe the bill before the house fails to deliver the very best model — and we deserve no less than the very best.

We need a solution to the crisis facing Victoria Police and all other Victorians. While the bill before the house offers some progress towards finding a solution, only the adoption of an anticorruption commission will provide an ongoing and adequate response by the

government and the Parliament. I will point out two reasons in particular for that being the case. Firstly, we need a long-term strategy, and secondly, we need a coordinated approach to an anticorruption strategy.

I listened carefully earlier today to the Premier outlining a range of measures — some of them quite new — which the government proposes to use to tackle this problem. There is, of course, the Ombudsman bill presently before the house, and I understand extra resources will be given to the Director of Public Prosecutions. We were also told today in question time that the chief commissioner will get further powers and that the ethical standards unit will have the resources it needs to police the police. But the point I make is that it is not a coordinated approach to have a number of different agencies charged with partial responsibility. I was not convinced by the Premier's argument, even on the basis that there would be better coordination.

The other reason why this will not work in those institutions, even if we do the very best we can, is that any investigation that is ongoing must be totally independent. That is one of the problems with the police ethical standards department — eventually its members return to general policing. I will come to some of those problems later. The lack of independence in internal affairs is not a problem in our police force at the moment, partly because of the calibre of officers we have had — people like Noel Perry, Steve Fontana and Simon Illingworth. But it would be unfortunate, given that those police have to return to general policing, if we got to a situation in the future where an officer was faced with having to make an invidious choice between rigorously pursuing corruption and maintaining his career and his principles, based on his knowing that if he were to return to the general policing population he could be intimidated and isolated because of the rigour with which he or she pursued the corrupt. One of the benefits of an anticorruption commission would be that it could provide a career path for officers who wished to go down that track. They would not have to return to general policing; instead they could make a career involving a diversity of tasks and be promoted within such a commission.

I turn now to a slightly more detailed outline of the five-pronged attack I have suggested. We need education, prevention, reactive investigation, proactive investigation, research and analysis, and that can only be achieved through a commission. Why not have a royal commission? While at this stage I am not ruling it out as complementing our commission proposal, I note that there are some shortcomings. Royal commissions are reactive in their investigation and reporting, they are not accountable for future prevention and they do not

have ownership in implementing the recommendation. Having said that, I note the success of royal commissions in Western Australia and Queensland in pursuing corruption.

When I said the Ombudsman's office is not the ideal model, that is no reflection on that office. It is just that the information that has come to me suggests that this problem is of a scale and sophistication that is too great for that office, with its very modest budget, to handle.

The point that I make here is that even with this model — the bill before the house — if the Ombudsman is to do it, they have to provide their report to the Chief Commissioner of Police and also to the Minister of Police and Emergency Services. Again, that is a breach of that independence that they need. Why should they report to the very people they are reporting on? We need to make sure that any such investigation is independent and is seen to be independent. Time under these new rules is somewhat limited, so here are a couple of quick ideas. I wish I could spell them out in more detail.

Firstly, I refer to the education part of our five-pronged attack. We need to initiate culture change, an element of ethics in the internal courses of police and public officials, including an ethical decision-making model, which includes casework and open forums for ethical discussion. We need to increase the sense of moral integrity of the police and public officials through interactive training; this has been proven to work. We would have open discussion groups, for instance, that are not focused on right and wrong decision making, but on those grey area issues, including discussions about the ethical decision-making model. You focus on those grey areas to force independent thought and to create a sense of ownership of the credibility of the department and the police force.

You encourage the reinvention of employees who know they have started the slide into corrupt practice. I point out Simon Illingworth's very honest appraisal of his own policing experience. It can be that corruption has a blind eye turned to it; this is passive corruption. We need to draw a line there and help those people who have started that slide. The chief of the Royal Canadian Mounted Police actually pointed out an example in his own force that started with a drugs officer accepting a couple of free hockey tickets and finished with the suicide of that officer in the early 1990s, because of the slide into corruption.

We need to have a regime that is prospective not retrospective. We need to make sure that we can support those people who do not want to be forced into

corrupt practice. We need to engage the public in community ethical standards. We could have a range of ethical slogans on police and government vehicles. We could have positive ethical engagement through thought-provoking and visible slogans, ensuring ownership of the idea by the police and the government. We could foster area or regional codes of ethics, like the city of Melbourne code of ethics. All of those areas in education are not meant to be prescriptive. They are some ideas to throw out to say, 'This is an area we have not thought of and we are not addressing'.

Prevention is our second big area. We need to provide a systems review process for our police force. If we have an anticorruption commission — if it becomes a reality — it has to be seen to prevent corruption in the first place. It cannot just find out what happened and what went wrong. That is why we cannot just have a royal commission. You need an ongoing view. Although fear is a more powerful motivator, I find it amazing that we do not really reward ethical behaviour. That can be a powerful incentive and motivator. It is interesting that we reward our sporting heroes, but we are not so good at rewarding those in public life who are slaving out there, day to day, in service of the community. Measuring good work is hard in some occupations. How do you measure good policing? It is rare for people to recognise good work. Sometimes achieving a goal in policing, for instance, is secondary to the mental and physical strength and discipline that is required, in one police officer's words to me, to 'go for it'. It may well be that the court decision goes against you, but that should not detract from the attempt.

Ironically we reward sporting heroes in the same way. We reward winners and not so much those that have made the attempt. I would suggest a formal reward and recognition policy for police. As I have said, it is a surprise that more is not done here considering the way police services rely on integrity for their reputation. We also need an anonymous telephone service for people requiring assistance so that we can get in to what is happening, and so that we can provide that help. There need to be cross-cultural messages. We know that people arriving from poverty-stricken, failing or corrupt societies, where there are corrupt police forces, are at considerable risk of being manipulated themselves by the corrupt. We need to make sure that we are getting those messages to a range of those communities that come here. They are often the target of the corrupt, and it is well known that in these communities it is rare that they report corruption.

The third area is that we need a reactive investigation division. Current internal affairs bodies separate general

complaints and corruption investigation. I do not see that there is a need to separate those two. Both are trying to get the same outcome. Often you find that people who are corrupt have had numerous complaints made against them leading up to the investigation. They can be an excellent gauge of someone's professionalism or an indicator of a slide into corrupt practices. As outlined by Bob Falconer this morning, you can decide which ones go to the commission, which ones are handled by the Ombudsman and which ones are handled by the police ethical standards department.

The Victorian ethical standards department needs to overhaul its current investigative practices. We are told that in practice investigations are given to teams. Simon Illingworth's remarkable bravery last night proved that that is not so — that often complaints go to one person to investigate. One person is easy to target, to isolate, to coerce, to intimidate — not so a team. We need to ensure the resources are there. After the past few days I do not think it would come as a surprise to people to hear that investigators and their families are at risk. Three investigators whom I have come across are under genuine threat. An anticorruption commission would have to have satisfactory resources and personnel to ensure we protect those who are protecting us.

As I said before, corruption is always about greed. It is always about the receipt of money or a gift, so we need those forensic accountants, those computer experts to trace that money trail back. That is why I was interested in the Attorney-General's proposal today. Although I will look at it with interest, we need the resources to make sure we can track those money trails back to the scene of the crime. From memory, I think there is only one such qualified person working in the Ombudsman's office at the moment.

We need a proactive investigation division. This is integrity testing, or stings if you like. We need to target specific persons identified by the research unit as being at high risk. One suggestion put to me was that trainees and new employees should be subjected to random integrity tests. The reasons for such tests are quite compelling: police in particular are susceptible to influence early in their careers, and it is therefore of great long-term benefit for trainees to be targeted for integrity testing on a random basis. This is coming to me from police, it is not something I would have thought of. Random testing of trainees would provide them with a feeling of vulnerability if they were tempted to be corrupt, but it would also give them a legitimate excuse for non-compliance with unethical or corrupt behaviour. As well, it would ensure that any

person who was corrupt thought twice before recruiting others, particularly those more junior.

We need a research unit. Again I wish I had more time to spell this out, but unfortunately I do not. We particularly need a research and analysis division. We need to have random surveys of public opinion regarding police handling of corruption. We need to assess the intelligence that flows in and suggest that members be targeted in proactive investigations. We need an anticorruption web site, as I suggested earlier. There is a Hong Kong example. That commission set up an adult web site and a child and youth web site. The Hong Kong Independent Commission Against Corruption adult web site has had 65 million hits, the child and youth web site has had 26 million hits.

We need to research corruption indicators, which are used by some anticorruption bodies to assist in indicating whether a police officer is corrupt or could be tempted into corrupt practices. We need to know whether employees are displaying any of these indicators: sick days; cynicism; resentment, particularly of management; absenteeism from the workstation; excessive use of force in their duties; and financial debt. The use of those indicators seems to me to be the area where we need to do a lot more work.

We need to be particularly careful — and I am not making any suggestion here — because around the world periods of high induction into police forces can relate directly to levels of corruption flowing into police forces. It is believed to be a result of poor background checks and people putting colleagues into the police for obvious purposes. I do not see why we would not introduce something like a polygraph test for recruits to the police force, like the American Federal Bureau of Investigation does. We could ask them three simple questions: any recent drug use; any contact with criminals or gangs; what criminal history. We need to tightly monitor known corruption-prone areas. We now know about the drug squad, but there are other areas where we need that tight monitoring.

Recent news of what I believe to be an inappropriate use of informers requires us to tighten our protocols on informers. We should not accept anybody who has an unsavoury prior history relating specifically to police interaction like bribe offers or assaulting police. We should not allow informers to be considered to be 'owned' by individual officers rather than the police force. We must have a termination date on those relationships. We cannot have unregistered informers. Where we need to provide assistance to informers including character evidence, letters and housing assistance, all of those things should be kept in the

individual's file, and that file should be checked periodically to ascertain the overall value of the informer to the community. These are five areas which I wish I had more time to outline. I offer them only as initial suggestions. I am not suggesting I have all the received wisdom on how such a commission should be set up.

There are a couple of things we need to consider. Firstly, spot the greed — if you find the greed, you find the corruption, because corruption is all about greed. That is difficult to do because it requires expertise, proactively and reactively, in research, as I suggested before. Secondly, let us understand that corruption is a cancer. One rotten apple does help to spoil the barrel. It might be a small number of police who are corrupt, but do not underestimate the effect those police have on the force as a whole or our society as a whole, as I outlined in my initial comments. Thirdly — this is something I think we have underestimated — do not underestimate the energy and resources going into corruption, going into making corruption happen. For the crime world this is one of the best investments they can make. Through their expertise they can identify people who could be recruited to corrupt practices. They are very good at managing those recruits and, of course, they are very, very good at benefiting from those recruits. Do not underestimate the resources and the impetus for crime to foster corruption.

This leaves us with a bit of a quandary, something with which we are all struggling today. Do we get it all out in the open? Do we risk the reputation of something as fine as Victoria Police? Or do we deal with it quietly? Do we deal with it internally and not risk ruining the reputation of the police force? My view now is that that second option means that we react rather than actually taking action when a crisis occurs. Regrettably, I think that is what has happened in the face of allegations of police corruption and this terrible outbreak of gangland killings and violence. That seems to me to be what has happened. We all need courage both inside and outside this place, we all need the courage of someone like a Simon Illingworth. We need to be prepared to stand up and ask the tough questions; we need to be prepared to do the right thing.

Harking back to that chief of the Royal Canadian Mounted Police, it was interesting when he talked about his own police force and what he did to make sure that he prevented, as far as possible, corruption from occurring. He talked about getting the right people. That is obviously critical both for a police force and for any anticorruption commission. Let us not underestimate the difficulty of finding someone to head such a commission and the difficulty of recruiting the

quality of staff we are going to need for such a commission to be truly effective.

Equally important is screening out the wrong people. From time to time that has obviously not happened in the Victoria Police. I am not sure that we could have prevented it — but it is one of the things we need a public debate about. We then need to train people properly. Most police training courses are rather like military training — they are told what to do, when to do it and how to do it. I would like to see, particularly in the training of our police, tuition in ethics, behaviour and decision making. How can that be built in? How can we make sure that we give officers all the right habits from the start of their police careers?

Once we do that we then need to oversee and supervise our police force. That is a big question for us. When you think of the workload that many of our senior police carry, particularly our managerial and command police, you wonder how much of it is about pushing paper rather than dealing with people, which is the only way you get to really know what is going on. If you are just a paper pusher, because that is what your role has relegated you to, how can you get to know those indicators I have talked about before, including the changes of behaviour that can be the early signs of corruption? We need to make sure people are taking care of their staff.

The fourth thing that this chief of police said involved detection. He talked about the difficulties of identifying and dealing with corruption. Again, regrettably I have no confidence that the Ombudsman model, even with its powers of coercive questioning and initiating inquiries, has the ability to truly detect, identify and deal with corruption. I recognise that that question is in the hands of all the people in the organisation, not just the overseeing body, but nevertheless it is important.

I am not suggesting that these brief suggestions and ideas are the be-all and end-all. The Chief Commissioner of Police said a little over a week ago that she wished for a public conversation about an anticorruption commission. I hope this is just such a contribution, and I hope we can work together on this. I hope we can develop a model for an anticorruption commission that has the government, the Liberal Party, The Nationals and the Independents — in other words, the Parliament of Victoria — as well as the police, our legal community and the wider community working together to develop a model. We have a real chance to do that. These situations do not come along very often. The natural reaction of government is to resist suggestions that change direction or tack. I encourage the government to take up the offer, because it is

genuinely made. If the government made the decision to change tack, and if it decided to give the chief commissioner the powers that she needs, to give the Ombudsman further powers and to beef up the resources of the Director of Public Prosecutions, I would accept all of it; but if it also said, 'Just to make sure, we will set up an anticorruption commission and not leave anything to chance', it would get our support.

Finally, this is about whether we have the guts, the courage and the political will to do something about the cancer of corruption. That is the real question that every conscience faces in this chamber. I have an optimistic view of members of Parliament, despite what the public might think. I believe members of Parliament, from whatever side, come here because they wish to make a difference to the community they serve. This is an opportunity that we must not let slip, because it is an opportunity for us to leave a legacy for future generations so they do not have to face the crisis we have faced over the last months and even years.

Ending his amazing and remarkably brave Australian story last night, Simon Illingworth, in what I thought was one of the most compelling programs I have ever seen, said, 'I have always thought good would defeat evil'. He paused for a long minute and then half looked at us as if in a challenge, saying, 'Here we go!'. I take that to mean that Simon has put himself out in the open in a way that is remarkably brave and honest. He hopes that this is the beginning of a chain of events that will lead to what he argued for last night — an anticorruption commission. Let me repeat Simon's closing remarks: 'I have always thought good would defeat evil. Here we go!'. We in this Parliament must prove him right when he says 'Here we go!'. Let's go together.

Mr RYAN (Leader of The Nationals) — I understand that by leave the government will agree to extend my normal speaking time from 20 minutes to 30 minutes.

Leave granted.

Mr RYAN — I thank the Leader of the House for allowing that on behalf of the government.

It gives me no particular pleasure to join this debate, because it touches upon issues that by choice we would not be discussing. However, these are issues that have to be faced, and I believe they are so compelling in today's world that there is a necessity for a fresh approach to them. I am a reluctant convert to many of the initiatives I am about to put to the house today. Although The National's support the legislation that is

now before us for debate, I believe it is not enough and that we have to do more. Therefore, for the purposes of my contribution I intend to deal with the bill itself but also outline some of the matters that should be adopted as initiatives to add to it.

To try and give this whole debate some context I went to the *Australian Oxford* dictionary and looked up the word 'corrupt'. It means 'morally depraved or wicked; influenced by or using bribery or fraudulent activity'. The word 'corruption' means 'moral deterioration, especially widespread; the use of corrupt practices, especially bribery or fraud'. I mention those definitions at the outset, because it is very important that this legislative initiative and the debate generally be viewed in the context of the issue of corruption that unfortunately is continuing to raise its head in Victoria.

This legislation is a partial step towards dealing with this, not a complete step. I am concerned that the government is not coping with what it has before it. It is either unwilling or unable to grasp the nettle with regard to the matters that are now here for our joint consideration in this Parliament. I also feel that the government has a concern about letting go and about trusting the adoption of a new system similar to that which prevails in the other states of Australia and in other parts of the world. I think the government has that concern because in some way it is worried that the process that would then be put into effect might reverberate in some way or manner against it and lead to its being criticised in the public arena. I think these are all issues that the government has to put aside. I understand that there would in some sense be a leap of faith on the government's part, but I urge it to make it.

The fundamental issue is that this bill extends the existing powers, but when you examine it you see there is an ongoing and significant involvement by the executive government. I will go through the bill to illustrate that in a moment. On the other hand, what we need is a truly independent, specialist process which is properly resourced to enable investigations to be undertaken with regard to corruption in particular and crime generally, and then to prosecute those involved. That applies very particularly to those few officers who disgrace the great name of one of the great police forces in the world — namely, Victoria Police.

The background to all of this is now regrettably common knowledge. Over the past few years we have had multiple killings on the streets of Melbourne. There has been a proliferation of major crime. Increasingly there are links between those two activities — the major crime and the killings — and in turn the involvement of the police. That is a link that has been

established. I was astounded today during question time when the Premier refused to make that acknowledgment. Indeed only last week I heard an eminent police officer, deputy commissioner Peter Nancarrow, whose role is to lead the specialist operations portfolio within Victoria Police, being interviewed by Jon Faine on 774 ABC radio.

Even he expressed surprise that Mr Nancarrow made this link to which I now refer, and as Jon Faine said it was the first time that he had heard a police officer publicly make that statement. But it is an issue now that in the public's eye there is a link involved — namely, between these serious crimes and police officers. Although it is only a few of the greater number, nevertheless it is there. The drug trade is involved in all of this as well, but it is not only the drug trade. There are other serious crimes being committed, including murders. It seems to me that the situation has reached the point where the vast array of informed opinion says that we need a different approach from the way in which we have historically dealt with these issues.

We have had three murders in Victoria in the last two weeks. Last night we saw Detective Sergeant Simon Illingworth speaking on television in a way which took enormous courage on his part, not only in terms of his own welfare, but that of his family. We have had on the front page of today's papers reports of a refusal to answer questions by an individual who has been given favour in the way in which he has been sentenced. He has now adopted an approach where he says that he is prepared to go to jail for a longer term on the basis of contempt charges, rather than answering questions because of risks to his life and to that of his family. Whether that be so or not, that is in fact what he has had to say.

The announcement by the government today amounts to dressage. It amounts to adding to an existing structure in circumstances where we need a new structure, and that is where I talk about the government having to have a leap of faith in relation to the way that it approaches all of this. There is no doubt that public disquiet is growing and, unfortunately, we are going to see more of recent events come out over the course of the next weeks and months. It is a situation therefore where we need a radical approach to the way in which we tackle all of this.

In terms of the bill before the house I wish to address this issue. One of the features of the bill is that it carries an ongoing significant involvement on the part of the government. I refer, for example, to clause 12, which inserts proposed section 86NA in the Police Regulation Act. This is the section which will deal with

investigations initiated by the police ombudsman. Under this legislation a number of initiatives will occur: the bill will amend the Ombudsman Act 1973, the Police Regulation Act 1958 and the Whistleblowers Protection Act 2001; essentially it will create the new office of the police ombudsman and will broaden the powers of investigation into police matters and conduct. Presently police complaints are dealt with by the Deputy Ombudsman (Police Complaints). That office is to be abolished and the new office of the police ombudsman is to be created instead. The intention therefore is that the police ombudsman will have the clear and sole authority in the investigation of police matters.

The powers of the police ombudsman will be set out in the Police Regulation Act; that act will also be amended to enable the police ombudsman to conduct an investigation on his own motion. At present he has only general powers of investigation but not in relation to the police; that will be addressed in this bill. Furthermore the investigative powers of the Deputy Ombudsman (Police Complaints) are presently only triggered by an official complaint by the public; that will be addressed by this bill because the police ombudsman, as I say, will be able to instigate investigations on his own motion. The police ombudsman will be given extensive powers similar to those which were given to royal commissions in 1998. The bill also contains two of the section 85 provisions about which this government historically has been so critical but which in this instance it quite properly has incorporated in this legislation.

If I could move to an examination of new section 86NA, which is inserted by clause 12. Subsection (1) sets out the capacity of the police ombudsman to conduct investigations in his own right. Subsection (2) goes on to reflect the fact that before the police ombudsman does that he has to inform the minister and the chief commissioner of his or her intention to conduct that investigation. Furthermore, in subsection (3), after that investigation is complete, the police ombudsman is required to give the minister a copy of that report, and that is pursuant to a subsequent provision in the bill.

Clause 14 sets out a proposal whereby new section 86P deals with investigations by the police ombudsman. Essentially subsection (1) deals with the process whereby these investigations will be effected. Subsection (2) talks about the fact that during the course of conducting an investigation, if it appears to the police ombudsman that there are grounds for making a report adverse to the police force, the police ombudsman must — and I emphasise 'must' — before

making any such report give the chief commissioner the opportunity to comment on the subject matter of the investigation.

Subsection (3) refers to the fact that at the actual request of the police ombudsman the chief commissioner has to make available to the police ombudsman any members of the force the commissioner may think are necessary to assist the police ombudsman in the conduct of the investigation. Accordingly, the police ombudsman by definition is obliged to go through the offices of the chief commissioner for the purposes of being able to get those police officers who are specialist in the role as may be deemed necessary by the police ombudsman, and that again seems to be far from ideal. I make these comments with the greatest of respect to the current Chief Commissioner of Police. We are talking about the whole of this process on the basis of this legislation being ongoing so far as Victoria's future is concerned.

Under subsection (5), after completing the investigation the police ombudsman is obliged — and the word used is 'must' — to make a report in writing to the chief commissioner on the results of the investigation, and in that report the police ombudsman may request the taking of any action that they consider should be taken.

In proposed section 86PA the evidentiary provisions are incorporated, and I applaud those. They are extensive and take in much of the material within the Evidence Act and will empower the capacity of the police ombudsman in a way that presently has not been enjoined and in a manner which I think is appropriate to the needs of the consideration of these issues.

Clause 16 inserts new section 86QA, which deals with referral of matters to the Director of Public Prosecutions. In essence this provision will enable the police ombudsman at any stage in the course of an investigation to refer that investigation to the DPP and to make recommendations on charges that might be laid. That will be a matter then for the DPP to undertake. Clause 18 will insert new section 86W in the Police Regulation Act. There will be broad additional powers relating to search warrants. We believe they are appropriate. Clause 19 inserts a section 85 provision to which I have already referred. Basically it gives protection to the police ombudsman in the discharge of his duties.

The final part of the bill is part 4, which deals with the Whistleblowers Protection Act. It is in similar terms, generally speaking, to that which has gone before and is intended to ensure that appropriate protections are extended also to the preparation of that act.

So in a general sense they are the provisions contained within the bill. But the problem is that the issue does not stop there. We have police officers talking about the necessity for legislation with a broader import and scope than the legislation now before the house. It seems to me that police officers would not be talking about this issue unless they had given the development of these sorts of initiatives appropriate consideration. It is not the sort of thing that is said loosely. It is certainly not the sort of thing that would be commented upon on the way it is by senior police officers, including the Chief Commissioner of Police, in the manner we have seen over recent days.

Apart from all of that there are simply not enough resources being devoted by the government to giving effect to the initiatives before the house. The Premier has talked about adding to the powers of the Ombudsman in the way this legislation sets out, but in terms of resourcing the Premier has offered the Ombudsman's office \$1 million in additional funds, and for reasons I will illustrate in a moment that is simply insufficient resourcing to go into this important task.

The other element that is a vital matter of consideration in all of this is that this is a specialist task. We need a new body with a capacity to look at these issues, particularly so far as the potential involvement of police is concerned, in a way which we have not seen up to date and to have it done by someone who is a specialist in that role. I make that comment also with the very greatest respect to the Victorian Ombudsman who I think is an eminently capable person, but as things have evolved there has been a sea change in our needs here in Victoria.

We need someone in the form of a retired judge or a senior member of counsel who has had broad experience in the criminal law. That is so because the best barristers when I was in practice were those who had been involved in criminal trials. That was because the conduct of criminal trials was the best way to teach one the rules of evidence. And the best judges are those who have come from the sphere where they have had a history of being involved in the conduct of criminal trials, at least to some extent, because in turn and with respect to the judiciary they have carried through their abilities into their roles in the judiciary.

I thought this issue was summed up very neatly by Simon Illingworth last night, as is reflected in the reports today in the newspapers. He said it is not a question of cat and mouse, it is a question of cat and cat. The distinction he was making was it is not a question of two unequal forces here. It is not the usual

sort of circumstances where you have skilled and able police officers knowing the way the system works interviewing someone without the talents to know how the system works. Rather it is police officers investigating particularly police officers. Those police officers under investigation know well how the system works and they go through the loopholes, they know how to take best advantage of the law as it stands. It is the reason that we are now in a situation in Victoria where whoever chairs this new organisation, which I advocate and which I understand the opposition to be advocating, needs to be someone who has these intrinsic skills which come with practising in this sphere of the law for a long time and in a lot of circumstances.

So I move to what the government should do: I believe it is timely for the government to establish what I term the Victorian corruption and crime commission. I believe this entity should be established under its own act of Parliament. It should be resourced and empowered in a manner which is appropriate to the needs of the day. There are plenty of models around Australia and internationally, and before going to those models I emphasise the position that currently applies to the Ombudsman's office in Victoria because at the moment that is the office of choice through which the government intends to direct these investigations.

I might say that that was an initiative that up until the last couple of days I also have supported, but over the last weeks and months the government has simply not moved along with this and I do not think now the position in relation to what is proposed by the legislation will be enough for our needs. So far as considering options is concerned, I put my proposal for this position in Victoria. Current investigations, if this legislation takes effect, will be conducted through the office of the Ombudsman. At the moment he has a budget of \$3.6 million and a staff of 20 people. In addition to that the government has proposed to add \$1 million to the resources of the office of the Ombudsman. Other investigations are carried out by internal forces within Victoria Police. There is the ethical standards department and the other corruption division — they are specifically designed to deal with these issues.

But I say again that we have to move on from there. With the greatest of respect to the police officers involved, they face the fact of being in and out of those sectors of Victoria Police with the passage of the years. In the public eye, whether or not we like it, there is always that element of investigation and tailing — that is, of police investigating police. We have to move on to a different model, but at the moment, the

Ombudsman's budget and resourcing are of the nature I have outlined.

It is relevant, therefore, to look at what applies in other parts of Australia on these issues. I will consider, for a start, New South Wales. The Police Integrity Commission has a budget of \$16 million and a staff of 107 people, the Ombudsman's office has a budget of \$15.8 million and a staff of 186, the Independent Commission Against Corruption has a budget of \$16 million and a staff of 101, and the New South Wales Crime Commission has a budget of \$14 million and a staff of 108. There is a total contribution of \$61 million, together with 502 people who are engaged across those different agencies in the pursuit of the issues that are being discussed before this house today. All of those organisations in New South Wales have a rich history, but when you compare those figures to our resourcing in Victoria there is a lesson for us and a lesson for this government to take note of.

In Queensland the Crime and Misconduct Commission has a budget of \$30 million and a staff of 276 people. In Western Australia the Corruption and Crime Commission, announced this year by the Western Australian government, has a budget of \$20.5 million. Presently it has a staff of 90 people, and there is a long-term plan to increase that number to 150. Other jurisdictions around the nation have lesser structures than those I have just referred to, but any one or a combination of those that apply in New South Wales, Queensland and Western Australia offer realistic options for Victoria. I urge the government, once again, to adopt one of those models.

I gleaned the material that I have just referred to from an article in the *Sunday Age* of 23 May at page 8 of the news supplement. The information was compiled by Julia Medew and Bob Bottom, and the graphic presentation was by J. Bowman — whomever J. Bowman may be! I thank all concerned for making those figures so readily available.

There are a number of factors at play in all this. The Nationals support the legislation before the Parliament, because we think it is a step along the way. We do not believe, though, that it is enough. We strongly believe that Victoria Police taken as a whole is an outstanding group of people doing an extraordinary job under difficult circumstances. From my years of practising law I am able to say, having had a long association with police officers at all levels, that I have the greatest admiration for the job they do. It is intrinsically a very difficult task. As I have said before in this place, being a police officer gives rise to one of those few instances in our community where you are licensed to lay hands

upon another individual and where you can rob another individual of that person's freedom. It is a huge responsibility for police officers, and I have nothing but the greatest admiration for them.

Part of the tragedy of what we have before us is that the efforts of a few individuals who continue to conduct themselves in a way that the community at large recognises entails illegal activity besmirch the wonderful reputation that police at large properly enjoy in this state. The end result is that the integrity of the police force is also being damaged, and that of course flows over to serving police officers at all levels. It is nothing less than a tragedy, and we have an obligation to do everything we possibly can to address it.

This requires a new approach. I do not believe that building on what we already have is enough. I might say, as I have already indicated, that I am a reluctant convert to that point of view, but I have come to that conclusion nevertheless. I do not believe that the initiatives that are being undertaken in adding to the Ombudsman's office are going to be enough. We need a specialist entity. It needs to be an entity which is skilled, which is schooled in the ways in which police undertake their work, which is appropriately resourced and which is empowered. These are all important aspects of a new entity the nature of which I have described.

A Victorian corruption and crime commission is appropriate to our needs going forward. The person to chair that should be a former judge or a senior counsel practising in whatever jurisdiction, Victoria or otherwise. We need the best to be able to do this. We need that person to be an individual who has had an extensive history at the criminal bar looking after issues which entail a proper, long and detailed examination of the way the criminal mind works. We need a person who is also schooled in the skills of how police go about their task. In particular we need a person who has a fulsome understanding of the Evidence Act in all its forms.

This new entity for which I am calling should be created under its own act of Parliament. It is an important issue, because the powers that are being talked about are spread about in disparate pieces of legislation. We need to bring it together so that everybody concerned has a clear understanding of what those powers are, what they confer upon those who will be giving effect to them, and what the outcomes of their application will be.

We need to be able to investigate these criminal elements in a manner that is appropriate to the needs of

our community. To that end all the powers that are scattered through those different pieces of legislation should be brought into the new legislation, including those to which the Premier referred today. I applaud the government for the initiatives that were referred to today; they are another step along the way.

It is very important that there is a capacity in this new enterprise to refer its report straight to the Office of the Director of Public Prosecutions and to enable the DPP to give effect to those matters as and how they think appropriate.

It is also important that the government be kept in the loop of this activity. but it is a secondary consideration, quite frankly. The issue here in the first instance is to attack this in the manner that it deserves. What will we get by way of outcome from a process of this nature? It would firstly be a message to the decent police officers who continue to serve this state magnificently that we in this Parliament are not prepared to put up with the garbage which is being perpetrated by a few of their number, which we now see in operation. It would be a clear message to those decent police officers that we applaud them for the wonderful work they do and are prepared to do everything we possibly can to enhance their difficult task and make sure they can do it in a way that, for the most part, they are wanting to do it. It would be a clear message to the Victorian public that the government and the Parliament at large recognise that we need a new approach to the way in which we have historically dealt with these issues in the past. Thirdly, it would be a message to the criminal elements in this state, police and otherwise, that this is a new day and that we are going to approach these crucial matters with a clean sheet, if you like. It would be a clear message to them that we have the courage to do that.

I say to the government that, for its part, I understand there is a leap of faith involved in this. I freely say in the context of what I hope is a bipartisan approach to all this that governments of the day of whatever order do not like the principle of making a leap of faith because ultimately they cannot control the outcome. I understand that, but I think that this has now reached a point where we need to step away from the accepted models we have historically had in Victoria. We need to move to something in the nature of that which applies in most other jurisdictions around Australia. We need to move on in a way that faces up squarely to the sorts of challenges that are being presented to Victorians given the way the criminal element is conducting itself in our state.

Finally, therefore, I exhort the government to show leadership in this. There is a capacity here for the

government to do things that would demonstrate to all concerned that it is sure of what it wants to do and that it is prepared to think outside the square in an historical, Victorian sense and tackle these issues in a way that is accepted in other parts of the nation as being appropriate. I do not believe there are any demons in this. I think, rather, that this is an opportunity for this government to show the leadership for which the Victorian community is crying out.

Mr MILDENHALL (Footscray) — The opposition parties have come in here in a created atmosphere of crisis, saying, ‘We must act urgently. We must assemble a new bureaucracy to tackle organised crime and police corruption in this state’. I put it to the house that the reason for the increased public controversy, discussion and interest in this issue is that we are getting to the business end of some very successful investigative and crime-fighting efforts both within the police force and in terms of investigating organised crime.

As a result of the work of the Ceja task force, 13 people have been charged and many more are under investigation by the ethical standards unit; and through Operation Purana, 5 people have been charged with murder. In response to these disclosures and to the continuing incidence of gangland killings, the government has come up with a suite of enormously increased powers and capacities to enable the state to deal with it. The opposition’s answer of course is bureaucracy. The government’s answer is not about bureaucracy, it is about the powers in this bill to extend the ability of the Ombudsman to initiate his own investigations into police matters, including the power to require police and others to answer any questions, even if the answers could be self-incriminatory, and the power of search and seizure, subject to obtaining warrants. The government has also announced additional resources for the Office of Public Prosecutions to streamline and speed up prosecutions and the seizure of the proceeds of crime.

Today the government announced that the chief commissioner will be given additional coercive questioning powers to force alleged underworld figures to provide information to those investigating organised crime and to deal with the issue that the police minister has called the preference for criminals to be killed than to cooperate with police. The chief commissioner will also be given the power to ensure that the right of gangland identities to refuse to answer on the ground of self-incrimination is removed and that evidence gained from their answers will be able to be used against other alleged criminals in court proceedings. A senior judge will oversee these new coercive powers.

There were also announcements today to greatly increase the powers of police to confiscate assets. They are an extraordinary range of powers that are strategically, surgically and resource-intensively aimed at organised crime and corrupt police officials. The opposition does not have the answers on this matter. On 9 April the Leader of the Opposition said, ‘I want something that is a watchdog, like a crimes commission, but I do not support a separate bureaucracy. I believe it can be done within the Ombudsman’s office, but only if it is properly resourced’. Today he read to the house the contents of his article published in this morning’s *Australian*, running through, item by item, what his new bureaucracy would do.

The two differences between the powers the government proposes and the powers and functions the Leader of the Opposition’s bureaucracy would have are prevention and education arms. Everything else is provided in the powers the government is giving the police ombudsman’s office, but the two different functions proposed by the Leader of the Opposition are prevention and education, as well as a range of other things like surveying the population.

The community will be educated and crimes will be prevented when these criminals are dragged through the court. The community is expecting convictions, and the officials are working towards that being achieved. That is what gives the clearest signal to criminals, to the police and to the community, not setting up bureaucracies. How long would it take to set up a royal commission? We would need to appoint a commissioner, new staff and officers and set up structures. These things take many months.

This government wants to get on with it. We are getting traction. The government and the police, through their efforts, are getting significant traction and are achieving a number of important prosecutions. We do not want to interrupt that process with the distraction of setting up another bureaucracy. We want to enhance, strengthen and assist that work and make it more potent and more effective.

The Leader of the Opposition and the Leader of the National Party both made the extraordinary inference that the present system is not sufficiently independent. We need to reinforce to the opposition and the National Party that the Ombudsman and the Director of Public Prosecutions are independent officers answerable to the Parliament. How much more independent does the opposition want a person overseeing this process to be?

Mr Wells interjected.

Mr MILDENHALL — If the opposition believes there is someone more independent than the holder of a position protected by the constitution, I am sure we will be all ears to learn who that person is.

We also had the extraordinary claim by the Leader of the National Party that the government's announcements are dressage — that is, he claims that an extraordinary range of coercive powers such as removing the right to refuse to answer, the use of answers in prosecutions and new search and seizure powers are dressage. What an extraordinary claim! The Leader of the National Party also claimed that clauses 12 to 14 in this bill, which provide that the police ombudsman must inform the police commissioner of his activities, unnecessarily involves and by inference contaminates the independence of the police ombudsman's activities. The power of informing does not by nature do that. It has been a traditional, longstanding power that the Ombudsman has indicated he would continue to abide by, whether it be in statute or not. It is standard practice to inform either departments or the chief commissioner that their officers are under investigation.

The Ombudsman also has the power to request all the resources he needs, not only from the chief commissioner but also from the Minister for Police and Emergency Services. The resources are there and the powers are there, but all we have from this crowd opposite is, 'Let us set up a bureaucracy'. The Leader of the Opposition said as much in the *Australian* this morning. He said that unless the government agrees to this new anticorruption body the Liberal Party would make this issue a political football.

The Victorian community will judge the opposition and the government by results. This skilled police force, with brave and fearless investigators like Simon Illingworth, is getting traction. Victoria Police is producing results, and the government will assist it and get the results. We will not be distracted by the opposition wanting to set up its bureaucracy and to divert the whole process into talkfests. We want results, and we will get there.

The ACTING SPEAKER (Mr Kotsiras) — Order! The member's time has expired.

Mr WELLS (Scoresby) — I join with other members to address the issues of the Ombudsman's Legislation (Police Ombudsman) Act, and I will make a couple of points in regard to the purposes of the bill. The purposes of the bill are to abolish the office of deputy ombudsman and create the office of the police ombudsman in its stead and to broaden the investigative

powers of the Ombudsman in relation to members of the police force. The main provisions are the abolition of the role of the deputy ombudsman — the deputy ombudsman will fulfil the role of the police ombudsman — the creation of the new capacity to instigate investigations rather than await a complaint and the widening of powers of entry, search and seizure where a warrant is authorised by a magistrate.

Firstly, I thank the Premier for the excellent briefing members of the opposition received. But let us move on. The Liberal Party supported the government right up until the middle of last week in the view that the model for the police ombudsman, which is the proposal before us at the moment, was the right way to go, but it was conditional. The government said it was going to give additional resources and extra powers to the Ombudsman and that we had the assurance that the Australian Crime Commission was working down here in Victoria, and working well.

So let us look at those two areas: the Australian Crime Commission and the additional powers to the Ombudsman. On 1 April this year in answer to a question from the Leader of the Opposition the Premier said:

... those very coercive powers have been sought and were given to the Victoria Police by the Australian Crime Commission three months ago.

That is what the Premier said. If that is the case, what have the Bracks government and the Victoria Police been doing in regard to the Australian Crime Commission? The fact is that you cannot transfer the powers of the ACC to the Victoria Police; that has never, ever been the situation.

The Australian Crime Commission's powers of coercion can be given to the examiner, and now he is in Victoria and is working down here, but this shows you that the Premier of this state simply did not understand the issue of coercive powers being transferred from the Australian Crime Commission to the Victoria Police. That did not happen.

So let us get to the Ombudsman. The Bracks government promised additional resources. Can you believe \$1 million to increase the resourcing of the Ombudsman? That is pathetic. If you are going to fix the problem, it is going to need dollars to go with it, and \$1 million is pathetic. You are going to buy some pens and cardigans, but you are not going to get to the sharp end of the investigations to be able to fix the problem. We do not want to pay for more bureaucrats in the Ombudsman's office. What we want is hard-nosed

investigators, and that is not what this government is on about.

Let us look at the bill. I was interested in the comments made by the member for Footscray. Under this bill is the Ombudsman independent? How could he possibly be independent or at arm's length from the Victoria Police? New section 86NA(2) states:

Before conducting an investigation on his or her own motion, the Police Ombudsman must inform the minister and the Chief Commissioner in writing of his or her intention to conduct the investigation.

So how do you know it is at arm's length if before he can proceed he has to inform the chief commissioner and the police minister in writing? Where is the independence of the Ombudsman under this legislation?

I want to pick up another point made by the member for Footscray, who said very clearly that the Ombudsman can just ask for the resource and it is going to happen. Let us look at the legislation. It might be worth while for the member for Footscray to look at new section 86P, headed 'Investigations by the Police Ombudsman', subsection (3). It says:

At the request of the Police Ombudsman, the Chief Commissioner must make available to the Police Ombudsman any members of the force that the Chief Commissioner thinks necessary to assist the Police Ombudsman in the conduct of the investigation.

In other words, it is not up to the police ombudsman to say, 'I want 20 investigators to work on this particular case'. Under this bill he has to go to the chief commissioner, and she will determine how many police officers he will get. Are we right? Has the Labor Party misunderstood its own bill?

The chief commissioner will determine how many investigators or officers she thinks are necessary to assist the police ombudsman in the conduct of the investigation. In other words, she will determine the resourcing and he will be left out on a limb, because if he does not have the dollars — and he certainly will not have the resources for an investigation the chief commissioner does not agree with — she is the one who can say, 'I might only put four officers on this particular case, because I do not think more are necessary'.

If the member for Footscray can show me anything in this bill that says the police ombudsman can determine his own resources from the Victoria Police, I would like him to point it out, or maybe the Premier can do that during the summing-up.

As I said, until the middle of last week we had an understanding that we would support the government. We have changed our minds because the additional resources of \$1 million that are to be given to the Ombudsman are pathetic. The extra powers are not extra powers, and they are also pathetic. The legislation does not protect the police ombudsman's independence. He is not at arm's length. I am still waiting for someone from that side of the house to point out where in this legislation — anywhere in it — it says the police ombudsman can determine his own resourcing from the Victoria Police. There is silence.

The reason why we have changed our mind is that the government has reneged on the police ombudsman's resources and additional powers. But it goes further. The Leader of the Opposition and I were given some information in the middle of last week that a police officer's wife and child were followed to kindergarten by a person connected to the underworld killings. It is also publicly known that two bullets were put in the letterbox of a police officer, one with his name on it and one with his wife's name on it. We also know that an anticorruption police officer having a drink was confronted by an allegedly drunk police officer on charge and a person connected to the underworld. That is why the Liberal Party has changed its position. We took our position last week based on the information we had before us. Further information has been given to us, and the government has let down the people of Victoria.

We do not support a royal commission. We saw what the Bracks government did regarding Intergraph and the Metropolitan Ambulance Service — what a disgrace! It spent \$80 million and it was just a political witch-hunt that did not resolve one issue. In fact now the government's Emergency Communications Victoria is performing far worse than Intergraph ever did, but do you hear calls for a royal commission into the performance of the government's own company? No, not at all.

We are saying that the Ombudsman legislation will not work in this situation, but an agreement has been struck between the Liberal Party and the government that we will not oppose this bill.

The Leader of the Opposition outlined very clearly five elements that we think an anticorruption commission should have. We also believe there needs to be a career structure in the anticorruption unit. At the moment it is not working. You cannot have a person in there for three years doing as little as possible because he knows he is going back out into mainstream policing. That is just not fair.

The last point I want to raise is that these anticorruption police officers must, as a priority, have the protection they need to get on and do their job. Of Victorian police, 99.99 per cent are outstanding; we just need to make sure it is kept that way.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak in support of the police ombudsman bill. I am particularly pleased to do that because I think this bill — together with the other measures the government has announced today — will be a key weapon in the fight against police corruption and organised crime. It has become increasingly clear that it is necessary for the government to grant further powers, not only to the police ombudsman but also to the chief commissioner, in order to attack this problem and root it out.

This bill establishes a new office of the police ombudsman. I think it is important to note that the bill gives the police ombudsman clear authority to investigate police matters. No longer will the police ombudsman have to rely on complaints being made about police conduct. This bill allows him to undertake investigations on his own motion. He will be able to investigate the conduct of members of the force or any of the policies, practices or procedures of the force. In doing so he will have the power to abrogate the rule against self-incrimination. I think that is an important point, because if we look at clause 14, which inserts proposed section 86PA(4), we see that it will not be a reasonable excuse for a person to fail to provide information, produce a document or thing or give evidence for the purposes of an investigation, on the grounds that this may incriminate the person, if the police ombudsman certifies in writing that, in his opinion it is necessary in the public interest.

What we are doing in this area is granting to the police ombudsman many of the powers that were given to royal commissions in 1998. I think that has been overlooked in a lot of the debate about this bill we have heard from commentators and from the opposition. This bill provides those types of powers.

For example, the police ombudsman will have royal commission-type powers to enter and search premises, copy documents and seize documents or things. This will be done with the authorisation of a magistrate. If you combine those with the new powers that have been announced by the Premier today — the extra resources for Victoria Police and the Office of Public Prosecutions, and the new coercive powers in relation to tougher asset confiscation laws — you can see that the government has put together an effective package for tackling both organised crime and police corruption.

I was astounded to hear the Leader of The Nationals describing these measures as ‘dressage’. Allowing the police to make applications to seize the assets of suspected criminals before they are even charged with offences is not in my view dressage. It means that underworld figures will no longer be able to hide their ill-gotten gains through money laundering or other fictitious arrangements; they will have to prove that they have not gained their money or assets through crime. This is not dressage; this is a major weapon in the fight against crime and one which I am prepared to support on the basis that the applications for asset confiscation will be overseen by the judiciary.

Nor is it dressage to give the chief commissioner coercive questioning powers that will allow her to require answers to be given by criminals under investigation thereby removing their right to refuse to answer on the ground of self-incrimination. These important powers are quite coercive, and they are powers which this Parliament should only grant in exceptional circumstances, which there are in these cases. They involve a significant departure from the rule against self-incrimination, but the thing that gives me comfort is that they will be subject to the oversight of a senior judge.

I want to say this: no-one on this side of the house underestimates the seriousness of the organised crime and police corruption which confront us in this state. But we have recognised the need to provide those powers now, to get on with the job and to not spend months setting up a bureaucracy in the form of an anticorruption or crime commission that will only detract from the efforts and the focus of the police, the police ombudsman and the chief commissioner in tackling this most serious problem. I commend the bill to the house.

Mr INGRAM (Gippsland East) — I wish to make a brief contribution to the debate on this important piece of legislation, which provides the Ombudsman with the power to further investigate inappropriate police behaviour, police corruption and organised crime when it is linked with the police. The community needs to have a great deal of confidence in its law enforcement officers. If it does not have that, our democracy and our system of government will ultimately be put at risk.

When this issue first came up I was asked by a journalist what my view of it was, and I was out on my own a bit at that stage. I believed the situation had got to the stage of being too serious and that further powers were needed. I recognised the concern about royal commissions and how they can get out of control, cost a lot of money and end up becoming feeding fests for

lawyers. At that time I made the observation that the community was losing faith because of the small number of law enforcement officers who were doing the wrong thing and that we needed some type of crime commission for a special, one-off, thorough investigation which would provide the certainty the community wanted to restore its faith in its law enforcement officers.

I support the provisions in the bill. My personal view is that we need to go further, and I said that when the issue first came up. I have had some discussions with my fellow Independent, the member for Mildura. He and I differ on this — his view is that this is sufficient. It is my view that the community is losing faith in the ability of the Ombudsman and others to undertake investigations.

I believe the powers in the bill are needed because we have to get to the bottom of what is going on. I acknowledge the chief commissioner is doing a good job in making some of these issues public. That is important, but making them public creates some uncertainty within the community, so we need to put them to bed and make sure any investigation has the thorough support of the community. I put on the record my belief that we need to go further, and that has been my position for a long time. I do not know where else we can go with this now, but this legislation needs to be supported so it can go through fairly quickly and the community can rest assured that all sides of politics, including the government, and law enforcement officers will do their utmost to make sure that corruption is rooted out wherever it exists.

Mr HONEYWOOD (Warrandyte) — The member for Footscray, who fled the chamber earlier, claimed that the opposition's answer to police corruption is just to create a new bureaucracy. What hypocrisy! We all know that Labor governments thrive on additional bureaucracies. We all know that the biggest tenant in the city of Melbourne is the state government and that it rapidly moves to expand and create any number of bureaucratic units to implement its inept policies. Apart from that hypocrisy, what the member for Footscray was saying is outrageous on two levels that are specific to this bill. Firstly, the opposition is not opposing the bill before the house. Not only that, in question time today the opposition leader extended an offer to the Premier, which the Premier happily accepted — that is, the opposition would rush this legislation, half-baked as it is, through both houses of Parliament tonight.

To then argue that we are doing something else by arguing for a separate bureaucracy totally ignores the fact that this legislation is going to go through

Parliament in record time and the government will get what it wants in this regard. The member for Bentleigh stood up and tried to justify the reason that we could not have a further objective layer to ensure that we had a truly independent — and I stress the word 'independent' — umpire when it comes to police corruption. The member said, 'Oh well, of course it is going to confuse people and the whole police ombudsman's powers will be distracted while the opposition goes about pushing for an independent commissioner'.

At the end of the day we are rushing this legislation through so the government can get what it wants. But the problem is that more of the same is just not good enough! The community of Victoria is crying out for an answer to gangland killings and to abhorrent drug culture. I would have thought that members know that more of the same from this government is just not going to work.

It is very interesting to look at the whole notion of a separate bureaucracy because, as the member for Footscray should be aware, the role of the bureaucrat nowadays is to answer to their political masters. It used not to be the case; it used to be without fear or favour. But the way in which the current government has politicised every head of department and the way in which the upper echelons of our bureaucracy are now controlled by Labor Party friends and fellow travellers are such that we cannot talk about a bureaucracy without fear or favour. Rather than establishing a new bureaucracy, what we are doing is trying to ensure that we have true independence.

The members for Footscray and Bentleigh have come into this place and said that the police ombudsman will be truly independent, despite the fact that he will have to go cap in hand for resources to the minister of the day and the Chief Commissioner of Police to do a proper investigation and that he has to provide a copy of his report prior to publication. He has to go helter-skelter to the Minister for Police and Emergency Services — and we really do have a great deal of trust in the current Minister for Police and Emergency Services, with the police files scandal that he is dirtying his hands with — and he has to go cap in hand to the chief commissioner's office.

At the end of the day we know what happened in Queensland when somebody went to a police commissioner. It is not the individual police commissioner that we have concerns about. We have a concern that a report that goes from the police ombudsman to the chief commissioner, whoever the chief commissioner is, will undoubtedly go through the

office of the chief commissioner. This means that it will not be just one person who will be looking to have a private pre-read. It will be any number of people in a particular office — as we know, the way bureaucracy works — that will have the ability to sight that document or have inside information.

To expect any chief commissioner to say, 'Thank you very much, police ombudsman, I am going to lock this away in my private desk and nobody else will read it', is to be totally ignorant of the way bureaucratic processes work. Separately we come to the situation where this government, which is not content enough to control the message, has to turn around and say, 'The police minister gets to have a look at it as well'. We all know that it will not just be the police minister; there will be any number of his Labor fellow travellers who will have the chance to have a pre-read of that report, just as has happened with the police files scandal.

At the end of the day why does the Premier not want an independent crime commission? The reasons are quite simple. This government is addicted to controlling its media message. We all know that members opposite live in fear of the call from Sharon McCrohan. We all know that they live in trepidation that the Premier's media unit will make that phone call to tell them they have misbehaved yet again and that they have not followed the government line.

Members opposite are so concerned about controlling the spin that they do not trust an independent commission against corruption not to embarrass the government of the day. That is what this is all about — members opposite trust the police ombudsman because they know he has to come cap in hand to the government before he can publish anything, but they do not and will never trust an independent crime commission simply because they do not want someone else to control the message at arm's length from them. The government is worried sick about the media being able to get hold of the information it wants to see first. No government in the history of Victoria has been more concerned about spin than this government.

In addition the Police Association has now returned to the fold and is part of Trades Hall Council. We know that the Premier is very concerned, because he is beholden to the trade union movement, to ensure that he follows the dictates of the trade union forces. Members opposite go cap in hand to get instructions from the trade union head office. If you have a police association which is an organised trade union and a member of the Trades Hall Council and which, theoretically speaking, does not want a certain measure to come into place, then who is to say that the Premier

of the day will not feel beholden to the trade union and will not just say, 'So much for leadership, so much for giving Victorians the true independence they want — we are going to do the union's bidding and beef up the Ombudsman's powers'.

Let us not forget that what we are talking about here is the abolition of the role of the deputy ombudsman. We are not just talking about a situation where we are expanding the powers of the Ombudsman, we are actually abolishing a position in this bill — and no member has yet referred to that. We are abolishing the position of the deputy ombudsman, who had a specific role in this regard. We have the government saying that on the one hand it is going to abolish this position and those resources, but on the other hand it is going to throw some breadcrumbs — \$1 million — the way of the Ombudsman's office. A million dollars would not pay the travel allowance of the Minister for Manufacturing and Export, who is at the table, let alone pay for the staff in his department, which does not exist.

At the end of the day, do we really believe that when you report to a chief commissioner or a minister as a matter of course that report will not go through many hands? The many hands it will go through could set up a situation like that which occurred in Queensland, where a chief commissioner was put in jail because he was part of the problem rather than solving the problem. We have faith in the current Chief Commissioner of Police, although she has been very quiet on this issue for some weeks; however, we have real concerns about the way this government, in its desire to control the spin, in its desire to ensure that Sharon McCrohan runs the government agenda day by day, has ensured that nobody outside this government can dare come forward with independent advice without fear or favour.

The government has politicised the bureaucracy. It has put Labor friends and mates in all the senior positions in our bureaucracy, and it will pay the price for it, because when you try to control the message eventually you get caught up with. Eventually the public of Victoria will see that it is all window-dressing and that there is no genuine desire to let the truth prevail. Proper law and order will be the price we pay for the attempt to control the message in this way.

Mr LANGUILLER (Derrimut) — What has come through very clearly today is that the opposition has not been able to make a case for any other option for dealing with crime in Victoria. I rise today to support the Ombudsman Legislation (Police Ombudsman) Bill. It is a good piece of legislation. It will amend the Ombudsman Act 1973 to create the office of police

ombudsman and abolish the office of deputy ombudsman. It will also amend the Police Regulation Act 1958 and the Whistleblowers Protection Act 2001 to broaden the powers of investigation into police by, among other things, giving the police ombudsman power to investigate police conduct, policies, practices and procedures on his or her motion. The bill further gives the police ombudsman the power to demand answers and other information regardless of self-incrimination, as well as powers of entry, search and seizure upon obtaining a search warrant. These are royal commission-type powers.

I wish to refer to an interesting article which appeared in the *Sunday Age* of 23 May. Former New South Wales Court of Appeal justice Tony Fitzgerald, the author of the Fitzgerald report into police corruption in Queensland in the 1980s, was quoted as saying two criteria would need to be met before an independent inquiry was needed. He said that one is that there are obvious indications of problems in the police force and the other is a sufficient basis for public concern that the existing sectors of government cannot solve it. Fitzgerald said that if there is an issue — which there is — and if the existing powers of government cannot deal with the issue, then there may be grounds for establishing an independent inquiry.

The Ceja internal police task force has recently charged 13 people, including 7 former police officers. The Purana investigation has led to 5 people being charged with murder. The ethical standards department, which is part of the Ceja investigation, has charged and investigated a number of officers. It would be fair to say that existing sectors of government and indeed the Chief Commissioner of Police have been doing an extraordinary job. They have been most successful and have been able to pin down more people through charges and investigation than has been possible for a long time.

It appears to me there is a question regarding perception and facts in terms of the achievements of the Chief Commissioner of Police and other government bodies. It seems to me that the opposition has not made the case. Coming back to Fitzgerald in terms of the two-pronged criteria with respect to when and under what circumstances an independent inquiry should be established, he asked in the *Sunday Age*, 'If there are indications of problems in the police force — and this is very important as to the second element of these criteria — can the sectors of government not solve it?'. The success rate in terms of solving crimes, laying charges and getting people before the courts is second to none. The police commissioner and other sectors of government ought to be commended for that.

This ought to be seen as a package. Moving on to establish new bodies would at this point of time, I totally concur with my colleagues, simply divert energies, efforts and resources to a direction that would not strengthen the existing bodies and investigations that are dealing with crime head on. The package that this government is presenting to Victoria and the Parliament has new coercive powers, tougher asset confiscation laws and additional resources. More resources will be made available to the Ombudsman when and if required. The proposition advanced by the opposition that the Ombudsman has limited resources and will not be able to investigate crime is absolutely ridiculous. The opposition knows full well that if the Ombudsman were to require additional resources, he would get those resources for the purposes of these investigations.

I conclude my remarks by commending the police commissioner, the Minister for Police and Emergency Services and the bulk of the police force for their extraordinary ethical standards and their commitment to Victoria in doing a very difficult job. I put it to the house that the opposition so far has not been able to make a case in relation to the establishment of a royal commission in Victoria. The existing powers of government are doing a fine job.

Mr McINTOSH (Kew) — At the outset I state clearly what I think everyone in the house agrees with: we all have a very high regard for Victoria Police, 99 per cent of whose members are hardworking, dedicated and fearless law enforcement officers. But there is an element in the police force, and perhaps the nexus between it and organised crime — as well as the 27 people slain in this state over the last six years — that is causing us concern.

I note with some degree of embarrassment — it is not the first time I have noted this in the house — that the last three murders have occurred in my electorate. It is a matter of profound concern for me and my community that this pervasive problem can occur in one's own backyard. Indeed those three deaths all occurred within a kilometre of my own home. I walk past one of those places when I take my son to school in the morning, so it is a matter of profound concern.

The other thing which is self-evident and which everyone agrees with is that we as a Parliament and the government have to do something about it. Everybody is in furious agreement that the draconian powers we are debating, such as taking away people's right to silence and requiring them to answer questions that may lead to self-incrimination, are issues of profound concern. The Scrutiny of Acts and Regulations

Committee highlighted these issues in its report to Parliament, but as everyone in this place agrees, they are an appropriate response to the set of circumstances we face.

It is important that we have some degree of independence, and to talk about the Ombudsman as not being independent is not an appropriate response from anybody. The most important thing about this is that for a number of months we were all contemplating this from different points of view, and a variety of models were being tossed around — from a royal commission or a permanent standing crime commission to amending the Ombudsman's powers. Although we are debating the draconian powers we are putting in place — whether in relation to the Ombudsman, to asset confiscation or to any other forms of deterrence that may be appropriate as a response to this particularly serious position we find ourselves in — nobody is criticising the Ombudsman or the 99 per cent of police who are honest, dedicated, hardworking and fearless investigators.

The most important thing about this in my mind and in the minds of the opposition is that this is a missed opportunity, given the seriousness of the problem we face in this state, which has manifested itself in the streets of Melbourne and in the public gaze. One of the deaths in Kew involved not a gangland leader but his wife — a pure innocent. We do not know if she knew anything, but nothing was known in relation to her. When it occurs on our streets, including the street that I can walk along with my seven-year-old son when taking him to school, it is a matter of profound concern.

The concern the opposition and I have is whether the Ombudsman model is appropriate or whether we need to take the next step. Yes, the government is taking a first step, but we are concerned that it does not go far enough — that is all, no more and no less. We are concerned that the government, in its response, may inadvertently be hamstringing a body that can carry out the investigation. We are concerned that that will happen because the Ombudsman's office is being given a body that is so out of kilter with what it actually does that it may therefore not be effective. An Ombudsman is defined as a person who investigates complaints made about government processes. His position is based upon complaints being made to him.

This bill will give the Ombudsman the power to initiate those investigations — and he will have to get the permission of both the Chief Commissioner of Police and the Minister for Police and Emergency Services before those investigations are carried out. I think we have reached the stage where we do not actually know

what the problem is. I think it goes far beyond corrupt police and gangland killings and is instead an all-pervasive problem. Until you start scratching the surface I do not think you will get a solution to the problem. You may discover what the problem is, but you will not get the solution under the present model.

The government is allocating an additional \$1 million, and it has said that if the Ombudsman wants more resources he will get them. You talk about giving the Ombudsman royal commission-type powers without the stature of a standing royal commission or a crime commission inquiry into corruption inside the police force. What we are saying on this side is that you have to create a body that is capable of doing this. You need properly trained investigators who are able to deal with these matters. I would have thought that it would require a large number of dedicated police officers with experience in this area. Yes, that may be available to the Ombudsman, but he will have to ask the right questions for those resources to be made available. You will also no doubt need high-level lawyers and those sorts of things, and the Ombudsman will have to ask the right questions before they are made available.

You will need accountants, because I would have thought the rule of thumb with investigations dealing with corruption is to follow the money. What we have here now is a higgledy-piggledy response by the government. I have no doubt that the Ceja and Purana task forces will continue and that the Director of Public Prosecutions will be given further powers regarding asset confiscation. I can tell you what the DPP is interested in — prosecuting criminals. The DPP is not interested in a lot of these other, peripheral matters. The most important thing is that the DPP prosecutes criminals. He does not go around seizing their assets. That should be the responsibility of someone else. But the government is giving the DPP these extra powers — acknowledge that!

Mr Nardella interjected.

Mr McINTOSH — The member for Melton, the great orifice over there, enunciates through that orifice, 'Yes, it is another bureaucracy'. Why not collate all of those organisations and bodies into one permanent body that will have the power, the resources and the cultural background to maintain this fight? It is a serious fight. The fight is not between us and not about what the issues are. Everybody is concerned about crime in this state. Everybody is concerned about allegations in the police force. People are concerned about what they see on television. We are concerned about what we see in our own electorates. We are concerned about the integrity of our police force. We

want to have faith in our police force and a few bad and rotten apples are destroying that integrity and our faith.

This is the first step. We support this step, but we do not think the bill goes far enough. Perhaps it is now time to try to collate all of those different bureaucracies into one single bureaucracy. For the benefit of the member for Melton, we do not oppose this idea of draconian powers, of greater powers to deal with this significant problem. We are concerned with this one thing: it may not be totally effective. Why not address the problem now? It is a missed opportunity this government has had and will not take up, but I have no doubt that at some stage we will have to come back and collate all those different bureaucracies into one body that will actually carry out the job.

Ms NEVILLE (Bellarine) — I am pleased to be able to speak today on the Ombudsman legislation. I wanted to just make a couple of points to start with: firstly, like the other members in the house, I believe we can have confidence in Victoria in our police. Overwhelmingly we can have confidence in our police and be proud of the work they do. Certainly in my local community — and I have spent a fair amount of time with the local police — there is enormous faith in the police, who work tirelessly to protect the local community and most of whom are above reproach.

Secondly, I also wanted to make the point that I am a bit concerned about the opposition's view on this bill. It seems to me that what we have is a token support for the legislation — 'We are at one level saying we support the legislation but we do not think it is actually going to work'. My concern is about the message this actually sends to corrupt police — that the Ombudsman has no teeth; that the Ombudsman, according to previous opposition speakers today, does not have the capacity to do the work proposed under this piece of legislation. We have talked a lot, saying, 'Let us not make this issue a political football', but unfortunately — and I think the Victorian people would expect that we do not make this issue a political football — what we have seen from the opposition is that that is exactly what is occurring. We have heard today comments by the opposition leader threatening to make it a political football if we do not support the opposition's particular view on this. That is very concerning.

We have also seen from comments made by the member for Scoresby today that he is basically willing to say and do anything to turn this into a political football. He referred to a particular — and I will not mention the case — incident of risk for a particular officer, an event that the deputy commissioner had

asked the opposition not to refer to. But no, we heard about it again today, even though the deputy commissioner had concerns about raising these issues and compromising officer security.

I am very concerned that the opposition is willing to risk police officer security to score some political points along the way. The government is absolutely 100 per cent committed to ensuring that corrupt police officers are identified and removed from the force. We are now seeing evidence of that. Officers have been charged. In fact if one looked across the country one would see more, by comparison, in Victoria, even without these powers, than anywhere else in the country. This is a commitment that the government and the police commissioner have had since coming to office.

This commitment to weeding out the bad fruit within the police force is bearing fruit. A number of police officers and former police officers have been charged, but we need to do more and we need to ensure that this is done effectively. That is what the additional powers contained within the legislation are all about — providing the necessary powers. This is not about what body delivers it, it is about looking at what powers we need to ensure we have the capacity to identify and charge corrupt police officers as quickly as possible.

The other concern I have — and there is no doubt about it — is that the opposition today has questioned the independence of the Ombudsman. This is an independent statutory authority; one that is enshrined in our constitution, thanks to the Bracks government. It is responsible to the Parliament. The legislation will ensure additional powers for us to be able to identify and charge police officers in our force who are participating in criminal activities. This provides a substantial answer to some of the problems we have; unfortunately what we will see coming forward is more evidence of police corruption and more stories, and they do need to be told. We need to send a message to corrupt police that they will be found, identified and charged and that we do have confidence — and we need to be saying this clearly — in the Ombudsman, because anything else is a bad message to send.

We must act without delay. We cannot afford to turn this over to a royal commission or to an independent commission to take more and more time to identify and charge police officers. I again urge the opposition not to just give token support to the legislation. Opposition members must be out there supporting the Ombudsman and his powers, and sending with us a clear message to corrupt police that they will be found and weeded out. I commend the bill to the house.

Mr PERTON (Doncaster) — There is an atmosphere of crisis in Victoria. Twenty-seven gangland killings in the streets and in restaurants — —

Honourable members interjecting.

Mr PERTON — It is interesting that in the course of a serious debate members like the members for Melton and Hastings jeer and jibe. This is a serious debate and I think that Victoria — —

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member for Melton will get his turn. He should cease interjecting.

Mr PERTON — Victorian citizens expect better of their members of Parliament. Twenty-seven gangland killings in the streets and in restaurants is a crisis; anticorruption investigators have been bashed and threatened by other police officers; last weekend a crucial police witness and his wife were executed — and I have a member of the Labor Party smiling and laughing about it. There has been a killing on the streets in my electorate; as the member for Kew said, he has had two killings on the streets in his electorate; there have been charges against the drug squad; Australian Crime Commission officers seconded from Victoria Police have been charged with corruption offences. Whom do you call? If you are a policeman who is aware of corruption among your colleagues or in some other part of public life, whom do you call?

If the Australian Crime Commission is infiltrated, if other parts of the Victoria Police are infiltrated, it is not beyond comprehension that the office of the Ombudsman has been infiltrated. It is not beyond our comprehension that those who have access to the material in the chief commissioner's office have been infiltrated, and there is little doubt that the police minister's office could be infiltrated by those who are corrupted and who are prepared to pass information on to organised crime. There is little more chilling than last night's television program *Australian Story*, in which a police officer described sitting in a pub, having a drink, as a corrupt police officer and a killer approached him with obvious intent and threat.

My predecessor Morris Williams died in the mid-1990s. For most of his political life, and certainly throughout the 1980s, Morris Williams actually talked about these sorts of problems. In his eulogy, tribute was paid to Morrie by Labor, Liberal and National Party members. I remember the Treasurer, John Brumby, referring to his decency, honesty and fearlessness, but also to the fact that he had threats made on his life. I quote the Premier of the time, Mr Kennett:

Mr Williams' ... persistence brought serious issues to the fore, including the details that contributed to the Richmond council inquiry and the initial questioning regarding Tricontinental ... There is no doubt that on many occasions he was exposed to threats of intimidation and worse in terms of his own personal safety, but at all times he continued to pursue those issues, such as the Richmond council meatworks controversy in particular and other issues that no-one else was prepared to talk about, let alone pursue.

He actually raised issues of corruption at high levels and he was attacked by the Labor government of the time; he was attacked by business figures — he was ridiculed. But many of the things Morris Williams predicted would happen have happened over the last year in Melbourne and Victoria.

Ken Armstrong, the director of the Seal Rocks project, told me some extremely hair-raising stories two years ago.

Mr Nardella — You're kidding!

Mr PERTON — In order to corrupt society, to corrupt the public service, you have to corrupt other people as well. It is very interesting that the member ridicules members of Parliament who raise these sorts of issues. I did not make any accusation against any particular member, but the fact is that with this sort of corruption, where you have hundreds of millions of dollars at stake in organised crime, it is not just a few policemen whom these people are trying to corrupt. Ken Armstrong, in particular, raised some of these issues with me a couple of years ago and put a paper to me. At that stage, like the Leader of the Opposition, I did not want to believe them, but it turns out that Ken Armstrong was right. He wanted me to put forward a policy in favour of an anticorruption commission and I am happy to stand full square behind that idea today.

The Ombudsman does not have the capacity to undertake this work. George Brouwer is a very decent man, but his office is not set up to do this sort of work. Sir Edward Woodward, who commented on this about two weeks ago, said:

It's most important you don't confuse the role of an ombudsman — which is really alternative dispute resolution and mediation — with that of an authority investigating crime. I think it's completely unsatisfactory.

This legislation is even more inappropriate, with an ombudsman having to inform the chief commissioner before he commences an inquiry, getting the approval of the commissioner for witnesses to be examined and being required to inform the minister's office. What a joke! This is a minister who has shown himself capable of misusing police files to attack political opponents.

I am sorry, but this piece of legislation is a joke. We are not opposing it, because we made a commitment to allow this legislation to go forward, but it will not work. I hope it works. I hope George Brouwer does what he can do, but it will not be enough. Bob Bottom in the *Age* of 23 May said:

Inexplicable is the continuing refusal by the state government to introduce a state crime commission, now called for by every major newspaper in Victoria, to target organised crime figures and identify whoever they may have corrupted — police, lawyers and others.

What's more, the idea of a crime commission for Victoria has come from the police themselves, to give them access to special powers under judicial control, to more effectively deal with known gangsters and any of their corrupt police mates.

To focus only on police corruption therefore may well serve to undermine the efforts of honest police. As the Victorian Police Association has warned, such preoccupation with increasing the powers of the Ombudsman against police, while shying away from any special powers to target gangsters, could seriously affect police morale generally.

And of course others who cooperate with gangsters and corrupt police should be dealt with as well.

Last night's program sent a clear message to large parts of the community. My community has been shocked by these killings on the streets of Melbourne and in restaurants, by the killing of people in their driveway in my electorate and by the fact that one of the people charged with the killings is resident in that area. People think about and talk about this, and they want solutions. But this is not a solution.

As the Leader of the Opposition said, many of these issues are issues we have not wanted to think about. Police corruption and the corruption of public officials are things we thought were more typical of New South Wales and places overseas, but it is clear that we are not immune to it. Twenty years ago Morrie Williams started to analyse these sorts of problems. He suffered for it, not just with threats but with death threats, and his bravery was acknowledged by Labor and Liberal alike. We have to go forward with the same sort of fearlessness that he did and take on this matter.

I know that you, Acting Speaker, also lack confidence in the efficacy of this legislation. It will go through today. I wish George Brouwer and those working with him well, but I believe an anticorruption commission is what the public demands. It is what the public deserves, and it is what the honest police who serve their community in the Doncaster electorate deserve and need as well, to make sure that they know they have the confidence of the community.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member's time has expired.

Mr NARDELLA (Melton) — What an appalling address by the honourable member for Doncaster. His shining light, his crusader against corruption, is one Ken Armstrong from Seal Rocks, the same Ken Armstrong who went out of his way to take the government to court then stole \$80 million from the people of Victoria. This is the bloke — this is the opposition — who comes in here with dirty hands and wants to play politics, and is playing politics, not only with this legislation but with this whole issue of corruption, and he holds up Ken Armstrong as his shining light on this bill before the house. This debate demonstrates why the Leader of the Opposition and the Deputy Leader of the Opposition are not fit to hold their positions, are not fit to sit in the house in the places that they hold. They are floundering. They are absolutely floundering.

Mr Perton — On a point of order, Acting Speaker, the language the member has used, suggesting that members of Parliament are not fit to sit in this house, has been ruled inappropriate by previous Speakers. I ask you to prevent him using that language. It is casting aspersions on members. He may only do it by way of a substantive motion.

The ACTING SPEAKER (Mr Ingram) — Order! On the point of order, the honourable member for Melton should know that he cannot refer to particular members of Parliament in that way.

Mr NARDELLA — So here they are; they are floundering. Can I use that? Can I say that they are floundering? Of course I can, because their position and the position they put not only in this house but out there in the real world is one that shows they do not know what they want. They go out of their way to attack the Ombudsman; they attack the police; they attack the chief commissioner; and they attack the Victorian constitution. And they do that consistently over this issue. To what end? For what reason? The reason is to score political points. They have nothing to run on, nothing to say, yet they want to change their position and score political points.

Let us analyse what the opposition really wants. It wants an independent body to do investigations. What does this legislation do? It gives that power to an independent body. It gives it to the independent body called the office of the Ombudsman, which is enshrined in the constitution, which reports to the Parliament and which is independent of everybody in this house, of the executive, of individual ministers and of chief

commissioners of police. The office of the Ombudsman is answerable to the Parliament, so we are giving it that power.

What is their second point? Their second point is that resources should be available to carry out the investigations. The government has provided \$1 million. If there is a further case for more resources that will be granted. So the opposition's second wish, its second position, is granted. The opposition says, 'What about being serious and effective in fighting crime?'. The police at the moment are certainly doing that. Have a look at the record of the Ceja task force, and have a look at the seven police officers or former officers and the six civilians who have been charged. Have a look at the five charges laid under Purana. Have a look at the two former police officers who are now in jail. These are serious investigations carried out by the Victoria Police's ethical standards department, the appropriate body to weed out this corruption. But what do opposition members want? This is what they want — that is what they are being given by the police force and by this Parliament.

The opposition's fourth point is that it wants a body to be able to initiate investigations. Obviously opposition members cannot read. We should have put this legislation into cartoons, because this legislation says — if opposition members want to sit down and read it — that the Ombudsman can initiate investigations. In fact it is enshrined in the Victorian constitution. It is unfortunate that opposition members have wasted their private school education. They cannot read and they are all over the place.

The Nationals want a Victorian independent crime commission. That is what the Leader of The Nationals said. The Liberals do not know what they want. They do not want a royal commission or an independent commission against corruption. What do they want? They are going to support the bill. Is that what they want? They really have no idea.

Then you have the member for Doncaster coming up and saying that he wants an anticorruption commission. Is this the new policy of the opposition as espoused by the member for Doncaster? As I said before, the opposition has politicised this matter. Opposition members are scoring political points. They are not supportive of the police force, what it is doing and what it has achieved. It is to their great discredit that they come into this house with dirty hands.

Ms BUCHANAN (Hastings) — I rise with great pleasure to fully support this bill. I do so for many reasons: it is independent; it gives the resources that are

required to comprehensively carry out investigations; and it allows the Ombudsman to take the initiative to be able to go out there and investigate crime. I make one point. It is very salient to say that at the heart of any justice system in a civilised society there must lie a policing force that must, through its framework of operations, have the full faith and trust of the society it has been appointed to serve. The process that this government is going through to ensure that the fundamental framework of accountability is rigorously maintained is the right way to go. It is also fair to say that this government is now enacting a zero tolerance on corruption within the police force. The actions taken through the bill we are undertaking right now certainly fulfil that, and they also fulfil the expectations of the Victorian community.

There has been a lot of debate around this issue at the moment. After listening to what opposition members have collectively said I know that they basically have no position on this issue. They have rebounded. The only words that come to my mind are disgorged and rancid tripe when I look at the level of detail that has been put in by the opposition. I hear members of the opposition saying that they support this bill, but that it is a joke. What they have been doing has been a joke. This community seriously wants to have a police force that it can fully trust and have full faith in. The actions outlined and undertaken collectively through this bill and other bills that the Premier has outlined today will restore that faith in the way that this policing force in Victoria will continue to operate.

I have made those points, and there are many more that I would love to mention, but at this stage I do not have the opportunity to do so. I will make one last point — that is, that the Ceja task force in terms of what it has achieved through its efforts to date has been spectacular and better than any royal commission has ever done. I fully commend this bill to the house.

Mr JENKINS (Morwell) — I will join with all members on this side in supporting the Ombudsman Legislation (Police Ombudsman) Bill. Victoria is fortunate to have a fine, honest and hardworking police force and law enforcement agencies. You do not get that by accident. You do not get it without supporting them or without working with the Victoria Police. You get that when you have a government that is willing to work with the police and willing to make sure that the police are supported, and by making sure that you do not use every grubby political chance to undermine a police force that is second to none in this country and probably second to none in the world. This government supports our honest law enforcers. It is putting legislation into place to make sure that it catches up

when corruption comes about. Corruption does exist. There will never be an exceptional time when it does not exist, but we have handled it in the past and we will continue to handle it in the future.

The opposition has moved on from saying one thing and doing another. Opposition members said they supported community safety in the past, but when they were in government they cut the number of police. Now they say one thing and then say another. They support the legislation, our police and the work of the Ombudsman, but then they spend 20 minutes and 10 minutes each impugning the integrity of police, misrepresenting the provisions of this bill and undermining the credibility of the office of the Ombudsman. This government will not do that. I commend the bill to the house.

Mr BRACKS (Premier) — First of all I thank all members who spoke on the Ombudsman Legislation (Police Ombudsman) Bill. In particular I thank the Leader of the Opposition and the members for Scoresby, Warrandyte, Kew and Doncaster. I also thank the recent speaker, the member for Morwell, and the members for Hastings, Melton, Bellarine, Derrimut, Bentleigh and Footscray. I thank them very much for their contributions.

I also thank you, Acting Speaker, for your contribution to the debate as the member for Gippsland East. As the Acting Speaker you have now assumed an impartial position, but earlier on you occupied a different space. I also thank the Leader of The Nationals for his contribution.

The Ombudsman legislation is a very important piece of legislation for several reasons. One reason is that it gives coercive powers to the Ombudsman for the first time in Victoria's history. It gives investigation powers and also allows the Ombudsman to extend the powers to investigate under his own motion. That is a significant and profound change, as well as the royal commission-type powers which mean that self-incrimination can no longer be used as a defence in the future.

The Ombudsman is also important because he is an accountable officer to this Parliament. That has been enshrined further because the Ombudsman is also now entrenched in the Victorian constitution. That can only be changed by a two-thirds majority of both houses of Parliament; therefore the Ombudsman is accountable directly to this Parliament and through it to the people of Victoria. Effectively that ensures a bipartisan position for the work of the Ombudsman. That has not always been the case, because a simple majority of both

houses of Parliament could have changed on a previous occasion the powers and the legislation which governs the Ombudsman. This legislation does not, and its entrenchment makes sure that the Ombudsman has an independent position.

This legislation will directly and squarely ensure that the Ombudsman now has the power to examine complaints made against the police for alleged police corruption and to investigate that under his own motion and therefore ensure that that work is done effectively and well in the future. I am pleased that we are able, in association with the new powers, also to give the Ombudsman extra resources — another \$1 million in this budget — for the resources required for the administration of his office. I should add that he also has unlimited access to any other resources he requires, because as well as the administrative money — the extra \$1 million — on request any other resources are available to him if he cannot fund that out of his existing office. That has been made clear to the Ombudsman, and I will make it clear to the house as well.

For example, in the current financial year an extra \$400 000 was given to the Ombudsman over and above the existing budget, which was given out of the Treasurer's advance for that purpose. Resources are not an issue. The powers have increased, and these powers will enable the Ombudsman to have those royal commission-type powers to investigate these matters of police corruption.

I thank the opposition and The Nationals for their support on this piece of legislation. Whilst they would obviously have indicated they would prefer a different position, they have given bipartisan support to it and I am grateful for that. I am grateful for the passage of this legislation. It can now go to the upper house and powers can be given in a timely way to the Ombudsman so he can deal with the matters and the very urgent circumstances that we find ourselves in. I commend the bill to the house.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

The ACTING SPEAKER (Mr Ingram) — Order! I advise the house that as the required statement of intention has been made under section 85(5)(c) of the Constitution Act 1975 the third reading of this bill is required to be passed by an absolute majority. As there

is not an absolute majority of members in the house present, 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.

TRANSPORT LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

**Debate resumed from 6 May; motion of
Mr BATCHELOR (Minister for Transport).**

Mr MULDER (Polwarth) — The Transport Legislation (Miscellaneous Amendments) Bill is an omnibus bill, and one of those bills that has caused the opposition some concern. It seems to be a pattern with the government of the day — that is, putting together bills that amend a host of different acts of Parliament. It is not possible to carry out the amount of consultation on the legislation that there should be or to have the bill properly examined to ensure that each and every aspect is covered. It is a real concern to the opposition that this pattern seems to be forming.

The issue I will start with is a practice of VicRoads in relation to the sale of personalised numberplates. The matter that has caused us the most concern is a question that was put to the Minister for Transport, at a Public Accounts and Estimates Committee hearing. The minister was asked whether he knew that VicRoads was issuing personalised numberplates by tender or auction. The minister indicated in response that if that was an allegation and we were prepared to provide the information he would look into the matter but he was not aware of that occurring. Having been through the briefing on this matter, I am aware that the fact is it is occurring — —

Honourable members interjecting.

Mr MULDER — It is another one of the stuff-ups of the Minister for Transport following on from the stuff-up of fast rail, passenger rail, the Western Ring Road cameras, toxic waste dumps, the Spencer Street station redevelopment, e-tags and the sacking of the director of Melbourne CityLink. I do not know what

else is pending, but you have had a pretty rough old week, and that is only one week of your work, Minister.

The ACTING SPEAKER (Mr Ingram) — Order! Through the Chair.

Mr MULDER — I will continue on the issue the opposition has had concerns with. The practice of selling personalised numberplates — and their popularity — goes back to around 1984. A lot of Victorian motorists have personalised numberplates; somewhere of the order of 2000 are sold each year. In breach of the Road Safety Act, VicRoads has been selling numberplates for a price over and above what it costs it to run that part of its business. The act is quite clear in saying that the price of carrying out a service should not exceed the cost of providing it. The government is amending the Road Safety Act to protect VicRoads by validating its past practice and enabling it to continue with this practice.

The concern the opposition has, along with organisations such as the Royal Automobile Club of Victoria, is that there does not seem to be any end to the government putting its hand into motorists' pockets. Another issue is how long this auctioning and tendering process has been going on. We were advised at one of the briefings that a particular auction house was handling some of the government's numberplates. We asked that auction house if it could help us understand how the process works, because the information we were provided with at the briefing was hazy to say the least. The auction house said it had no knowledge of its having done business with the government or with VicRoads in regard to this matter. So we went back and asked the question again, and got an answer along the lines of there being some sort of brokerage or organisation involved in this process with VicRoads.

I wonder about the transparency of all this. We are talking about a huge amount of money, and we are talking about numberplates that are traded out there on the open market. We understand that there are people in VicRoads who have a sound knowledge of the value of numberplates and how to place them for the betterment of VicRoads so it can profit from the sales. I wonder why and how this has come about and how this practice has been kept so secret up to this point in time. No-one seems to understand exactly how the practice works. As I said, it is dealing with an awful lot of money, and we would say to VicRoads that if there is not a problem with it, why not provide the opposition with a full and frank synopsis of the entire process, including the organisations that are involved and how the numberplates are put out to tender or are auctioned.

A spokesperson for VicRoads said that the money gained from these particular sales went back into road safety. I defy anyone to find that particular sum of money as a line item in the budget papers. I have not identified where the money going to VicRoads comes from and what particular road safety projects it goes out to. There is a real concern with public servants being engaged with people outside the public service in a process of placing numberplates for sale, either by tender or by auction. We do not know or understand how the relationships works. I would like VicRoads to give us a better understanding of the process — and I think that would be in its best interests.

If you want to understand their value, you only have to consider what happened to a Warragul concreter, Neil Robinson, who last year purchased numberplates from VicRoads and took them home. A couple of weeks later he got a telephone call from VicRoads advising him that a mistake had been made, that he did not own the numberplates and that he was required to bring them back. In the meantime Mr Robinson had let it be known to other people in the motor vehicle industry that he had those particular numberplates — HRT 427 is a very popular number, no doubt — and that he had been offered \$10 000 for them. We are talking about a huge sum of money, when you look at the number of personalised numberplates dealt with by VicRoads on an annual basis.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr MULDER — Prior to the break I was discussing what had happened to the Warragul concreter, Neil Robinson, who had purchased personalised numberplates from VicRoads in February 2003 and had then been asked to return them — and who in the meantime had been offered \$10 000 for them. It is quite interesting to read the conditions of acceptance on the application for VicRoads plates. It states:

If at any time VicRoads decides that a combination was incorrectly issued, is offensive, a risk to security or otherwise inappropriate for public display, the plates may be recalled and VicRoads is not liable for any loss or damages this causes you.

If you are notified that the plates are to be recalled, you must immediately return the plates to VicRoads. If you do not do so, and VicRoads incurs expense in recovering the plates, you will be liable for those recovery expenses.

So the customised registration plate application and agreement form quite clearly sets out what will happen if VicRoads determines that the plates have been incorrectly issued. We contacted Neil Robinson and asked him what the current status was in relation to the

numberplates he had received from VicRoads, which it had claimed were incorrectly issued to him. He told us that he had tried to put them on his car three months ago but that a bloke, in his own words, from VicRoads told him he could not do so because he did not own them.

Clearly there seems to be a problem when numberplates are incorrectly issued and VicRoads does not follow the appropriate course of action to recover them and when — certainly not in the case of Mr Neil Robinson, but in the case of anybody else — those numberplates are then used in a most inappropriate manner. This whole process of personalising numberplates appears to have some flaws. All I am saying is that we should have an open and transparent process in place so we can all understand how the system works — firstly, in relation to issuing them; secondly, in relation to tendering for them; thirdly, when auction houses are involved; and fourthly, in relation to where the money will go if it is to operate on a profitable basis, which is obviously the intention of the amendment. This will allow VicRoads to continue down the path of issuing these numberplates in the state of Victoria on a profitable basis, which was not the intention of the original act.

As I mentioned prior to the break, I have some concerns with that, especially because it involves a significant amount of money. It is a process that not even the minister understood was taking place. It was something of a shock to hear him say words to the effect that, 'If they are allegations, I would like some information and some advice from you as to how it takes place'. I would hope that this information is now being fed back to the minister and that he will take the appropriate action to make sure that everything is aboveboard. I am not saying that issues are not aboveboard. I have had a strong relationship with a number of elements of VicRoads over a long period of time, and in the main it is a very professional organisation that carries out its functions very well. But this came as something of a shock to me. Obviously how this process was working was a shock to the minister as well, and I would ask that it be clarified.

The second issue I will comment on in the Transport Legislation (Miscellaneous Amendments) Bill is the matter relating to the court case involving Mr Halepovic, who lost his licence for two years in May of last year and refused to undergo a breath test or provide a blood sample. The Supreme Court upheld his appeal. The ruling by Justice Bongiorno was that before a person can be required to allow an approved person to take a blood sample from them, that approved person must be present. This was reported widely in the

newspapers because it meant that a number of drivers — I think there were somewhere of the order of 30 people — who had been charged on a similar basis to Mr Halepovic and who had refused to provide blood samples were going to walk free unless something was done.

What this ruling means is that, irrespective of whether there is a doctor or an approved person present to take the blood sample, no means no. Mr Halepovic said that he refused to provide blood right at that point, because there was not a doctor or an approved person there to take the blood. The Supreme Court overturned his conviction. Costs were awarded against the police and he walked free on this particular issue. I am not a lawyer, but when you look at it you certainly wonder how it came about. These rulings sometimes confound the person in the street, but nevertheless that is the way it happened.

The opposition supports this amendment to the legislation. Anybody the police believe has been drinking excessive amounts of alcohol needs to be taken off the road and dealt with by the courts. Any loopholes that allow them to refuse either a blood test or a breath test need to be dealt with immediately. Once again I point to the fact that what you find with these omnibus bills is that they address a whole host of minor issues, but hidden away in the body of these types of bills is usually something that the minister of the day is trying to cover up.

The next issue I will address is the abolition of the office of director of Melbourne CityLink. This legislation has been brought in and the government has tried to sell it to the public and to the opposition as a minor change in administrative procedures, when in actual fact we know that that is simply not the case. The office of director of Melbourne CityLink was established for the delivery of the CityLink project. More importantly, that office stayed in place to administer the contractual arrangements between the corporation and the state of Victoria.

The real function of that office was to ensure that the interests of Victorian motorists and the people who use Melbourne CityLink are protected at all times. One of the powers of the director of Melbourne CityLink is that, at any stage the director deems fit, he can send in toll inspectors to have a look at the corporation's books to ensure that everything is aboveboard and that the interests of motorists are being protected.

We understand now that the last time toll inspectors were sent in to look at the CityLink books was in 1999–2000. Since that time nobody has bothered to go in and look at

the corporation and see whether its contractual arrangements are being conducted in such a manner as to protect absolutely the motorists who use CityLink.

I am sure members would be aware that last year while the Labor Party was having one of its — what would you call it — get-togethers up in the snow — —

Mr Kotsiras — A love-in.

Mr MULDER — A Labor Party love-in! During that time a story broke in Melbourne when it was discovered that CityLink was charging motorists an administration fee for 'no e-tag in vehicle' when the batteries in these e-tags had reached the end of their lifespan and gone flat. The corporation knew this would happen at some point in time, but rather than alert motorists CityLink was charging them significant fees. Many motorists did not know that they were paying these fees and CityLink failed to notify them. These charges continued over a period of time until the matter was brought to our attention and we delved into it and found out that it was widespread.

At that time the media picked up the issue and ran with the story. The Minister for Transport flew back from the Labor Party function he was attending up in the hills and tried to say that he was on top of the issue, that he would be taking immediate action and that the government would force CityLink to refund these charges which had been debited to motorists' CityLink accounts quite inappropriately. You would have thought that that would have been the end of the process and that at that point in time the minister would have sent in the toll inspectors to look at the books and see what the situation was, but from what we understand no-one went in to look at what the real issue was.

To follow on from that, we find that CityLink again went down the path of increasing its administration costs and charges without first gaining approval from the director, Melbourne CityLink. Two issues, very close together, but we understand that on neither occasion did the toll inspectors go in to find out what was happening within CityLink. The director, Melbourne CityLink, and the persons involved and employed in that function sit in the ivory tower of Nauru House. The minister of the day probably looks through the glass partitions across at that office, and you would have thought that on some occasion he would have looked across and said that it was about time they went in and had a look at exactly what was happening with CityLink, but he did not act. He did not do a thing about it.

We understand that the overcharging on the administration fees — where CityLink bumped its fees up — cost CityLink users something of the order of \$1.2 million to \$1.3 million. We do not really know at this point how that matter was settled between CityLink and the government and whether some sort of deal was done. However, as a result of what we saw and what we knew was occurring I wrote to the Auditor-General, because I was that concerned about what I could see happening within CityLink and the government's lack of ability to act on that matter. I understand the Auditor-General is about to report to the Parliament the findings of his investigation into CityLink and the scenario around the overcharging due to flat batteries in e-tags and the administration fees. However, it reflects very poorly on the minister of the day.

Prior to this matter I discussed the issue of personalised numberplates and the minister's admission to the Public Accounts and Estimates Committee that he did not know that practice even existed, and now we have the situation with CityLink charges and the Auditor-General's report where the office of the director, Melbourne CityLink, was sitting alongside him but once again the minister failed to act. It has been well reported that the minister is having a great deal of difficulty controlling his portfolio. To me it sticks out like the proverbial —

Mr Carli — Get out of it!

Mr MULDER — For heaven's sake, don't you start. Looking after the taxi industry? When you look at the functions the Minister for Transport looks after — business of the house, ports, harbours, major projects, public transport, roads and speed cameras, and I do not know how the minister ever got involved in speed cameras but he bought his way into them — everywhere you look there is an absolute, complete and major stuff-up, every single element.

The member who interjected is the minister's Parliamentary Secretary for Infrastructure, and he has taken a significant role in dealing with issues surrounding the taxi industry. Heaven's above, the member should hang his head in shame. I have never, ever seen an industry in such a state of disarray as the taxi industry. The minister's parliamentary secretary took a key interest in the issue, and he has gutted and stuffed the entire industry. I would like the parliamentary secretary to hold his hand up and say there is one issue the government has got right. I do not believe there is such an issue at this point in time. I cannot wait for the Auditor-General's report to be tabled in this house. It will point, once again, to what went wrong with this absolute, complete and total

stuff-up with regard to the director, Melbourne CityLink.

What did the minister of the day do in relation to this? You would have thought he would have gone through this and sorted the matter out, but what he has done is transferred all of those functions to VicRoads. The way the Minister for Transport has dealt with this is out of sight, out of mind. He does not want this issue around him any more. He got it terribly wrong again and thought the best thing to do was to gut the position of the director, Melbourne CityLink, and push that function well and truly away from his office. However, this is going to go down on the bottom of the list of complete, total and utter stuff-ups which lie clearly at the feet of the Minister for Transport.

I will touch on some other issues in the bill. Once again, this is a raft of bureaucracy. We are not going down the pathway of knocking the issue of the introduction of accreditation for all non-scheduled buses for hire or reward. However, at the briefing I asked whether someone could clarify whether this affects community buses, the bus that carries the footy club, or the bus a school uses to run its non-scheduled buses to take students to different and various functions.

I have not got a response to that. The people who have been impacted by that particular clause in the legislation have not got a clue that they are going to be saddled with a raft of accreditation. I do not have a problem with the process of accreditation, because in my prior life I worked as a quality assurance consultant, implemented quality management plans in companies and dealt with the accreditation and auditing of quality management systems. Quite often minor issues can be dealt with by training the people who are involved in the delivery of the service rather than locking that particular organisational group into a very expensive bureaucratic system of accreditation. Application fees, internal auditing processes and ongoing costs and charges come with accreditation. Quite often they are designed around safety issues — and as I said, I do not have a problem with that. But safety issues can be dealt with by training the people who are going to deliver the service — the bus drivers and the people who are booking the buses — to ensure that the destination matters are sorted out.

It is very disappointing when you get an omnibus bill that deals with a raft of amendments to a host of acts of Parliament and you do not get the opportunity to get them out to the people who would like to have input. We all know that councils deal with matters in terms of process, and if you happen not to hit a particular council

with a matter you want to put forward to it, you just do not get the feedback. The issues in the bill that relate to unscheduled buses would be discussed at the clubs I was talking about earlier and at various schools. Schools are not going to pull back their school councils just to have a meeting on an issue relating to the accreditation of the school bus. Quite often you find that you get the responses to the second-reading speech you sent out well and truly after the legislation has been debated and gone through the house.

Another issue that is addressed in the bill is the interoperability of toll-road operators. The bill provides toll-road operators with the power to disclose restricted tolling information in relation to dangerous and careless driving, oversized heavy vehicles, improperly secured loads and the fixing of numberplates. This deals with people who work on the toll roads and matters that they see as endangering them in their day-to-day work. I have raised these issues in relation to the amount of information involved, the ability of the persons making the reports and the security of the information — including the question of where the information on private individuals and vehicle registration numbers go. I have been assured that that information will be passed on only to the police, who will have the power to act on those reports if they believe an offence has occurred. I do not have a problem with ensuring that the day-to-day activities of people who work on roadsides and in areas where there is heavy traffic movement are carried out in a safe manner.

This legislation also impacts on the Rail Corporations Act 1996 by expanding the financial penalty provisions for rail and tram operators to include ticketing revenue collection, the construction or maintenance of infrastructure and the provision of passenger service information. The terms are to be negotiated by the operator and the government. I wonder whether these penalty clauses will be handled in the same way as the contracts that were drawn up with Yarra Trams and Connex behind closed doors. It would be nice if you were the offender and you could sit down with the person reporting the offence and agree on what would be a fair whack across the ear if you got something wrong!

It is quite extraordinary that this particular process is being entered into. It is a reflection of the contracts between the Bracks Labor government and Connex and Yarra Trams — no tendering, all done behind closed doors, a negotiated outcome on how much they are getting to run the system and a negotiated outcome on what the smack across the knuckles is going to be if they happen to get something wrong.

The legislation covers two major stuff-ups by the Minister for Transport, the fact that VicRoads has been in breach of the act in relation to the sale of personalised numberplates, and the gutting of the director of Melbourne CityLink. It follows on from his atrocious handling of the speed cameras on the Western Ring Road, the appalling delivery of passenger rail services to country Victoria and the absolute shambles of the redevelopment of Spencer Street station. The Minister for Transport is well and truly entrenched in that. If you look at the fast rail projects around Victoria, notwithstanding his \$80 million commitment prior to the 1999 election, you can see that it is going to cost the state somewhere of the order of \$1 billion by the time they are finished. They are being portrayed by most rail experts as the greatest white elephant of all time.

Whichever way you look at the Minister for Transport's portfolio, particularly the areas handled by his parliamentary secretary, the story is the same. Take the Victorian Taxi Directorate, whereby they have had to call in a former Auditor-General, Ches Baragwanath, to sort out the stinking mess that the minister and his parliamentary secretary have created. It is quite an extraordinary story of rotting, fraud, walking over the top of people with disabilities, turning their backs on the people who use the service and trying to protect the minister and those within the taxi directorate. If they can possibly identify one single issue that the Minister for Transport has got right over the last six months, I ask members opposite to call it to my attention. They cannot find a single thing!

I note his partner in crime over there, the Minister for Manufacturing and Export, who lined up with the minister over the toxic waste dump selection sites. Was that ever a Laurel-and-Hardy exercise! What an absolute stuff-up! The Minister for Manufacturing and Export will go nowhere. That was the first effort of the minister, as a result of which he put three communities around rural Victoria through six months of absolute anguish. He completely and totally ruined their lives, then turned around and said, 'We have got it all wrong. We did not realise public land was available to put a toxic waste dump on'.

Mr WALSH (Swan Hill) — Acting Speaker, I would be more than happy to spend 20 minutes on the toxic waste dump issue, but I do not think that is the matter before the Chair. The Transport Legislation (Miscellaneous Amendments) Bill is a marathon; it amends nine different pieces of legislation — —

Honourable members interjecting.

Mr WALSH — I do not know that, to tell you the truth, but I know that Peter Byrne is a member of the Labor Party. The mayor of the Mildura Rural City Council, who is a member of the Labor Party, is not very happy with the Labor Party.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Swan Hill should ignore interjections and address the bill.

Mr WALSH — It is much more fun with the interjections, Acting Speaker.

The bill amends nine different acts. I thought I would work through those systematically and make some comments on them, including some positive comments.

Mr Wynne interjected.

Mr WALSH — If the member for Richmond listened, that would be good!

Part 2, part 6, division 3, and part 10 amend the Marine Act 1988, the Road Safety Act 1986 and the Transport Act 1983. These provisions deal with the offence of refusal to take a test. This is a complex issue and we need to make sure that we do not take away people's rights with these amendments. I understand that at the moment if a person is stopped and asked to take a preliminary breath test, they take the test and, if necessary, are taken away to undertake the full test. If a doctor is not present or someone capable of working the machine they can refuse to take the test, but because there is no-one actually present to supervise the test they are not guilty of an offence.

The amendments to these three acts will give police the right to ask a driver or a boat operator, in the case of the Marine Act, whether they will take the test and if they refuse to take the test and say no means no, the police officer does not have to get a doctor or technician out of their bed in the middle of the night to come and pretend to take the test when someone knowingly is not going to take the test. That is good for the doctor or the person who is not dragged out of bed for no reason, but we need to make sure that we protect people's rights in this case and we do not find that for some reason they are charged with refusing to take a test when they have not had the issues explained to them well or been given the opportunity to know what goes on. I understand it will also apply to the drugs bill, which I will talk about later.

The amendments to the Melbourne City Link Act 1995, as the previous speaker said, repeal the definition of secretary and director and puts those responsibilities across to VicRoads and the Roads Corporation. Unlike the previous speaker, I have had a very positive

relationship with CityLink. Through an audit it picked up the fact that I was using an e-tag from my four-wheel-drive on my car. CityLink rang me first and said it had picked up through an audit that I was using an inappropriate e-tag on my car, refunded me some money, gave me a credit and changed the e-tag.

Mr Mulder interjected.

Mr WALSH — This was only six months ago.

Mr Mulder — We smartened them up for you!

Mr WALSH — To give credit where credit is due, the system obviously worked and I was pleasantly surprised to get a refund. Sometimes the system can work and people on this side of the house can say positive things about what goes on. It may not always be the case, but if it is we are prepared to give credit where credit is due.

The bill also amends the provision where the Roads Corporation is responsible for giving evidence before the courts where there are issues with Melbourne CityLink. The most important issue regarding this part of the bill is the interoperability of tolls. One of the things society has got right between states is setting up a system so states can work together with the e-tag. I was pleasantly surprised when I was in Sydney at Christmas and was going to put some coins in the slot when the e-tag beeped, so it was great to go interstate and use the same e-tag. It is a pity that our forefathers did not have the same vision and commitment when establishing railway lines and other things around Australia, because it would have saved us all a lot of trouble. I understand Victoria is the first state to put in place legislation to set up interoperability, and I hope the other states follow suit so that it is something that we can all be proud of in Australia.

The bill also changes the definition of 'taxicab'. I understand this will allow notices to be served on taxidriviers as well as taxi owners. It is a small change but is positive for the paperwork that is in the system. On a number of occasions I have spoken about the extra paperwork and the extra hassles that the government is creating, but in this case it is doing something positive in reducing paperwork.

The amendments also extend the time for police to withdraw infringement notices beyond 28 days, provided those notices have not been forwarded to the PERIN court. It extends the range of people who can be notified to change or withdraw an infringement notice. The bill gives the power to have restricted polling information disclosed and used by other people. This is

a key part of interoperability being able to work in the future.

The bill will give additional powers to police and the Roads Corporation when investigating and enforcing certain road safety offences. Clause 15 sets out some of those road safety offences such as dangerous driving, careless driving, non-compliance with overhead lane control devices, travel by oversized, over-height and overweight vehicles and failure to properly secure a load or to properly affix and display numberplates. We all understand the issues with road safety and anything that improves road safety is good. As part of the issue of disclosure the bill puts in place a regime where records will be kept of what is disclosed and there can be some tracking into the future to make sure those details are not inappropriately disclosed.

Part 4 of the bill sets out amendments to the Public Transport Competition Act 1995. The amendment relates to the accreditation of operators on non-scheduled passenger services, which is principally concerning tour and charter masters. I also understand from consultation on the bill that most of those operators are now accredited anyhow. The majority of operators are already moving down this path. If someone under this new regime is guilty of a serious offence relating to violence, sexual assault or breaches of the public transport legislation they will not be able to be accredited in the future.

Part 5 amends the Rail Corporations Act 1996. It repeals the restrictions against one company owning more than one metropolitan train or tram service. This reflects the reality of how the system has involved. The provision also extends civil penalties for breaches of contract for passenger train or tram services or the lease of rail or tram infrastructure. One of the issues that The Nationals raised in a briefing was its concern that Freight Australia, Pacific National or whoever may buy into this industry in the future may have penalties put in the conditions that may not have been in the original contract.

I understand from the briefing that if there are any changes in the contracts and penalties are included, they will have to be by agreement with both parties. For the benefit of the *Hansard* record, we would like to make sure that when the parliamentary secretary sums up the debate on this bill that the contracts are not changed unless it is at the behest of both parties so that we do not have problems into the future. We have all said a lot in this place about the upgrade of railway lines and how infrastructure is managed. Several weeks ago we discussed the Auditor-General's report and talked about the fact that rail upgrades and the relationship between

Freight Australia and the government had not been managed well, particularly from the government's point of view.

We have all said a lot in this place about the issue of the upgraded railway lines and how infrastructure is managed. Several weeks ago we all saw the Auditor-General's report that was tabled, and we talked about the fact that rail upgrades and the relationship between Freight Australia and the government had not been managed well, particularly from the government point of view.

Division 1 of part 6 of the bill deals with this issue of personalised numberplates — that is, 'non-standard numberplates. I must admit that, like the previous speaker, I was amazed by the fact that obviously VicRoads had been doing things that were not kosher according to the rules it should have been operating under. There was not a clear set of rules as to how it should sell numberplates and how those numberplates should be handled into the future. My understanding is that these amendments verify what VicRoads had been doing previously, and although we all might want to point the finger at the current government, the time over which it has been going on covers quite a few different governments that have been formed in this place.

These amendments actually set out some clear rules as to how non-standard numberplates will be handled in the future and how the property rights, for want of a better term, of those numberplates belong to those who own them while the actual numberplates stay in the ownership of VicRoads into the future.

Division 2 of part 6 deals with the fitting of alcohol interlock devices to vehicles. One of the anomalies of the act is the fact that people found guilty of a drinking offence before 13 May 2002 when the legislation was enacted could not get their licences returned subject to the fitting of an interlock device. This provision tidies up an issue for those people who were caught before that legislation was brought in. It also puts in place a notification process where Victoria Police will be notified in the future of drivers who are making an application for the removal of alcohol interlock devices.

Part 7 of the bill amends the Road Safety (Drug Driving) Act 2003 and is like the issue that I started on — that is, it is about drivers refusing to undergo an oral fluid test and the penalties for people who do that. For a first offence the cancellation of licence is not less than three months and for any subsequent offence it is not less than six months.

Part 8 of the bill is very much an issue of the mechanics of government. It amends the Road Transport (Dangerous Goods) Act 1995, principally because of changes to federal legislation, and it changes the reference to the National Road Transport Commission Act 1991 to the National Transport Commission Act 2003, which is all about some nationally agreed rules for the carriage of dangerous goods.

Part 10 of the bill delegates some powers from the Secretary of the Department of Infrastructure to grant driving instructor authorities. As I understand it, this again is very much an issue of the mechanics of government and puts in place some administrative processes by the department. It also makes some regulations with respect to the competence, health and fitness of workers who perform railway safety work. Having seen some of the railway disasters around the world, anything that we can do to make sure that we keep our public transport system safe and operating correctly can only be a good thing.

The regulations also increase the competency, training and medical knowledge of those staff so if there is a disaster in the future, they will be able to handle it better. As I understand it, before those regulations are brought in the government will put in place the usual consultative and legislative processes. The Nationals do not oppose this bill. With the couple of cautions I have raised, that is my contribution.

Mr CARLI (Brunswick) — I rise to support the bill. It is important in that it demonstrates that the government is getting on with the job of providing good public transport and good road safety and is finetuning the various transport issues already in place.

It is very much an omnibus bill, and one of the things it highlights is that the Bracks government is fixing up the mess of the previous government. This is highlighted by the scattergun approach to the bill demonstrated by the honourable member for Polwarth, who made all sorts of accusations. He does not understand the basic transport system of Victoria, and he also does not appreciate the long-term damage caused by the previous government.

It is important to know that the Bracks government has rebuilt the public transport system. In 1999 we had a fragmented system broken up into four parts. There was no common marketing system, there was a form of subsidy that declined year by year and the system was unsustainable and was going to collapse. National Express just threw the keys on the table because it had a contract that could not be maintained.

Victoria has now gone from a model which was fragmented and unsustainable, in which the government took no responsibility for planning for growth, into a partnership. The new partnership agreements the government has made with Connex Trains and Yarra Trams, which have come into effect this year, demonstrate a new arrangement that provides for a stable public transport system. It provides for a sustainable funding level for these companies so that they do not fall over, and it ensures that we have improved standards over the lifetime of these contracts. It is important to see this as a positive rebuilding of the public transport system.

There is a failure on the part of the honourable member for Polwarth to appreciate the work that has gone into the rebuilding and the real problems that were inherent in the previous system. We can already see an improvement for passengers out of the new contracts — 100 new frontline customer service staff, extra staffing for 31 stations in the morning peak, 22 extra stations staffed in the afternoons and increased services; and for trams we have the tram priority program, we have the extensions into Docklands and to Box Hill, and we have 50 additional customer service staff in that area also.

We have also returned to a central marketing system for public transport. It is an integrated system, no longer fragmented into the four parts we saw under the previous government. To that end the bill has a very important component which allows for there to be one tram company and one train company, which finally puts an end to the fragmentation we had under the previous government. We also have Metlink as the one-stop shop for customers.

It is important to see this bill in many ways as reflecting a government that is getting on with the job. In terms of road safety our Arrive Alive strategy has seen an amazing reduction in the death toll on the roads in Victoria. We now have the lowest road toll since records have been kept. It is an enormous effort, and all we get from the other side and particularly from the member for Polwarth is carping criticism of all the measures we take, whether they are around cameras, speed or any other initiative.

As the spokesperson for the opposition he just attacks and carps. There is a whole lot of bluster in his comments, but he fails to produce anything constructive. It is important to note that road safety has historically been supported by all parties in this place. We have a long tradition of bipartisanship, which has been broken by the honourable member for Polwarth and his attitude to road safety.

It is important to see the bill in terms of the measures taken to strengthen penalties for people who refuse to comply with requirements for drug and alcohol testing. For example, the bill allows the courts to impose an alcohol interlock condition in cases where the relevant drink-driving offence is committed before the commencement of the interlock legislation. They are important measures which really add to the tool box or components of our road safety strategy. I am pleased to be speaking on a bill which further strengthens an important strategy of the government which has been extended not only to screening for alcohol but also to screening for drugs.

A lot has been said about the issue of the licence plates. Again the accusations from the honourable member for Polwarth were that somehow the Bracks government is to blame. There are some issues about what fees can be charged for customised licence plates and the rights of people who buy the plates. That issue has been around for 20 years, and the government is now getting on with the job of sorting it out and making it clear in legislation. In practice the customised licence plates system works very well. They get sold every so often, and it seems that there is not a problem with it, so all we do in that instance is to clarify an existing practice and clarify any previous misunderstandings about the rights. It is a hallmark of the transport minister and of this government to get on with it and get things done.

Changes have been made in the bill to the provisions concerning taxis committing a CityLink offence. The member for Swan Hill made it very clear that there needs to be a distinction between vehicles and drivers, given the nature of the industry. This basically allows the fines to be directed at the drivers of those taxis.

There are other changes. The bill, for example, abolishes the office of director, Melbourne CityLink, and confers his functions and powers on VicRoads. That is very much about the changing administration and the changing times. CityLink has now been running for quite a while, and Melbourne CityLink as an authority is no more, so clearly the power goes to VicRoads. There is nothing untoward about that, and certainly it is something that needs to be clarified in law. Again it is not an issue that makes a great deal of difference in current practice.

On the issue of accreditation of bus services, particularly for charter and tour buses, the honourable member for Polwarth asked what it means for community buses and buses for scouts and so on. The answer is that we are talking about large tour and charter buses. The accreditation system has now been in place in Victoria for a number of years, and it is really

aimed at charter and route bus systems and school buses. It is not about the small community buses. It is not about imposing anything on them, and that certainly needs to be clarified. We want to ensure that accreditation continues for bus services because they have been very successful in Victoria.

Most buses are now accredited. This has been a successful change in the arrangements which has improved safety, the quality of the service, the vehicles and the management of many of these companies. Every year I present awards to drivers who get accredited through the Monash accreditation course, and people have certainly got a lot out of it. It has been a successful course, and it has been a big impetus for improving the quality and standard of our bus industry. Again it is very much about the government getting on with the job and providing better transport solutions.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

SURVEYING BILL

Second reading

Debate resumed from 6 May; motion of Ms DELAHUNTY (Minister for Planning).

Mr BAILLIEU (Hawthorn) — I rise to speak on the Surveying Bill, which seeks to repeal and replace the Surveyors Act of 1978. The Liberal opposition is opposed to this bill. We are opposed to it because it undermines the independence of the Surveyor-General and fails to provide adequate protection for the fundamental functions of surveyors and the Surveyor-General in particular. In saying we oppose it I am aware that the National Party will be moving a reasoned amendment which we will support. I note that this government has actually gone out of its way to alienate the surveying profession. It has done it over a sustained period and the sad state of this bill is a consequence of that approach.

The significance of this bill lies primarily in the role of the Surveyor-General in Victoria. The independence of the Surveyor-General is absolutely fundamental, and I will come back to that in further detail. Equally the role of the survey control network for which the Surveyor-General is ultimately responsible and in which surveyors individually participate is also fundamental.

I quote Professor John Parker, a former Surveyor-General of Victoria, who was speaking at the Surveyors Board of Victoria conferral of registration ceremony last year. He said:

Without a good land registration system that is secure and has high integrity the economic development of a country cannot grow as it should.

I also quote from a letter sent to the Premier and the Treasurer on 3 March 2004 by the president of the Institution of Surveyors Victoria and the chairman of the Association of Consulting Surveyors Victoria. They said jointly:

The independence of the position of Surveyor-General is vital to the people and economy of Victoria. The Surveyor-General is the responsible officer and technical expert for the land title system in Victoria, known as the cadastre. Advice from the Surveyor-General has been extremely valuable in the past due to its impartiality. The government guarantees titles under this system. Our whole economy rests on land and the ability of people to use it as collateral to borrow and invest. The banks and other lending institutions have confidence in the cadastre due to its reliability. The impartiality of the Surveyor-General to adjudicate and fulfil others duties is an integral part of that system.

Further I quote with regard to one of the other fundamental roles of the Surveyor-General — that is, his role on the Electoral Boundaries Commission. In 1982 in his contribution to the debate on the Electoral Commission Bill the Honourable Alan Hunt in another place said it would:

... provide for an identically constituted commission chaired by the Chief Judge of the County Court or his nominee, complemented by the chief electoral officer and the Surveyor-General. The first of these safeguards is the absolute protection provided by clause 4 for the chief electoral officer and the Surveyor-General against —

and I underline ‘against’ —

political interference in the performance of their duties.

He went on to say:

... the same protection as the Auditor-General enjoys for the chief electoral officer and the Surveyor-General so that they will have absolute confidence in performing their roles with the impartiality and integrity demanded of them and will be seen to be impartial and independent by the public at large.

I emphasise again ‘impartiality and integrity’ in the quote by Alan Hunt on the introduction of that bill. It is significant to speak of that because the context of this bill is a time when electoral boundaries are soon to be set by the Electoral Boundaries Commission. The make-up of the commission is, of course, fundamental to the integrity of that process in which the Surveyor-General will be participating.

Unfortunately the independence of the Surveyor-General is not guaranteed by this bill or by the changes being introduced, and coupled with the compromised independence which the Surveyor-General has endured over the last several years from this government it is truly extraordinary. Let me quote from an editorial in the *Age* of 5 December last year under the heading ‘Mr Bracks shows too much sensitivity’ and the subheading ‘The doctoring of a report critical of a government body is an attack on democracy’:

The Bracks government has had ‘issues’ with former Surveyor-General Keith Bell for some time. Last year, as part of an investigation by the government into leaks to the media from Land Victoria, staff in Mr Bell’s office were questioned about whether Mr Bell might have been ‘stressed’, or whether he kept confidential files in his office. Now Mr Bell, who was replaced in July this year, says the annual report recently tabled in Parliament under his name had been altered and did not accurately represent what he had written.

The surveying industry was shocked by the behaviour of the government with regard to the Surveyor-General’s report — and I will come back to it; essentially this government has been for some time at war with the notion of an independent Surveyor-General. It is an extraordinary proposition and that is why we are opposed to this bill in its fundamental form.

Basically the Surveyor-General is to be reduced to being a lackey of the bureaucracy. I quote from a letter sent to members of Parliament on 24 May this year by the Institution of Surveyors Victoria and signed by its president, Peter Sullivan. The opening paragraph says:

The surveying profession believes that the Surveying Bill 2004 (the Bill) currently before the house contains critical errors and omissions, and that if it is enacted without amendment will jeopardise the state’s property boundary system.

In itself that is an extraordinary statement from a highly reputable body and evidence again of the flaws in this bill.

Let me quote from a letter of 3 March in which the Institution of Surveyors Victoria and the Association of Consulting Surveyors Victoria were anticipating a bill being proffered by the government. In the second paragraph of that letter they say:

We are writing to you as we are concerned by a number of attempts to reduce the role and independence of the Surveyor-General of Victoria. We consider the position of Surveyor-General to be vital to the interests of the people of Victoria.

It is sad that it has simply not been the case that the government has listened.

The history of the bill has been a long one. It commenced in the mid-1990s with the national competition policy. I think in 1999 various propositions were put for addressing national competition policy in terms of the surveying profession, and I understand a draft bill was prepared in 2001. At that time there were attempts by bureaucrats who were unhappy with the proposals which might have strengthened the independence of the Surveyor-General to change key issues in the bill.

Nevertheless, after protracted negotiations within the industry, including with the opposition — and I congratulate the member for Doncaster, who played a key role in those negotiations — a position was arrived at and amendments were negotiated in an effort to ensure the independence of the Surveyor-General. Sadly attempts were made to undo that again, and whilst the bill passed through the lower house it was not proceeded with in the upper house. Then the election intervened. The reality was that along the way various steps were taken by the government in one form or another in action designed to undermine the Surveyor-General, and I want to come to that in some detail.

There is a long history to the poor relationship between this government and the Surveyor-General. Members will recall the scandal associated with the Estate Agents Guarantee Fund, where a round-robin financial transaction was concocted by various ministers and their bureaucrats in an attempt to divest the EAGF of funds that should not have been so divested. As a consequence of that police investigations transpired, and the response of the government at the time was to deal with those police investigations, not to assist them but to actually obstruct them. I quote from an extraordinary departmental memo dated 21 October 2002 entitled 'Making police statements'. Advice was given to officers in the Land Registry to the effect that:

... where police ask a staff member to make a statement about practices and procedures in operation within Land Registry, the police officer should always be referred to the legal branch.

It went on to make other suggestions which essentially had the effect of impeding police investigations into that scandal.

There were concerns expressed by the former Surveyor-General, Keith Bell, about the maintenance or lack of maintenance of the survey control network and about the shifting of responsibilities from the

Surveyor-General's area administratively to other areas, and those became the subject of an Auditor-General's report. Indeed the Auditor-General's report was highly critical of those efforts. I quote from a June 2002 Surveyors Board of Victoria media release about that Auditor-General's report:

The Auditor-General found that Land Victoria, a division of the department, had transferred key statutory responsibilities of the Surveyor-General under the Survey Coordination Act ... to other business units of the department. The Auditor-General's report advises that 'once legislative responsibilities for a function or activity has been assigned to a statutory position (Surveyor-General), the ultimate responsibility cannot be transferred to a third party under a contract or other arrangement'.

And further:

In addition, the Auditor-General reported that the department's performance in delivering key surveying functions to meet the obligations under the act is unsatisfactory.

For example, services relating to maintenance development and information dissemination concerning the physical survey control network were all matters that the former Surveyor-General drew attention to in his annual reports over a couple of years. The tragedy of that is that along the way there were attempts by bureaucrats to expand the budgetary responsibilities of Land Victoria under the former Department of Natural Resources and Environment, and there was enormous effort to spend huge sums of money. I could quote to the house at length, but some millions of dollars were spent on consultants effectively undoing the roles that otherwise would have fallen under the Surveyor-General's control.

One of the sad things that has occurred along the way in that relationship is that at that stage there were various bureaucrats, and I suspect members of the government, who decided that they would be better off without such an independent and outspoken Surveyor-General who was drawing attention to these failings of the government and the department in particular. Indeed efforts were made to coerce and induce — and I say that knowingly; coerce and induce — the former Surveyor-General to leave his position. It was a flagrant breach of every intention of independence in regard to a Surveyor-General. It is an extraordinary proposition, and before too long I am sure we will hear more about that. Indeed in addition to that, Land Victoria employed the Australian Spatial Information Business Association to lobby its own minister to make changes to the bill and also to lobby others, and members will recall the farce that was produced then.

All of those attempts to force out the Surveyor-General created an environment of great pressure on the Surveyor-General. Nevertheless, in accordance with section 20, I think it is, of the Survey Coordination Act he submitted his 2003 annual report, as he was required to do. The tragedy of that is that when that annual report was presented by the minister in October of last year we discovered it had been doctored. The editorial I read from in the *Age* before refers explicitly to that report. It is an extraordinary proposition for a government to doctor a report of one of its own principal independent officers.

To make matters worse there were then attempts made by a number of departmental heads to undermine the legal advice obtained by the Surveyor-General from the Solicitor-General at the time. That undermining came from department heads, including from the Premier's department. That is again an extraordinary proposition — that a breach of the independence of a significant Victorian officer was undertaken.

To add further fuel to the fire of this sad situation we then had the submitting of the Surveyors Board of Victoria report for 30 June last year. In that report we found that the former Surveyor-General's signature was used over a report implying that he had been the author of the report when in fact he had not and his signature had been used illegally.

There are still those in the government, including the Premier himself, who believe that all this was hunky-dory, and he told 3AW just that. The head of Land Victoria told a meeting of surveyors the same thing just last week. I make the point that the former Surveyor-General, Keith Bell, was actually forced to resign prematurely last year. He left in July, I think, last year and a new Surveyor-General has since been appointed.

As a consequence of the revelations since, I made application to the Ombudsman on two counts to investigate the conduct regarding the Surveyor-General's report and the Surveyors Board of Victoria report. I made those requests in December last year. It is now six months later, and we are still awaiting a response from the Ombudsman on both of those significant events. As I understand it, the government has, to put it politely, been slow at responding when it has been required to respond. But the bringing on of this bill in advance of the report of the Ombudsman in regard to those two matters is simply again another example of this government showing contempt for the independence of the office of Surveyor-General and the surveying profession in particular.

It would have been a lot better and a lot smarter for the government to have actually waited until those reports had been released. I guess what we should be suspicious of is that those reports will somehow or other not appear until after the Parliament has risen. I note again that when the head of Land Victoria was questioned about this last week he simply said that the Ombudsman would give us the benefit of his wisdom in due course. I think that is unfortunate.

There are, I believe, a number of significant flaws in this bill. The first runs to the notion of the appointment of the Surveyor-General. What has occurred over the last two or three years has demonstrated to the surveying profession and those with a keen interest in the independence of the Surveyor-General that the provisions of the act, and indeed this bill, that imply that the Surveyor-General is just a public servant and does not occupy a position of significance, independence and importance are a major issue, because fundamentally the Surveyor-General deserves to have the same independence as his colleagues on the Electoral Boundary Commission, the Electoral Commissioner and a number of others, all of whom were appointed by the Governor in Council and enjoy the independence associated with that.

A public servant cannot speak without being prone to the direction and control of a departmental superior, but an officer appointed by the Governor in Council enjoys an independence which is entirely different. I refer to other officers appointed by the Governor in Council — the Electoral Commissioner, the Chief Judge of the County Court, the Chief Commissioner of Police, the deputy commissioners of police and even assistant commissioners of police, the Solicitor-General, the Ombudsman, the deputy ombudsman, the Auditor-General, the Director of Public Prosecutions, the Clerk of the Legislative Assembly, the State Coroner, the deputy state coroner, the Chief Crown Prosecutor, the Crown prosecutors and a number of recent Bracks government creations such as the privacy commissioner, the essential services commissioner, the small business commissioner and the environmental sustainability commissioner. It is good enough for them, but somehow or other not good enough for the Surveyor-General, despite the fact that that position requires extraordinary trust and independence.

In addition to that a further flaw in the bill is evident regarding the appointment of the Surveyors Registration Board of Victoria. Under the previous act members of the board were appointed by the Governor in Council but they are now to be appointed by the minister. Under this bill and its predecessor act the surveyors board has a registration function and a

disciplinary function. Let us look at other boards of similar nature that control professions. The Architects Registration Board of Victoria, the Building Practitioners Board, the Chinese Medicine Registration Board, the Dental Practice Board, the Legal Practice Board, the Medical Practice Board, the Nurses Board, the Optometrists Registration Board, the Pharmacy Board, the Physiotherapists Registration Board, the Podiatrists Registration Board, the Psychologists Registration Board and the Veterinary Practitioners Board — and there are many others — all have their members appointed by Governor in Council and, as such, enjoy status and independence. Again for some reason or other — we can only assume that the government has a sinister reason, given its history with the surveyors board and the Surveyor-General — there are other designs for the surveyors registration board.

There is also concern that the dismissal provisions regarding the Surveyor-General have been lifted from the Electoral Boundaries Commission. The fact that those provisions currently exist under that commission give a status to the Surveyor-General not otherwise conveyed — certainly not conveyed by the bill as it is currently proposed. There are also concerns that, as a consequence of this bill, there will be a welding together of the titles registered surveyor and licensed surveyor, which are significantly different under the existing act, and that as a consequence there will effectively be a loss of the registered surveyor stature. Those who wish to remain registered surveyors but not to practise will find it difficult to do so.

There are provisions in the bill that are supported by surveyors — they run to matters of professional development and the like and to the annualising of procedures — but they are certainly outweighed by the concerns so strongly expressed by the surveyors institute, by individual surveyors I have spoken to and by others.

Last Wednesday I attended a meeting of surveyors in Carlton which was very well attended. I suspect some 80 to 100 surveyors were present. A very strong position was put by those surveyors that they were unhappy with the bill as proposed. Going back to the 24 May letter of the Institution of Surveyors Victoria, I note in particular its concern that:

Serious breaches of the democratic processes and mechanisms fundamental to our system of government will be enshrined in legislation if the bill is passed without amendment.

It further states:

Consultation on the details of this revised bill was short-circuited for no apparent reason.

Essentially that was in defiance of undertakings given to the profession earlier. Further:

The closer we examine the details and how the system will work, the more problems become apparent.

Further:

The Parliament is not adequately briefed on the future destructive consequences to one the community's most important assets and infrastructures ...

Further:

The National Competition Council's mission statement — 'to improve the wellbeing of all Australians through growth, innovation and rising productivity, by promoting competition that is in the public interest' — does not appear to be met as the new legislation removes what the profession knows as a 'registered surveyor' under the Surveyors Act 1978.

Further:

The Surveyor-General's current contract arrangements appear to place him in a difficult position where he may not be able to freely express or debate his respected opinion.

And further concerns were expressed.

The Law Institute of Victoria has expressed concerns in regard to this bill. I quote from part of a 28 April letter addressed to the Minister for Planning:

The Law Institute supports the principle that the role of the Surveyor-General as a commissioner under the Electoral Boundaries Commission Act ... be as independent of government as possible.

This is certainly not as independent as possible. It is anything but that, and that is a great concern.

Let me further quote from the 24 May letter from the Institution of Surveyors Victoria:

The profession actively seeks to participate in reforms to legislative frameworks that effect the industry. However, you can understand our frustrations with the processes that the bureaucrats are running, their specious arguments and the perceptions they generate.

For instance, on the issue of Governor in Council ... appointment for members of the proposed surveyors registration board, the bureaucrats argue that GiC appointment of registration boards is old fashioned and a mechanism that isn't used ...

That is complete nonsense. The view that has been presented to the surveyors is a tragic reflection of where this has all gone off the rails. That letter goes on to state:

The best available advice to the government of the day will be independent advice — and this cannot be provided under the new bill;

It states further:

The Surveyor-General has already been subject to influence of the public service — refer the recent section 20 report forwarded by the Surveyor-General ...

It also states:

We urge you to demand that the Surveyor-General's appointment be a Governor-in-Council appointment so that a democratic system can be maintained and so a new level of independence and impartiality can still be guaranteed.

Similarly we urge you to demand that members of the new surveyors registration board maintain a Governor-in-Council appointment.

In addition to the meeting last week, which I referred to, there was a general meeting of the Surveyors Board of Victoria last Thursday, and that meeting in itself has caused considerable concern. Following the general meeting of surveyors on the previous day various people in the government decided that things were going off the rails and that the surveyors needed to be pulled into line. They thought, 'What better way to do that than to use the Surveyors Board of Victoria, particularly given that it will be run by a Surveyor-General', who, with all due respect to the Surveyor-General, will now fall under the less independent operating base that is being imposed by this government.

As a consequence of that, representations were made at that meeting. Two independent members of that board who come from the surveying profession and are representatives of the Institution of Surveyors Victoria (ISV) were at that meeting, and without notice it was put upon the board to sign a letter supporting the bill that is in front of us now. During an adjournment of that meeting various representatives of the Institution of Surveyors Victoria rang their fellow ISV members to discuss this and express their concerns. In doing so they appeared to be representing views held by the ISV with which they could not have been familiar because they were not at the meeting the previous day.

Clearly representations had been made to them by those at the meeting, and the bottom line is that on Thursday of last week members of the surveyors board were pressured and coerced into signing a letter which sought support for this bill. It was an extraordinary demonstration of the lack of independence which will confront the future surveyors board. As a consequence, on 24 May the president of the ISV wrote to the

chairman of the surveyors board, the new Surveyor-General, John Tulloch. The letter states:

I write to you in my capacity as president of the institution of surveyors having concerns over the conduct of the meeting of the surveyors board on 20 May 2004.

...

I am gravely concerned that our ISV representatives were somehow misinformed as to the institution's role and commitment in the debate on the bill. I am gravely concerned that the board may have made decisions based on these incorrect perceptions. I am gravely concerned that other board members may have been given the same incorrect perceptions. My conversations were with two board members only, and therefore can neither confirm nor deny the perceptions of the other board members. I am also gravely concerned that the board did not appear to follow due process, and from the conversations, perceived that our ISV representatives were required to make decisions under duress and in a short time frame.

It states further:

I understand that, after my conversations with —

those representatives —

that was made during the break in proceedings, a letter was prepared by the board and forwarded to Mr Rickard supporting the bill, despite reservations from some board members. I understand the letter may have been requested by non-board members prior to my conversations ... and that the letter may have had a predetermined outcome. As these are perceptions only and were as a result of my conversations ...

This is an extraordinary proposition. The letter also states:

The research has convinced us that parts of the bill will be to the detriment of the people of Victoria and therefore question why the bill was released in the manner it was.

I have received a range of other comments, including comments by the Civil Contractors Federation (CCF), which has expressed concern about provisions in the bill that limit the capacity to place survey marks, which is a matter of acute interest for CCF members.

Another prominent surveyor says:

The short story is that the government should be able to remove ... but not discipline or pressure —

the Surveyor-General —

in the execution of the role. Department heads can bring immense unstated pressure on people who are dependent on their favours.

The reality is that this bill is dramatically flawed. The surveying profession in the past has clearly expressed its willingness to participate in legislative reform. The conditions are that the process for the appointment of

the Surveyor-General be made clear, there be a requirement that the Surveyor-General is a licensed surveyor, the inclusion of a definition of the Surveyor-General's roles and responsibilities and some other conditions.

The surveying industry has made the effort, but the government has not made the effort. The government has actually set out to undermine the surveying profession and the Surveyor-General. It is a very sad state, because the integrity of the office of the Surveyor-General is fundamental to the security of all Victorians and certainly to the electoral process in this state. Without it we would have a state of corruption.

Mrs POWELL (Shepparton) — I am pleased to speak on the Surveying Bill, and on behalf of The Nationals I desire to move:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to provide for the Surveyor-General and members of the surveyors registration board to be appointed by the Governor in Council'.

The reasoned amendment was recommended mainly by the Institution of Surveyors Victoria, which has grave concerns about the independence and impartiality of the Surveyor-General and also of the Surveyors Registration Board of Victoria. I understand that is one of the reasons the Liberal Party will also be opposing the bill, and I am pleased that it will be supporting The Nationals' reasoned amendment.

The bill was the former Land Surveying Bill, which was introduced into this house in May 2001. It did not proceed before Parliament was prorogued when the Labor government called an early election. I will talk about the Surveyor-General's role later. This bill has quite a number of purposes, although the main ones we are dealing with involve the surveying network and the role of the Surveyor-General.

The bill provides for the annual registration of licensed surveyors, which is something that surveyors are quite happy with, because it allows them to perform cadastral surveying in Victoria. It also provides for investigations into the professional conduct of licensed surveyors, which is also something they are comfortable with. It establishes the Surveyors Registration Board of Victoria. The board will have eight members, who are going to be appointed by the minister. This is two more than the former board, which had six members. The difference is that the status of these members will be downgraded. Under the Surveyors Act most of the members will be Governor in Council appointments, except for the chairperson and the deputy chairperson,

who will be public servants. That is a downgrading of the registration board membership.

A new inclusion that was not in the original Land Surveying Bill is the establishment of the Surveyors Registration Board of Victoria Fund. That is something that I know the surveyors support, because there is now a way for the board to be able to fund the work that it does. Fees, fines, penalties and any investments made by the board go into the fund to provide for the workings of the board.

The bill repeals the Surveyors Act 1978 and makes a number of consequential amendments to other acts. It provides the fees for the maintenance of the survey control network. This is an important issue, because over a number of years there has been criticism of the maintenance of the markers in the network. The fees that will pay for that maintenance will be on new plans of subdivision which are lodged at the land registry.

I was pleased to have a briefing with the executive director of Land Victoria, Mr John Rickard. I was given a briefing paper which explained quite a bit about the bill and about the differences between the previous bill and this one. I understand that the reason for this bill is to modernise the industry and to bring it into line with national competition policy requirements, as there were a number of concerns about anticompetition issues. It is also about acknowledging the changes in technology. Surveying is more a mathematical science than it was. Years ago they used theodolites, which have almost been replaced by global positioning systems, or GPSs, which are now used substantially. A fair bit of upskilling is required of some of the surveyors who have been around for a long time. The surveyors understand that along with their registration they will need to upskill and make sure that they attend to their professional development. I know the industry welcomes this.

I was told that the industry supports the annual registration fee, which as I said will fund the work of the board, which will then monitor the professionalism of surveyors and keep an eye on their development. There is also a need to upgrade the register. I was told at the briefing that there are approximately 1059 registered cadastral surveyors but that only about 400 to 500 are practising. That is a substantial amount of people who are not practising at the moment. There are 17 who are non-cadastral surveyors, and I am told the board will have the ability to differentiate between levels of surveyors.

There has been huge concern coming from the surveying industry and from members of the community about the appointment of the

Surveyor-General. I would like to read from a letter that was sent to a number of members of Parliament by the president of the Institution of Surveyors Victoria, Mr Peter Sullivan, on 24 May. It is fairly lengthy, being about seven pages long, so I am just going to pick up a couple of comments that are worth while putting on the record:

The surveying profession believes that the Surveying Bill 2004 ... currently before the house contains critical errors and omissions, and that if it is enacted without amendment, will jeopardise the state's property boundary system.

The letter goes on to talk about the consultation on the details of the revised bill and says it was short-circuited for no apparent reason, meaning the institution has not always been in the loop. It states that as its members delve further into the details, other issues are raised — examples range from the policing of offences to who will be running and paying for the continuing professional development program currently run by the Institution of Surveyors Victoria.

The history of this regulatory review is that many ISV members made significant contributions to the review of the Surveyors Act 1978 which commenced in 1999 and resulted in the Land Surveying Bill 2001 draft. The letter states:

Unfortunately, the version that was introduced to Parliament in 2001 had been significantly altered from what was agreed to by the profession. The changes made would have meant that the system could not be managed effectively, leading to a potentially disastrous impact on the cadastre.

...

We believe that the bill as presented to Parliament is not 'practically the same' as the last agreed position during the Land Surveying Bill 2001 debate but dramatically different in some key areas and that the advice given to us on the matter was incorrect.

...

Significant changes to the bill are as follows:

Removal of section 4 of the Electoral Boundaries Commission Act 1982 within the consequential amendments of this bill

Further downgrading of the appointment provisions of the Surveyor-General from 'ministerial' to 'Public Sector Management and Employment Act 1998' employee.

...

Surveyor-General should be a Governor-in-Council appointment as this reform presents the opportunity to do so. The Surveyor-General performs judicial and democratic roles, in addition to administrative and technical functions;

The Surveyor-General cannot delegate board or electoral boundaries roles;

The Surveyor-General is the authority upon which the government can rely in relation to the title guarantee under the Torrens system — the whole land system;

The letter goes on to talk about how important is the independence of the Surveyor-General and concludes by stating:

We urge you to demand that the Surveyor-General's appointment be a Governor-in-Council appointment so that our democratic system can be maintained and that 'new level of independence and impartiality' can still be guaranteed.

Similarly we urge you to demand that members of the new surveyors registration board maintain a Governor-in-Council appointment.

The Institution of Surveyors Victoria is the peak professional body for surveyors and was formed in 1874. As the member for Hawthorn said, the profession and the community are concerned about the independence of the Surveyor-General.

Concern has been expressed in the newspapers over the past few years about the doctoring of certain reports and the premature resignation, after only three years, of the former Surveyor-General, Mr Keith Bell. People feel Mr Bell was pressured into resigning. I will go through only a couple of news items but the idea that Mr Bell was pressured went through the news quite substantially in 2002. These comments are from an article in the *Age* of Monday, 25 November 2002. It states:

Staff in the office of the Surveyor-General, Keith Bell, were asked if their boss was stressed or if he kept confidential files in his room, as part of a state government investigation into media leaks from Land Victoria.

...

In June, environment minister Sherryl Garbutt said Mr Bell's annual reports were not 'accurate enough to be tabled in Parliament'. Three reports were finally tabled in October.

In his reports, Mr Bell was critical of the transfer of some of his responsibilities to business units in Land Victoria, the neglect of Victoria's survey-marker system (one of the most comprehensive in the world), and the emphasis on developing global positioning systems.

...

It is believed the news article quoted leaked documents relating to claims made in Parliament that senior Land Victoria and other bureaucrats had devised a scheme to skim \$45 million from the Estate Agents Guarantee Fund.

...

In his latest annual report, Mr Bell reiterated concerns he expressed in two earlier reports that while important

responsibilities had been removed from him, he retained statutory accountability for them.

In 1998, responsibility for Victoria's system of survey markers and survey equipment calibration was transferred from the Surveyor-General to the Land Information Group, a separate business unit in the Department of Natural Resources and Environment.

...

In his annual reports, Mr Bell criticised the emphasis placed on developing global positioning system base stations at the expense of maintaining the traditional survey-marker system used for all land boundaries and development activity.

...

About 30 per cent of Victoria's 144 000 markers, usually a brass plaque in concrete, were no longer used due to attrition, damage or inaccessibility, he said.

... the Association of Consulting Surveyors say they are aware of 'enormous political pressures' on Mr Bell and believe his independence had been severely compromised.

An article in the *Age* of 4 December 2003 was headed 'State accused of doctoring report'. It states:

The Bracks government was yesterday accused of doctoring the annual report from Victoria's Surveyor-General.

Keith Bell, who was Surveyor-General until 7 July this year, said the annual report recently tabled in state Parliament under his name had been altered and did not represent what he had written.

A leaked copy of Mr Bell's original 2002-03 annual report obtained by the *Age* contains criticisms of a state government body, Land Victoria, and raises concerns about administrative procedures having a negative impact on his role.

But the report that was tabled in Parliament on 5 November has more than a dozen sentences and paragraphs substantially altered or edited out. Almost all had referred to Land Victoria.

Auditor-General Wayne Cameron last year found Land Victoria had assumed some of the Surveyor-General's responsibilities, even though it did not have a legal right to do so.

...

The tabled version of the report also bears the name of the new Surveyor-General, John Tulloch, even though he did not take up his position until July.

The last article I would like to quote from is from the *Age* of Wednesday, 10 December 2003. It states:

The Bracks government was yesterday accused of acting contrary to advice from the office of the Victorian Government Solicitor by altering the Surveyor-General's annual report.

Advice given to former Surveyor-General Keith Bell by deputy Victorian Government Solicitor James Ruddle states that the Surveyor-General's report to state Parliament should not be interfered with.

The advice, given in April, 2002, said the Surveyor-General was entitled to raise concerns in his report even if they proved embarrassing to the government.

It goes on to say:

Mr Bell, Surveyor-General until July 7, last week confirmed the report presented to Parliament had been altered. It also bears the name of new Surveyor-General, John Tulloch, even though he did not assume the role until July.

There have been some huge concerns about the way the former Surveyor-General has been able to complete his role.

I spoke to a couple of local land surveyors. Mr Mick Toll of Land Management Surveys in Shepparton, also a member of Consulting Surveyors of Victoria which represents private surveyors in the state, said the survey control network has been run down. It is not regularly checked. The marks in our area are moving because of the dry soils and the wet soils — we are on clay soils which move and make changes in the way measurements are able to be taken. The survey markers in flat irrigation areas should be regularly checked. He raised concerns about the responsibility of other organisations — for example, local government and water authorities — in identifying and making sure the markers are maintained. If they are destroyed in some way, they need to be reported.

I live a bit out of town and there is a marker at the end of my road. Over the last three to five years that marker has been covered by blackberry bushes. I am not sure who has the responsibility of maintaining that marker. Certainly it would be very difficult to find it. I understand there are quite a few markers, in country areas particularly, that have not been identified as being either removed, lost or damaged. It is important that the survey control network is brought up to standard.

The second-reading speech says it is important that:

... land surveying is carried out at the highest level of professional standards ...

and:

... that the government should continue to regulate the surveying profession.

Nobody disagrees with that. But it is important that we ensure that the infrastructure the surveyors use is up to standard so they can have confidence in knowing the equipment and data they are using from the network and other sources are absolutely correct. Some priority is given to the markers in the Melbourne area, but in some country areas the markers are not up to scratch. It is important that they are looked at now. I understand

there was \$100 000 in the budget to upgrade the network. It is important that that money is expended. It is one of the most critical areas surveyors use and it is a huge concern to the whole industry.

I would like to briefly comment on the 2002–03 annual report by the Surveyor-General of Victoria on the administration of the Survey Coordination Act 1958. It says the survey control network is the key surveying piece of infrastructure, and says:

Today all other Australian states and many other nations have developed highly sophisticated survey control networks which are used as the positioning framework upon which their land registration spatial information systems are based.

The Victorian network comprises some 148 728 marks whose location and/or height are known to varying degrees of accuracy.

That is one of the major issues — we have to make sure they are accurate and accessible. There are some fairly strong criticisms of the survey control network in that report. To upgrade it completely or replace it would cost about \$70 million. If we are not going to replace it completely, then we should at least make sure there is enough money in the budget to upgrade and maintain it so there is confidence in its information.

The surveying industry and community would expect the Surveyor-General to be independent, impartial and able to report without fear or favour. The concern in the community is that by making it a ministerial appointment there may be some way of making the reports not quite as independent as they would be under a Governor-in-Council appointment. The Surveyors Registration Board of Victoria is now a ministerial appointment, and in the former bill it was a Governor-in-Council appointment. The bill has the opportunity of allowing the Surveyor-General and the board to have a higher status — it has not done that. I hope the government accepts The Nationals' reasoned amendment.

Mr CARLI (Brunswick) — I rise in support of the Surveying Bill to dispel some of the nonsense that has been said tonight. I have been in many debates for many years in this Parliament, but tonight's has to be amongst the most absurd conspiracies I have ever heard — absolutely absurd conspiracies. The member for Shepparton said the Surveyor-General is currently appointed by Governor in Council and that we would make it a ministerial appointment. The reality is the Surveyor-General is a public sector and public service appointment. He is a public servant. Nothing is changing — that is the current situation and it will be the future situation.

I do not understand the reasoned amendment because nothing is gained by making the Surveyor-General a Governor-in-Council appointment. Not only is he currently protected by the Public Sector Management and Employment Act but he cannot be dismissed without the consent of the Parliament. That is exactly the same as for the Electoral Commissioner. If we are concerned about the one element of the Surveyor-General that is political — the drawing up of the electoral boundaries — we have a situation where he has the same protection of his independence as does the Electoral Commissioner. He can only be dismissed with the consent of Parliament.

The opposition, when in government, sought to nobble the Director of Public Prosecutions, the Auditor-General, the Public Advocate and now it comes here and creates a conspiracy that somehow we are trying to nobble the Surveyor-General. It is absolutely absurd. It does not stack up.

Mr Baillieu interjected.

The ACTING SPEAKER (Mr Jasper) — Order! The honourable member for Hawthorn has made his contribution and should listen in silence to the member for Brunswick.

Mr CARLI — The trouble with the member for Hawthorn is that he is trying to create a conspiracy when there is no conspiracy. We are trying to modernise the profession. We have gone through a National Competition Council review of the surveying industry, and a number of recommendations have been made which are enacted in this legislation and in the practice of the industry. This is about modernising an industry that needs a level of modernising. Here is a profession where once you are registered you are registered for life. How many professions do we have where you are registered for life? Clearly there is a need to update the licensing of surveyors in accordance with competition principles.

The National Competition Council review found it was necessary to maintain regulation of the industry and did not want to totally deregulate the industry, but it did seek elements of modernisation so there is an annual registration of surveyors to ensure that there is professional development, that they improve their skill base, that they accept that technology has changed in the industry and that they have to modernise and keep up.

The bill also improves consumer protection and creates better mechanisms for complaints. The issue the opposition has focused on is the conditions of

employment of the Surveyor-General. The Surveyor-General is employed under the same conditions and rules as similar statutory positions — the registrar of titles, the Valuer-General and others. Governor-in-Council appointment is not necessarily given as a condition of employment for similar independent public service areas of employment. Many public offices that were once filled by Governor-in-Council appointments have a different approach and have changed. Many of these positions are filled under the provisions of the Public Sector Management and Employment Act as what are called 'declared authority positions'. There is already within that act the ability to employ a lot of officers that have independence and give advice to government, and that protection will be there with the Surveyor-General. There is no conspiracy to nobble the Surveyor-General.

The issue that really matters at the political level, which is where the accusation is most absurd, is that somehow this government is trying to alter the processes of the Electoral Boundaries Commission of Victoria. That is the accusation that is being made — that basically we are trying to redraw the electoral boundaries of the state to favour the Labor Party. That is underlying what is being said by the opposition parties. That is clearly absurd. The Electoral Boundaries Commission is made up of three commissioners. We all know who they are. It comprises the Chief Justice of the County Court, the Electoral Commissioner and the Surveyor-General. They are appointed to work collectively to determine the electoral boundaries. It is absurd to think that the Surveyor-General, because of the bill, will somehow not be impartial or give advice or provide genuine surveys of boundaries. It seems to me that the conspiracy is beyond any logic or rational understanding. It is a nonsense to believe this measure will somehow corrupt the process of setting electoral boundaries.

We know that the maps have to be done for the next election and that they will be done well. We know that because we have the Chief Justice of the County Court, the Electoral Commissioner and the Surveyor-General, who will work collectively to get a proper result. The system was put in place by a Labor government, and it is a system that will ensure that there will be an impartial decision, a decision that will not favour any political party, but a decision that is arrived at through the best possible independent, detached and impartial advice by the three commissioners. I find it really absurd to think that we are supposed to believe this conspiracy created by the member for Hawthorn with some members of the surveying profession and

accepted by the member for Shepparton, whose reasoned amendment is a nonsense.

The current situation is that the Surveyor-General is appointed as a public servant and has the protection of the Public Sector Management and Employment Act, which has been in place for a long time. There is no conspiracy. All that will happen is that the previous entitlements of the Surveyor-General will be carried over with this bill, which is what should happen. The protection is there. There is no greater protection than the fact that the Surveyor-General cannot be dismissed without the consent of this Parliament. There is no greater protection for the independence of the Surveyor-General.

The member for Hawthorn is creating these conspiracies because he wants his own Director of Public Prosecutions or Auditor-General or Public Advocate. He wants some issue so he can claim the Labor government is not defending the democratic processes of the state. That is a nonsense. We have defended those positions in opposition and in government. We have ensured they are part of the constitution of the state and are protected in the constitution of the state. We will protect the independence of important statutory positions, including that of Surveyor-General, and we are doing that through this bill. To create the belief that appointing the Surveyor-General through the Governor in Council process somehow protects the position does not stack up. What does stack up is the claim that the position is protected, because otherwise it will become a matter for debate and an issue in this house — a political issue, which is the greatest protection of the Surveyor-General.

This is an important bill, mainly because it is modernising the surveying profession, which is what it is about. In terms of the Surveyor-General, what we are doing is passing over the practices of the past into the future bill, but what this is really doing is modernising a profession that needs to be modernised. There is nothing more apparent than that the number of surveyors will decrease as a result of the legislation, because they will have to go through an annual process. A lot of people who are somehow professionals for life, who once did a course in surveying, who once had a job as a surveyor and are therefore surveyors for life, will find they will not be registered surveyors, for the simple reason that that is not what they do in life because they have probably retired or do other things.

Debate adjourned on motion of Mr CLARK (Box Hill).

Debate adjourned until later this day.

ARCHITECTS (AMENDMENT) BILL*Second reading***Debate resumed from 6 May; motion of Ms DELAHUNTY (Minister for Planning).**

Mr BAILLIEU (Hawthorn) — I rise to speak on the Architects (Amendment) Bill, which seeks to amend the Architects Act 1991. In doing so I remind the house that I am a registered architect and a registered building practitioner and still technically a partner in an architectural firm, albeit not practising at present.

The purpose of the bill is to amend the Architects Act 1991 to provide a range of new provisions, including provisions which go to matters of insurance, ownership and restriction of conduct.

The Liberal opposition will not oppose the bill, but it is often said that it is an ill wind that blows nobody any good. I have the view that there is a fair degree of ill wind in this bill. It is my view that it is not good for consumers or for architects and that it does not protect architects to any greater degree than they are currently protected. It is likely to lead to confusion, not clarity. And that is a view that is shared by many people in the profession. It is a reasonable concern. Given that there is a legislative process happening nationally, the opposition will not oppose the bill.

In making that comment let me quote from correspondence I have received from an architect named Bill Gray, who is a director of HBO+EMTB (Victoria) Pty Ltd. He says in regard to this bill —

Typically this seems another attempt to lower the status of the architectural profession.

In short that is a pretty reasonable comment. I quote also from David Prest, a member of the committee of the Association of Consulting Architects Victoria, a body with which I am very familiar, having been a founding member and a board member of the ACA for 15 years. David Prest said:

It is a sad indictment of our federation that even with the governments of the same political persuasion in all states the establishment of a single national architects registration board has not been possible.

And further:

The Productivity Commission's report into the various states architects acts presented an opportunity to achieve uniformity between the states, but it appears that the opportunity has been lost.

That is clearly to be regretted. This bill is driven by national competition policy, by a report of the Productivity Commission and in particular a Freehills report of 1999 reviewing the national competition policy review of architects and building legislation, the final report dated February 1999. That was followed up by a December 2003 Building Commission report that was the government's response to the national competition policy review of architects and building legislation. From there this legislation has emerged. I note that my correspondence with the Royal Australian Institute of Architects has led me to believe there has been a gap in the consultation at least over the last 18 months to such an extent that the RAIA in Victoria has been insufficiently involved in that consultation. Certainly the Building Commission document has not been widely circulated.

Architecture is a profession which is different from many other professions; it is a profession that does not enjoy exclusive province and never has in Victoria. Doctors, engineers, lawyers and various other professions do enjoy exclusive province and only those professionals who are registered to practise in those professions can do so, whereas with architecture it is entirely different. Architects are in open competition with anybody who wants to undertake that role. There is open competition with builders, with drafting services and with building designers. Indeed the practise of architecture is not regulated. Anybody can and has been able to practise architecture. Anybody who seeks to claim some skill in this area can practise and has been able to do so.

The only thing that has been controlled in architecture in the past under the Architects Act 1991 is the use of the titles 'architect', 'architecture' and 'architectural', and only those persons registered in accordance with the act have been able to use those titles officially. Nothing has prevented anybody from undertaking the work of an architect. There are many building designers who claim to be doing exactly the same work as an architect but who are doing it in their own way and are equally in open competition with drafting services. When it comes to architecture one of the difficulties for architects is in terms of presenting themselves as professionals. There are a range of alternative endorsements for which architects can claim a certain marketing advantage. There is initially a degree and there are three courses in various different constructions in Victoria which will lead to a degree in architecture. Then there is experience, and some architects stand on their experience rather than anything else. There is then registration under the Architects Registration Board of Victoria, or there is membership of the RAIA or of the ACA, as I said.

Of course many people practise architecture without being architects and without being members of the RAlA or the ACA, and indeed some people practise as architects without having a degree, having earned their ticket in another fashion, although that is more rare these days.

There is, of course, an architects registration board under the Architects Act 1991, and it has the interesting job of enforcing the various components of the act. Most architects would concede that when it comes to enforcement the ARB has been something of a damp squib and, some would say, a bit wimpy and often defensive when it comes to prosecuting any breaches of the act. That seems to be the way of a profession which, as I said, is in open competition rather than enjoying exclusive province, so it is deemed very much that competition provides its own controls in many respects, and that separates architecture from those other professions.

There are, of course, codes of professional conduct which are applied by the ARB and by the Institute of Architects as well. I note that the code of professional conduct is currently somewhat notorious, given recent action taken by a notable Victorian architect, Dimity Reed, against another notable Victorian architect, Sean Godsell, which has been taken to the high court of architecture at the Institute of Architecture, alleging a breach of that code in that Sean Godsell is alleged to have been unreasonably critical of one of his colleagues.

I have to say that that is not an issue of the highest order, and I do not know whether honourable members think that should have gone to the high court of architecture. I happen to think that Sean Godsell has done nothing wrong and that this is an unfortunate degree of animation in an industry that could do with getting on with other things; but when it comes to the ARB and the regulation of the profession, at the briefing we had on the bill I specifically put the question: how many cases has the ARB dealt with in terms of breach of professional conduct or breaches of the provisions of the act — —

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr CAMERON (Minister for Agriculture).

Mr BAILLIEU (Hawthorn) — I would not want to speak against that motion, Acting Speaker! I specifically asked a question as to how many cases have been determined by the ARB in the last 12 months, and indeed only some 20 cases have been

determined. Most of those would fall into categories which would not arouse much attention in the schoolyard — there have been very few prosecutions of any significance.

Indeed I specifically asked the question as to whether there was any evidence that consumer protection was not being addressed adequately by the current act, and there is no evidence available from the briefing to that effect; so the reality is that we are dealing with a bill here that changes the construction of the architectural profession in Victoria, and the only reason we are doing it is that we are obliged to go through a national competition policy process, and along the way we may have lost sight of some of the intentions and protections that we really should be focused on.

The consultation on this bill has broken down to some extent, and the RAlA was unaware that the bill existed until I notified it, after the bill had been introduced. That is a reflection of the failure of the minister to ensure adequate consultation, and certainly the bureaucrats have been remiss in that regard; and I will concede that the institute has been remiss in not ensuring that it was up to speed on where things were at.

National competition policy has led to changes occurring in legislation covering architects in all states. At present only Queensland has passed amending legislation not dissimilar to this, but it has different provisions with regard to the titles now being protected. New South Wales has a different bill again, but it has yet to be introduced, as I understand it. Victoria is the second cab off the rank after Queensland. While there is a national approach to this bill, it is not consistent. We are probably at the front end of it, and I am not sure the government has it right.

There are three areas I want to focus on in the bill which might be described as flaws. The first is on regulated titles, the second is on ownership provisions and the third is on insurance. I should add that other concerns have also been raised with me by correspondence.

When it comes to regulated titles, the titles ‘architect’, ‘architecture’ and ‘architectural’ are restricted in their use by the current act. It is the intention of the bill to change that restriction, and although it is a somewhat superficial restriction — given that the practice of architecture can be undertaken by anybody — these changes are significant for the profession. Indeed the restriction on the word ‘architect’ is to be dropped, and the only restriction will be if somebody holds themselves out generally to be an architect without

being one. That change may well lead to some problems.

In addition, the words 'architecture' and 'architectural', which were restricted, will no longer be restricted. However, they are to be replaced by the titles 'architectural services', 'architectural design services' and 'architectural design'. So those three phrases will now be restricted or controlled under proposed section 6 in new part 2, whereas the dropping of the word 'architect' as a controlled title is only to be implicitly regulated under new sections 4 to 7.

That has, in itself, a range of problems, and I will come to those in responses I have had from various groups, but the reality is that there will now be available to all sorts of organisations the opportunity to use the word 'architectural' in conjunction with another phrase, and I mention, for instance, the use of the phrases 'architectural drafting', 'architectural planning' or similar such phrases. That leaves us open to consumer confusion.

There is a further provision which I would regard as a potential flaw, and others have also regarded it as such — that is, the dropping of restrictions on ownership provisions. Essentially at present for a corporation or a partnership to title itself as an architect there has to be a majority of directors or partners in that firm who are registered architects. The proposition in the bill is that that provision will be dropped and indeed a corporation or a partnership will be able to title itself 'architect' or use those restricted phrases 'architectural services', 'architectural design services' or 'architectural design' with only one director or one partner registered as an architect under these provisions.

That leads to the possibility of, for instance, building companies which might currently have 10 or 15 directors who are builders, with a focus on builders, being able to engage one architect who may or may not be an equity owner in the company. That architect, having registration as an architect, can then become a director of the board, and then that company can bill itself as an architect as well. So XYZ Building Company can become XYZ Building and Architectural Services, and that again is open to confusion. There are also issues raised with insurance provisions, and I will come to those directly in terms of the responses I have received.

There are a variety of other provisions which are less contentious, but the outcome of the bill will be reduced consumer protection when it is arguably the intention of the bill that people will not be misled as to who is and is not an architect.

Secondly, the profession of architecture will be undermined, and I am not alone in that view. Thirdly, we have added to the burden of those who seek to do the right thing by registering as architects and behaving in accordance with the provisions of the Architects Act.

As I said, the Royal Australian Institute of Architects was unaware of the bill until it received correspondence from me. It has provided me with a response on a range of issues and those responses accept that there is going to be change. The RAIA makes a number of comments and I want to refer to a few of those. I understand that this RAIA analysis of the Architects (Amendment) Bill dated 24 May 2004 comes out of the national office, but it was provided to me yesterday. I quote from page 2 on the subject of representations or the use of language:

The consequence is that other persons or bodies may innocently, or inadvertently, find themselves in breach of a non-discretionary statutory offence with a fixed penalty of, at present, \$6000. The RAIA trusts this is unintended because there is no public benefit to a blanket restriction creating what is, in effect, strict liability.

That refers to describing somebody as an architect who is not a registered architect, and that is something the RAIA may do often, so it is concerned about that. The analysis further says:

Specifically, we mean those who are qualified and formerly registered, (retired or having left practice as an architect) being prevented from referring to themselves according to their professional status.

Not unlike the bill we have just dealt with, the Surveying Bill, the issue is likely to lead to people dropping out of architects registration, which I think in many ways is unfortunate.

With regard to ownership provisions, the architects institute says:

... the RAIA disagrees with the decision arising from national competition policy reviews that business entities providing architectural services should no longer be required to be under the majority control of architects —

but —

... the RAIA acknowledges that removal of this requirement will occur.

That is just the reality, so it is a reluctant acknowledgment. It goes on to say:

Such removal is opposed by the RAIA because the purpose of the existing situation is the protection of consumers from conduct by firms (incorporated or not for this purpose) where that conduct is contrary to the principles enshrined in the codes of conduct embodied in the Architects Act and regulations. Under the present act a firm can only be run in obedience to those principles, else all of the controlling

directors and/or shareholders, or controlling members, risk individual deregistration or other less serious sanction under this act. Discipline for professional misconduct can only be applied to natural persons, but those in control are all subject to it.

While this is not perfect, the RAlA believes the proposed changes can only be viewed as weakening the existing protections ...

There are further comments in that regard about the separation of registration and discipline procedures and the mediation procedures. They are more of a technical nature and I do not propose to go into those now, but I invite the government to consider them in the operation of the bill.

I want to comment further on the response of the Association of Consulting Architects which I mentioned before — and I note that the ACA tends to represent employer architects. In regard to the ownership provisions the ACA says:

The changes to architectural companies and partnerships, requiring only one director or one partner to be an architect, instead of the present minimum of two-thirds architects, is a concern to the profession who fear that these changes will transfer control of some architectural practices away from architects to non-architects and will result in a loss of professional independence for architects, and poorer design outcomes for the general community.

While there are restrictions on provision of architectural services by companies and partnerships imposed by clause 8D (new part 2?) of the proposed bill, the effectiveness of these restrictions is questioned by the profession.

And this telling comment:

2004 is the Year of the Built Environment and the prospect of many large consulting companies (and for that matter building companies) suddenly adding one insured architect or director so they can practise as architects is not prospect that is likely to improve the design quality of the built environment of our state.

I make these points in regard to how architects are to be classified under the bill, because the power will rest with the minister to classify architects and require them to have insurance to that effect. The ACA comments further about insurance:

Hopefully the minister will separate out and not require insurance for architects employed by approved companies where the employer carries the required insurance.

Now the reality is this — and the RAlA makes this point, as do other commentators who have responded to my queries — that it would appear under the bill that employee architects as well will be required to have insurance. If that is the intention of the government, then I think it has got that horribly wrong, and I look to the minister to clarify it. The ACA goes on to say:

Registration is used as a pay scale benchmark in the architects award and if employed architects can no longer be registered (because they do not carry any insurance) then parts of the architects award will need to be rewritten, which would be an expense, and a presumably unintended consequence of this legislation.

It goes on to say about insurance:

The levels of insurance to be carried by architects is also of obvious interest. If levels are set unrealistically high they will not only impose an unnecessary financial burden on practising architects — which will be passed on to clients as higher fees — but also insurance may simply not be available as worldwide underwriting capacity has been greatly reduced in recent years and underwriters have become more selective regarding the business sectors they choose to operate in.

There are further comments about mediation, but that is the commentary from the Association of Consulting Architects.

I have also had commentary from the Building Design Professionals Council, which makes the point that the change in restrictions on ownership are likely to be inconsistent with the Union of International Architecture, which has specific requirements for ownership provisions of architecture firms which are tendering on an international basis. That does present problems for architects in Victoria who are seeking to get jobs overseas, and I have to say that there are many architects in Victoria doing just that and the work that many of them are doing — for instance, in China and Asia — is quite extraordinary. For those architects to find themselves slightly encumbered by new restrictions or certainly to be subject to competition that they had not anticipated will not be to the benefit of architects generally.

I want to refer to other comments I have received from a range of individual architects such as Robert Knott, in North Caulfield, who is not unfamiliar with the range of these issues. He said that the insurance provisions of new part 2, which will insert sections 8A, 8B and 8C:

... do not address the problems arising when an architect who is insured refuses to inform the insurer or to lodge a claim, or is a bankrupt or a 'man of straw'.

He has referred to those problems in the past, and indeed he has made submissions to the national competition policy review in that regard. I invite the minister to contemplate that in considering the operation of the bill.

In regard to sections 13 and 14 on the ownership provisions, he says:

It is clearly not misleading for property development or building companies to advertise that their products, designed by 'in-house' registered architects, are 'architect designed',

but to allow them to hold out as providing 'architectural services' will, no doubt, be seen by the uninformed public to imply that the best interests of the client are being safeguarded by an architect with a professional responsibility to them, whereas the architect in fact has a 'design-only' role with a contractual/fiduciary responsibility to an employer/partner/company.

That is a fundamental redefinition of the classic role of an architect and in itself is a regrettable one. I refer further to an email from Bill Gray of HBO+EMTB, who says of the restricted terms provisions:

... the current definition does allow the architects registration board to act if they perceive that some confusion will occur. The new definition will eliminate the means to stop any action which might be deliberately designed to mislead the public.

And then further on he said this about the terminology:

Will the possible subtle nuances in terminology be sufficient for the public to differentiate the services provided by architects as opposed to building designers and others. Typically architects have to complete a five-year bachelor of architecture degree followed by two years practical experience under the tutelage of a registered architect so that they in turn may become a registered architect. Currently a building designer may complete a three-year TAFE course and commence in business as a building designer. In my experience rarely are unregistered 'architectural' practitioners dealt with severely. By contrast unregistered practitioners in other professions typically receive significant penalties.

On insurance matters Bill Gray said:

Typically the employer company carries this insurance, but does the proposed change mean that an employee architect must also carry individual PI insurance?

On ownership provisions he said:

I am concerned that the relaxation of ownership conditions will open the way for abuse of the profession.

He then refers to building companies that 'may then promote and call their company ... architects':

This could directly mislead the public. I doubt whether this would be tolerated by other professions, and I see no reason why it should be tolerated in this instance.

That is from another prominent architect who has made comments on the bill. Further I quote prominent architect Robert Mills, who said:

This bill will affect architects generally in years to come as the standard of design reduces, since non-architects will structure their companies so they can call themselves architects.

He noted:

The community should be focusing on raising the standard of design available to the broader community, instead of distilling further one of the benchmarks or points of

difference that differentiates between a person with experience in the building industry ...

Finally he said:

By allowing a company with one architect as director to trade as architects when this architect may or may not participate in the design and crafting of the building simply allows building designers et cetera to call themselves architects ...

Finally I quote another very prominent firm, Henderson Lodge of Collins Street, Melbourne. I refer to a letter dated 18 May that I received from Robert Mehegan, who said:

... we wish to advise that we strongly disagree with the national competition policy review recommendation that an architectural partnership or company should not be owned and controlled by a majority of registered architects.

Contrary to the supposed improvement of competition if controlled by one architect director or partner, we consider there to be no benefits at all in this proposed bill amendment.

And he further said:

... such changes will not be beneficial to the performance of the architectural industry.

The reality is that I think all of that is true. There are shortcomings which will be revealed in time, and it will be up to those who might be said to fall into the category of traditional, registered architects to find another way to distinguish themselves. It may be that the Royal Australian Institute of Architects will have to up the ante to preserve that role. I hope it does, but it will need to move quickly to do so.

There are a range of things which were recommended in the national competition policy (NCP) review of architects and building legislation which have not been picked up in the government response and in this bill. The December 2003 government response by the Building Commission summarises a number of them. I note that the NCP review strongly recommended repealing the exemption provisions for public servants who operate as architects, but the government has chosen not to support that recommendation. Indeed there was a recommendation to integrate the architects legislation with the building legislation, and again the government has chosen not to take up that recommendation. The recommendations to use the building permit levy and the Building Administration Fund in other ways have also not been picked up. A range of other, similar recommendations have not been picked up, and we can only hazard a guess as to why that has occurred. There is some reference to it in the December 2003 response.

I note with interest that one of the strong recommendations of the NCP review was for owner/builder limitations. It is being suggested that the government is instead seeking to retain the existing provisions. Given the things that have been said in the press, those who have been concerned about owner/builder limitation legislation will be surprised to know that the government now does not intend to proceed with that, if we are to believe the December 2003 report. In summary, I have concerns, as do many people in the architectural profession, about the alleged benefit of this bill. I do not see the benefits. I appreciate that national competition policy — —

The SPEAKER — Order! The honourable member's time has expired.

Mrs POWELL (Shepparton) — I am pleased to speak on the Architects (Amendment) Bill and to put on record the fact that The Nationals do not oppose it. This is another bill that is a response to the national competition policy review, the final report of which was released in February 1999. I understand that there were 47 submissions to that review from a broad spectrum of people, including consumers, local government officers, architects and building company representatives. The government responded in December 2003.

The purpose of the bill is to amend the Architects Act 1991 in relation to prohibited conduct. It will also change the requirements for the approval of partnerships and companies, enable the resolution of complaints by mediation, modify the eligibility criteria for membership of the Architects Registration Board of Victoria and require architects to be covered by insurance. I was also told at a briefing I was given by the department that most architects are already covered by insurance.

The bill also amends the Building Act 1993 to provide for a member of the Architects Registration Board of Victoria to also be a member of the Building Practitioners Board of Victoria. I believe this is to improve the integration of and communication between the two bodies. The bill also makes consequential amendments to the Architects Act 1991 and the Domestic Building Contracts Act 1995.

As I said earlier, I had a briefing with Mr Roger Frith, who is the manager of building policy with the Building Commission. He supplied me with a number of briefing notes, which were very good to have because I was able to go back and read through them. Sometimes after you have a very quick briefing you realise that there are questions you did not think of

asking at the time. But when you read through the briefing notes some of those questions are answered, so I thank Mr Frith for those notes.

I was told that the bill addresses some issues of concern raised in the national competition policy review, one of them being that it considered the membership of the architects registration board to be too narrow. The review thought it was more of an industry-based board and that it needed to have broader consumer representation.

This bill increases board membership from 8 to 10, and the two extra members will be people with experience in the building industry or consumers. By that I think we are talking about the Master Builders Association of Victoria and the Property Council of Australia. I also understand that those consumer representatives and building representatives are to be non-architects. There was a view that this board should have a balance of architects and non-architects.

There is a concern among the architects industry about a relaxation in the use of the words 'architecture' and 'architectural' to enable them to be used by other businesses. The member for Hawthorn put on the record some of his concerns about a building company that has one architect, being allowed to call itself, for example, Joe Bloggs Building and Architectural Services. Now that references to architectural design services and architectural design are going to be allowed, it seems to be diminishing the fact that architects have to go through quite a substantial course to get their qualifications.

There was some concern in the industry that by downgrading those areas where you might just have the director, the principal or the partner you might only need one person who is a qualified architect rather than, as under the original bill, a company needing to have two-thirds of those people as architects. They felt there was a watering down from the situation where two-thirds of people must be registered architects in any company or partnership.

The reason given for the change was that the national competition policy review found that the existing ownership and control requirements for architectural partnerships and companies were unnecessarily restrictive. I think they felt there was a monopoly of architects. But the member for Hawthorn, who also stated that he was an architect, put on the record the fact that in some instances it might be viewed as not causing a great deal of harm if disciplinary action is taken and one person is removed from an organisation, whereas if

the firm itself has caused some problems the onus would be on all the architects in that firm.

Practising architects must now be insured, and the board will be responsible for ensuring the criteria for insurance is met and also for recording the information of the registered and insured architects.

There were a number of concerns about why, if an architect was only giving advice and was not involved in the design of the buildings, or if the design or plans did not result in a construction process, public liability would be needed. They could understand professional indemnity insurance being needed, but the concern was why public liability insurance was needed when personal indemnity insurance would be okay. So there were some concerns about the need for public liability insurance when someone might just be giving advice, and that advice was not going to be part of a building or the design for a building that would be built.

We are advised that there was extensive consultation with the key organisations representing the architects. I was also told at the briefing that the architects registration board supported the amendments in this bill.

For consultation on this bill I wrote to a number of architects in Shepparton. I received a response from Mr Ray White from CS & T Pty Ltd. He contacted the Royal Australian Institute of Architects because it did have a briefing paper or an analysis of the bill. I know a number of members of Parliament got a copy of that, and I have just received a copy.

I will read from some parts of the analysis, entitled 'RAIA analysis of the Architects (Amendment) Bill 2004' and dated 24 May 2004. It says:

The RAIA welcomes in principle any strengthening of provisions prohibiting unregistered persons representing themselves or allowing themselves to be represented to be registered architects.

However, it is the RAIA's belief that the restriction should be limited to such representation for the purpose of gaining engagement, or on deliberate misrepresentation ...

I will not read the whole letter — —

An honourable member interjected.

Mrs POWELL — Six pages. Further to that point, it says:

Another important aspect of the consequences of the blanket prohibition on representation is that reference to an individual's professional standing is subject to statutory restriction. Specifically we mean that those who are qualified and formally registered —

but are now retired or have left the profession of an architect are —

being prevented from referring to themselves according to their professional status.

It goes on to say:

Such restriction is not, to our knowledge, placed on any other professional person. A medical doctor is not prevented from using the title 'doctor' when no longer practising, nor is a lawyer without a current practising certificate in Victoria prevented from referring to himself ... as a lawyer.

I think that is an important point to make. These people are qualified — and it has taken quite a number of years for them to be qualified — and yet they will be prevented from holding themselves up as architects if no longer registered. I think that needs to be looked at, because if a person is qualified as an architect, I think that is their qualification and professional status. Despite the fact that they are in a business that is only giving advice, they are still an architect because they have qualified but they may not be registered or they may be acting as a mentor for an organisation.

I will read from section 10 of the Architects Act 1991 which talks about the qualifications for registration as an architect. They are fairly substantial. For somebody to qualify as an architect they have to go through quite a rigorous exercise. The act says:

A natural person is eligible to be registered as an architect if the person —

- (a) is of good character
- (b) has been engaged for not less than 2 years on practical architectural work and has attained a standard of professional practice satisfactory to the Board; and
- (c) either —
 - (i) holds a prescribed qualification in architecture; or
 - (ii) has passed a prescribed course of study and completed a period of 5 years in gaining professional knowledge in architecture to the satisfaction of the Board.

You can see there are some fairly substantial qualifications that an architect has to reach before the board will accept him as a qualified architect.

The board supports the amendments, as I was told at the briefing — and I know that at the moment members are mainly architects. A decision has been made to expand that to allow the participation of consumer groups. As I said earlier, there is now to be a balance of architects and non-architects. In the original bill eight members

were appointed by Governor in Council. That has been changed to 10. I am still not sure whether those 10 members are going to be appointed by Governor in Council under this bill.

In the government's response to the national competition policy review a number of recommendations were not supported. Many of them were accepted, many of them are going to be put forward, and some were accepted in principle but may not be acted upon. I know that some were not supported, and it is not something I will go into today, because it is a fairly substantial report. The Nationals are confident enough that the industry has been consulted and therefore we do not oppose the bill.

Mr CARLI (Brunswick) — I am pleased to rise in support of the Architects (Amendment) Bill. This bill, like the previous bill, is a response to national competition policy and the government's response to the recommendations of the state's review of the Architects Act. It is in that context that I wish to make a couple of observations. One of the key provisions of the bill is that it maintains the notion that an architect is a person registered as an architect under the act, but the terms 'architecture' and 'architectural' can be used by professionals, people who learn a trade or people who have some skill in the area of architecture but are not necessarily architects. It opens up a level of competition but, as previous members have indicated, still maintains and ensures that the term 'architect' is held by architects.

The bill strengthens the issue of prohibited conduct. As we seek to loosen up and provide for more competition it is important that the regime also allows for the strengthening of prohibited conduct and that certain practices are not undertaken by people under the notion of their being architectural specialists or involved in the architectural industry.

There is also a change in the approval of partnerships and companies to remove the definition of domestic spouse and partner. That definition is redundant in the context of a company that is registered under the Architects Registration Board of Victoria. There is a new mechanism to help resolve complaints by mediation rather than going through a tribunal to both ease costs and ensure the speedy resolution of conflicts with architects or people involved in the architectural industry.

The bill also ensures that architects are covered by insurance. It is very much about ensuring that measures are taken to protect the interests of consumers in the industry. It is a bill that builds on national competition

policy review and basically ensures increased levels of competition while maintaining standards. It is a balancing act not only between increased competition but also with the maintenance of a level of regulation. The bill also ensures that issues are resolved quickly and that consumers are protected in the context of the architectural industry.

I conclude by indicating that the use of the title 'architect' is the one part that still remains restricted. In order to be registered to practise as an architect the person will be required to have appropriate professional indemnity and public liability insurance, which not only protects consumers but also ensures that the architect as a practitioner provides both high-quality work and a level of assurance. That in a certain sense should be give them a competitive edge. I wish the bill a speedy passage.

Debate adjourned on motion of Mr BRUMBY (Treasurer).

Debate adjourned until later this day.

TREASURY AND FINANCE LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 6 May; motion of Mr HULLS (Attorney-General).

Government amendments circulated by Mr BRUMBY (Treasurer) pursuant to standing orders.

Mr CLARK (Box Hill) — The Treasury and Finance Legislation (Amendment) Bill makes changes to a range of bills relating to workers compensation, to various superannuation schemes and to the Victorian Managed Insurance Authority Act. The title is in fact a bit misleading, because it implies that it covers legislation within the portfolios of both the Treasurer and the Minister for Finance, but as far as I am aware the legislation falls wholly within the portfolios of either the Minister for WorkCover or the Minister for Finance.

It is interesting to reflect that in past times the current government when in opposition complained bitterly about omnibus bills and the range of measures that were being included in one bill. The title implies that this bill is a grab bag of everything that the Department of Treasury and Finance could not get up in another legislative submission. However, there is a moderate degree of nexus between the various measures in this

bill, and on that basis one could not take strong exception to it.

Turning to the various measures that relate to the WorkCover scheme, the first of those imposes a limit on the period within which employers can seek to obtain an adjustment for premiums that were paid in previous years. A four-year time limit is set within which employers can do so, and this matches the four-year time limit under the law as it stands within which the WorkCover authority can adjust back into the past premiums payable by employers. So there is a degree of balance in the measure, and in some respects it parallels the time lines that apply to recoveries of tax in respect of overpayments or underpayments. The second-reading speech is quite convoluted in its explanation of this measure, and indeed one has the impression that it was subject to some last-minute editing which affected the lucidity of its explanation.

The other principal area of change in relation to workers compensation is to insert an expanded definition of groups of employers and on the back of that to impose joint and several liability on members of the group for premiums payable by other members of that group. This provision is subject to similar concerns to those the opposition expressed in relation to the corresponding grouping provisions that were included in the Pay-roll Tax Act by virtue of the State Taxation Acts (Miscellaneous Amendments) Act last year. Those provisions were inserted following several cases involving Muirs Electrical, which was a franchise structure which the State Revenue Office sought unsuccessfully to treat as a group in court proceedings, including proceedings extending to the Court of Appeal.

When the State Revenue Office lost some of those cases it proceeded to persuade the government to have the legislation amended. I do not want to go over what I said at length in the debate on the bill last year, but these measures were extraordinarily broad. They have the consequence of grouping most franchisees with their franchisor. They have the consequence of grouping most, if not all, service companies such as contract cleaners or maintenance contractors with the corporations for which they do the work.

On an extensive interpretation they will capture clients and professional advisers such as accountants or lawyers, and where one contractor performs work for more than one client, arguably it even links various clients into the one combined group by virtue of having a common contractor. The government and the State Revenue Office said that certainly was not their intention, but the upshot was that taxpayers rights were

made dependent on extraordinarily sweeping provisions in the legislation and very much dependent on the exercise of administrative discretion by the State Revenue Office as to when it did and when it did not apply those provisions.

The situation was made even more concerning by the fact that the State Revenue Office could not even in conceptual terms give an explanation of the sort of case it was trying to catch or the sort of vice it considered was present in Muir's case that was not adequately tackled by the existing measures. These provisions that have been inserted into the Pay-roll Tax Act are, with one very modest departure, and with a second modest departure by virtue of the house amendments to which the Treasurer has referred, being included in the Accident Compensation (WorkCover Insurance) Act 1993. It may be said they will not have quite the same draconian effect in this context as they would have in the context of the Pay-roll Tax Act because in the context of payroll tax they have the effect of depriving the various employers that are treated as one group of their respective payroll tax exemption thresholds. While there are WorkCover premium exemption thresholds, they are much lower than they are in the case of payroll tax and therefore that consequence is less significant.

In the course of the briefing that we were given on the bill, the opposition was led to believe that apart from the joint and several liability consequences, one of the aims and consequences of this measure was that where different legal entities as employers carried on business at the one set of business premises their respective employees could be treated as one group and therefore placed under the one premium rate and structure. We were told that this was an extension of measures that the Victorian WorkCover Authority had recently taken to prevent employers setting up different but conjoint workplaces with the consequence that the employee working in the different workplaces performing different duties attracted different premium rates. This elimination of the abilities of employers to have different premium rates for the same or adjoining or nearby workplaces will be extended to prevent employers who are grouped from doing the same thing. That is what we were told in the briefing.

The bill says that the section does not affect the calculation of premium for any period before 1 July 2004, so it is not going to operate retrospectively. Nonetheless there is some concern as to how the legislation is going to operate in the way that I have just described that we were told it would in the briefing. On my reading of the Accident Compensation (WorkCover Insurance) Act 1993 I cannot trace the various

consequences that were described to us in the briefing, but it may be that those consequences flow by operation of the Accident Compensation Act 1985 or by virtue of the drafting of the premiums order that is made under the WorkCover act.

As I say, because the issue of the threshold is not as acute in relation to WorkCover premiums as to payroll tax, the concerns we had in relation to payroll tax do not apply with the same force in relation to WorkCover premiums.

I will move on to some provisions relating to superannuation. Only a few of these have policy significance. The first to be mentioned is in relation to the introduction of salary sacrifice. The government intends to allow members of various schemes in the context of wage negotiations to reach agreements that will permit salary sacrifice. The legislation gives effect to that possibility.

There are also amendments that ensure that the minimum benefit provisions of the various state superannuation acts comply with the requirements of the commonwealth Superannuation Guarantee (Administration) Act 1992. As the legislation stands at present it appears that in some circumstances a person or the estate of a person who, for example, dies soon after retiring might not get the minimum benefits to which the person is entitled under the commonwealth legislation. A series of superannuation acts are amended to insert minimum benefit provisions to comply with the commonwealth requirements.

There are also changes to the Emergency Services Superannuation Act that will allow the Emergency Services Superannuation Board to pay a death benefit to dependants or nominees where the contributor was an operational staff member and was aged between 55 and 60. This appears to have been an oversight in the existing legislation.

Other provisions relating to insurance include a series of provisions to allow the use of retirement savings accounts — an example of those provisions being clause 20 of the bill. There is a change to the specification of the resignation form under the State Employees Retirement Benefits (SERB) Scheme in clause 24. There is a provision in clause 27 relating to the payment of benefits if a person who would ordinarily be entitled to receive them is legally incapable.

There is a change in clause 36 that deals with a situation where a person who was on a disability pension is to be offered employment allowing them to return to work,

and there are provisions inserted under clause 37 and clause 46 which give the boards in respective cases the power to recover contributions or other amounts that were payable to the board, including a payment made to a person to which the person was not entitled. I would invite the relevant officers of the department to ensure that in future when clauses such as this are drafted, they are drafted in a somewhat less convoluted manner than the clauses in the current bill.

I move on to refer briefly to changes to be made to the Professional Standards Act 2003 to delete a reference in that act to fiduciary duty. At present the Professional Standards Act which this Parliament passed last year provides that the act does not apply in certain circumstances such as death or personal injury, negligence or other fault of a legal practitioner acting for a client in a personal injury claim, breach of trust or fiduciary duty or fraud or dishonesty. That is contained in section 5 of the act.

I understand that the reference to fiduciary duty does not appear in the corresponding acts of other jurisdictions, yet it appeared in the Victorian act only last year. As far as I am aware, no cogent explanation has been given as to why it was inserted last year only to be deleted this year. It can be said that fiduciary duty is a fairly broad concept. It includes the duty directors and officers have towards a corporation, the duty partners have to a partnership, and the duty trustees have to a trust and its beneficiaries. Of course breach of trust remains something excluded from the act and it may well be thought that breach of fiduciary duty comes so close to what might be called ordinary cases of negligence that it is not possible or desirable to draw a distinction.

I should also mention in passing one provision of the WorkCover legislation which I omitted to refer to earlier. In cases where there is an uninsured employer the Victorian WorkCover Authority has a right to recover costs incurred by it for a claim made in relation to that uninsured employer and there is a power for the WorkCover authority to waive that liability. At present that liability cannot be partially waived and the bill proposes to allow partial waiver.

Finally, I turn to the amendments proposed to be made to the Victorian Managed Insurance Authority Act. These are largely tidying-up provisions. I wonder whether they are a consequence of the appointment of Mr Adrian Nye as chairman of the authority. He was formerly a very capable and well-regarded public servant who served under the previous Labor government, under the coalition government and the current government. I am sure he has turned his

diligence and abilities to his new responsibilities, in which I am sure we all wish him well.

Be that as it may, the changes to the Victorian Managed Insurance Authority Act insert definitions of insurance business and insurance services, make clear where the Victorian Managed Insurance Authority (VMIA) may carry on its insurance business, and make provision for the repayment or raising of capital. The latter can be done by way of either a rebate or a surcharge on premiums. I am a bit surprised by the structure that has been followed. I assume there are good reasons for the VMIA wanting to tackle this by way of rebates or surcharges on premiums rather than simply adjusting the premium rate. I would be interested in any further light the government may be able to shed on that.

There is a provision to make it clear that the VMIA may decline to provide insurance cover in respect of specific risks, and a further provision that the minister can direct the authority to provide cover in respect of such risks. This would seem to strike a suitable balance in giving the authority the power to decline to underwrite risks while giving the minister the authority — authority for which he will have to be accountable — to direct that cover be provided in specific cases. Finally, there is a provision which provides that the VMIA may determine the deductibles and maximum loss conditions to be included in insurance contracts or indemnities under the act. I understand that is to allow the VMIA to write policies having the flexibility of similar terms, conditions and provisions to commercial insurance contracts. If that is the case, that would seem to be an unexceptional provision.

In conclusion, the opposition is concerned about the extension to the WorkCover context of the sweepingly broad provisions relating to groupings that have been picked up from the Pay-roll Tax Act. Subject to that, the provisions in this legislation are largely mechanical and tidying-up measures. The opposition does not oppose the bill.

Mr RYAN (Leader of The Nationals) — The Nationals do not oppose this legislation. The member for Box Hill has given a very fulsome explanation and in so doing has saved me a lot of the comment that I would otherwise have had to address to this legislation. It is a grab bag: it is the dreaded omnibus bill about which the former government received plenty of heat from members of the current government, then in opposition — but such is life.

The provisions in relation to the accident compensation legislation relate to four basic areas. The bill places a

time limit on the ability of employers to recover amounts purportedly paid as premiums for past policy years. This is an issue that is another reactive aspect of the decision in Cootes and in effect is the corollary of the legislation which was passed to accommodate the determination that was made in the Cootes case, and in essence preserves the authority from claims by employers with regard to amounts that may have been paid in premiums in circumstances where those employers think they overpaid. It imposes the same time limits under which the legislation initially gave protection to employers from the authority being able to recover moneys from them.

The second element relates to the amendments to the grouping provisions. As the member for Box Hill indicated, the whole grouping provisions legislation, when it was initially before this house, was much to do with the Muir cases. That legislation represented an expansion of the capacity for claims to be made against employers, specifically in relation to payroll tax, and this is said to be a refinement of that process. Like the opposition, The Nationals remain unconvinced of the merits of the legislation having been passed in the first place, but as I say this is a further refinement on that which is already there.

The third element reintroduces the joint and several liability provisions for employers who are members of a group. This comes on the back of the previous series of amendments. The fourth element enables the Victorian WorkCover Authority to partially waive an employer's liability for reimbursement of uninsured claims costs. This specifically relates to the position where uninsured employers are the subject of a claim by an injured employee. There are payments on behalf of that employee and under the provisions of the act the authority has the capacity to seek indemnity, in effect, from that uninsured employer. A problem has been perceived, at least, as being present because of a literal interpretation of the act, being that the authority cannot settle a claim for less than the amount which is the actual arithmetic calculation of the total liability. So this amendment will enable the authority to resolve these cases for less than that. In passing I mention that I was involved in one of these matters late last year where this issue came to light. I will not go into it all now, but suffice it to say I think this is a very welcome addition to the legislation.

There are amendments with regard to superannuation, and specifically this bill provides for the introduction of salary sacrifice for members of the State Superannuation Fund. The amendments will enable the Minister for Finance to offer salary sacrifice to designated groups of State Superannuation Fund

members, and that will be done on a case-by-case basis. The mechanics of it will entail the use of a ministerial declaration.

There are some other superannuation amendments which are of a relatively minor nature. There are the amendments to the Professional Standards Act 2003. Amongst other things that act provides that limited liability will not apply where there was a breach of fiduciary duty. That provision is being removed from the legislation. It is said that is happening to bring it into line with other aspects of similar legislation in different jurisdictions around Australia.

There is a final series of provisions regarding the Victorian Managed Insurance Authority, and again the member for Box Hill has gone through those fulsomely. Given the hour that this debate is occurring I will not go through those matters again. The Nationals do not oppose this legislation.

Mr STENSCHOLT (Burwood) — I rise to support the Treasury and Finance Legislation (Amendment) Bill. I thank the member for Box Hill and the Leader of The Nationals for their support of the bill in their contributions.

The bill has a range of purposes covering WorkCover. It continues a soundly administered WorkCover scheme and harmonises WorkCover and payroll tax legislation; on superannuation it provides for salary sacrifice to designated members of the state superannuation fund and other funds, plus a range of technical amendments. The third area amends the Professional Standards Act to provide for national uniformity regarding breaches of fiduciary duty. The fourth area amends the Victorian Managed Insurance Authority Act to clarify various provisions on insurance arrangements.

I am particularly pleased to support the WorkCover changes because Labor is restoring sound and responsible management to this scheme. We have balanced the books — something the Liberals were not able to do — at the same time as restoring the finances of the scheme, returning the benefits to both employers and employees through a 10 per cent reduction in the average Victorian premium rate. There are improvements in benefits for workers, including a \$30 million boost last year to payments for permanently injured workers. The Liberals ran the scheme into financial crisis and cut rights and benefits to injured workers to make ends meet. The efforts over the last four years, which have resulted in this particular bill in which further improvements are being made, give the lie to any claims of unsound financial management

from the other side of the house. Sound financial management has been provided by both the previous and the present ministers for WorkCover in this government.

This bill provides a statutory time limit set at the current year plus four policy years in terms of responding to various court cases. Sound financial management is the basis of this. The bill provides for the main WorkCover employer grouping provisions to be replaced with provisions equivalent to the Victorian payroll tax grouping provisions. Harmonisation makes it easier for business as they will not have to comply with two sets of rules. This is once again sound management on our part.

We have provided a house amendment to clause 12. When it was originally put forward in the bill subclause (8) was inadvertently transported from the payroll tax grouping provisions. Actually it has no relevance to WorkCover. It contained a definition of ‘employer’ which could actually carry through the rest of the act and provide confusion. Therefore the amendment provides for the deletion of clause 12(8). A couple of other amendments regarding superannuation correct the numbering of the various clauses referred to in one case and correct the title of a subclause so that it conforms with the rest.

The other amendment on WorkCover in terms of the joint and several liability provisions is to help prevent rorts. WorkCover is to be allowed to partially waive an employer’s liability for reimbursement of claims costs in appropriate circumstances. That is going to be fairer on employers.

The Bracks government is demonstrating that Victoria can have a scheme that is safer for workers, cares for the injured and maintains competitive premiums for employers. This bill will improve the WorkCover scheme. It will make it work for the benefit of both workers and employers, and will address the deficits of the past. This is good and responsible management of the scheme, and I commend the bill to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until later this day.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house do now adjourn.

Stamp duty: hardship claim

Mr CLARK (Box Hill) — I raise with the Treasurer, and I am glad that he is in the house, a case where a mother has been forced to pay over \$10 000 in stamp duty to regain ownership of her family home following the breakdown of her marriage. I ask the Treasurer to reconsider his decision to refuse to grant an ex gratia refund of the stamp duty involved.

The case concerns Mrs Lynette Bentley of Wandin North, who has asked me to raise her plight in Parliament. The home Mrs Bentley owned jointly with her husband was mortgaged to secure loans to Mr Bentley's business. After their marriage broke down and before Mrs Bentley could take Family Court proceedings to seek full ownership of the home, Mr Bentley, or his company, defaulted on the loans. Following protracted legal proceedings, Mrs Bentley reached a settlement with the mortgagee under which Mrs Bentley agreed to pay \$100 000 and the mortgagee agreed to clear the mortgage.

There are two ways in which the paperwork could have been handled. The first is that the mortgagee could simply have discharged the mortgage in exchange for the payment, and then Mr Bentley could have transferred half of his property to Mrs Bentley. In that case no stamp duty would have been payable, because section 44 of the Duties Act exempts transfers from one spouse to another following a breakdown of marriage. However, Mrs Bentley tells me that Mr Bentley refused to take part in any such arrangement. This forced Mrs Bentley to follow a second approach under which the mortgagee exercised its rights to take legal possession of Mrs Bentley's home and then gave the property to Mrs Bentley in exchange for the payment of \$100 000. Because this was technically a transfer of the property, the State Revenue Office levied stamp duty on the entire value of the property.

Both the member for Evelyn and I have previously written to the Treasurer about this matter, and the Treasurer has twice refused to act. In a letter dated 25 August 2003 he told the member for Evelyn that the circumstances of Mrs Bentley's case did not permit him to give ex gratia relief because they did not satisfy the criteria of being hardship or injustice due to the actions of the government or its employees.

In a subsequent letter to me dated 17 February 2004 the Treasurer admitted that the guidelines allow ex gratia relief in a wider range of cases than he had claimed, but he still refused relief on the grounds that the transfer to the mortgage company was not a consequence of the marriage breakdown. However, if time had permitted, Mrs Bentley would almost certainly have obtained a Family Court order awarding her full ownership of the house, in which case she could have cleared the mortgage without having to pay duty. Her case is thus the moral equivalent of section 44 and a fitting case for ex gratia relief. Just yesterday Mrs Bentley told me she now faces having to sell the home she fought so hard to save because of the burden of trying to repay the personal loan she was forced to take out to meet this unexpected and unfair \$10 000 stamp duty impost. I again appeal to the Treasurer to reconsider this callous and perverse decision.

Exports: Multidrive Technology

Mr LONEY (Lara) — I wish to raise a matter for the attention of the Minister for Manufacturing and Export. The action I am seeking from the minister is that he provide some Victorian government support to assist specialist automotive rebuilder Multidrive Technology to develop export markets in the Middle East. I note that the minister and his department previously assisted this company on a technical matter related to compliance with Australian design rules, and the company is grateful for that assistance.

Multidrive Technology has produced specialised vehicle upgrades in Geelong for almost 20 years. It takes a normal four-wheel-drive vehicle and enhances its off-road ability by lengthening the chassis and adding an extra set of wheels. These new six-wheel vehicles give four or six-wheel-drive capability. The company's latest model is setting a new standard globally for utility vehicles operating under arduous conditions, and it is being found that the vehicles it is producing are in particular demand by fire services, the national parks service, the State Emergency Service, defence forces, police organisations and others. Also in the private sector its vehicles are highly in demand, as they are in the mining industry, the electricity industry, the communications and tourism industries and others.

Multidrive Technology is now looking to export opportunities that it has identified in the Middle East. The company has developed a strategic relationship with Nasser International, which will enable it to export into Jordan and neighbouring countries. Nasser International is an importer and distributor of Toyota vehicles in the Middle East. Recently Nasser displayed a militarised version of Multidrive's six-by-six Toyota

Landcruiser at the special operations forces exhibition, or SOFEX, in Jordan. Nasser invited Multidrive to present to customers at the Nasser site at the trade show. Key projects currently available in the Middle East are potentially worth up to \$3 million in export business for Multidrive, and consequently also represent significant job growth for Geelong.

Victoria, as the minister knows, is home to much of Australia's automotive industry, and Geelong is a big contributor in its own right. The industry is rightly recognised as a major contributor to the state's export earnings. I ask the minister to look at supporting Multidrive Technology in accessing this key Middle East market.

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

Electricity: industrial dispute

Mr JASPER (Murray Valley) — I wish to bring a matter to the attention of the Minister for Energy Industries in the other place and either the Treasurer or the Minister for Manufacturing and Export, who are both at the table. I refer to the hundreds of businesses that are being held to ransom by a drawn out dispute between the state's power companies and the Electrical Trades Union of Australia. The ETU has refused to connect power to scores of businesses and the dispute is costing thousands of dollars per day. I ask a minister to refer the issue to the minister in the other place for him to invoke the Essential Services Act to force the ETU to reconnect businesses that are being affected by the lack of an electricity supply.

I will quote two quick examples that will highlight the problem. Late last year the township of Rutherglen experienced a power blackout for about 5 hours. When that was taken up with TXU, it decided to install particular equipment in the eastern side of the township so that if the power cut out from the Wangaratta end it would automatically swing over to power being supplied from Wodonga. The equipment has now been installed. There was another blackout on Friday, 23 April, for about 5 hours which affected all the businesses in Rutherglen and had a detrimental effect on a large range of businesses and individuals operating within those businesses. When I checked with TXU it said it certainly had fitted the equipment but because of the ETU dispute it had not been properly connected and the ETU was holding the businesses — and individuals — in Rutherglen to ransom by not swinging over and appropriately providing that connection.

More recently we have had the situation in Wangaratta where in a major development of a site for Woolworths, excavators working in an area behind Murphy Street came across a cabling network that needed to be relocated. Those power cables can be relocated but without the ETU's approval for the work to be undertaken the Woolworths project is now being held up and there could be a delay of up to six months — all because of this action being taken by the ETU.

I seek from the minister an investigation of all these issues throughout Victoria, but particularly the two instances I have brought to his attention within my electorate of Murray Valley. The ETU must be brought to heel. We have businesses being held to ransom, and the economy of Victoria is now being affected by the fact that these businesses are either not connected to power or power-related work is not being undertaken by the ETU. The minister blames the federal government and all sorts of other things but does not get down to bringing the parties together. If he cannot do that he should invoke the Essential Services Act and make sure that power is supplied to businesses and individuals within the state of Victoria.

Business: Ballarat

Mr HOWARD (Ballarat East) — I wish to raise a matter for the Minister for Manufacturing and Export. The action I seek of the minister is that he provide Victorian government support to Ballarat businesses wishing to develop in more innovative ways. Certainly under the Bracks government Ballarat businesses have done very well, and there is a growth in employment in our business and industry areas across the Ballarat region. New industries are being attracted to Ballarat, particularly in the IT area, and these are being greatly supported by the re-establishment of the State Revenue Office on the University of Ballarat industry estate. There has been flow on through many other IT industries in that area, enabling NetConnect, Neighbourhood Cable and others to develop.

It is great to be able to attract the new industry this government has been able to support in Ballarat, but one of the other issues in ensuring the wellbeing and ongoing development of industry and business in Ballarat is to make sure we can grow the businesses that have been there for many years and ensure they do not fall behind in meeting the challenges of competitiveness.

This government has been very supportive in identifying that innovation is a key to the future health of industry in our state. There is a need to develop new processes, identify new marketing opportunities and

become more dynamic in the way our workplaces operate. There are of course many businesses in Ballarat that are doing very well — for example, Decco Systems, which is developing new mining technologies; and Athelgen, which with its world-class massage tables was both recognised and introduced into the manufacturing hall of fame at a gala dinner last week. There are great industry developments in Ballarat. Creswick Woollen Mills, in an industry that could go either way, is doing very well looking at new technologies. Its state-of-the-art fire blankets are helping it develop its markets.

Ballarat has also been doing a range of other things. It had an association of marketing excellence conference on lean manufacturing practices and techniques last year, and there are many other things happening. We want to ensure that there are opportunities for businesses that realise that they need a bit more support in identifying innovative technologies. Therefore I ask the minister to be provide support to some — —

The ACTING SPEAKER (Mr Nardella) — Order! The member's time has expired.

Southland: parking infringement

Mr THOMPSON (Sandringham) — I wish to raise a matter for the attention of the Minister for Police and Emergency Services. I have been contacted by a constituent who incurred an infringement notice against her vehicle as a consequence of her vehicle being stopped in a parking area for people with disabilities. At the time the vehicle had been taken by her son, who had also taken a 28-year-old wheelchair-bound man with cerebral palsy to Southland. The disabled adult did not have his parking sticker with him at the time. I understand he subsequently provided a statutory declaration to this effect.

My constituent's concern is that the procedures adopted by Civic Compliance have not allowed the exercise of any discretion to waive this fine. The suggestion that two or three people give up half a day to have the matter considered in the Magistrates Court would only result in further costs and significant inconvenience and distress.

On behalf of my constituent and her son I seek that the fine be reconsidered, noting that at the time the ticket was issued the parking space was being used for a legitimate purpose. The due date for nominating the driver was originally extended to 24 May 2004. The matter had earlier been raised in direct correspondence with the office of the minister pointing out the date to which the time for payment of the fine had been

extended. That date still remains relevant, although perhaps in turn I also seek a further extension of that time.

A reply has been received from Victoria Police acknowledging the letter regarding the penalty notice. The prosecutions officer said:

I am satisfied the alleged offence was committed and the issue of the notice was justified, therefore my interference in this matter is not warranted.

If you believe that your situation or circumstances are such that special consideration should be given, then the correct forum for this purpose is the Magistrates Court where all parties concerned may avail themselves of the opportunity to give sworn evidence.

I reiterate that the problem with that is that it would require two or three people to take time off work, and it becomes a cost-ineffective exercise.

Bertrand Russell once said:

It's a healthy thing now and then to hang a question mark on the things you have long taken for granted.

In this case it is important that the objective of the fine system be carefully considered. The person who carries the burden in this case is a person who is wheelchair bound and who did qualify to park in the particular space in question. I think it is often a case of bureaucracy being overextended where there is not the opportunity for discretion to be exercised in each case rather than the rule being a mandatory one where there is no scope for the exercise of discretion.

In summary I ask the minister if he would be able to review this case and, if there is any scope possible for the due exercise of discretion, that it be appropriately exercised.

Monbulk Primary School: living and learning centre

Mr MERLINO (Monbulk) — I wish to raise a matter for the Minister for Education Services regarding the Community Facilities Fund. The action I am seeking from the minister is that she approve a CFF application for Monbulk Primary School, which is proposing to construct a living and learning centre in which information and communications technology (ICT) facilities will be available to the wider community.

One of the key criteria for projects under the CFF is that there must be a demonstrated need for any such facility. Over the last 18 months the Shire of Yarra Ranges has conducted a detailed assessment of the Monbulk

community as part of its township development program. The process included extensive consultation with the community, in which I actively participated. The consultation was particularly impressive, because it involved a great number of residents and community organisations coming together from many different perspectives. The outcome of this consultation process was the publication of a community report which identified a number of improvements needed in the community. Key issues identified included the need for community access to the Internet, the development of a community house, exhibition space, training facilities and library resources. There is currently a mobile library servicing the area one afternoon a week.

The development of the living and learning centre is clearly of vital importance to the Monbulk community. The proposed facility would provide ICT resources for use by the wider community, an online library, space for holiday programs, University of the Third Age, Probus, tutoring, community house activities and capacities for displays from local organisations and community artists. The facility would also include disabled toilets. The total cost of this 400 square metre building is \$400 000; \$200 000 is to be funded by the school through a cooperative loan and the support of the local community, and \$200 000 is requested from the fund.

In addition to simply expressing support for the project, I understand the shire in response will undertake a review of facilities within the township. The proposal by Monbulk Primary School is located next to the community hall, and this offers great potential to develop a community precinct around the living and learning centre and the community hall. Both the shire and the Bracks government have identified community building as a priority, and the development of a community hub in which a number of community services and activities are located together would provide great and long-term benefits for Monbulk and the surrounding communities. The proposal by Monbulk Primary School complements both the shire's learning community strategy and the Bracks government's Learning Towns model. This is clearly the type of joint facility that is envisaged through the Community Facilities Fund.

I take the opportunity to thank Ray Yates, principal of Monbulk Primary School, the school council and the local community for their tireless efforts in seeking improvements to not only their school but also the wider Monbulk community. I also want to thank Cr Alan Fincher for his support. Cr Fincher will oversee the review of council facilities in the township,

and I look forward to those results. I again request that this CFF application be approved by the minister.

Tourism: Mount Buffalo

Mr DIXON (Nepean) — I raise a matter with the Minister for Tourism regarding tourism facilities on Mount Buffalo. I ask the minister to ensure that the ski tows on the mountain are operating for this season and that the low-cost accommodation that is available on the mountain is open for this season. I noticed in the news tonight that snow has been forecast for the Victorian mountains for tomorrow and this week.

Recently there have been financial difficulties with the operator on Mount Buffalo, and I understand that negotiations with a newly selected operator have broken down. Therefore at this stage it looks like there will be little or no snow activity on Mount Buffalo. As I said, the serious ski season is about to start and hopefully it will be a good one in Victoria again this year. But at this stage the ski lifts on Mount Buffalo are just not working. They really need to be repaired, opened and then operated in a reliable fashion.

Being a positive and helpful sort of person, I suggest that perhaps some group on one of the neighbouring mountains should be asked to come in and get these lifts up and going, and operate them until some sort of long-term solution is actually reached in the meantime. Although the administrators will be operating the famous Mount Buffalo Chalet, what about the cheaper accommodation that is available on the mountain? It does not look like it will be operating this winter. This government must show that it is not just interested in the top end of ski tourism. It should be more concerned about the battlers who would like to have a cheap ski holiday or snow experience. Mount Buffalo is really the only cheap ski experience and accommodation available in Victoria, and at this stage it looks like it will be closed and not available for this year.

The government seems hell-bent on closing its own camping and caravan parks through either providing short leases or running down the facilities, and in the case of privately owned caravan parks it is imposing huge land taxes on them. So the ordinary person in Victoria is being denied a cheap outing or a holiday, and if something does not happen soon, Mount Buffalo will be yet another example.

If the minister acts on what I am suggesting and gets things moving, it will be important that Tourism Victoria also jumps on board and markets Mount Buffalo as a very good quality and cheap alternative for a ski holiday experience in Victoria. I am asking the

minister to ensure that the ski tows are up and operating very soon and that the low-cost accommodation available on the mountain is available this season.

Western Hospital: name change

Mr MILDENHALL (Footscray) — I raise a matter for the attention of the compassionate and indefatigable Minister for Health. I ask that the minister acknowledge the groundswell of community support for a name change at the Western Hospital and approve its renaming as the Footscray campus or the Footscray Hospital.

A name change is important for several reasons. Firstly, in Footscray today three of the most high-profile providers of health care services have very similar sounding names. In addition to the Western Hospital we have the Western Health Network and the Western Region Health Centre. Changing the hospital's name back to Footscray Hospital would alleviate a source of confusion for those who seek to use primary and acute health services in the west.

Secondly, as we have just celebrated the 50th anniversary of the hospital, a name change would acknowledge the great work undertaken by local activists, charities, community groups and ordinary working men and women in raising funds to establish the hospital in Footscray as far back as 1919. It took 34 years for the Footscray community to get its own hospital. There were numerous setbacks on the way, including knockbacks from the charities board and the outbreak of the Second World War. But since 1953 the hospital has been providing a tremendous standard of health care to the Footscray community and the wider western region.

We are all very proud of our hospital, which is now a major centre for teaching and research. In recent months I have consulted with hospital staff and volunteers and floated the idea of a name change amongst the general community. I have received widespread support for that proposed name change. It would be an appropriate gesture to follow the successful 50th anniversary celebrations and honour the pioneers of and volunteers at the hospital. I therefore call on the minister to look favourably upon this request and agree to rename the Western Hospital as the Footscray Hospital or the Footscray campus.

Rail: Avenel crossings

Dr SYKES (Benalla) — My issue is the dangerous railway crossing at Aerodrome Road, Avenel, in north-east Victoria. I ask the Minister for Transport to

honour his commitment to me in July 2003 to complete the installation of boom gates, warning bells and other safety measures as a matter of priority.

The issue of unsafe rail crossings in Avenel was first raised with me by Mrs Helen Newton in January 2003. The problems related to three rail crossings — Aerodrome Road, Ewing Road and Bank Street — each of which had a range of problems including poor visibility for approaching traffic; dangerous road surfaces leading to and on the crossings, in particular potholes and gravel with next to nil traction; partially installed warning bells and partially installed boom gates on Aerodrome Road; and faulty warning bells and partially installed boom gates on the Bank Street crossing.

I wrote to the minister's office in February and March 2003. In July 2003 the minister replied, and his reply included the statement:

While the Aerodrome Road crossing has had an audible warning device installed, its commissioning has been delayed due to a design fault which has now been rectified. The warning device is now being evaluated in verification trials and, if approved, will be commissioned as a matter of priority.

Since that time there has been an accident in November 2003, several more letters from Helen Newton to me, three more letters from me to the minister and an accident last week, but there has been no progress on the warning devices, boom gates, road surface or visibility. The accident last week involved a local mother and her two young children, and miraculously none of them was severely injured. Naturally there was extremely strong community reaction with several protest meetings and associated extensive media coverage.

The outcome of this has been a commitment to the mayor of the Shire of Strathbogie, Robin Steers, by Glenn Lyons, the general manager of VicTrack, the body responsible for rail crossing safety. Mr Lyons's commitment includes immediate action on road surfaces, signage and approaches and having the current safety devices fixed by the end of the month, or if that is not possible, their replacement as the highest priority in the state.

I ask the minister to confirm this commitment to complete the installation of warning bells and boom gates to Aerodrome Road and to complete the road surface, signage and visibility issues as a matter of urgency. I further ask the minister to ensure the completion of safety works and upgrades at the Bank Street and Ewing Road crossings at Avenel. Finally I also ask the minister to review the safety of all rail

crossings in the Strathbogie shire and to fund upgrades for those considered dangerous.

Asthma: breath-testing procedures

Mr ROBINSON (Mitcham) — The issue I raise in tonight's adjournment debate is for the Minister for Police and Emergency Services, and it concerns breath-testing procedures and the impact of these procedures on asthmatics. I am seeking the minister's undertaking to have Victoria Police and possibly Asthma Victoria investigate ways in which asthmatic motorists might be given increased consideration when being tested.

This issue came to my attention some time ago through a constituent whose daughter is an asthmatic and was involved in a rather traumatic incident. She was, like so many others, pulled up and asked to undertake a breath test — nothing unusual about that. However, the daughter is an asthmatic, and she experienced an unfortunate reaction in attempting to produce sufficient force of breath to activate the breathalyser machine. It actually brought on an asthma attack. I understand this is not an uncommon occurrence with some asthmatics. In some cases where the asthmatic knows this might be a problem, the anxiety of waiting in line knowing they are going to be tested only increases the likelihood of a reaction. In the constituent's case her daughter ended up spending the night in hospital. It was a distressing incident. According to the constituent her daughter was never given an option at the time she was tested, even though she indicated to the testing officer that she was an asthmatic and that it might be quite difficult for her.

In following up this matter the mother has been disappointed by the response. I can understand why the police might inform her that those of them who are involved in the breath testing regularly receive claims from motorists that they are asthmatics and cannot possibly undergo the test. I understand in some cases that is being used as nothing but a blatant excuse to try to avoid being breath tested. Just as some motorists might seek to use asthma as an excuse for being tested, equally in some cases it is a very genuine issue. Melbourne, as we know, has a large number of asthmatics, and I am sure this is a problem that has occurred previously.

If Victoria Police and Asthma Victoria were to work together, it might be possible to deliver a system where we could have people's licences, for example, carry some designated symbol indicating that they are a certain type of asthmatic and are likely to react in this way. Some additional information could be provided to

them as a matter of course in order that we might avoid these unfortunate outcomes.

Responses

Ms PIKE (Minister for Health) — The honourable member for Footscray has asked me to consider changing of the name of the Western Hospital to one of the original names — that is, the Footscray Hospital. This request comes from members of the community who value the unique identity of Footscray, are proud to be residents in a suburb with a very long and proud tradition and who want to have the acknowledgment of the work they have done over many years in contributing to and building the hospital.

It is not uncommon for our health services to have overriding names and then to separately identify the particular campuses that are part of that cluster of services. In fact the Western Health group has asked me to consider this very thing for Footscray, so that we would have Western Health, Sunshine Hospital, Williamstown Hospital and Footscray Hospital, so I am very pleased to let the member for Footscray know that I think his and his community's suggestion — which he is of course reflecting — accords with the direction we are moving in.

I think it is an excellent idea and one that will help to build and strengthen the local community and give it a sense of community pride while acknowledging that it is part of a broader health grouping and can draw on the strength of the collaboration with other campuses.

Mr BATCHELOR (Minister for Transport) — The member for Benalla raised with me a very important issue in his electorate relating to level crossings in Avenel. There are in fact three level crossings in Avenel, at Aerodrome Road, Ewings Road and Bank Street.

Mr Jasper — You must have been up there a few times!

Mr BATCHELOR — Yes. The Ewings Road and Bank Street crossings are protected by flashing lights, and Aerodrome Road is protected by signage. Consistent with safety assessments, VicTrack plans to upgrade the Aerodrome Road and Bank Street crossings with boom gate protection. On-site work at Aerodrome Road and Bank Street was undertaken some considerable time ago, but the commissioning was deferred when technical problems arose at those locations. That is unacceptable to me, and I would like to put on the record the fact that I am very disappointed

at the time it has taken to address this important safety issue.

As I said, I understand technical problems have delayed the commissioning of those level crossings, which the member for Benalla mentioned in his contribution. Because of the safety concerns and the representations made by the local community — —

Mr Jasper — And by the member.

Mr BATCHELOR — And because of the representations made by the member for Benalla, I have made it very clear to VicTrack and to the Department of Infrastructure that finding a solution to these issues is an absolute priority on their part.

At my request the chief executive of VicTrack, together with VicRoads, met with the Shire of Strathbogie representatives and the mayor last Thursday to explain the urgent steps that need to be undertaken to address this matter. The advice I have in terms of when the solution can be put into effect differs a little from that of the member for Benalla. The advice I have is that VicTrack is committed to upgrading the Aerodrome Road level crossing to provide boom gates and flashing lights but that that will take between three and six months to complete. I think the member mentioned an earlier time frame, and I will check that with VicTrack, but we will do it as soon as we can. We do not want to see this delayed any longer than is necessary.

While that is being sorted out — in the interim, so to speak — with the approval of VicRoads stop signs have been erected at the crossing to replace the give-way signs. VicRoads will also work with the council to address the poor quality of the road surface at the site, an issue which was also raised by the member for Benalla tonight and which no doubt was discussed at the meeting with the council.

VicTrack will provide regular progress updates to the mayor and to the chief executive officer of Strathbogie shire, and I understand a further community meeting will be held in June by way of a report back and to demonstrate progress. My office will ensure that I am kept informed of the progress, and I will personally make sure that the required outcome for the people of Avenel and its surrounds will be delivered as a matter of priority and urgency. I thank the member for raising it with me tonight.

Mr HOLDING (Minister for Manufacturing and Export) — The member for Lara raised with me the possibility of Victorian government support for a specialist automotive rebuilder, Multidrive Technology, and some assistance that might be available to help it

develop export markets in the Middle East. The member for Lara ably described the specialist work that Multidrive Technology does, and I am very pleased to be able to inform the member and the house that the Victorian government has provided support for Multidrive Technology under our First Step Exporter program, which is part of our Opening Doors to Export plan.

In this case Multidrive was able to use the First Step Exporter program to enable key staff to attend the special operations forces exhibition that took place in Amman in Jordan. We know that support will help Multidrive showcase its specialised products at an exhibition where no doubt there will be a great deal of interest in the innovative products that Multidrive Technology has developed.

We want to encourage Multidrive to continue its exporting activities into the Middle East. We see it as a key market. It is one of the markets that has been identified as part of our Opening Doors to Export plan, and we understand the company is working on a number of projects with the contacts it is developing in the Middle East to export vehicles potentially to Saudi Arabia, Oman and Kuwait.

We understand there has also been considerable interest in the United Arab Emirates, Yemen, Jordan, Iran and South Africa. We will be encouraging Multidrive to build on the work it is doing with the First Step Exporter program to register with the export communications network, and we would also encourage Multidrive to access our Next Step Exporter program, which might provide the company with more intensive assistance.

The member for Ballarat East sought assistance to enable innovative companies in the City of Ballarat to access the latest developments in the innovation area so they can grow their businesses. I am very pleased to inform the honourable member that the Bracks government has approved a grant under our agenda for new manufacturing to the City of Ballarat to support local companies to become more innovative. The grant is \$18 000, so it will go a long way in supporting companies in a region that is known for its manufacturing innovation and excellence.

The first step in this program will be the delivery of a one-day workshop to local business operators. This will help all operators to develop a common understanding of what innovation is, why it is important to their organisations and how to generate and capture ideas. The second stage will deliver an extended workshop over a 10-week period. It consists of four sessions and

half-day site visits to each participating company. The focus of the extended workshops will be understanding and managing the innovation process, developing an innovation strategy and developing an understanding of their own organisational capabilities with regard to innovation. I understand the businesses will shortly be invited to participate in the program, and I would encourage all businesses in the Ballarat area to consider this fantastic opportunity. I thank the member for raising it with me.

The member for Box Hill raised a matter with the Treasurer in relation to Lynette Bentley from Wandin North and the possibility of an ex gratia payment being made to her in lieu of stamp duty she has paid following a transfer of title. The Treasurer has mentioned to me that this matter has been raised with him previously by the member for Evelyn, and he has undertaken to review the matter and respond directly to the member for Box Hill.

The member for Murray Valley raised a matter with the Minister for Energy Industries in other place in relation to industrial disputes involving the Electrical Trades Union of Australia, and I will refer that to the minister for a response.

The member for Sandringham raised a matter for the Minister for Police and Emergency Services in relation to a civic compliance infringement that was issued, as I understood it, to a car which did not have a disabled sticker but which was being used by a man with cerebral palsy. I will refer that to the minister for a response.

The member for Monbulk raised a matter for the Minister for Education Services in relation to community facilities funding for Monbulk Primary School. I will refer that to the minister for her to respond directly to the member.

The member for Nepean raised a matter with the Minister for Tourism in relation to Mount Buffalo tourism facilities. I think it was particularly in relation to low-cost accommodation and ski lifts. I will refer that to the minister for his attention.

The member for Mitcham raised a matter with the Minister for Police and Emergency Services in relation to the impact of breath tests on asthmatics, and I will refer that to the minister for his attention.

The ACTING SPEAKER (Mr Nardella) —
Order! The house is now adjourned.

House adjourned 11.49 p.m.

Wednesday, 26 May 2004

The SPEAKER (Hon. Judy Maddigan) took the chair at 9.04 a.m. and read the prayer.

NOTICES OF MOTION

Notices of motion given.

Honourable members interjecting.

The SPEAKER — Order! I remind the house that this place is a place of free speech and members have a right to express their views regardless of what other members may think. I particularly warn the member for Narracan for continually interjecting.

Further notices of motion given.

Honourable members interjecting.

The SPEAKER — Order! Before continuing, I remind the house that there seems to be creeping into notices of motion a practice of using notices in a way that was not intended by the standing orders. That applies to all members of the house on both sides. I ask members to remember when addressing notices of motion that the normal rules governing how we refer to other members apply and that notices should relate to government business and matters concerning this house.

Further notices of motion given.

PETITIONS

Following petitions presented to house:

Aged care: medication administration

To the honourable members of the Legislative Assembly of Victoria in Parliament assembled:

The petition of the undersigned residents of Victoria:

noting that high-care residents can now reside in low or mixed-care facilities; and

noting the decision of Federal Court Justice Ryan that high-care residents in mixed-care facilities are entitled to the safety afforded by the regulations; and

noting that the minister for the aged proposes to amend the Drugs, Poisons and Controlled Substances Regulations to exclude high-care residents in low and mixed-care facilities from the protection afforded by the regulations —

calls upon the Parliament and in particular the Minister for Aged Care to ensure that high-care residents in Victorian

residential aged care facilities who are incapable of administering their own medication have their prescription medication and dangerous drugs administered only by a registered nurse or medical practitioner.

Your petitioners therefore request the honourable house make certain that only appropriate amendments are made to the regulations that meet this objective.

And your petitioners, as in duty bound, will ever pray.

By Mr DELAHUNTY (Lowan) (967 signatures)

Mitcham–Frankston freeway: tolls

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth the Parliament that the Victorian government has decided to break its 2002 pre-election pledge and introduce tolls on the Mitcham–Frankston (Scoresby) freeway.

Your petitioners therefore pray that the Parliament undertake to ensure that the government:

1. honours its pre-election commitment and policy as pledged to the citizens of Victoria not to introduce tolls on the Mitcham–Frankston (Scoresby) freeway; and
2. immediately reverses its decision to impose tolls on vehicles on the Mitcham–Frankston (Scoresby) freeway and thereby honour its commitment to the citizens of Victoria.

And your petitioners, as in duty bound, will ever pray.

By Mr COOPER (Mornington) (317 signatures)

Land tax: caravan parks

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth that the massive increase in state land taxes on caravan parks is placing an unfair financial burden on low-income families and holiday-makers who are least able to afford such a tax.

With many families facing eviction, this massive increase in land tax is placing both a way of life for many Victorians and indeed the whole caravan park industry in serious jeopardy.

In addition this land tax is likely to lead to the sale and subdivision of some of Victoria's most important coastal lands.

Your petitioners therefore pray that the Bracks Victorian Labor government abolish land tax from caravan parks as a matter of extreme urgency.

And your petitioners, as in duty bound, will ever pray.

By Mr DIXON (Nepean) (757 signatures)

Motor registration fees: pensioner concession

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth the state government's decision to halve the pensioner concession on car registration fees is discriminatory to the people of Victoria. A large number of Mornington Peninsula pensioners rely on their car for transport because of the low levels of public transport in the area.

Your petitioners therefore pray that the government reverse its decision to halve the pensioner concession on car registration fees.

And your petitioners, as in duty bound, will ever pray.

By Mr DIXON (Nepean) (83 signatures)

Local government: rate concessions

To the Legislative Assembly of Victoria:

The petition of pensioners of Victoria draws to the attention of the house that property values have increased significantly. This is affecting the council rates, making us asset rich and income poor. Yet we have in no way or form contributed to this increase and it is beyond our control.

Observing the amount of property ownership changes taking place we believe the new owner must pay the new rates since he is aware of the value of the property he is buying, be it for part-time or full-time residence.

The petitioners therefore request that the Legislative Assembly of Victoria makes the necessary legislative changes so that the value of the houses freezes at the time the person became a pensioner so that the total rates be levied on the needs of the council to provide services and facilities for the municipality can be distributed between pensioner and new owners and not between areas within the municipality. This way the pensioner will not become asset rich and income poor through no fault of his own. The new owner is making an informed decision as to the value and subsequent rates of the property he is buying for the councils to continue to charge their average rise to the old and new owner based on the old and new values.

And your petitioners, as in duty bound, will ever pray.

By Mr DIXON (Nepean) (557 signatures)

Rail: Mentone station

To the Legislative Assembly of Victoria:

The petition of Mentone train station users draws to the attention of the house the potentially dangerous situation that exists during peak hour travel times for students and other rail commuters at the Mentone station.

Prayer

The petitioners therefore request that the Bracks government take immediate steps to provide a supervisor on duty at the Mentone station and control crowded platforms between the

hours of 7.30 a.m. to 9.00 a.m. and 2.00 p.m. to 4.00 p.m. five days each week.

By Mr THOMPSON (Sandringham) (40 signatures)

Police: Sandringham station

To the Legislative Assembly of Victoria:

The petition of the residents of the Sandringham electorate draws to the attention of the house the need for a 24-hour police presence in the Sandringham shopping centre and Sandringham station precinct. This would be provided by the construction of a new police station on the former police station and courthouse site in Abbott Street, Sandringham.

Prayer

The petitioners therefore call upon the Bracks Labor government to fulfil an earlier Labor Party election promise and build a new Sandringham police station during the current Parliament.

Benefits which will derive from the completion of the project will include:

- (a) a strong police presence in the Sandringham shopping precinct and railway station area;
- (b) the clearing up of a local eyesore with the block of land poorly maintained and the former courthouse building badly vandalised;
- (c) the completion of development at the northern end of the Sandringham retail precinct, which will serve as a further catalyst for the aesthetic upgrade of the area.

By Mr THOMPSON (Sandringham) (128 signatures)

Consumer and tenancy services: delivery

To the Legislative Assembly of Victoria:

The petition of the people of the Shire of Glenelg draws to the attention of the house our objection to the withdrawal of locally based consumer and tenancy advisory services from south-west Victoria.

We believe this is another example of cost cutting to services for those people who need them the most. Locally based consumer and tenancy advisory services assist people personally in a wide range of matters regarding tenants' and consumer rights.

We believe the new 1300 number will be of no benefit because of the loss of personal interaction. Under the new scheme the closest available office for a face-to-face meeting with a consumer or tenancy adviser will be either Geelong or Ballarat.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria reinstate forthwith the consumer and tenancy advisory services in Portland, Hamilton and Warrnambool.

By Dr NAPTHINE (South-West Coast)
(680 signatures)

Tabled.

Ordered that petition presented by honourable member for South-West Coast be considered next day on motion of Dr NAPTHINE (South-West Coast).

Ordered that petition presented by honourable member for Mornington be considered next day on motion of Mr COOPER (Mornington).

Ordered that petitions presented by honourable member for Nepean be considered next day on motion of Mr DIXON (Nepean).

Ordered that petitions presented by honourable member for Sandringham be considered next day on motion of Mr THOMPSON (Sandringham).

Ordered that petition presented by honourable member for Lowan be considered next day on motion of Mr DELAHUNTY (Lowan).

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Auditor-General: financial and performance audits

Ms CAMPBELL (Pascoe Vale) presented report on appointment of persons to conduct financial and performance audits of Victorian Auditor-General's Office, together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Audit Act 1994 — Report of the Auditor-General on Public Sector Agencies — Results of Special Reviews and Financial Statement Audits for Agencies with 2003 Balance dates other than 30 June — Ordered to be printed.

Auditor-General — Performance Audit Reports on:

Budget Development and Management within Departments — Ordered to be printed.

Managing Emergency Demand in Public Hospitals — Ordered to be printed.

MEMBERS STATEMENTS

Heany Park Primary School: funding

Ms ECKSTEIN (Ferntree Gully) — Last Thursday I had the very great pleasure of opening Heany Park Primary School's new buildings. Heany Park is located in Rowville near the Churchill National Park and currently has almost 800 students. While the school was opened in 1993, rapid population growth has seen the need for additional permanent classrooms. This upgrade was funded in the first term of the Bracks government and has seen the construction of four new general-purpose classrooms and a new student toilet block. The school received \$862 286 from the government towards the project and contributed a further \$40 461 for local improvements.

I commend the school council and school community for their tireless work in getting these building works successfully completed for the school. In particular I would like to acknowledge the contribution of the school council president, Mr Rob James, and the principal, Ms Barbara Crowe, as well as the inaugural principal of Heany Park from 1993 to 2002, Mr Pat Finn.

Parental and community involvement at Heany Park is considerable, and this strong partnership between the school, the community and the government has resulted in an improved learning environment for students. Heany Park is a fine example of the Bracks government's enormous investment in educational infrastructure since it came to office in 1999 — an investment that has seen capital improvements undertaken in one in three government schools to a total of \$1.28 billion. I look forward to the opening of several other school upgrades in the electorate of Ferntree Gully in coming years, including Kent Park Primary School — —

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

Craig Johnston

Mr SMITH (Bass) — I was appalled and disgusted to learn last Friday that Craig Johnston, the former leader of the Australian Manufacturing Workers Union (AMWU), is to escape jail for his leading role in the union raids on Skilled Engineering and Johnson Tiles. Craig Johnston illegally broke into these companies' buildings and smashed offices to shreds, causing tens of thousands of dollars damage. Not only that, Johnston and his AMWU thugs threatened to kill innocent workers who were just doing their jobs. Yet last year

the pinko Victorian Labor Party happily accepted more than \$125 000 in donations from this union, a union that is willing to terrorise a pregnant woman and threaten the lives of innocent workers.

It is appalling to think this person can flagrantly flout the law, threaten to kill people, break and enter and vandalise private property only to get a reduced level of punishment because of his commitment to the trade union movement. How many more businesses will be brutalised into submission by this thug and his mates from the AMWU because he can now go back into the union in a leadership position? The era of the protection of trade unions and brutal trade union officials must end. The Bracks government stands condemned for letting industrial relations in Victoria disintegrate to this level.

East Timor: worm infestations

Ms LOBATO (Gembrook) — Yesterday I began informing the Parliament about a most distressing article that appeared in the *Age* on 8 May. It was a story about a 12-year-old East Timorese girl who had died from a worm infestation. The article reported that this girl could have escaped death with the help of a 10-cent tablet. Worm infestations are commonplace in East Timor and other poverty-stricken nations.

This story prompted me and my staff to resolve to take action to prevent such distressing and needless deaths. Each person only needs to receive a single dose of one tablet to prevent the spread of worms. We are aiming to work in conjunction with other organisations to instigate a worm eradication program throughout East Timor. Many people have shown a willingness to be involved, whether by offering advice or by offering assistance of a more practical nature — the Alola Foundation, Berwick Soroptimists, World Vision, the Friends of Los Palos, Overseas Pharmaceutical Aid for Life, and the Honorary Consul General for East Timor have all been involved in some way thus far.

Our aim is an ambitious but necessary one. For those who are unsure of the health status of the East Timorese, these statistics from the World Health Organisation may prove sobering: 45 per cent children under five years of age are underweight, and 41 per cent of that age group have stunted height due to poor nutrition and health care. More than 40 per cent of the population lives below the poverty line, which is set at just 0.55 cents per day. I will keep the Parliament updated on the progress of our fledgling worm eradication program, which we hope will make a significant change to the health status of the East Timorese.

Salvation Army Red Shield Appeal

Mrs POWELL (Shepparton) — The Salvation Army held its Red Shield doorknock appeal on the weekend, and I congratulate it, the volunteers and the collectors. I had the honour of launching the appeal for northern Victoria as the patron of the Shepparton region at Brayton Youth and Family Services in Shepparton. Brayton is operated by the Salvation Army in partnership with government.

The Salvation Army supports these types of programs right across northern Victoria. I congratulate Captain Dudley Mortimer, the public relations officer, and Colonel Jocelyn Knapp, the divisional commander, who attended the launch. The appeal organisers in Shepparton region hoped to raise \$38 000 on the weekend, but unfortunately only \$17 000 was banked by the Shepparton Salvation Army on Monday.

I pay tribute to captains Dulcie and Ken Parnell from the Shepparton branch of the Salvation Army for the great work they do in the community, working with the most needy people. While Shepparton district people are very generous, I believe the drought has left many people unable to give as much as they would like. During the drought the salvos hired tankers to fill domestic water tanks; provided funds for children's school uniforms and books; and provided emergency food relief.

On Sunday I went to the Mooroopna fire station and the Shepparton Salvation Army hall, which were the collection areas, to make a cuppa for the collectors who all did a great job. Unfortunately the number of collectors was down this year and some areas missed out on being able to donate. I have given collection tins to a number of businesses, and since the appeal lasts until Sunday, 30 May, I hope everyone gets behind it and the target for the Shepparton region can be reached to allow the salvos to carry on with the great work they do.

Traralgon (Kosciuszko Street) Primary School: students

Mr JENKINS (Morwell) — Last week I was fortunate to be invited to talk with senior primary students at the Traralgon (Kosciuszko Street) Primary School. What a great state school it is too! The session was organised by teacher Kim Ryan. The students were studying government and democracy and were in the midst of a trial election. The object of the time I spent with them was to discuss the processes of government, where a local member fitted in the scheme of things and the sort of duties he or she might undertake. The

students were well-prepared and their questions were challenging.

It was great to meet with them in Kosciuszko Street primary school's new library, IT, general classroom and administration wing which opened a only couple of months ago. The school looks forward to continued physical improvements in the future as part of the Bracks government's continued upgrade of the physical infrastructure in our education system.

The thanks I received from the school captains, Tahnee Matthews and Matthew Stringer, demonstrated that Kosciuszko Street primary school has great leaders coming up into the future. They and their classmates are a credit to their teachers, Michele Wilson, Kaye Innocenzi, Paul Murrie, Kirstie Marshall — not of this place — Kim Ryan, their principal, John Reed, and, of course, their school community.

Business: performance

Ms ASHER (Brighton) — I wish to draw the house's attention to the Victorian Employers Chamber of Commerce and Industry's survey of business trends and prospects for the March quarter 2004 performance, and June quarter 2004 outlook. The survey says:

Victoria's growth prospects appear to have deteriorated over the March quarter. A total of 16 per cent of surveyed businesses believe the state economy will experience stronger growth during the next 12 months, down from the 24 per cent of respondents holding this view in the December quarter 2003 survey. Similarly, 34 per cent of those surveyed anticipate Victoria's economic performance will be weaker during the next 12 months, an increase on the December quarter survey when 30 per cent of respondents held this view.

I note in particular that the agriculture, forestry and fishing industries, building and construction industries, and manufacturing industries anticipate the poorest level of growth. I would imagine the government will argue that this survey was done prior to the issuing of its business statement. Time will tell in relation to the government's business statement. However, in the interim because the Treasurer likes to read out newspaper articles, I would draw his attention to a heading in the *Australian Financial Review*, 'Victoria glum on local outlook', and to another in the *Age* of Monday, 17 May, 'Victoria's fizz goes flat: survey', and request that he consider this survey.

Werribee Secondary College: fire

Ms GILLET (Tarnait) — Tragically a fire broke out at Werribee Secondary College on 13 May. While visiting the school community to offer my support and

assistance I encouraged the principal, Steve Butyn, to write to me indicating his thoughts about those who came to the school's assistance at this traumatic time. This is what he wrote:

Fire broke out at Werribee Secondary College around 9.00 p.m. on Thursday, 13 May 2004. There has been no definitive answer as to the cause of the fire. I wish to acknowledge the wonderful work undertaken by the Metropolitan Fire Brigade, the Country Fire Authority, the State Emergency Service and police who through their actions and high-level skills saved the college from being completely destroyed. The college lost its entire trade wing valued at about \$2 million to replace. I wish to acknowledge the wonderful support structures that came into place by central facilities (Lyn Williams) and the western regional office (Rob Blachford, Bruce Kiloh and their counselling team). Year level 10 students were hardest hit as they lost all their lockers and contents. During the week following portables arrived and it will take some time for the trade portables to be commissioned. In the meantime Victorian University of Technology will make accommodation available at Hoppers Crossing and Newport for students to undertake senior trade studies.

Congratulations and thank you to the Werribee Secondary College community for their resilience and support during this difficult time. The college council eagerly awaits the appropriate announcements for the rebuilding of the trade wing as part of stage 1 master plan configuration.

I would like to place on record my thanks to Steve for the positive leadership he has provided to his wonderful school community.

Planning: Bayside development

Mr THOMPSON (Sandringham) — Recently ministerial approval was granted to a Bayside planning scheme amendment which allows for a third storey to be built at 56 Beach Road, Hampton, also known as the Hampton Hotel site. The height of this building already approaches 12 metres, which I understand is the maximum level for buildings in Beach Road and equates to the height of a four-storey building. I am concerned that the quality of the research and study supporting a variation in the height is flawed.

The Hansen Bayside height control study omitted to state that the two-storey height of the building is already taller than the significant three-storey residential development at the rear of the building. It is unusual that the expert study justified a third storey for the existing two-storey hotel by reference to the adjoining three-storey development yet did not indicate that the abutting three-storey development was already lower in height. The height of the three-storey residential building at the back was set so that it would not be greater than the original hotel building. The former height limit represented a level that had been fought and applied for by the former City of

Sandringham for decades. The position of the City of Bayside had been to oppose any increase in height for the Hampton Hotel site.

Pages 63 and 80 of the panel report on amendment C2 of the Bayside planning scheme pursuant to sections 153, 155 and 157 of the act dated August 2001 set out the position, and the Bayside height control study documents its position at page 48 — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

Eltham North Primary School: 80th anniversary

Mr HERBERT (Eltham) — Last Wednesday, 19 May, I joined the Eltham North Primary School community in celebrating its 80th anniversary. The history of Eltham North Primary School is a remarkable story of perseverance and immense community and parental involvement. It is a story of a sustained and successful battle to achieve excellence in education. The school has been through a great deal in 80 years. It has weathered damage due to bushfire and storms and has been relocated to seven different sites, yet it has still maintained a fervent passion for survival and a desire to serve the community.

Included in the celebrations was the opening of the new shelter area called 'Rest Awhile', named after the house rented by the education department for use as a first school building. The shelter now offers a meeting place for the school community, and the student band ably performed at the anniversary celebrations there. On the day students and teachers were dressed in fantastic period costume, reflecting the decades of time over which the school has been open. Students performed before an enthralled group of parents and local identities, each grade delighting the crowd with popular songs and dance from past times.

Eltham North Primary School enjoys an excellent reputation within the local community. Its teachers are committed to achieving excellence in education provision, the students possess a zest for learning and an enthusiasm for the school, and its parents participate in school activities and enjoy being part of a real partnership in their children's education. I was proud to attend the school's 80th anniversary, just as the local community is proud of the quality of its local primary school.

Member for Gippsland Province: comments

Mr INGRAM (Gippsland East) — At the function celebrating the return of the passenger rail service to East Gippsland, members of the Save Our Train group recognised the support they had received from a member for Gippsland Province in another place, the Honourable Peter Hall, who was one of the few parliamentarians who stood by East Gippslanders during that time as they worked for the return of the service.

How disappointing it now is that he has not come out and supported the actual return of the passenger rail service but has dragged the hardworking, dedicated parents of St Patrick's Primary School in Stratford into a political scone fight over the function at Stratford. I apologise to the hardworking and dedicated parents of the school for their being dragged into this unfortunate situation, and I indicate to the house that we have done a lot of work to make sure that the unfortunate situation that has occurred has been addressed and that their out-of-pocket expenses have been covered by the government.

The criticism expressed by the member in the other place is not something that is supported by the majority of East Gippslanders, and the large number of people who turned out on the day to celebrate the return of the passenger rail service is a clear indication of that support. I find it extremely disappointing that the parents and committee of management of a primary school have been dragged into an unfortunate thing like this. I express my concern that they have been involved, and they have contacted my office to say that they are disappointed by this.

Seymour: community grants

Mr HARDMAN (Seymour) — I rise to thank the Minister for Sport and Recreation in the other place for recognising community needs in the Seymour electorate by providing much-needed funds to build facilities that communities across the electorate need.

The most important, successful project is in the Murrindindi shire, where the youth committee, supported by the dedicated local community, gained funding of \$50 000 for a youth precinct that includes a skate park. The people in this group showed true resilience in realising their dream. They were unsuccessful twice before, but kept at it with the encouragement and support of the shire and the community through significant fundraising achievements.

The shire has successfully gained \$395 000 in this round to enhance its swimming pool facilities in Yea and Alexandra. Murrindindi was also successful in gaining \$15 000 to undertake development plans for reserves at Thornton, Kinglake, Kinglake West, Yea and Alexandra to be ready for further funding in the future. The shires which comprise the Seymour electorate all cover large areas and consist of small communities, and these grants are very important to the shires, which would not be able to provide the facilities without their assistance.

I also congratulate the Seymour Football-Netball Club, which was successful in gaining \$30 500 to develop new flexipave courts at Kings Park. There is a great need to upgrade netball facilities across the state, and I thank the Mitchell shire and the minister for recognising the needs of the Seymour netballers.

I also congratulate the Healesville Tennis Club, which was successful in gaining \$50 000 to upgrade its court surfaces and provide lights. I also thank the Shire of Yarra Ranges and the minister for providing support for this important upgrade to facilities.

Schools: special needs facility

Mr PERTON (Doncaster) — I rise to support a proposal for a special setting proposed by the principals of the Darebin Network, and I particularly congratulate John Nolan, the principal of Preston Primary School. There is an urgent need to deal with violent, disruptive primary students, and the principals have come up with an excellent solution to provide a special setting. To quote them:

There is an urgency to address the educational needs of children with emotional and behavioural disturbance. The current situation is not working — not working for the child, the families, peers or schools. The current strategy is ad hoc at best and relies on goodwill rather than good practice.

...

The jargon presupposes that teachers can teach and children can learn. The reality is that in many classrooms teachers and students work in an environment that, due to severe emotional behavioural disturbance of students, teaching and learning play second fiddle to surviving.

The issue must be addressed ... in real terms and the solutions must be targeted at doing something.

...

The priority solution is to establish an emotional and behavioural setting to serve the Darebin Network schools. The setting would have a multidisciplinary focus, with the appropriate professionals working in their field of expertise. The interventions must be rigorous and intensive, and include working with students and families. This would involve the Department of Education and Training, the Department of

Human Services, local government, tertiary institutions, Austin Hospital Mental Health and other stakeholders working together to support the setting.

The issue of where the setting should be located is another issue to be considered. As with other settings it would be annexed to an existing school. The teacher-pupil ratios would be in the order of one to five, and the total enrolment in the order of 20 to 30 students. The cost of the setting, with a charge out per teacher of \$60 000, would be in the order of \$300 000.

This is an excellent proposal, and it deserves the support of the government and the Parliament.

Royal Automobile Club of Victoria Centenary Hill Climb

Mr LANGDON (Ivanhoe) — Last Saturday I had the great pleasure of attending the RACV Centenary Hill Climb in Burgundy Street, Heidelberg. The first hill climb — and the only hill climb until last Saturday — occurred in 1904, and last Saturday the centenary of that climb took place up what could now be described as the ‘Austin Hospital hill’. It was a great event, and the cars ranged from an 1896 Benz to a 1904 Wolseley. At least 19 cars actually took the trip up and back. The event was run from about 9.30 a.m. to approximately 2.00 p.m. The organisers should be congratulated. They were Tattersall’s; Heidelberg Central traders, and in particular Kim Gibb; Dave Bullard, the president and chairman of the Royal Automobile Club of Victoria; John Payne from the Old England Hotel; the City of Banyule; Leader newspapers, and in particular Eric Gordon, the regional manager; and John Woods from *Blue Heelers*, who was there as a judge.

As I said, it was a great day. One had to be there to really appreciate all the old cars and the costumes people were wearing. It showed good community spirit — so good that I notice both the *Age* and the *Herald Sun* ran pictures of the event the following Monday. It was a wonderful event, and to all those who participated — well done!

Benalla: community grants

Dr SYKES (Benalla) — I wish to congratulate the Department for Victorian Communities on the recently released guidelines and application form for community support grants. The guidelines are clear and concise in letting people know that the grants are available for planning, strengthening communities and building community infrastructure. I am pleased that the funding is targeted at communities and groups that may be disadvantaged and I welcome the clear guidance on

project eligibility and grant evaluation criteria. The application form also seems very straightforward.

I will be encouraging communities in my area to apply for funds. The Bright senior citizens need support for their meeting rooms; the Tatong Country Fire Authority brigade needs about \$8000 to build amenities for its eight highly valued female members; the Violet Town community centre has incurred a fair bit of wear and tear over the past six months and needs about \$40 000 or \$50 000 worth of maintenance; and the Life Education program in our schools is in desperate need of funding support to help educate our children about drugs and other risks in life.

I trust that the scheme will be generously funded and efficiently managed. I commend the minister and his staff for this initiative, and I look forward to working with them in the interests of the community in the Benalla electorate.

Children: Best Start project

Mr LANGUILLER (Derrimut) — I recently attended the launch of the Best Start video at the Cherry Crescent Preschool in Braybrook, together with the mayor of Maribyrnong, Cr Joseph Cutri, and a paediatrician at the Centre for Community Child Health, Dr Sharon Goldfeld.

Early childhood is thought to hold the key to many outcomes. We now have a better understanding of the role that parents, families, communities and the environment can play in addressing children's needs and improving outcomes. Best Start is a whole-of-government prevention and early intervention project that aims to improve and support the health, development, learning and wellbeing of all Victorian children in their early years. The video draws from a range of early childhood research and data to illustrate opportunities to do that and will be a valuable resource in providing information to parents, communities and professionals dealing with families and children.

The Best Start video was developed as a part of a resource package which illustrates the key components of the Best Start project and the evidence base underpinning it. The strong visual impact of that evidence will provide an important resource for a range of people from parents to those involved in Best Start partnerships and undergraduate programs.

Hazardous waste: Nowingi

Mr PLOWMAN (Benambra) — What is it about a government that, having made a monumental error of

judgment in declaring that the best three sites for a toxic waste dump were on productive farm land at Violet Town, Pittong and Tiega, has now determined that a site some 30 kilometres up the road from Tiega is better because it will not have to physically throw people off their land and out of their homes?

This alternative site at Nowingi adjoins three national parks, and as part of the area determined as a buffer zone it encroaches on a part of the Hattah National Park, one of the first national parks declared in the state of Victoria. It encompasses part of the Calder Highway on the road to Mildura. It is 30 kilometres from the edge of Mildura irrigation area and will put at risk the reputation of this great farming region as a clean, green agricultural production area.

This government should be doing two things. Firstly, it should go back to the drawing board to establish a public process which is truly open and accountable in order to determine where this toxic waste can be stored on public or industrial land that is close to where this toxic waste is generated. What it must also do is give an apology to those farmers whose lives have been totally disrupted. Their businesses have been put on hold for six months and their families have suffered extraordinary stress due to the uncertainty of their future.

Women: soccer

Mr STENSHOLT (Burwood) — I wish today to pay tribute to women's and girls soccer here in Victoria. There has been enormous growth in girls and women's soccer over the last few years. There are now 100 girls teams playing soccer, including 4 clubs in my electorate, 2 of whose teams play in the Women's Premier League.

Several Sundays ago I had the honour of launching the under-10 girls soccer season at the Riversdale Soccer Club grounds in Bath Road, Glen Iris, where Riversdale played against the Ashburton under-10s. I thank the coaches, Graeme Smith from Riversdale and Michael Gurfinkiel from Ashburton, for their dedication to and enthusiasm for girls soccer.

I also had the honour several weeks ago of tossing the coin and kicking off the first home match for the newly promoted Ashburton Women's Premier League team against Eltham North. As I am the club's patron, this was a great privilege for me. I commend the team for its success in the last two weeks, with its 8–1 win over Preston and its 16–0 demolition of Whittlesea. I look forward to the clash between Ashburton and the league leaders, Box Hill, in a few weeks time. Both premier

league teams have their grounds in my electorate. I am sure they will both do women's soccer proud here in Victoria.

I also look forward to the establishment of a long-overdue soccer centre in the City of Boroondara. There are quite a number of clubs, including Riversdale and Ashburton, in the City of Boroondara, with many kids, as well as women and men, playing soccer, so there is a need to cater for the explosion of interest and participation in the world game. I look forward to gaining support in the near future in order to assist the many girls and women, as well as the boys and men, playing soccer in Boroondara.

Paul Smith

Ms BEARD (Kilsyth) — There is a rumour around Mooroolbark that Paul Smith is mad — mad about helping increase awareness of and raising money for Cystic Fibrosis Victoria. A 38-year-old father of four, Paul works as a critical care nurse. Paul's goal is to have ridden between Mooroolbark and every Australian capital city before the end of 2004. I was delighted to be invited to the trivia night organised by Paul and Gary Paddick. The night was filled with novelty events and everybody had a great night. My table was excited to win the best entertainment prize.

Representatives of many local groups were present and were pleased to add their support. Paul has so far completed rides from Mooroolbark to Brisbane in eight days, a distance of 1700 kilometres; Mooroolbark to Adelaide in three days, 770 kilometres, twice; Mooroolbark to Canberra in three days, a distance of 730 kilometres; and Sydney to Mooroolbark, a distance of 871 kilometres in three and a half days. He has also completed a one-day ride from Launceston to Hobart.

Paul has received sponsorship from Spokes Cycles in Mooroolbark, Yarra Valley Cycles and Fairfax Community Newspapers. His achievements have also been acknowledged by local schools. Mr Raymond Martin, marketing and development manager with Cystic Fibrosis Victoria, encourages local and interstate schools, community groups and councils to sponsor and support Paul in his endeavours. I congratulate Paul for his efforts to raise funds and awareness for this most worthy cause and I look forward to following his planned rides from Darwin to Mooroolbark, Perth to Mooroolbark, and Mooroolbark to Adelaide and back again.

Royce Keirl

Mr LEIGHTON (Preston) — I would like to pay tribute to my electorate officer, Royce Keirl, who retired last week. Royce has also been a close personal friend for 25 years. During this time he has served Preston with commitment and distinction. The local community is much the richer for his service. His major contribution has been in local government. Royce was first elected to Preston council in 1988, and then to the new Darebin council in 1996, where he represented the Cazaly ward. He was Darebin City Council's first mayor. Cr Keirl's highlights in council included the successful amalgamation of the old cities of Preston and Northcote, the saving of the Northcote town hall from being sold by the Kennett-appointed commissioner, the increasing life and vibrancy in High Street and at Preston Market, and the links the council has built with local business to increase general prosperity.

Because of an injury earlier this year Royce has had to announce that he will be retiring from council. Royce has served his community in so many other ways, such as serving as a board member of the old East Preston community health centre through to the new PANCH Health Service. He has been a champion of the battler and a fierce advocate for Preston.

I also wish to pay tribute to Royce's wife, Joyce, who has supported him throughout his work and community service. I wish Royce and Joyce a long and happy retirement and the very best for the future, and I thank Royce for all his support and loyalty throughout the years.

Mulgrave Primary School: 125th anniversary

Mr ANDREWS (Mulgrave) — On Monday, 17 May, I had the great pleasure of attending Mulgrave Primary School in my electorate as part of Education Week. This special event was held to mark the 125th anniversary of the school's formation back in 1879. Continuous service for 125 years to my local community is a very significant achievement. The special evening assembly was well attended by students, teachers and indeed parents.

From humble beginnings as a one-teacher school in the rural parish of Mulgrave all those years ago, the school has become a modern educational facility, with 22 teaching staff and 319 students. Mulgrave primary has earned a reputation in my local community as a fine local provider of education, a provider that upholds the highest standards. I was pleased to present a special plaque on behalf of the Premier and the Minister for

Education and Training to mark the school's 125th anniversary.

I congratulate Mr Ron Major, the school principal, and Mr John Liburti, the school council president, for their leadership at Mulgrave Primary School. Well done on 125 proud years, and every best wish for the future!

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget outcomes, 2002–03

Ms ASHER (Brighton) — I wish to refer to the Public Accounts and Estimates Committee report on the 2002–03 budget outcomes. In particular I wish to draw attention to the committee's comments on the Department of Innovation, Industry and Regional Development and its underexpenditure in key areas of its budget. The committee made the observation that the total budget, adjusted for machinery-of-government changes, was \$407 million in 2002–03. Actual expenditure, the committee noted, was \$308.2 million — \$98.8 million or 24.2 per cent below budget. The committee went on to make a number of observations about this underexpenditure and asked whether the department was incorporating the correct procedures, or a range of questions like that.

I note that at finding 8.5 the committee made the justified observation that:

At 30 June 2003, \$102.2 million of the department's available parliamentary authority remained unspent, of which \$65.2 million, or 63 per cent, was approved by the Department of Treasury and Finance to be carried forward into the following year.

The committee then justifiably went on to say that the department:

... did not satisfactorily explain why the total amount of its unspent parliamentary authority was not approved to be carried forward to 2003–04.

The committee raised some legitimate concerns about whether this department was able to fulfil its functions in the way that it had been budgeted for at budget time. Even more alarming are the committee's comments relating to new initiatives — in other words, the initiatives that were announced by the minister, who is also the Treasurer, in the state's budget. The committee went on to say that:

Overall, expenditure on new initiatives funded during 2002–03 was significantly lower than budget. Actual expenditure totalled \$40.87 million against a budget of \$66.7 million.

In a number of instances the committee highlighted the fact that, particularly in the area of new initiatives in the budget, the minister trumpeted what he regarded as great new initiatives, but the money was not spent. The minister's explanation, both in this report and at Public Accounts and Estimates Committee hearings to which I was witness, mainly attributed this underexpenditure to deferral of moneys from the Regional Infrastructure Development Fund. However, I also note that the committee refers to supplies and services being lower than budget due to delays in the provision of services associated with important policy areas such as business development, in which I have an interest, the agenda for new manufacturing and the science, technology and innovation initiative. Again we have heard the minister trumpet this initiative and what it can do and again the committee noted underexpenditure in this particular area.

The committee was quite alarmed by this — justifiably so — and went on to make this observation on page 285:

Given the significant level of unspent funds that were not approved to be carried forward to 2003–04, the committee is concerned the amount of funding allocated to the department was considerably higher than the department's actual funding requirements for 2002–03.

Again I refer to the fact that this committee is dominated not by members of the opposition but by members of the government.

The committee went on to refer to the fact that the Auditor-General had also highlighted underspending in this particular department, and that he then went on — as you would expect him to — to raise questions regarding the department's internal budgeting and financial management processes. The committee went on to say that it supported the recommendation in the Auditor-General's report that the department further assess the underlying reasons for the continuing levels of underspending and any implications for the preparation and management of future departmental budgets.

I note also that in recommendation 53 of the report — and I specifically want to refer to this — the committee urged the department to:

... urgently review the adequacy of its budgeting framework and project planning to remedy the continuing trend in underspending of its available appropriation authority.

I think it is incumbent on the Treasurer to note this recommendation.

DRUGS AND CRIME PREVENTION COMMITTEE

Amphetamine and party-drug use

Mr MAXFIELD (Narracan) — I rise this morning to speak on the report of the Drugs and Crime Prevention Committee's inquiry into amphetamine and party-drug use in Victoria. In the time since the report has been out we have heard some very positive comments. I pass on my congratulations to the committee members and also the staff who have worked on this, producing a very fine report that really analyses the issue in a way that probably has not been done in this country before.

Specifically I would like to go to the issues in terms of recommendations with regard to rural and regional issues. As members of this house know very well, this is something that is very close to my heart and certainly one of the foundation stones of the Bracks Labor government's commitment to this state. Unfortunately the reality is that there are significant drug and alcohol problems in rural and regional Victoria. This varies from area to area. When the committee travelled to Perth, for example, and had some hearings over there, we found one area that was reporting that medical services were now starting to receive more people with amphetamine problems through casualty departments than they were with alcohol, which is quite different from rural and regional Victoria, where alcohol is by far the major drug problem. However, the use of party drugs and amphetamines is a grave concern, as is the potential for that to spread.

Some of the recommendations the committee has made are about ensuring that adequate research is carried out into rural and regional areas. We obviously have looked at it, but we clearly need more substantial and significant research to be carried out to ensure that ultimately we have a good understanding of issues and can tackle them in an appropriate manner. The recommendation to establish a rural and regional drug research and information institute based in Warrnambool is a very good suggestion, and it should be looked at very closely to see if a strategy can be put in place to ensure that occurs.

The other thing the committee considered, regarding those who are working on drug and alcohol issues, is the issue of ensuring that our programs are specifically targeted to assist in rural areas. Sometimes bureaucrats in Melbourne come up with strategies that provide a certain amount of funding for this or that project but do not realise that it could take a staffer 2½ hours to drive there and 2½ hours to drive back. If we do not make

those allowances when we plan strategies and tactics for rural areas, we are not going to be able to deliver an appropriate service. We need to put a lot of time and effort into this.

Also better use needs to be made of electronic means such as emails and video link-ups. There are times when it is clearly better for a staff member in a country area to travel to the city to attend a meeting to discuss policies and projects or a personal development course. However, given the time it takes to travel to Melbourne and back again, it would be better if we invested more in electronic technologies so that video link-ups, party-call-type phone link-ups and those sorts of things could be better utilised to maximise the expertise of the skilled people in country Victoria who put in above and beyond the call of duty. Many times you hear about them leaving very early to travel around an area and getting home very late at night. They do that day after day because they are committed to their jobs and to providing support to their communities. Because they are dealing with people with drug problems they sometimes travel long distances to see people who are often not there, so they have to return and come back another time.

We cannot tackle some of those problems, but we can tackle others in a strong way by putting the right practices and tactics in place to ensure we follow through with a decision-making process and policies. This government has shown the way by highlighting the need to focus strongly on rural and regional issues. We have seen a tremendous improvement across a vast number of government departments, and I congratulate the government on that. In terms of the inquiry into amphetamines and party drugs, we need to ensure there is a strong focus on rural and regional issues. The issue is important to our community — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget outcomes, 2002–03

Dr NAPTHINE (South-West Coast) — I wish to speak about the Public Accounts and Estimates Committee (PAEC) report on the 2002–03 budget outcomes. In particular I will focus on section 7.4.3, which deals with the operation of the multipurpose taxi program. I support the committee's comment on page 275:

However, it is concerned that restricting access and benefits under the program will reduce opportunities for people with permanent disabilities to fully participate in community life.

To reiterate comments made previously, this has come from a committee which has a Labor Party chair and the majority of whose members are from the Labor Party. The Labor Party members on this committee can see the folly of the government's decision to cut the multipurpose taxi program and how it will hurt people with disabilities right across Victoria. An article in the *Age* of Monday, 24 May, states:

Thousands of elderly and disabled Victorians will be virtually housebound from July when the Bracks government cuts back taxi subsidies, the Victorian Council of Social Service warns.

The proposed \$550 annual cap on taxi fare subsidies for disabled people was attacked as cruel and mean spirited by disability and welfare groups, who want it scrapped.

Further on the article quotes Sue Hendy, executive director of the Council on the Ageing in Victoria, as saying:

... four in five people who qualified for the 50 per cent taxi fare subsidy were over 60 and physically incapable of using public transport. The changes would lead to social isolation among the elderly ...

The article also refers to Natalie Thomas, a public servant with cerebral palsy who spends \$7000 a year on taxis but who fears that under the new rules her subsidy will be capped at \$550, which would deny her access to the work force and the community.

The Public Accounts and Estimates Committee has highlighted that the changes the Bracks Labor government proposes to implement from July will have a devastating effect on people with disabilities in the community. The report notes on page 274 that under public pressure the government has exempted certain categories of disabilities from this harsh and uncaring cap, but the exemption does not apply to the frail aged or to people who suffer from severe arthritis, multiple sclerosis, severe epilepsy and cerebral palsy. They are some of the categories of people who will still be affected by this severe cap.

I will give the example of a constituent who lives in Port Fairy in my electorate. He is a war veteran who is over 80 years old, is severely frail aged and has arthritis. Unfortunately his wife of more than 50 years is in the nearby nursing home, and he goes each day to see her using the multipurpose taxi service, which also takes her regularly to health appointments with specialists in Warrnambool. He spends over \$10 a day on average of his own money on taxi fares, and this is

subsidised under the multipurpose taxi program. But under the cap that will be imposed on him he will be restricted to using that service once a week to see his wife or take her to medical appointments. That is a tragedy. This is an uncaring and heartless decision, and the PAEC has highlighted that very well.

The report also highlights the government's claim that over \$10 million is lost from this scheme through fraud. As the PAEC points out, the cost of the scheme in 2002–03 was \$42.14 million, which is a lot of money, but on my calculations it is only 0.15 per cent of the total state budget allocation. So in that sense it is still a relatively minor program, and up to \$10 million, or a quarter of the funds, is lost through fraud. The report points out:

The department was not able to provide the committee with an estimate of potentially fraudulent claims relating to 2002–03, stating that there was 'no precise way to determine fraud ...

The committee highlights some of the things the government is undertaking to reduce fraud, but no evidence was given by the government to the committee to show that they have been effective. I say to the government — and from my reading of the report the committee is saying this to the government as well — that it should attack the fraud, not the disabled. The government should address the \$10 million lost through fraud but not take money from those who desperately need this program to access services in the community, to access their loved ones and to live a high-quality life. This program is essential. It should be retained, particularly in regional and rural Victoria. I repeat: we need to attack the fraud, not the people with disabilities.

ROAD SAFETY COMMITTEE

Older road users

Mr TREZISE (Geelong) — I would like to take this opportunity to speak about the government's response to the Road Safety Committee report on older road users, tabled in this Parliament in October last year, with the government responding in March this year. I have spoken about this report on a number of occasions, so I do not want to repeat myself, except to say that I believe the report by the parliamentary Road Safety Committee provided 41 very good recommendations or initiatives. They were recommendations directly aimed at making Victorian roads safer while ensuring continuing mobility for older drivers, road users and people using public transport.

The recommendations in the report had the full support of the bipartisan parliamentary committee. As chairman of the committee I must say that I was happy with the response of the government to the report. Of the 41 recommendations put forward, 35 were accepted by the government in whole or in part. Despite all the recommendations being either accepted or rejected, only a few of the 41 recommendations attracted public or media attention. Of course most of those recommendations relate to the day-to-day licensing of older road users — for example, the committee in its wisdom recommended the introduction of a five-year licence period for drivers 65 years of age or older and a two-year licence period for drivers 80 years of age or older. In making those recommendations the committee was cognisant of the fact that, whether we like it or not, we are all susceptible to health issues as we get older. Our health deteriorates and generally our reflexes get slower, our eyesight diminishes from around the age of 40 years, as I have personally learnt, and we are more susceptible to cognitive concerns.

The committee believed there was a weakness in the current 10-year licensing system. The government accepted the general principle on which the committee's recommendations were made but did not support the regime of a five-year licence after 65 years of age or a two-year licence after 80 years of age. In accepting that a 10-year automatic licence did have its weaknesses, the government agreed to a three-year licence renewal after 75 years of age. This is in line with the government and the committee's principle of ensuring that older road users remain mobile but when driving do so in a manner that is safe both for them and for other road users.

This recommendation is all about older drivers and road users retaining their licences and hence remaining mobile and independent for as long as possible. I accept that the rejection of the recommended five and two-year licensing system and proposal of a three-year licensing system put forward by the government is a reasonable outcome. We currently have a three-year option on licence renewal, and I understand the sense in extending the current regime. Changing the licence renewal period to three years for drivers over 75 years of age provides the opportunity for those drivers to self-assess their fitness to drive safely. I genuinely believe most elderly drivers support this new licensing system. Elderly people see the weakness in the current system — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Budget outcomes, 2002–03

Mr HONEYWOOD (Warrandyte) — I wish to raise a few issues that have come to light as a result of the report on public sector agencies, *Results of Special Reviews and Financial Statement Audits for Agencies with 2003 Balance Dates other than 30 June*, tabled today. The Auditor-General has picked up on three particular areas of concern to me. The first relates to my shadow portfolio — —

The DEPUTY SPEAKER — Order! The honourable member is out of order in speaking to the Auditor-General's report. This is the time for debate on parliamentary committee reports.

Mr HONEYWOOD — On that basis, I will refer to the Public Accounts and Estimates Committee report tabled in the current session.

Mr Hulls interjected.

Mr HONEYWOOD — Unlike the Attorney-General, we have no shortage of speeches when it comes to the Public Accounts and Estimates Committee. In that committee's hearings the Minister for Environment was grilled at some length — —

The DEPUTY SPEAKER — Order! Can I clarify for the record whether the member is referring to the committee's report on budget outcomes for 2002–03?

Mr HONEYWOOD — Yes, the budget outcomes report tabled in this current session. That big green book shows that the Minister for Environment was grilled at some length regarding issues relating to maintenance funding in our national and state parks and issues associated with financial recording in his portfolio. We found from the report a genuine concern that the funding provided for bushfire remediation in north-eastern Victoria is funding that has been diverted from metropolitan parks and reserves and funding that was allocated in the current year's budget for the maintenance and environmental management of national and state parks such as the Mornington Peninsula National Park, which is a state government responsibility at Point Nepean, adjacent, ironically, to the same Point Nepean National Park the government constantly attacks the federal government about for its lack of funding. In my electorate of Warrandyte, the Warrandyte State Park — —

Ms Green — On a point of order, Deputy Speaker, I do not believe the member for Warrandyte is referring to this report at all.

Mr HONEYWOOD — On the point of order, Deputy Speaker, I am specifically referring to the minister's evidence provided in the report. If the member for Yan Yean would like to establish some evidence showing otherwise, she is free to do so.

Ms Green — Further on the point of order, Deputy Speaker, in relation to the reference to Point Nepean National Park I ask that the member provide a page reference in the report.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! In relation to the point of order, I give the general advice that in speaking on parliamentary committee reports all members must ensure their comments relate to the parliamentary committee report.

Mr HONEYWOOD — We have a situation in which money allocated for national and state parks in the current financial year — the member for Yan Yean is attempting to camouflage this fact because of her embarrassment at a public meeting on this very issue — for expenditure on very important weed and vermin control programs has gone missing in action. It has been redirected elsewhere. The important point is that the Premier announced the bushfire remediation money as new money in this chamber just a year ago. Rather than using new money, the money has been taken off existing national and state parks. We have a number of them, including the Brisbane Ranges National Park in rural Victoria. This has been done surreptitiously.

Volunteer groups have been talking to park rangers about the problems rangers have in supervising the parks properly in the total absence of any contracting money to get rid of vermin and pests. This government is prepared to talk the talk — —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

JUDICIAL SALARIES BILL and JUDICIAL REMUNERATION TRIBUNAL DETERMINATION

Concurrent debate

Mr HULLS (Attorney-General) — I move:

That:

- (1) this house authorises and requires the Speaker to permit notice of motion 1, to disallow determination no. 2 of 2003 made by the Judicial Remuneration Tribunal, and the second-reading stage of the Judicial Salaries Bill to be considered and debated concurrently; and
- (2) the concurrent debate will last for a maximum of 2 hours; and
- (3) at the expiration of the 2-hour period permitted by paragraph (2) —
 - (a) unless a division is taking place, the Chair will interrupt the business before the house;
 - (b) if a division is taking place, it will be completed without interruption, and the result announced, and the Chair will then interrupt business; and
- (4) after interrupting business under paragraph (3), the Chair will immediately put the question or questions required to dispose of —
 - (a) the motion to disallow determination no. 2 of 2003 made by the Judicial Remuneration Tribunal; and
 - (b) the second reading of the Judicial Salaries Bill.

Motion agreed to.

JUDICIAL REMUNERATION TRIBUNAL DETERMINATION

Disallowance

Mr HULLS (Attorney-General) — I move :

That pursuant to section 14A(1) of the Judicial Remuneration Tribunal Act 1995, determination no. 2 of 2003 made by the Judicial Remuneration Tribunal be disallowed.

In speaking to that motion I note that section 14A(1) of the Judicial Remuneration Tribunal Act states that the Judicial Remuneration Tribunal determination may be disallowed by resolution of either house of Parliament within 15 sitting days after the report containing the determination has been tabled. The JRT report containing determination no. 2 of 2003 was tabled in both houses of Parliament on 11 May 2004, as required under section 14(1) of the Judicial Remuneration Tribunal Act. Clearly the act does contain a provision for disallowance of a determination by the Parliament. Not only is it clear in the legislation, but also it is actually referred to in the JRT report. On the final page of that report, referring to operation of determination, the chairperson of JRT, the Honourable Michael Duffy states:

In accord with section 14A of the Judicial Remuneration Act 1995, this determination is subject to disallowance by

resolution of a house of Parliament within 15 days of tabling, and if not disallowed, will take effect in accordance with the terms of the determination at the end of the period specified for disallowance.

When the Judicial Remuneration Tribunal Bill was debated in this place in 2001, I emphasised problems with the system that existed at the time in that final decisions on judicial remuneration rested with the executive by allowing the determination of the Attorney-General to be substituted for that of the Judicial Remuneration Tribunal.

I think I said at the time that this was inappropriate in the context of existing constitutional conventions. As I said then, the final decision relating to the size of any increase in judicial salaries actually rested with the executive through the Attorney-General. I think I also mentioned that that particular system did not give Parliament an effective role in the determination of the level of remuneration. That is why the Judicial Remuneration Tribunal Act was amended at that time so Judicial Remuneration Tribunal determinations could not be subject to disallowance except by either house of Parliament.

Reading through the *Hansard* record of the debate at the time I noted that the opposition was fully supportive of the legislation. As I recall, the opposition acknowledged the significance of moving away from a model where the Attorney-General was in effect the arbiter of judicial salary levels to one where Parliament was the ultimate arbiter. Opposition members said that it was no longer appropriate to have the Attorney-General as the arbiter of salary levels. The opposition said that the bill was a step in the right direction and emphasised the fact that when the JRT made its decision Parliament would decide whether that decision should or should not be varied. A number of comments were made by the then shadow Attorney-General and member for Berwick, Robert Dean, and the Leader of the National Party briefly touched on that matter. In effect, in agreeing with the bill they made it quite clear that it was appropriate for Parliament to have an ability to disallow a determination of the JRT.

We now have the current determination before us. Determination no. 2 of 2003 provides for a total cumulative 13.6 per cent retrospective increase in the annual salary of judicial officers and non-judicial members of the Victorian Civil and Administrative Tribunal. The Premier has already stated that when combined with the 3 per cent prospective increase awarded by the JRT in 2002 this determination in effect provides judicial officers and VCAT members with a 17 per cent pay rise over a period of some 12 months.

The government is moving this motion of disallowance particularly in light of the retrospective aspect of the JRT determination. Such a determination is, as the Premier has previously said, outside community expectations. As I said, the government is acting well within the powers given to it, agreed to at the time by the opposition, to move this motion of disallowance.

Nonetheless, the JRT noted in its report the importance of preventing Victorian judicial salaries from falling behind other jurisdictions which are comparable to Victorian courts in terms of workload and the nature and complexity of cases heard. In fact the danger of Victorian judicial salaries falling behind those of other jurisdictions has constantly plagued the various bodies that have determined judicial remuneration in Victoria over the past 20 or so years. The JRT stated on page 11 of its report that consideration should be given to the issue of salary linkage between federal and Victorian judges as a matter of priority. On page 30 of its report the JRT made it clear that the issue of salary parity had been raised in a submission from judges of the Supreme Court. The JRT stated:

All relevant parties may wish to give the matter further consideration, and, if desirable, make submissions to the tribunal for consideration in the 2004 review of judicial remuneration.

The Bracks government recognises and shares the JRT's concerns regarding the importance of providing adequate and appropriate remuneration to our judicial officers. With the introduction of the Judicial Salaries Bill we believe we will achieve the same outcome as the JRT recommendation in a staged, ordered and responsible way by providing for moderate salary increases over four financial years, culminating in a salary link with federal judges from 2007.

I am sure all members of this place would agree that it is important that the best and brightest are attracted to judicial office. We believe that Victorian judges and magistrates are the equal of those in any other jurisdiction — at least equal in ability to judges and magistrates in other jurisdictions — and deserve to be remunerated accordingly. Throughout this process the government has maintained that Victoria's judicial officers deserve a pay rise. However, in moving this motion the government is of the view that this determination is outside community expectations. We believe that the federal linkage, as recommended by the JRT, will ensure that judicial salaries are commensurate with the dignity, status and responsibility of judicial office and provide a higher level of certainty and independence to judicial remuneration here in Victoria.

As I said, the government shares the concerns expressed by the JRT in relation to adequate remuneration for our judges. That is why we have introduced legislation providing for salary parity with Federal Court judges. In disallowing the JRT's determination we are able to put in place a new judicial remuneration structure, as proposed in the Judicial Salaries Bill.

The JRT, I note, has made four determinations or recommendations since 2002, three of which have been supported by this government. We are moving this disallowance motion in relation to this determination. We have the power under the legislation to do so, and the granting of that power was supported by the opposition. We believe the determination is outside community expectations.

I might say, nonetheless, that we as a government are firm and indeed passionate believers in judicial independence. We certainly understand that you cannot have a particular, individual member of the government of the day unilaterally setting remuneration for judicial officers. Everyone would agree that once you go down that path there is certainly the potential to interfere with the independence of the judiciary. In effect it has the potential to enable pressure, subtly or otherwise, to be put on judicial officers to make particular decisions in a particular way, given that the threat of the lack of a pay increase can be hung over their heads. That is totally inappropriate in a democratic society.

That is why we went down the path some years ago of revamping the JRT, ensuring that it could make determinations — it could also give advisory opinions — which could only be disallowed by a motion of the Parliament. As I have said in this place before, the previous system in effect meant that recommendations could be changed at the whim of the Attorney-General or the cabinet of the day. When Frank Honan presented a report in relation to that system, he made it pretty clear that it was not independent enough, that it was not in line with the system that existed in other states and that it ought be revamped.

We did revamp it, and in doing so we made it clear that there was an ability for a disallowance motion to be brought before the house. Indeed it was envisaged that it would only be used on pretty rare occasions. The real question that other speakers have to answer is this: if you agree to there being a disallowance motion under the legislation, and if you know there is an ability in the legislation to bring it on, in what circumstances ought it be used? It is no good members standing up and saying it should never, ever be used. If that is the case, why is

it in the legislation? Why was its inclusion supported by this house as a whole? The fact that it was supported meant that this house was really saying that ultimately judicial remuneration was going to be a matter for the Parliament in relation to JRT determinations. The setting of judicial remuneration ought be independent of the government of the day.

The government has decided on this occasion that the determination of the JRT is such that this disallowance motion ought be moved. In moving it, the government wants to make it crystal clear that it is passionate about the independence of the judiciary and that it is going to put in place a system that ensures that determinations made in relation to federal judicial officers and courts will flow on to our state jurisdiction. We believe that is appropriate. It will mean that by 2007 there will be relative parity between the Federal Court jurisdiction and our Supreme Court and that the relativities between the Supreme, County and Magistrates courts and Victorian Civil and Administrative Tribunal will continue to flow.

Comments have been made that in moving down this path the government is interfering with the independence of the judiciary and that the government intends to abolish the JRT. I noticed even as recently as today that there is mention on the Liberal Party web site of the claim that the government is interfering with the tribunal's independent determination, and I quote:

Rob Hulls is abusing the Bracks government's majority in both houses of Parliament to politically interfere with the tribunal's independent determination.

It goes on to say:

Rob Hulls's intention to scrap his very own Judicial Remuneration Tribunal model shows how far we are willing to go to save our political backside.

It is dated 12 May, which is only a very short time ago. To be saying that we are interfering with the tribunal's independent determination loses sight of the fact that under the legislation there is a power to move this motion — and that is what we are doing. The inclusion of that power was supported by the leaders of the National Party and the opposition at the time the original legislation was being debated. It is not the intention of Rob Hulls as Attorney-General or the government to scrap the JRT. The JRT will still be able to make recommendations to the government pursuant to the legislation and to the salary relativities between the Supreme, County and Magistrates courts and the VCAT. It is just not the case to say that it is the government's intention to sack or get rid of the JRT.

I repeat, we are firm and passionate believers in the independence of the judiciary. Whilst I may or may not get the opportunity to sum up in relation to this debate, which will run, as I understand it, for a maximum of 2 hours, I might try to pre-empt — —

An honourable member interjected.

Mr HULLS — I have been given an assurance that I will have an opportunity to sum up, in which case I will not go down the path of mentioning the destruction that was wrought upon the independence of the judiciary when the opposition was in government. I will save that for the summing up. I will not mention the pillorying of the Accident Compensation Tribunal judges or the vilifying of individual magistrates. I will not touch on them at this stage. Nor will I mention the contribution to debate from a member on the other side of the house this morning regarding a particular judicial decision that was made in relation to a former or current trade union official. I will not mention until the summing up that I find those comments, yet again, a slap in the face for the independent judiciary. Those comments, I will say in my summing up, could be seen as nothing more than an attempt to interfere with the independence of the judiciary, an attempt to interfere with a particular judicial decision, so I will not be touching on those matters now, but if there is to be a debate about the independence of the judiciary, it is important that we set out exactly where we stand in relation to this matter.

In conclusion, in moving this notice of disallowance and having given the reasons for it, the government is very proud to be backing up its view on the importance of the independence of our judiciary and the importance of the work that members of our judiciary do by also introducing the judicial salaries legislation, because we believe that creating nexus parity with the Federal Court by 2007 is the best way to ensure that judicial officers in this state are paid appropriately, and it will also ensure that the independence of the judiciary is maintained.

We have a two-pronged aspect here: on the one hand we are moving a disallowance motion on the basis that the determination of the JRT is outside community expectations, particularly in light of its retrospectivity, but we do want to ensure that our judicial officers are paid appropriately, and we do want to ensure that they remain independent. Our judicial salaries legislation will ensure that that occurs and will create parity by the year 2007.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until later this day.

JUDICIAL SALARIES BILL and JUDICIAL REMUNERATION TRIBUNAL DETERMINATION

Concurrent debate

Debate resumed from 12 May and earlier this day; motions of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — Nobody in this place should be in any doubt that the government has made its decision about the Judicial Remuneration Tribunal determination. The government has made its decision. I am aware of four government ministers following a cabinet meeting giving a public indication that they propose to use their numbers in this place to disallow the determination of the Judicial Remuneration Tribunal. It is a decision of the executive government to disallow the determination by using its numbers in this place. It is not the Parliament exercising its free will.

The government has made its decision and publicly announced what that position would be, and then used that public announcement to indicate that it will force Parliament to disallow the determination of the Judicial Remuneration Tribunal. The real dangers in this disallowance motion and indeed in the bill is the antithesis of the doctrine of a liberal democracy, where centres of power should be separate and diverse.

The disallowance motion and the bill are the apotheosis of executive government control, and mark a low point in the life of this Parliament. Constitutional development can now be completely hijacked by the executive wing of government, which is hell-bent on shaping the world to its particular model. Regrettably the disallowance motion and the bill demonstrate that even Victoria's democratic institutions, besieged by public apathy and ambivalence, can ultimately be consumed by the government, by slogans and by spin.

The Bracks Labor government will blithely use its numbers in this place to force a disallowance of a determination of the Judicial Remuneration Tribunal; a disallowance of a determination of a tribunal set up under a former government, but streamlined, changed and altered to create a model of this government's own creation. Despite what may have gone on in the past — which may not be a justification or indeed support for this measure — the government has set the high bar. It set up the model. And what is more important is that this is effectively the first clear determination of the Judicial Remuneration Tribunal under the government's own model; because indeed the government failed to appoint, for over 12 months, members of that tribunal and there has been a two-year

delay since the last determination of that tribunal. It is the first clear-cut determination of the tribunal set up under the government's own model.

Importantly, this is a matter on which I have congratulated the Attorney-General publicly, because on 18 October 2001, when he was second reading the amendment bill, the Attorney-General stated:

Equality before the law requires the impartial administration of justice. Our judges are required to treat all persons who appear before our courts as subject to the same body of settled law. This is a fundamental principle of our democratic society.

Impartiality requires a judiciary which is independent of both Parliament and the executive arm of government. This separation of powers is a precondition of the liberty of individual citizens.

Judicial independence ensures judicial impartiality by guaranteeing the freedom of the judicial branch of government from unwarranted intrusions by the legislative and executive branches of government.

In our democratic tradition, judicial independence has been secured by two important conventions. The first is by providing judges with security of tenure. Under our system of government judges hold office while they are of good behaviour and can only be removed by Parliament.

The second is by providing judges with security of remuneration.

I emphasise that:

The second is by providing judges with security of remuneration.

I continue the quote:

For the last 300 years — since the Act of Settlement 1701 — the remuneration of judges has been secured by being charged as a permanent appropriation on the Consolidated Revenue Fund.

Judges' salaries do not form part of departmental budgets; nor are they subject to a vote of the Parliament. In addition the salaries of serving judges may not be reduced. These measures are designed to avoid the threat of coercion by Parliament.

In Victoria the remuneration of judicial officers is determined by the Judicial Remuneration Tribunal Act 1985. This act establishes the Judicial Remuneration Tribunal to inquire into and report on the remuneration of judges, masters, magistrates and tribunal members.

Essentially what the Attorney-General was announcing was that his model would be an independent tribunal. For the want of a colloquial expression, it was the umpire, and everybody expected that this independent body would operate independently. In his statement the Attorney-General referred to a public statement which may have been put out by the Liberal Party and which

appears on the Liberal Party's web site. But it is not only the Liberal Party expressing concern about this process and the independence of the tribunal. I have certainly seen a letter, and I understand that every member in this place has received a letter from the chairman of the Victorian Bar Council and the president of the Law Institute of Victoria expressing concern about the way the government is using its numbers to reject or disallow the determination of the Judicial Remuneration Tribunal.

Even a member of the Judicial Remuneration Tribunal (JRT), Professor Cheryl Saunders, has publicly said she is considering her position on the tribunal. She questions what it will now do, given the fact that on its first attempt at handing down a determination, as the honourable member for Mornington says, by interjection, she got a bullet in the head.

Certainly we will have that first determination, after three or four months consideration and substantial submissions by numerous parties, including judges, magistrates and other parties. What the Attorney-General said in this place in 2001, I have publicly described as being textbook stuff. I have actually moved a motion in this place congratulating the Attorney-General because the form of words was a very succinct statement of what we deemed to be very important in this state, which is having an independent judiciary, and indeed securing the remuneration of our judges and magistrates, independent of executive and the Parliament.

It is not just the Attorney-General who has made statements about this. The Premier, when he was the member for Williamstown discussing new legislation brought in by a former Attorney-General, said on 7 March 1995:

One of the best ways to ensure that the separation of powers is upheld is to take the hands-off approach and to have no involvement by the state in the setting of remuneration for judges in the judicial system.

Later on in the debate the now Premier stated:

... this bill cannot be seen to enhance the separation of powers when the senior legal officer in the state, the Attorney-General, is able to make judgments about tribunal matters and remuneration. By definition the system we now have is a hands-off system that ensures the state has no power over remuneration levels. That must be a better system, and it must be better for the separation of powers.

Clearly the Premier understands the notion that the executive should have no control in relation to the remuneration of our judges, so as to create this notion of the separation of powers, ensuring an independent and strong judiciary. The Premier understands it and the

Attorney-General understands it, but at the first hurdle they fall. I remind the house that the government has already had its cabinet meeting, and I see the Minister for Health sitting at the table — the Attorney-General has left the chamber; he is not interested — and she would have sat there at the cabinet meeting. The minister was involved in the issue that was discussed in cabinet, and the government came out and made the announcement that it would use its numbers in this place to force a rejection of that determination by the JRT.

I will go through a brief history of the matter for the benefit of the house. The Judicial Remuneration Tribunal made its report available to the Attorney-General in about March of this year. It determined that the salary and allowance for Victorian judges, magistrates, masters and non-judicial members of the Victorian Civil and Administrative Tribunal should be increased.

The opposition unequivocally accepts the determination of the Judicial Remuneration Tribunal, as the body that it supported back in 2001, as the independent umpire to make these determinations. The independent umpire was supposed to be separate from the executive wing of government, and both the Premier and the Attorney-General, in opposition and in government, have continued to say that it should be independent from the executive wing of government. Ultimately the Attorney-General, about two weeks ago, tabled a copy of the JRT report, and it was made available in the papers office to the opposition for the first time. Of course the Attorney-General is right: under the legislation either house can disallow the determination of the JRT; otherwise the determination would become an automatic appropriation on the consolidated fund.

That was the model we supported and introduced, and nobody expected, with breathtaking hypocrisy, at the first hurdle that this government would make that decision and public announcement that it was going to disallow that determination. This was the first determination under its model, and the government decided it would reject that determination and strike at the very heart of an independent judiciary, despite the words that both the Attorney-General and the Premier have both stated in this place.

As a consequence of that disallowance the government has introduced the Judicial Salaries Bill as part of this debate. On the basis that the opposition knows perfectly well the government will use its numbers here and elsewhere to block this determination, I can say that with the Judicial Salaries Bill there will be a salary increase for judges. It is not in accordance with the

determination; it is delayed over a substantial period of time, but it goes to some of the matters that were raised in the Judicial Remuneration Tribunal's determination and we are forced with our hands tied behind our backs to accept a lesser model because the government controls both houses of Parliament and it can do whatever it likes.

I should point out that the government has made these announcements. The Premier was quoted in the *Herald Sun* on 10 April this year. It is not, after the event, justifying what happens in this place; it is before the event. The Premier was quoted as saying:

We're not saying that Victoria's judiciary don't deserve a pay rise, but a salary increase of that size was far beyond community expectation of a fair and reasonable wage increase. The government will work to ensure that judges are paid appropriately for the important work that they perform.

The Premier indicated over a month ago that he proposed to reject the determination of the Judicial Remuneration Tribunal.

The Minister for Agriculture, who was then the Acting Attorney-General, was reported by AAP on 13 April as saying:

The Attorney-General is looking at what other mechanism there might be to put in place a moderate pay ... increase.

He also said:

The government believes that it [the determination of the JRT] is out of kilter with community expectations —

and that as a consequence it had rejected the determination. He used the word 'recommendation', but it was actually a determination. There is a difference under the legislation, and I believe he was looking at the issue of a determination.

On 5 May the Treasurer said on the Neil Mitchell program:

No, we rejected the recommendation ... let me say this to you too: on the wages side, to be fair and reasonable with everybody, public servants got 3 per cent; teachers got 3 per cent; nurses have just settled on 3 per cent, we said that MPs would get 3 per cent and going forward we would expect that that's about the right amount for the judges.

Clearly we have the Treasurer, who participated in the cabinet meeting to reject the determination of the JRT, saying that judges in this state for all intents and purposes should be treated as public servants or teachers or nurses; there is no difference between them. Just to remind members of a bit of the history at the time, I can understand the political and industrial considerations that may have been going through the

mind of the government. It was embroiled in industrial disputes with both teachers and nurses, both of which matters had not been settled at that stage, and it had just come out of an industrial dispute with its own public servants.

An honourable member interjected.

Mr McIntosh — Yes, and there were allegations as to the amount of pay rise, and it is a matter of debate as to whether it was 3 per cent. But the Treasurer is saying that for all intents and purposes the government will treat the judges of this state as mere public servants and they will comply with wages policy. Indeed the government made a submission to the Judicial Remuneration Tribunal about its 3 per cent wages policy, and it was looked at by the tribunal and rejected. There are a lot of other considerations the tribunal has to take into account, but it looked at what the government said about its wages policy and rejected that recommendation by the government because it was looking at the totality of the matters it had to take into account. The government, by announcing that it will use its numbers to force through a rejection or disallowance of the determination, is acting in absolute contradiction to the principles it adumbrated in setting up this model.

I have raised it twice with the Attorney-General in this place, and on both occasions I have been bagged unmercifully — indeed a former shadow Attorney-General was also bagged, and it was all our fault. Apparently what may or may not have occurred in the 1990s was my fault. I do not concede for one minute that there was a true issue, because whatever else we have here, the Attorney-General set up two criteria to preserve an independent judiciary — security of tenure and security of remuneration — and those should be determined independently of this place and the executive wing of government. I apparently caused the problem because I did not write a letter to the paper in 1995!

There are really six concerns with the way the government has behaved. It strikes at the notion of an independent judiciary. I know it; I am sure the Leader of The Nationals knows it; I am sure every member in this place knows it. I have spoken to judges, to magistrates and to lawyers; they all know it. They will tell you this strikes at the heart of an independent judiciary. Whatever else may or may not have gone on in the past does not matter. This is the most serious attack upon an independent judiciary.

I see the member for Bentleigh laughing. I repeat for him: these are not just my words. This is not just the

Leader of The Nationals; not just my side. I am saying that I have spoken to countless judges, magistrates and lawyers including the president of the law institute and the chairman of the bar council. For the benefit of the member for Bentleigh I am telling him that they are saying that it strikes at the heart of the notion of an independent judiciary. If the member for Bentleigh does not understand that, then he should go and ask. If he wants to come with me to the bar dinner on Saturday night, I am sure he will be warmly welcomed when he gets up there and says there is nothing wrong.

The second matter of real concern is that it denigrates the judicial function and the standing of our courts. This is what judges, magistrates and lawyers are telling me. The member for Bentleigh may not understand that I am just reflecting what they are telling me. It undermines the ability of the court to administer justice, encouraging early retirement, and discourages high-quality candidates from accepting judicial office in this state. The government's motives are based solely upon political and industrial concerns. 'We are in the middle of a dispute with nurses and teachers and we have just got through a dispute with the public servants, and it does not matter what the independent umpire decides. We are going to stick to our wages policy whether you like it or not, and we are going to use our numbers in this place to force it through'. The government obstructed the Judicial Remuneration Tribunal by refusing to appoint three members of that tribunal for over 12 months.

This is the first clear determination under the government's own model — this is the first hurdle — and the government is failing. Judges, magistrates and lawyers tell me that they are concerned about the fact that judicial remuneration is not the only issue but that there is a hell of a lot of catching up to do in the state.

Finally the bill raises concern because it jeopardises the accepted understanding around this country in relation to superior court judges and the trickle-down effect in relation to the County Court, the Magistrates Court and the non-judicial members of the Victorian Civil and Administrative Tribunal. That agreement is not new; it has been in place since about 1990. Every Attorney-General, federal and state, has agreed that the salaries of the senior judicial officers in this state — that is, Supreme Court judges — should be set at about 85 per cent of the salaries of Federal Court and High Court judges.

There are many factors to be taken into account by the Judicial Remuneration Tribunal, and it is worth while considering those in colloquial language. They are set out in section 12(1A) of the Judicial Remuneration

Tribunal Act, a model created by our own government, which is now seeking to barrel this legislation through. The JRT is there to look into the importance of judicial functions in this state and in the community. Who in this place is not going to say that this state's judges and magistrates do not fill a very important role? The judiciary is the third arm of government. Its first role is to resolve disputes — that is, civil and criminal disputes between the citizens of this state, and between the state and its citizens. It is also there to interpret and apply the law that we make here in this place.

The second role of the judiciary is to maintain the standing of the judiciary in the community. Who in this place is going to stand up — perhaps it may be the member for Bentleigh — and say that judges do not deserve the highest standing in this community? While we parliamentarians may be debased by what we do in this place and the government may be debased by its inability to manage the affairs of this state, I am sure that every member of this place would stand up and say that we have the highest quality and calibre of judges and that that quality and calibre should be maintained at all costs. That is one of the considerations, and clearly the government could not be concerned about that.

We should be interested in attracting and retaining suitably qualified candidates. In an article in the *Herald Sun* in 2002 the Attorney-General is reported as saying that the remuneration levels payable to senior judges in this state are a disincentive to people taking judicial office. Accordingly I would have thought the government should be saying, 'Yes, we have to do more to attract and retain suitable qualified candidates'.

There is also the issue of judges moving to Victoria from other jurisdictions. Who in this place is going to say that there should be no comparative nature in the pay scales between Victorian judges and those elsewhere? When you compare Victoria to every other jurisdiction — and I do not have the details in relation to Queensland, where I understand judges got a recent pay rise — you find that Victorian Supreme Court judges are the lowest paid Supreme Court judges in this country. I would have thought that, given judges' standing and what they do in this community, the ability to retain and attract suitably qualified candidates is something the government would be interested in and that it would want to ensure there is parity in the judicial pay scales that apply in Victoria and the other states.

We are not just talking about a couple of thousand dollars; there is up to \$30 000 difference between Victorian judges and judges in other states, let alone in relation to Federal Court judges. Yes, the JRT can take

into account increases in the consumer price index and community expectations in relation to wages, but that would have been put by the government, no doubt on its behalf very eloquently by the Treasurer, who would have supervised the submission to the JRT, which rejected it. The operation, efficiency and work value of judges have to be taken into account.

I appeared before many judges and magistrates in both short and long trials for years of my life. I know many of them personally, and I worked for a chief justice of this state, and I can tell you that judges work unbelievably long hours. They are under constant pressure not just to hear trials but to deliver judgments, to make determinations between citizens and ultimately to sentence offenders. Judges take into account matters of profound concern, and they discharge their jobs with diligence and a true notion of duty to the public.

I can tell you about the amount of time they put in and how they make efficient use of their time. All sorts of things are being built into this salary level, all of which were accepted by the JRT. I bet there is not one person in this place who would stand up and say, 'We can identify lazy judges who do not do their job'. Yes, we can be disappointed with some judges' decisions, but how they are reached is the right of the judges. Not one person could stand up in this place and say, 'No, it does not come down to efficiency or work value'.

We have already discussed the current wages policy and economic circumstances, and with economic circumstances you have to take into account the capacity of the government to pay. We now have sloshing around \$4 billion more than this government expected to get in 2001. We are going to have a surplus of hundreds of million dollars next financial year, and we will have a surplus in this financial year. The government clearly has a capacity to pay, because we are not talking about a huge amount. We would be talking about as much as \$2 million to \$3 million for the total payroll of the Supreme Court. The total package might be \$20 million in relation to salaries, and that is only to be increased by 13 per cent. So we are not talking about huge dollars when we compare it to the amount of money this government has.

On the subject of economic circumstances the Treasurer has said publicly that we have a booming economy, that we are doing really well and that there are a few concerns on the horizon. We are doing well in the state of Victoria, so clearly that could not be a consideration in setting the level of judicial remuneration. The only thing we are out of kilter with, I bet, is the issue of wages policy. The government is saying, 'Yes, we will concede all of those other factors,

but when it comes down to it we have our wages policy, and we will treat our judges in this state as public servants. We will treat them in the same way as teachers or nurses. We do not care about the constitutional validity of security of tenure or security of remuneration, because when it comes down to it we will make the decision, and once we make that decision we will announce it and use our numbers to force through such a matter'.

In briefly mentioning the operation of the Judicial Salaries Bill I want to raise a couple of concerns. Firstly, it introduces a model whereby hopefully by 2007 we will have parity with our Federal Court counterparts. Yes, it does that, but it does it over a delayed time. It is quite different from the determination of the JRT, which said that much of the salary increase should be backdated to January of last year because of the inability of this government to properly constitute a JRT for over 12 months, which meant there was therefore a gap of over two years in relation to that determination.

What we have at the moment is the possibility of there still being a lag period. The Attorney-General has announced that his intention with this legislation is to provide full parity with Federal Court judges. I have certainly been contacted by the chairman of the bar council, Robin Brett, about this matter. I have a tendency to agree with him that at the moment what we have is the ability of the commonwealth Remuneration Tribunal to make a determination in relation to Federal Court judges which Victoria is going to get the benefit of, but that determination does not take effect until it has lain on the table of federal Parliament for up to 15 days. With normal sitting times that is usually around about October or November, so there could be as much as a four-month delay. That is because the government has said that any increase that flows on from the commonwealth Remuneration Tribunal will be only prospective, whereas normally the commonwealth Remuneration Tribunal makes its decision in July of each year, the decision then sits on the table for up to four months, and the pay increase is backdated to the time of the original determination.

Accordingly if it is going to be prospective, that four-month period would leave a gap, which would be inconsistent with what the government has announced. Accordingly I suggest that the government amend this bill to remove the word 'prospective' so that Victorian judicial salaries would immediately flow on from what the Federal Court judges get. It is a matter that we cannot amend because I have advice from the clerks that this is an appropriation bill. It is a matter entirely for the government.

Secondly, there does not appear to be any mechanism in place in relation to members of the Victorian Civil and Administrative Tribunal. I have been told by the Attorney-General that that recommendation would be a matter entirely for the Governor in Council, which means we now have a situation where the Attorney-General will be making a determination in contradiction to what he was saying back in 2001. That is a matter of real concern, because the JRT's power to make determinations has now been removed. Yes, it will continue to exist, but at least one member of the JRT, Professor Cheryl Saunders, is expressing real concern about that.

I would like to finish by quoting from a letter from the president of the Law Institute of Victoria and the chairman of the Victorian Bar Council. They entreat members of this place to use their free will. I quote from the letter:

It is critical that you, as a member of Parliament, now show your confidence in the courts and judiciary of Victoria by voting against the Premier's motion to disallow the determination of the tribunal. Vote for Victorian judges to be paid as much as interstate and commonwealth judges. Vote in favour of a strong and independent judiciary.

It is not just me who is expressing concerns; it is people like the chairman of the bar council and the president of the law institute. This is a real challenge for us. It goes to the corner stone of our democratic principles and our institutions. If the government will not do it — and it has announced that it will not — it is up to each and every one of us to say 'no'. Accordingly I call upon each member of this Parliament to independently exercise their discretion, because if the government will not allow that increase — if it seeks to disallow the determination of the JRT — then we must. If we do not, then God help us.

Mr RYAN (Leader of The Nationals) — The government is using its numbers to kneecap Victoria's judiciary. We should put aside all this discussion about the high moral ground and of not wanting to play a part in the way in which the Attorney-General, as part of the executive government, is conducting himself by interfering with judicial functions. Let us go back to basics. The Westminster system comprises the Parliament, the executive and the judiciary. We are having this debate today, certainly in terms of the disallowance, because the government — the executive — has decided it will disallow the proposals given to it through a process which it was not originally part of establishing, but which it redefined after taking government. It is rejecting the determination by the proverbial independent umpire and imposing the way it wants to go about this.

Let us not be taken in for one passing moment by the high moral ground contribution from the Attorney-General. The government wants its way. It wants to make sure it can impose its will upon the judiciary in relation to the financial returns that are important, it believes, to that venerable body of people who fulfil that vital role for us in Victoria.

Look at the way in which this unsavoury affair unfolded. What the government did is in stark contrast to the way in which the second-reading speech which introduced the bill is constituted. The second-reading speech says, in part:

The independence of the judiciary is guaranteed by security of tenure and by secure and adequate remuneration.

I emphasise the word 'and' — in other words, it is a two-part process; the equation comprises both elements. In fact what the government did when it made its announcement to disallow this is to use the determinations that had been made by the tribunal to beat up the judiciary. It sought a front page — and got plenty of front pages — by making the populist decision that it would take the high moral ground and reject the recommendations that had been made by the tribunal to the government pursuant to the terms of the Judicial Remuneration Tribunal Act.

Make no mistake about it. Although it says in the second-reading speech that the two aspects of this are linked — namely, security of tenure and adequate remuneration — there is no doubt that when the government was talking about this in the public arena a couple of weeks ago it used the issue of remuneration to beat up the judiciary of this state. I reject absolutely the comments of the Attorney-General in relation to that point.

Furthermore by way of opening comment — this is a point I was going to make a little later on, and I will come back to it — the structure of the bill before the house itself puts the lie to what the Attorney-General says. The Attorney-General argues — and it is a pity he is not here to hear it; he might be down in his room listening — that it is important that the executive of the day should not be in any way involved in setting the salary structures of the judiciary. That is his fundamental point. But it is interesting to consider the structure of the salary package that goes to our judiciary. It comprises two parts — the salary and the allowances. It is a total package with two distinct components.

We now have legislation before the house that will split those two components. The salary will eventually — in about three years and eight months time — be tied to

that of a Federal Court judge, so it can properly be said that that element of it will eventually be removed from the influence of the government of the day and indeed the Parliament. A structure will be put in place that will see that parity take place eventually. That is a fair point; I accept that. But on the other hand the issue relating to allowances is going to remain with the Attorney-General, because what this bill prescribes is that the allowances issue will ultimately be finalised on the basis of a certificate which the Attorney-General of the state of Victoria issues under section 15 of this act, which we are now amending. The Attorney-General will continue to be the final arbiter of the allowances paid to our judiciary.

Again it absolutely puts the lie to the garbage we have heard from the Attorney-General this morning — this notion of the government now being completely hands off. Of course it is going to be hands on. We will have the continuity of the position whereby the Attorney-General will have an ongoing influence on the way in which our judiciary is paid. This notion is a patent lie on the face of the government's own legislation. There it is for all to see: the Attorney-General is going to continue to be a pivotal player in all this. I can but ask again rhetorically: where is the Attorney-General during this important debate? After all, we have got a motion for disallowance before the house, which the Attorney-General of the state of Victoria has moved, and he should be here to hear the debate unfold. Anyway he can explain that later.

As I say, the government got its front page. It happened at a time when industrial turmoil reigned in Victoria more than is usual. The government was then deep in negotiations and discussions with various unions trying to settle different disputes. It used this issue as a means of making its case. It used the judiciary of Victoria as the whipping boy to enable it to get a front page with this populist commentary on what the Judicial Remuneration Tribunal's recommendations had been.

And there were options available to it. Under its own act it could have varied the recommendation. Section 14 of the principal act refers to the tabling of recommendations by the tribunal before the Parliament, and it contains provisions that set out a sequence of events whereby the government could have varied the determination by the tribunal. It did not have to go down this disallowance path. Rather, it could have gone out to the public and said, 'We think this is a bit too steep in terms of current expectations. We believe therefore that the appropriate course is to vary the determination that has been made and use the provisions contained in section 14 of the act to enable us to do so'. But no, it went for section 14A, the

disallowance provision, because it knew it would get it the big hit in the public arena. What it did was nothing less than despicable.

Having spoken to many members of the judiciary whom I have had the great honour of briefing in years gone by and who are now on the benches of the Supreme Court of Victoria or the County Court or in the magistracy, I can say that this is something that will not be forgotten. I suppose we will all see whatever will travel with that in the fullness of time. But the judiciary in the state of Victoria will not forget that when the opportunity was presented to the government it absolutely streeted these people for its own miserable gains.

What have we got then? We have got this legislation before the house which is the counterpoint to the motion for disallowance. It sets aside the previous process that had been established under the act and sets up a new process. The basic result is that by a stepped procedure we will see by 1 July 2007 the situation of there being parity between the pay scale of a Federal Court judge and a Supreme Court judge in Victoria. In accordance with the legislation, within about three years and eight weeks that parity will apply. Then we will see, as I have already remarked, a two-tiered structure. Under the provisions which deal with that parity issue there is a mechanism whereby the salaries component of the package payable to our judiciary will be determined in accordance with the formula set out in the legislation — that is, in clauses 5 and 6 of the bill now before us.

On the other hand, as I have already remarked, the allowances will continue to be certified by the Attorney-General under clause 7. Again I say that it completely puts the lie to this Attorney's commentary about his being completely removed from the process and independent. There it is on the face of the legislation. Of course he is going to keep his heavy hand on it, and we all know that that is going to continue to be the case.

Clause 1 of the bill removes the role of the JRT in relation to salaries and allowances and sets up a new system. In effect, despite the original intention and tenor of the legislation, what this bill does is gut the operations of the tribunal. It renders it virtually a spectator in relation to the critical issue of the salary package which is to be paid to our judiciary. I welcome the return of the Attorney-General to the chamber. What we will have under this bill is a sequence of events which will in effect render the tribunal virtually useless.

If you look at part 3 of the principal act and marry it up with the content of the bill now before the house you see an interesting chain of events that will follow through. Part 3 deals with inquiries and reports. I pause to say that this is the first section of the principal act which deals with the actual functions, the real guts of what the legislation is about. All the preamble up to that point is about how it is structured, who is supposed to do what, who gets elected to what, who gets paid and so on. This is the first part of the principal act which deals with the functions of the Judicial Remuneration Tribunal.

Let us have a look at what the bill now before the house does to that. In terms of the functions of the tribunal, this bill is going to repeal the first two provisions in section 11 of the act — that is, subsections 1(a) and 1(b). Section 11(1)(a) requires the tribunal to make determinations in relation to the salaries and allowances of holders of an office, including adjustments to salaries and allowances. That goes out. Section 11(1)(b), which requires the tribunal to make determinations for the remuneration of acting magistrates, including adjustments of remuneration, will also be repealed.

The third major amendment is an interesting one. It is a very telling amendment. Under section 11(1)(c) the tribunal is going to have two important additional roles given to it. It is going to be asked to advise the Attorney-General in relation to library expenses and other allowances. These additional tasks will now be thrust upon the tribunal. I am sure Professor Saunders will be waiting anxiously for the opportunity to have a look at the library allowances that are payable to our judiciary in the state of Victoria. She will reckon that is a great way to occupy her time: talking about library allowances payable to the judiciary! We will then see preserved all the other tasks that the tribunal is going to be asked to advise the government on.

Hello, the Attorney-General has gone again! Let us have a look at what the tribunal is going to be advising the Attorney-General on. It will be advising the Attorney-General about leave for the judiciary, including annual leave and long service leave, about travelling entitlements, about reimbursement of work-related expenses, about the provision of motor vehicles for private use, about pensions and about superannuation, which is pretty close to the heart of all of us. These are the important, vital issues that this constituted tribunal will be advising the government on in time to come. The Attorney-General says he has nothing to do with it any more — he is out of the patch — but despite that his bill says he will be the one who will be certifying the entitlements ultimately that

are to be paid in relation to those various issues to which I have just referred.

There are a series of other amendments. One that has not been made — and I look forward to the Attorney-General's comments about this — is in section 11A(1) of the act, which says that the Attorney-General may refer any matter relating to salaries, et cetera, to the tribunal for an advisory opinion. I ask rhetorically why would he do that? Because the bill within clause 6 actually provides the formula which ties the salaries of other judicial officers in a cascading structure to that of a Supreme Court judge. There is nothing that the Attorney-General can do to interfere with that structure. It is set out in the legislation. It is about to be 'l-a-w' law. Why is it therefore in section 11A(1) that the word 'salaries' still appears. I do not understand why that is still so. There are various other aspects of the advisory opinions that have also been gutted. There are provisions that talk about the inability of the tribunal to make determinations with regard to those issues that relate to salary. Similar consequential changes run all the way through and are there to be read.

Section 15 retains the necessity for a certificate ultimately to be issued by the Attorney-General in relation to those matters that still are within the purview of the tribunal. As I have just read out, those matters are all the attendant issues completely apart from the question of salary, which I suggest to the house was the whole fundamental basic idea of establishing this act of Parliament in 1995 and to which this government subscribed when it moved amendments as it has done over the subsequent years.

We end with the situation where the Judicial Remuneration Tribunal is a toothless tiger — an absolute toothless tiger. Not only has the government done the JRT members for the teeth, it has pulled their gums out as well — the jaws are flopping about. What are they going to be doing? Michael Duffy, an esteemed former member of federal Parliament and a very decent, able and competent bloke; Professor Cheryl Saunders, equally so, a very competent and capable person; and the third member of the tribunal is Frank Honan, a very able and well-known person in the community. These three distinguished people will be advising the government of the state of Victoria in relation to allowances to do with leave loadings, cars, sick pay and all these other woozy things! The total number of pages within the determination that is being disallowed today is 30 pages, and 10 pages deal with non-salary matters, as they are termed. But when you look at the 22 matters that were considered by the tribunal under the heading 'Allowances', in 14 of them

no recommendation was made at all. It did not do anything about them. This tribunal, in time to come, will be engaged in a process that I suggest to the house is an absolute, unmitigated and utter farce. I say again that the government has gutted this tribunal and has done it in the name of cheap political points. That is what it has done.

What is the end result of this? The primary thing is that the importance of the judiciary cannot be overstated. These people do a fantastic job for all Victorians. It is surely amongst the most difficult of tasks. I think if people stop to think about it for a moment, to be drawing comparisons on the one hand, with the greatest of respect to them, with our nurses, teachers, police officers and other categories of people as opposed to the position that applies to the judiciary does not stand examination. Of course they are separate and distinct. Many judges have said to me over the years that the toughest job going is to actually put someone in jail. It is the hardest gig around to actually take someone's freedom from them and impose a jail sentence on them. I know they agonise over issues such as that. How can you compare the body of people who have that responsibility on the basis of doing it with the groups that this government has chosen to compare them with. It is an appalling thing to do.

Secondly, the government has belittled the judiciary. That equally is an appalling thing to do and it should be ashamed of itself. It as an extension of the commentary and rubbish we hear from the police minister about lawyers and their place in society in the context of this other issue of police inquiries and the matters necessary in the state regarding viewing those issues on an ongoing basis. Most of all it is a blatant attack on the Westminster system. When you look at this legislation it does not stand up to the Attorney-General's point. He will be in this up to his elbows, just as he was when the bill was initially drafted.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak in support of the Judicial Salaries Bill, which provides a stable and orderly way for implementing increases in salaries through a new salary structure for the judiciary. It will mean that by July 2007 the salaries of Victorian Supreme Court judges will be exactly the same and linked to those of Federal Court judges. It will mean the pay gap between Victorian Supreme Court judges and Federal Court judges, currently around \$31 000, will be closed. Not only that, the bill will ensure that the relativities of less senior judicial officials such as County Court judges and magistrates will move in line with those of Supreme Court judges.

We have the predictable claims by members of the opposition that somehow this bill underlines the independence of the judiciary. We are establishing a system that will automatically link the salaries of our Supreme Court judges to Federal Court judges — a system that will give them 3 per cent this year, 3 per cent next year and parity by 2007 — yet the opposition is saying that it undermines judicial independence.

The member for Kew argues that somehow the recommendations of the Judicial Remuneration Tribunal (JRT) should be accepted without question by the government. Let us look at the history of the tribunal. From 1980 to 2002 we had a system in the state where the Attorney-General was the final arbiter in relation to judicial salaries. Under all the models that existed throughout that period the Attorney-General took the salaries to cabinet for determination. Did the members of the now opposition lie awake at night worrying that the system somehow compromised the independence of the judiciary? Did the member for Kew, who spoke here with such feigned indignation, lie awake saying, 'Oh my God, this system somehow undermines the independence of the judiciary!?' Of course not.

In 2002 the Judicial Remuneration Tribunal was given the power to make salary determinations subject to the disallowance motion of the Parliament. Did the opposition object to the disallowance provision in the 2002 legislation? No, it did not. Not only did the opposition support the bill, but it noted with approval that it is the role of Parliament, not the Attorney-General, to disallow any salary increase. Indeed the Leader of the National Party stated at the time that the:

... system effectively brings Victoria into line with all other jurisdictions, save for South Australia. It is a sensible system. It means that unless some sort of positive act is taken by the Parliament, the recommendations by the tribunal as to salaries and allowances will apply.

That is what we are doing here today. That is what the disallowance motion is all about. That has been the system since the Act of Settlement in 1701. The proper constitutional position set out in that act basically says in relation to judicial salaries that someone other than the judiciary has the right to determine judges' salaries, but the decision must return to the Parliament to be approved and that the houses of Parliament have the right to disallow salaries and allowances to be paid to members of the judiciary.

What we have here is a situation where the JRT brought in a determination that would have resulted in a 17 per cent salary increase for the judiciary in

12 months. The government has rejected that determination. We did not reject it because we did not believe the judges deserved a pay rise; we wanted to ensure that judicial salaries were not excessive and were not out of keeping with other salary rises being granted in the public sector.

If the Parliament approves this bill today, the JRT recommendation will be implemented over a four-year period. That seems to me to be a perfectly reasonable thing for the government and the Parliament to do. We have set a responsible wages policy. We know that every 1 per cent we grant in the public sector adds \$100 million to the public sector wages bill. Every time we have sought to deal with the salaries of public servants, including nurses, teachers and police, we have had the opposition saying that we should not cave in to excessive wage demands and should ensure that wage increases are kept at a moderate level — and judges should not be in any different position.

We have moderated the wage rise for judges this year, consistent with the requirements that we have placed on other members of the community. At the same time we have developed a mechanism to give them parity with their federal counterparts. What we have had is some cant from the opposition, particularly from the member for Kew, who suggested that somehow this is the greatest attack ever on the independence of the judiciary under the Westminster system.

Let us have a look at the track record of the opposition on judicial independence. Let us have a look at what it did when it sacked the 11 judges that made up the Accident Compensation Tribunal and used this house to vilify individual magistrates. We had the member for Bass doing it again this morning in relation to a decision of the court. We had the situation where the opposition fundamentally undermined the independence of the then Director of Public Prosecutions (DPP), Bernard Bongiorno.

We had a situation with the judges of the Accident Compensation Tribunal where the opposition was not about giving them a pay rise or parity, it was about giving them the sack! These were judges that had always been regarded as County Court judges. This was described by commentators other than the member for Kew as the most unprecedented attack on the judiciary in Australian history. That was how it was described by the commentators of the time. Where was the current member for Kew to be found at the time? He was a member of the bar, but was he in the media or at the bar council expressing outrage about this decision? No, he was not.

Then there was the tragic case of Mr Bernard Bongiorno, the then DPP, who had the hide to contemplate charging the then Premier, Jeff Kennett, with contempt in 1992. We had the former Premier, Mr Kennett, expressing the belief that the alleged Frankston serial killer, Paul Denyer, had been captured and that when he was captured it was a great relief. This was even though Denyer had not been before the court at that time. Not only did we have the then Attorney-General, Jan Wade, calling Mr Bongiorno to her house and trying to pressure him not to proceed with the contempt action against the Premier, but we had Mr Kennett on the phone talking to Mrs Wade in the other room, saying, 'How is it going, Attorney-General? Have you been able to convince Mr Bongiorno to drop the contempt action against me?'

The point is that we had a bill being put forward by the then Attorney-General that proposed to nobble the Director of Public Prosecutions. She was going to give a deputy DPP the power to veto the right of the DPP to bring prosecutions, including prosecutions for contempt. The DPP had been established with the same status and independence as that of a Supreme Court judge, but the then Attorney-General was trying to nobble that very independence. The judiciary was completely outraged by that. There was trenchant criticism from the Chief Justice of the Family Court of Australia. A Victorian Supreme Court judge came out and criticised that approach. We had state and commonwealth directors of public prosecutions meeting together to condemn the approach being taken by the now opposition in relation to the independence of the DPP.

Let us not have this hypocrisy and cant from the opposition. The government has moved to enhance the standing and independence of the Victorian judiciary. This bill will achieve the wage outcome proposed by the Judicial Remuneration Tribunal but in a much more staged, responsible and orderly way. It will deliver for the first time a salary nexus with federal judges which will guarantee, not undermine, their judicial independence. Members of the Victorian judiciary will be very well remunerated as a result, and they will have parity with their federal colleagues. The independence of the judiciary is being guaranteed not only by security of tenure but by the security that will attach to the salary nexus which will be established. I commend the bill to the house.

Mr COOPER (Mornington) — Prior to the start of this debate we heard 20 minutes from the Attorney-General on his view of the world. I am indebted to him for the following comment from that

contribution, which I wrote down. He said, 'Our judiciary is at least the equal of judiciaries in other jurisdictions and should be paid accordingly'. Nobody in this house, certainly nobody on this side of the Parliament, would disagree with that. However, it contrasts very much with the submission put by the Victorian government — one would assume a submission that was put by the Attorney-General — to the Judicial Remuneration Tribunal (JRT). I would like to quote from the tribunal's report no. 2 of 2003 on what the Victorian government submitted to the tribunal and contrast it with that comment by the Attorney-General. Clause 52 on page 13 of the report states:

The government submitted that Victorian judicial officers should not receive similar increases awarded in other jurisdictions on the basis that the state's capacity to meet the proposed increases has been affected by a slowed economy and would '... impede the state's capacity to continue to deliver high-quality court services to Victorians'.

It goes on in clause 53 to state:

The government also argued that Victorian judicial salaries should be lower than other jurisdictions as most candidates for judicial office are drawn from the bar, and a recent survey by the Australian Bureau of Statistics found that Victorian barristers tend to earn less than barristers in other jurisdictions. Therefore, judicial salaries do not have to be as high as other jurisdictions in order to attract candidates.

That is interesting. The Attorney-General stood up here today and said that we have a very good judiciary — I agree with him on that — and that its members should be paid accordingly, yet in his submission to the JRT he said exactly the opposite. When it suits him the Attorney-General has an argument for one thing and an argument for the other. As I said in a previous debate in this house, this Attorney-General craves desperately the approval and plaudits of judges and magistrates. Yet he has been rolled in the cabinet on this particular issue and has had to come in here and beat the retreat. The bill before us is the Attorney-General's way of weaselling out of that defeat and trying to get himself back into favour with the judiciary in this state. That is what he has been trying to do, yet despite his comments he has been exposed by the very submission he made to the JRT. That submission shows that what the Attorney-General said here today about our judiciary is in fact not what he said to the JRT in arguing against a salary increase for our judges.

What did the JRT say about the Attorney-General's submission? It said this on pages 13 and 14:

55. The argument that there should be a discount on Victorian judicial salaries on the basis that Victorian barristers are paid less than barristers in other jurisdictions is not persuasive. Attraction and retention

of high-quality candidates depends on more than a comparison between a candidate's current salary and their potential salary as a judicial officer. Other factors including the importance of judicial function to the community and maintaining the standing of the judiciary are equally important.

56. It would be difficult to attract high-quality candidates if Victorian judicial officers were amongst the lowest paid in Australia no matter what their current earnings are.
57. In its submission, the government has accepted that salaries and allowances must be sufficient to reflect the importance of the judicial function and the status of the judiciary. However, the government has failed to provide any argument why Victorian judicial officers should be paid less than their counterparts in other jurisdictions, despite performing similar duties and at a comparable standard.

As we have heard from the member for Kew and the Leader of The Nationals, the JRT comprises three significant members of the community — significant in their standing not only in the community but in the law — and they have rejected out of hand the argument put by the government in regard to judicial salaries and given their reasons for that. They have said that the government has not justified its stance, that it has simply gone out and tried to make the judiciary become another form of public service by trying to classify judges and magistrates as nothing more than public servants who deserve nothing more than the 3 per cent this government has determined will be the salary increase for other public servants.

It has effectively said that judges are just another form of public servant when everybody knows they are significantly different. They are charged with responsibilities that are well above those of any other member of the public service. They are charged with interpreting the laws passed by this Parliament and with determining matters between the state and its citizens in both criminal and civil actions. These are matters of significant moment in this state. Trying to wipe off the responsibilities and the position of the judiciary, which this Attorney-General has been forced to argue for by his cabinet colleagues, is reprehensible and disgraceful. It gives the lie to all the things that have been said in this debate by the member for Bentleigh and the others who will no doubt follow him in trying to justify what is now in this bill.

The government does not really care about this debate; it is giving it lip service. Have a look at the government benches: there are only three members of the government in this house. The Attorney-General, whose bill it is, has not graced this house other than for a couple of brief moments. He has decided he would rather have a coffee out in the dining room than listen to

the arguments that are being advanced here by the member for Kew, by the Leader of The Nationals and by me and others. He is not interested.

Honourable members interjecting.

Mr COOPER — And now we have the juniors, rabbiting and chattering away like birds on a perch, trying very hard to close down debate, which is their normal — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Delahunty) — Order! Members are out of their seats.

Mr COOPER — And while I am on the subject of closing down debate, I point out that in his diatribe to the house the Attorney-General raised the contribution by the member for Bass this morning on the sentence that was handed down on Craig Johnstone, that leading thug and unionist. The Attorney-General criticised the member for Bass for having the temerity to stand up in this house and comment on a sentence that in his view and in the view of a lot of other members on both sides of the Parliament, and members of the media as well, was not sufficient.

It is all right, I assume from the comments of the Attorney-General, for editorials in newspapers to comment on sentences and for radio commentators like Neil Mitchell and Jon Faine to comment on sentences, but it is not all right for the member for Bass, or clearly any other member of this Parliament, to stand up and criticise them. The member for Bass did not comment on the judge; he commented on the sentence. That is a right of free speech.

Ms Kosky interjected.

Mr COOPER — It is not contempt of court! You do not know what you are talking about.

If the minister wants to sit and be quiet, she might — miracles do happen — actually learn something. The fact is that it is not contempt of court for somebody to criticise a sentence. It is done all the time by the media and members of the community — and so it should, because freedom of speech is one of the three great freedoms we have in this country. Let us hope it will continue to be so.

The member for Bass had the right to stand up here and say that. The Attorney-General has no right to criticise a member of Parliament for exercising freedom of speech — or is that what he was on about? Was it about closing down this Parliament as an open forum as well?

This bill and notice of motion are nothing more than window-dressing to cover up his severe embarrassment at being made to look foolish and stupid in front of the people whose attention and plaudits he craves — that is, the judiciary. He really wants their approval and plaudits, and he has been made to look a fool by his cabinet colleagues, in particular the Premier and Treasurer. I feel sympathy for him, but that does not mean to say I will support his legislation.

Mr JENKINS (Morwell) — I rise to speak in support of the Attorney-General's motion to at once disallow the determination of the Judicial Remuneration Tribunal to allow a 13.5 per cent backdated salary increase and at the same time to support putting in place the Judicial Salaries Bill.

It is quite obvious after listening to some of the debate that opposition members wrote their speeches some time in April when they first they heard the Premier and Attorney-General giving an indication they would bring a motion into this house to disallow the determination of the tribunal. They said they would seek other ways to ensure that the parity that should exist between our Supreme Court judges and the Federal Court judges would come into being. They said that they would in due course — very short course — come to this Parliament to ask it not just to disallow a determination of the tribunal but also to put in place another, better way of ensuring parity between Victorian judges and their federal counterparts. That is what they have done, and they have brought in two items.

The opposition needs to move on from the announcement in April and look at what is before it. When opposition members started to talk about the actual provisions in the bill and where we had arrived at the end of the day, they came up with what we have, which is parity for judges in Victoria, over time. This is a staged, orderly and responsible path to getting that parity. It phases in salary parity with the state's federal counterparts over four years, as has been indicated by all those who have spoken, and then it links those salaries into the future. It protects the relativities between County Court judges and magistrates and ensures that their salaries also move in line with the Supreme Court salaries. As I said, it does so in a staged, orderly and responsible manner. It is little wonder that this opposition would reject a move to parity that will happen in a staged, orderly and responsible manner!

The bill ensures the continued independence of the members of the judiciary and gives them security of tenure. This government, unlike the previous government, not only agrees with security of tenure but guarantees it.

Unlike the former government, we will make sure that this continues. What we have done is ensure that the adequate remuneration and the other important tenets due to our judges will continue well into the future and be at more than arm's length from the Attorney-General and the vagaries of time. It is going to happen in a staged, orderly and responsible way. The opposition need to realise that it is not a simple yes or no, it is not as simple as black and white, and it is not an all-or-nothing decision. The government rejected the Judicial Remuneration Tribunal's recommendation of an increase of 13.5 per cent, as the government correctly read that it exceeded the community's expectations at the time. It did exceed the community's expectations, and by doing that it threatened to undermine the community's respect for the judiciary. What the government has decided to do is not just reject the determination but put in place a process that will give parity over time to 2007 to our Supreme Court judges and parity to those junior judiciary positions.

The Judicial Salaries Bill will achieve the appropriate outcome, as members of the opposition have indicated once they have actually got past April and past the announcement that the executive would bring to this Parliament a proposal to disallow the determination — which is what it has done — and looked at what the bill is going to do. The bill will deliver everything that the judiciary needs and everything that the Judiciary Remuneration Tribunal has suggested, so that it is about not just a wage outcome but parity in the future, and it will do it in a staged, orderly and responsible way.

The federal linkage will ensure the flow-on in salary increases into the future. Under the legislation which was supported by the opposition parties, the Parliament has the power to disallow a determination of the tribunal. The executive and the Attorney-General and the Premier indicated as early as possible to the people of Victoria and to the opposition parties that they would be seeking to have the Parliament exercise that power to disallow the tribunal's determination of a 13.5 per cent backdated pay increase. Then they moved on, unlike the opposition, and formulated the Judicial Salaries Bill, which has all the provisions that we need — and with all the independence that we need guaranteed. The opposition needs to move on from April. An announcement was made, and what we have before us is not just a disallowance motion but a staged and responsible mechanism to move forward.

Let us be absolutely clear about this government's having respect for the judiciary. This bill has been brought to this house because of the respect that this government — and hopefully this Parliament — has for the judiciary, for its independence and for its capacity

to match its federal counterparts, for which it needs to be remunerated in the same manner. The opposition has shown its disrespect over time. Another example was the attack by the member for Bass this morning on the decision by a Victorian court in a case involving a trade unionist — and it is not surprising that the member for Bass would use that to attack a trade unionist.

The Parliament is making a decision today. There have been lots of complaints already that the executive has made a decision, but the executive brought to this Parliament a recommendation that it exercise its right to disallow the determination and at the same time support the Judicial Salaries Bill. We have listened to the opposition, but it has to move on. What is the end result? Victorian Supreme Court judges will reach the salaries of Federal Court judges over time and then they will remain linked. The other lower court judges' relativities will be established and will remain.

The opposition needs to get on board. The Leader of The Nationals asked where we will arrive. We will arrive where we should have always been, but you have to get on board. For some reason the opposition got off the game in April, wrote its speeches and has not had a good look at this government's proposal. The Premier and the Attorney-General made public their intention to bring in the disallowance motion, and it did not stop there. The government introduced the Judicial Salaries Bill, and it deserves not only the support of this side of the house but the support of the whole house.

The Judicial Salaries Bill and the concurrent disallowance of the determination by the JRT is important in re-establishing and confirming our respect for the judiciary, and I commend the motion to the house.

Mr PERTON (Doncaster) — This motion is a disgrace, and I oppose it. The claptrap from the member who has just spoken, shows, firstly, that he does not understand what he is talking about, and secondly, that the notes he is reading from are an admission of utter hypocrisy. The Judicial Remuneration Tribunal model, brought in as an independent device for determining judicial salaries, was introduced by this government in 2001. In his second-reading speech, in all of these wonderful and florid textbook statements, the Attorney-General talked about the importance of the separation of powers. He talked about the principles of independence for the judiciary. Yet what do we have? On the first test of this we had the Attorney-General being rolled by a cabinet that was determined to make political considerations prevail over judicial principles.

Mr Jenkins interjected.

Mr PERTON — Very interesting. The interjection from the member for Morwell was, 'Move on!'. So he admits the hypocrisy. The problem with this set of actions is that it is not just about a salary, but at the same time the salary situation does need to be talked about. It seems ridiculous to me that in a state like Victoria, with a Supreme Court that has been one of the elite courts in the country for so long, we risk the quality of judicial appointments — we risk people not taking up appointments in the Victorian Supreme Court because they attract the lowest salaries in the country. To think that a Victorian Supreme Court judge, dealing with high-level commercial matters, complex criminal matters and the like is paid less than the judges of the Tasmanian Supreme Court, less than the territory judges, is just nuts. If the member for Morwell and the people that he associates with think that is acceptable, they really have another think coming.

This decision to set aside the decision of the remuneration tribunal strikes at judicial independence, and the member for Morwell tacitly agrees with that. We do not know what the Attorney-General believes. He is not in the chamber and has not been here for some time — and it is significant that his seat remains empty. This decision we are debating today denigrates the importance of the judicial function and downgrades the standing of the courts in our community. It undermines the ability of our courts to administer justice to the highest standards.

The reality is that if you are a high-flying senior counsel and you are offered an appointment in the Federal Court, or you are invited to take an appointment in the territories or in another state, financially it will be the logical decision to move. It would only be your desire to serve your local community and your high-mindedness that would get you to remain in the Victorian Supreme Court. The judges of the Supreme Court of Victoria are terrific people and we have been very fortunate with the appointments, but the government doing this will send a signal to many people in the legal profession that while this government is in power, judicial independence is certainly in question.

The decision is entirely without merit. That has been acknowledged by the member for Morwell, who keeps telling us to move on. It follows the government's deliberate obstruction of the tribunal's ability to make decisions, and it is significant that this decision was made by refusing to listen to the government's submission, and it breaches a longstanding agreement between governments in Australia that there be parity in judicial administration. It is a disgrace.

The legal profession has looked at this and condemned it; the judiciary has looked at this and condemned it; and people I respect such as Professor Cheryl Saunders, a member of the Judicial Remuneration Tribunal, have also condemned it. What is even more bizarre is that the JRT is actually headed by Michael Duffy, the former federal Keating government's Attorney-General. This is not a group of Liberal hacks which has somehow decided to make an increase in salary to the judiciary against the will of the government; these are people of the government's own hue and complexion, and their decision is being overturned in this way.

In opposition the Labor Party made a lot of judicial administration and proper constitutional practice, but what I find, now that it is in government with a majority in each chamber, is that constitutional niceties and judicial independence have gone out the window. This is an authoritarian government, a government that does not like scrutiny or independent tribunals, and the motion we are called to vote on today is one that I reject, and one that is rejected by every right-thinking person who has looked at the proposal.

I suspect that the Attorney-General would not have made this decision, but he got rolled by his cabinet. He has rolled over, taken it and now introduced this new piece of legislation which is very much second best because it follows a motion that should not have been moved in this Parliament and certainly should not be supported.

Mr SEITZ (Keilor) — The bill is an important one. It is an historic step forward, and the way in which Parliament makes this decision on the judiciary will set up a system whereby it will be considered independently of its salary by 2007. In the 1980s Parliament used to set the salaries of the judiciary by amending the various acts that applied to it. Then we arrived at a different system that got slightly out of kilter with community expectations. The last salary increase was 13.6 per cent, as approved by the Victorian Civil and Administration Tribunal, but then added to that was the 3 per cent by the Judicial Remuneration Tribunal, which meant a 17 per cent increase for the judiciary within 12 months. This does not accord with community expectations.

Since then the disallowance statement has been moved, and the government has taken action to ensure that in the future salaries for the judiciary will be in kilter with its federal counterparts. It is highly recommended that we have an orderly process, which will come into operation in 2007. The judiciary is an important part of our society and therefore we need to have a commitment that it is remunerated in line with the

position it holds. Without an independent judiciary and the ability to attract the best minds and brains for the position our society cannot function properly.

If the judiciary breaks down, everything else breaks down. If you are living in a civilised society, you have to have judges who interpret and uphold the laws and make decisions that are fair for everybody. To do this we need to attract the best people for the job in Victoria. Despite the comments made by the opposition, I do not think this is an ad hoc action or the government interfering. It is a way forward that will re-establish a salary tribunal for the judges. This will work its way through until they reach parity with their federal counterparts, so that Victoria will become so attractive to judges from other jurisdictions and other states and even from the Federal Court so that they will wish to apply for positions here. In other words, the Attorney-General of the day will be able to advertise for people to fill judicial positions in Victoria knowing that Victoria will be able to attract the best people for the job. That is to be commended.

However, the reasons for the decision to disallow the determination and how it is intended to work more fairly in the future have been explained to the house. This proposal re-establishes the judicial career path and sets the salaries for the future. It means that any young barristers — we have heard them talking about it — can be confident that there is a system in place that will continue to uphold their future financial wellbeing and their interest in that profession if they choose to aim for the position of a judge. That is a lifestyle choice in many cases. If you operate as a successful barrister you might earn more. However, for many people with a certain lifestyle and level of income it is not just about making extra money, it is about service and commitment to their profession and their own status in becoming a judge. It is a process of working their way through the system to the hierarchy which is an important and commendable way of looking at life. It is not all just about funds.

I am sure that in this house and in the federal Parliament there must be members who have made similar lifestyle decisions to be members of Parliament rather than carrying on their own professions in private industry where they would probably have been able to make much bigger financial gains. We hear in the media that if you do not pay people enough, particularly politicians, people from commerce and big business will not be attracted to stand for Parliament because the remuneration is insufficient. Those people have a different lifestyle; that is what they choose for their lives.

However, many politicians — certainly my colleagues in the Victorian Parliament — are committed to their job. It is not just for the money, because we are rather underpaid. We are here because we have a commitment to serving the state of Victoria and improving the lifestyle of its people — and the same goes for the judges. Their wages will increase in an orderly fashion and they will therefore have the respect of the Victorian community. After all, if judges themselves are not held in esteem by the community they serve, their judgments and their reputation will be called into question. As I said, I think this is a sensible way of going forward, so that the Victorian community can see and accept the salary increases which will inevitably happen as they catch up according to an orderly process. The workers outside do not get such large increases in one lump sum or in 12-month periods. Recently we saw the trouble with the amount that was handed down for the low-paid workers. It was a very small amount. We are talking about \$20 a week, not an increase of hundreds of dollars a week, which this determination would have meant.

This is a responsible way of going forward and a responsible action by the Attorney-General, because it is very important that we have respect for our judiciary. We have recently heard a lot about corruption in the police force, and we have to maintain respect for the police force. If we do not have respect for the whole legal system in this country or in this state, then we are failing. Steps have to be taken, and I think the government has taken the appropriate steps in the way it has handled this. The Attorney-General should be commended for introducing a system that will evolve and will maintain the commitment of the Bracks government to attracting the best people for the job by bringing the judicial remuneration to parity with other jurisdictions in this country. If people cannot see good financial prospects, they might not aspire to these positions and start working their way up. It is not easy; you are called to the bar as a barrister, but to become a judge is not that easy. You have to earn the respect of your peers and you have to put in a great deal of work and demonstrate your ability and understanding and your willingness to serve your community and your state in that particular field.

I do not hold with the position put by the opposition in this case. The government has taken a responsible forward step that brings the people of Victoria with us. It is always important to me to consult and listen to the people in my electorate. I bring their views and needs here to Parliament, to the notice of ministers and the government, because we are an orderly society and we say in particular that we are upholding the law. Without

people's respect for the law and the judiciary we would not be able to have the sort of society we have here in Victoria today — a peaceful, harmonious society in which decisions made by our judges are respected, as is the position of the judiciary as an organisation, and that is vitally important.

I think this bill goes a long way towards implementing that, to continuing the status and standing that the judiciary and all its processes have within our society, and to ensuring that salary increases keep up with living standards as they grow. It will ensure that judges are not disadvantaged and that the judiciary will attract young people who aim and aspire to be judges in this state.

Mr THOMPSON (Sandringham) — At least the member for Forest Hill can perform a backflip with some degree of class. The question might be asked: where is the Attorney-General when this debate is taking place? He is certainly not in the chamber at the present time.

The Judicial Salaries Bill represents another backflip by the government in a long litany of backflips as part of its record of government. We had the example of the multipurpose taxi scheme when the government locked into a public position and then reversed it. We had the government lock into a commitment to build the Scoresby freeway without tolls, and then it reversed its earlier decision. We had the government commit to build the Dingley bypass, and then it failed to proceed with it. We had the government commit to locating the toxic waste site in one of three locations in rural Victoria and then reverse that decision. We had other examples, such as DNA testing, the testing and questioning of prisoners and the motor registration fees for pensioners and World War I and World War II veterans, returned service personnel and health care card holders where that decision has not been reversed as yet, but should be. There would be a greater level of respect for the government if it did so.

According to the second-reading speech, the object of the legislation was to change the method of remuneration and to provide an adequate level of remuneration to attract suitable candidates to judicial office. It is interesting in terms of the overall concept of the bill to read what some judges have had to say. One judge noted:

It should be borne in mind that courts throughout the whole legal system are constantly called upon to make decisions that will affect someone adversely — those who have been found guilty are sent to jail or are otherwise penalised, other litigants are ordered to pay money and have property or other rights taken from them. The acceptance of all such decisions depends upon the standing and reputation of the court and its

judges. It is of the utmost importance that there be total confidence in the superior court within this state. That confidence comes to be eroded as the perception grows that the best people are unwilling to accept appointments to it, but prefer to accept positions to other superior courts or stay in practice. Such an erosion of confidence will inevitably flow through to the public and the lower courts within the hierarchy if there be any doubt that those whose task it is to review and lead the lower courts are incapable of doing so.

On the other hand, if salary levels are such that the best qualified members of the legal profession are encouraged to and do accept appointment, then confidence in the judiciary will be retained and restored in a very practical sense, for those people will have the respect and confidence of the bar and the legal profession generally. That will follow as those appointees will be known to be highly competent, which in turn will lead to fewer disputes over evidence, procedure and other minor matters and fewer appeals, because the decisions of those judges will properly be more readily accepted. This should result in greater efficiencies at trial level and savings generally, especially in the reduction in the number of appeals.

It is also appropriate to point out the remarks made by the present Chief Justice of the High Court of Australia, Murray Gleeson. Concerning judges and public confidence in the courts he said:

Judges, individually and collectively attach great importance to maintaining the confidence of the public ... The general acceptance of judicial decisions by citizens and governments, which is essential for the peace, welfare and good government of the community, rests not upon coercion, but upon public confidence ... Like any occupational groups, judges want to be well regarded by the rest of the community ... The importance to the rule of law of such a state of confidence in the judiciary ... that people and governments routinely accept and comply with judicial decisions ...

In an editorial in the *Herald Sun* of 14 April the following points were made in relation to this present debate. It said that when the Judicial Remuneration Tribunal granted a 13.6 per cent pay rise this rise was rejected by the Bracks government as being out of line with community expectations. The editorial states:

There are two issues at stake here. First, the whole point of having an independent tribunal to determine judges' salaries is to remove the question from the political arena. That means that it is the role of the tribunal to determine what the community expectations are, not the government. It is entirely inappropriate for the government of the day to be deciding what judges, magistrates and tribunal members are paid. For the government to reject the tribunal's recommendation because it does not suit its priorities puts the body in an invidious position. The second issue is that the state government now has the head of every court jurisdiction embroiled in an unprecedented, and almost unseemly, row over pay. The next time the Attorney-General goes searching for a new judicial candidate, with only the worst-paid judicial posts in the country to offer, he ought not be surprised if he finds even fewer takers than normal.

According to another *Age* report on Friday, 14 May, the remark was noted in relation to the government's approach to this particular matter: firstly, that its approach was 'disingenuous'; and secondly, that its approach was 'a crude exercise in populist politics'. When the government subsequently reversed its decision, it is interesting to note the contrast that the Attorney-General felt that:

... Victoria could continue to attract the best and brightest legal minds to the bench.

The reverse of that argument is: what was the view of the government and the judiciary in light of the government's position to not accept the decision of the independent tribunal, which included among its staff a leading constitutional lawyer in the state of Victoria, Professor Cheryl Saunders, and also a former Labor Attorney-General, Michael Duffy? The legal profession subsequently welcomed the change of direction by the government towards judicial pay parity, but was disappointed in the staggered implementation of it. These views were supported by the president of the law institute, Chris Dale, and the chairman of the bar council, Robin Brett.

There are other comments in the article in relation to the dilemma the government found itself in. There are a number of people who are closer to government than others. They were concerned about the decision made by the government. A former Labor Party candidate was scathing in his remarks on the position adopted by the Bracks government, and expressed serious concerns which were presented to the government in a meeting that some believed was unprecedented in that this issue was discussed directly with the government. According to a report in the *Age*, Premier Bracks met Chief Justice Marilyn Warren, the County Court Chief Judge, Michael Rozenes, the Chief Magistrate, Ian Gray, and the president of the Victorian Civil and Administrative Tribunal, Stuart Morris.

Another commentary appeared in the *Age* in relation to concerns by other members of the Victorian community regarding the decision by the government to block the 13.6 per cent pay rise. Apparently it provoked unprecedented fury among the legal profession. At the time Chief Justice Warren said that she was shocked when she learnt of the government's surprise intervention and that she was incensed at the constitutional interference. Professor Cheryl Saunders is quoted as having said:

This is a problem that sooner or later we are going to have to fix.

The article further states:

Judge Rozenes says it is not uncommon for lawyers to accept judicial preferment in 'a moment of weakness' — perhaps at the end of a bruising trial where they have been living out of a suitcase for six months in a distant part of the country.

One senior Supreme Court judge, who asked not to be named, says the government's decision has seriously affected morale on the bench and has left his colleagues feeling decidedly undervalued.

The Victorian judiciary's position was that their colleagues in the Northern Territory and Tasmania were going to be paid at a higher level of pay. Cheryl Saunders told the *Herald Sun* at one point that she would review her role on the Judicial Remuneration Tribunal if the government carried out its threat to block the rises in Parliament. Professor Saunders stood by the decision to boost judicial salaries by 13.6 per cent in a single year to bring them in line with their federal and interstate counterparts.

It is interesting to note who made the decision. According to some reports — I am not sure who was the recipient of the news — the Attorney-General was overruled by his cabinet colleagues. I am not sure that I have heard the Attorney-General state directly whether or not he supported the Judicial Remuneration Tribunal's decision.

The ACTING SPEAKER (Mr Delahunty) — Order! The member's time has expired.

Sitting suspended 1.00 p.m. until 2.04 p.m.

Business interrupted pursuant to standing orders.

ABSENCE OF MINISTER

The SPEAKER — Order! I wish to advise the house that the Minister for Education and Training will be absent this afternoon. Questions to her will be handled by the Minister for Education Services.

QUESTIONS WITHOUT NOTICE

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — I refer the Premier to last night's *7.30 Report*, shown nationally on the ABC, which described Victoria as a 'state of alarm ... where death and corruption are the dominant themes — —

Mr Nardella — And that's just the Liberal Party!

Mr DOYLE — I would not have thought this was a matter for humour.

I ask: is the Premier embarrassed that Victoria is being portrayed in such a way on national TV because of his refusal to establish an independent anticorruption commission?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. The announcement I made yesterday in this house and publicly will give Victorian Police the greatest powers in any state or territory jurisdiction in Australia.

Alongside the legislation which was passed yesterday — and I am grateful for the support of the opposition parties — the new laws relating to the Ombudsman will also ensure that we have an independent organisation reporting to this Parliament entrenched in the constitution, which requires a two-thirds majority of both houses of Parliament to change. It means that effectively we have an independent organisation, the Ombudsman, who can scrutinise anticorruption measures in Victoria Police as well.

The dual-track system of attacking criminals with greater powers to crack open those organised crime syndicates, which Victoria Police will be given, and the greater powers of the Ombudsman put us in a very strong position. Already we have significant cases which are being brought forward. Those cases will proceed. In addition we have strong laws. That places Victoria in a very good position for the future.

Otway Ranges national park: establishment

Mr CRUTCHFIELD (South Barwon) — My question is to the Premier. Given the government's longstanding commitment to the creation of a world-class national park stretching from Anglesea to the Otways, can the Premier advise the house of the progress towards this historic goal and the challenges that have been overcome to ensure this outcome?

Mr BRACKS (Premier) — I thank the member for South Barwon for his question and for his continued and persistent support for the establishment of a protected national park in the Otways. I congratulate him for his advocacy in that area.

A significant step forward was taken today in the ultimate proclaiming of a new, extensive, world-class national park in the Otway Ranges. Today the Victorian Environmental Assessment Council has released its draft boundaries for such a national park. Those boundaries will mean that the park will consist of some 98 205 hectares, which is almost nine times the existing Otway National Park. It will be a very extensive park

which will extend all the way from Anglesea to past Cape Otway, with extensive tracts of land in between. It will be a continuous park. As well as the protected national park it will include a new category of forest park, which will have recreational uses, including four-wheel driving, fishing and the collection of wood and other areas as well.

These draft drawings of the boundaries will now be up for public display until July, when a final report will be commissioned after that public input has been considered.

The final report of the Victorian Environmental Assessment Council will go to the Minister for Environment, who is also the Deputy Premier, by September. I was very pleased to be with the Minister for Environment this morning in taking the next important step in proclaiming this world-class national park for Victoria, as referred to in the question asked by the member for South Barwon.

If you look at the national parks that have been proclaimed, you see more national parks have been proclaimed under this government than under any other government in Victoria's history.

Mr Honeywood interjected.

Mr BRACKS — The Deputy Leader of the Opposition is interjecting across the table, and it is worth noting that his interjection shows that he and his opposition stand for opposition to the Otway Ranges national park. The alternative government — —

Mr Mulder interjected.

The SPEAKER — Order! I warn the member for Polwarth, and I remind him that it is customary in this house to cease interjecting when the Speaker is on his or, as in this case, her feet. I also remind the member for Polwarth about what is parliamentary language, and I warn him about his language in this house. I ask him to cease interjecting.

Mr BRACKS — We have a clear divide across the house on this matter. The government stands for a newly proclaimed Otway Ranges national park, which will be nine times the size of the existing national park. It will be a continuous park which will extend right across from Anglesea to Cape Otway. The alternative government, if it ever comes to power in this state, would not go ahead with it; it would allow logging to continue, and we would not have this national park in the future because it stands against the proclaiming of this park.

Mr Perton — On a point of order, Speaker, the Premier is debating the question, and I ask you to bring him back to order.

The SPEAKER — Order! I do not believe the Premier at this stage is debating the question. He was explaining to us the steps that were undertaken to establish — —

Mr Haermeyer interjected.

The SPEAKER — Order! The Minister for Police and Emergency Services will not interject in that manner. The Premier was explaining to us the steps that were undertaken to establish the Anglesea national park.

Honourable members interjecting.

The SPEAKER — Order! I again ask members to show courtesy to each other in allowing members to be heard in this house.

Mr Honeywood — On a new point of order, Speaker, I refer to your rulings yesterday about government members attempting to make up policy on behalf of this side of the house. The Premier was launching into policy making for and on behalf of another party. I ask you, Speaker, to bring him back to government administration and government policy rather than inventing some policy on behalf of our side.

Mr BRACKS — On the point of order, Speaker, I was simply pointing out that there is a difference between the government and opposition parties on this matter. I was enunciating the government's policy, which is to proclaim this national park. I was not attributing any new policy to the opposition. I understood that the existing policy position — unless it has changed it — was to oppose an Otway Ranges national park.

The SPEAKER — Order! I do not uphold the point of order at this stage. The question to the Premier was what challenges have been overcome to ensure this outcome. The Premier was explaining to the house that a number of matters were taken into account when the Victorian government came to this decision.

Mr BRACKS — The other matter that was taken into account is the need to reduce logging in the Otways area to allow for this national park to be commissioned in the future. We had significant success immediately in paying out a licence, which now means that logging has been reduced by some 25 per cent in the Otways region. As the licence will have expired by

2008 when this new national park is proclaimed, there will no longer be any logging in the Otways region.

We have overcome those obstacles in achieving this aim, and we will overcome further obstacles. This is going to be a great boon for Victoria. Something like 2.5 million people visit the Otways region, including the Great Ocean Road, each year. What they will now have is a continuous national park that will be a great ecotourism benefit for our state. It will attract interstate and overseas tourists, it will be good for the Victorian economy and that region, and of course it will be great for the environment. We will see this area, which includes coastal forests and temperate rainforests, preserved for all time to come. The only obstacle that may be faced is if the other side of the house gets into government, because clearly it will continue the logging and continue to oppose this national park.

Hazardous waste: Nowingi

Mr RYAN (Leader of The Nationals) — My question is to the Premier. Did the government investigate any other Crown land sites for a toxic waste dump before it chose Nowingi, and if so, will it release a list of them?

Mr BRACKS (Premier) — I thank the Leader of The Nationals for his question. The area at Nowingi we selected for further investigation via an environment effects statement based on a long-term containment facility arose because of the advice we received from and the meetings the minister and I had with the local communities involved. We investigated that matter because of the unusual situation of the Land Conservation Council recommending that it become a state forest. It was not acted on by successive governments, so it was not therefore originally considered. The government became aware of the matter, and we have selected it as the site to go forward.

Point Nepean: future

Ms BUCHANAN (Hastings) — My question is to the Minister for Environment. Will the minister advise the house of what impediments still exist to Point Nepean being handed over to the state and being made a national park?

Mr THWAITES (Minister for Environment) — I thank the member for Hastings for her question. The Bracks government supports national parks, unlike the opposition, which wants to log national parks, opposes the Otway Ranges national park and has supported the commercialisation of Point Nepean. The opposition supported the proposals for the commercial leasing of

Point Nepean, but on this side of the house we understand that Point Nepean is an area of huge environmental and heritage value. From the start we have sought to preserve Point Nepean as one national park for all Victorians.

On the face of it we thought that late last year we had had a victory when the commonwealth government finally backflipped and agreed that we would have one national park for Point Nepean and that it would hand the land over to the state. We have held off opening the champagne, unlike certain groups, because the person the commonwealth appointed to head up the trust to manage the area was the same person who had headed up the consortium that included the Queensland property developer who was going to commercialise this land!

Since that announcement some five months ago nothing has been achieved by the federal government in taking that plan forward. Five months down the track we have no legal documentation for the trust that will run the new Point Nepean park. Not only that, the various proposed members of the trust have been pulling out or resigning. In fact the trust is haemorrhaging, because people do not trust it.

Mr Doyle interjected.

Mr THWAITES — That is right. They do not trust the trust — and it is not surprising! The parliamentary secretary for defence has offered as an excuse for the delay, as quoted in the *Age* this week, that the lawyer is overseas. Nothing stops on this side of the house: we keep delivering. Even when we are engaged in business around the world, our government keeps delivering. Our suspicions about Point Nepean have been raised yet again by the comments of the head of the trust, Simon McKeon, who is quoted in the *Mornington and Southern Peninsula Mail* this week as saying that the most significant decision for the trust will be whether to hand the land over to the state. Mr McKeon went on to say that there could be any number of reasons why the land could not be transferred to the state of Victoria.

What we are seeing is yet another backflip by the commonwealth government. Having promised to hand the land over to the state, it is now raising the spectre of not handing Point Nepean over to Victoria. It is saying that the land may not be handed over if the state has behavioural issues. We are quite clear on this side of the house that the land ought to be part of one national park. This side of the house is ready, willing and able to take over the control of the land. We say to the federal government, 'Stop the delays and start getting on with

the business of ensuring that we have one national park that we can all be proud of.

I call on the opposition, which to date has supported the federal government on Point Nepean and supported the commercialisation of the park, to finally recognise —

Mr Plowman — On a point of order, Speaker, the minister has now been speaking for just over 5 minutes, and I ask you to ask him to conclude his answer.

The SPEAKER — Order! I uphold the point of order and I ask the minister to conclude his answer.

Mr THWAITES — I call on the opposition to join with this side of the house in urging the federal government to immediately get on with the job of handing over this land so we can have one national park for Point Nepean.

Chief Commissioner of Police: comments

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to the statement by the Chief Commissioner of Police on ABC television last night that police corruption whistleblower, Detective Sergeant Simon Illingworth, had ‘probably been in that field of work for too long’. I ask: does the Premier support the chief commissioner’s dismissive view of this courageous young police officer?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I do not read into the answer of the Chief Commissioner of Police the same understanding at all as the Leader of the Opposition. I believe that is an extraordinary long bow to draw. The Chief Commissioner of Police has already praised the officer involved for his actions in ensuring that some of these actions have been brought up and some of the alleged corruption has led to charges. I echo those comments. I believe the Chief Commissioner of Police is right in saying that the actions were appropriate. The chief commissioner is also right in ensuring that the vigilance will be there in the future as well.

Agriculture: research and development

Ms DUNCAN (Macedon) — Will the Minister for Agriculture advise the house of the latest completion of capital works by the Bracks government in primary industry research and development facilities in regional Victoria and what particular shortcomings in previous government administration these announcements seek to address?

Mr CAMERON (Minister for Agriculture) — During those seven dark years we had in Victoria we saw a running down in capacity and facilities across country Victoria as well as in primary industry research. This government has been prepared to increase that capacity and improve our facilities and infrastructure. We have done that by spending over \$50 million in terms of reinvigorating the infrastructure. Those works have been completed —

Mr Ryan interjected.

Mr CAMERON — You smartened it up! It is something the National Party needs to take on. Whether it is Bendigo or Hamilton —

Honourable members interjecting.

The SPEAKER — Order! I can understand members enthusiasm for the subject, but I ask them to lower their voices so we can hear the Minister for Agriculture.

Mr CAMERON — The tammar wallaby can regrow a backbone, which is something the National Party needs to learn to do!

Whether it has been facilities at Bendigo, Hamilton, Kyabram, Mildura, Rutherglen or Tatura, we have seen the works completed. I am pleased to advise the house that we have also seen the information building at Horsham opened as part of the \$9 million grains innovation park —

Honourable members interjecting.

Mr CAMERON — The honourable member for Lowan is put out, but that facility is extremely important in terms of the development of our grains industry, and it is important in terms of the growth we have seen with lentils and pulses.

Honourable members interjecting.

Mr CAMERON — I will tell you how we are going. The United Dairyfarmers of Victoria and the dairy industry are with us all the way, because Labor protects the markets of country Victoria. What we have been able to do is to have a huge turnaround, so that again we have facilities which are so important to the 16 per cent of families in country Victoria that are dependent upon food production industries.

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is the Premier. I refer the Premier to yesterday’s statement by Mr Chris Dale, president of

the Law Institute of Victoria, that the Premier's excuses for not establishing an anticorruption commission are errant nonsense and I ask: why is the Premier rejecting the advice of the most senior and independent legal body in Victoria?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I must admit that I am shocked and surprised that the president of the body representing the legal fraternity of Victoria would criticise a government for not setting up a commission. That would be a shock to most people in this house!

We have given police the greatest powers of any jurisdiction in this country in order to crack open organised crime. Yesterday we gave the independent Ombudsman who reports to this house the power to attack police corruption. These powers will make a difference. The police are making enormous progress in both the Purana and Ceja task forces. We need to go with the course and make sure that these charges are proceeded with and that we have the necessary powers. That is what we have given to the police, that is what we have given to the Ombudsman and that is what will work in Victoria as well.

Infrastructure: funding

Ms MUNT (Mordialloc) — My question is to the Treasurer. Can the Treasurer advise the house on the Bracks government's vision for infrastructure, particularly scientific infrastructure, and indicate why it has been necessary for the government to address these issues?

Mr BRUMBY (Treasurer) — I thank the honourable member for her question. I will preface my response by saying that Australian Bureau of Statistics data out today shows that construction activity in Victoria is at a new record high level. It is well above the average long-term trend level for Victoria — another great success for our state.

I was asked about government capital works investment in infrastructure. Over the next four years the Bracks government will spend around \$10 billion on new capital works infrastructure in Victoria. Over the last four years we have spent \$7.5 billion on projects right across the state. So it is \$10 billion and \$7.5 billion. Do you know how much was spent under the last four years of the Kennett government — those dark, dark years? It was \$4 billion. In education we have built 25 new schools since 1999 and we have refurbished another 336 schools — which is something like one in three schools. To put this in context: the Bracks government has provided major capital upgrades for

336 schools, whereas the Kennett closed 300 schools. We fix them up and the opposition closes them down!

In health there has been \$1.5 billion of additional investment into hospitals and aged care infrastructure. Again we have done up dozens of hospitals across the state. We have spent \$1.5 billion and invested in dozens of hospitals. What did the Kennett government do in seven dark years? It closed 12 hospitals down!

Honourable members interjecting.

The SPEAKER — Order! I ask members on both sides of the house to come to order. The Treasurer does not need the support of the government backbench in that way, nor do we require the chanting from the opposition.

Honourable members interjecting.

The SPEAKER — Order! I ask the house to show courtesy to the Treasurer and allow him to answer the question.

Mr BRUMBY — One of the areas in which this government has made a major contribution is new scientific infrastructure. There are a range of projects right across the state — the Minister for Agriculture mentioned a number of them a moment ago — the Bio21 project at Melbourne University is leveraging something like \$400 million; the Ballarat Tech Park is expected to generate 300 new jobs by the end of this year; Neurosciences Australia; and of course the \$206 million Australian synchrotron at Monash. If you go down to that site today —

Mr Honeywood interjected.

Mr BRUMBY — It is instructive. Here we have the Deputy Leader of the Opposition opposing the most valuable new bit of scientific infrastructure —

Mr Perton — On a point of order, Speaker, I put it to you that the Treasurer is clearly debating the question. In accordance with all your previous rulings I ask you to bring him back to answering the question on government administration and infrastructure.

The SPEAKER — Order! I uphold the point of order and ask the Treasurer to return to answering the question.

Mr BRUMBY — If you go down to that site today, you will find the construction is powering ahead, the project is on schedule and on cost. It is an enormously important contribution to Australian infrastructure. I would like to give one example of the use of

synchrotron technology. Synchrotron technology is being used to probe the world's oldest known piece of earth — a tiny crystal discovered in outback Western Australia. This unique research work will be undertaken in the United States at this point in time, and it could determine that life on earth actually existed 4.4 billion dollars — —

Honourable members interjecting.

Mr BRUMBY — We Treasurers have dollars on the mind!

Mr Plowman — On a point of order, Speaker — —

Honourable members interjecting.

The SPEAKER — Order! Once again I ask members to show some courtesy to other members of this house. Every member has the right to raise a point of order and should be heard without that silly level of interjection.

Mr Plowman — The Treasurer has now been debating the question for 6 minutes, and I ask you to ask him to conclude his answer.

The SPEAKER — Order! The Treasurer has been answering the question for some time. There have been some points of order, but he has been talking for some time, so I would ask him to conclude his answer.

Mr BRUMBY — I was not making any reference to the member for Benambra!

This research is looking at whether life existed on earth 4.4 billion years ago, much earlier than originally thought. The zircon crystal, which was discovered 800 kilometres north of Perth, is approximately 130 million years older than anything previously analysed from earth. This goes to the uses of synchrotrons and why the synchrotron is such a significant piece of scientific infrastructure for our state and Australia.

The government has a great record on infrastructure investment in this state. As I said, we have more than doubled capital works. Whether it is in road projects, school projects, hospital projects, aged care projects, major projects, scientific and agricultural interests, arts projects, community health centres or police stations, we are building on right across Victoria.

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer to newspaper articles of April 2004 which report the Chief Commissioner of

Police as arguing that an independent crime commission 'could lead to further breakthroughs against corruption in the force', a view supported by a number of Labor backbenchers in the same reports. Why was the chief commissioner wrong?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. The Chief Commissioner of Police has expressed this extremely well — it is about the power, not the body. What the chief commissioner has are the powers to attack organised crime in this state. The powers of a royal commissioner or a crimes commission have been given to the police. That is the best possible way of effectively tackling organised crime in this state. Therefore, I am not surprised that the chief commissioner is pleased: the very powers that were sought are the powers that will be given in legislation which will pass through this house.

Gaming: regulation

Mr PERERA (Cranbourne) — My question is to the Minister for Gaming. Can the minister advise the house of recent government initiatives to address the problem of gambling addiction and outline why these initiatives have been necessary?

Mr PANDAZOPOULOS (Minister for Gaming) — The house may not be aware that today Melbourne is hosting the gaming regulators conference, attracting delegates from around Australia and the region. There is a very good reason for Melbourne hosting these gaming regulators: regulators from around the world are looking at a whole lot of world firsts Victoria has achieved in gambling regulation. A number of the conference speakers will be addressing delegates on the innovative things Victoria has done, many of which are world firsts.

Members would be aware that in December last year this Parliament passed some of the newest gambling-related reforms. We passed legislation to ban poker machine advertising through all media outlets and unsolicited mail. We are restricting gaming signage, and we will soon be commencing consultation with stakeholders about controlling signage on gaming venues and putting an end to some pretty bad signage around gaming venues where it has been used as extra advertising. We are requiring venue staff to attend responsible gambling courses and giving more power to local government. We are giving local government more of a say about the placement of gaming machines.

We have capped five regions in Victoria, and we have committed ourselves to extending caps in other parts of

Victoria. We have taken gaming machines out of some of the communities with the highest concentration of them. We have also provided certainty of funding for gambling service providers, which were starved of funding under the previous government, which had no care about gaming nor concern for responsible gambling. It was the biggest spruiker of the gaming industry that you would see anywhere around the world.

We have introduced many waves of measures since we have been in government: we have limited access to automatic teller machines and EFTPOS facilities and prohibited cash withdrawals from these types of facilities. We are also aware that the previous government oversaw the expansion of gaming in Victoria and that despite being warned prior to our coming to office and being asked to fix up its sloppy legislation and introduce responsible gambling reforms, it did nothing. We inherited a whole lot of sloppy legislation — —

Dr Naphine — On a point of order, Speaker, the minister is clearly debating the issue rather than addressing matters of government administration. I ask you to bring him back to order.

The SPEAKER — Order! I understand the minister to be talking about the action that was necessary to take to tackle some problems when he came in as Minister for Gaming.

Mr PANDAZOPOULOS — Obviously it is a very sore point!

I am pleased to be able to update the house by saying that under this government there has been a freeze on gaming machines. Who knows what it would have been like if the Bracks government had not been elected? Victoria has been asked by other jurisdictions to share its information. For example, we have had approaches from Tasmania about our social and economic impact test.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high. I ask members to cease interjecting in that manner and allow the minister to answer the question.

Mr PANDAZOPOULOS — Tasmania has recently approached us about the social and economic impact test Victoria has before there is an extension of gaming machines there. As a result of these laws hardly any new gaming venues have got off the ground in Victoria. The New South Wales government has wanted to talk to us about the smoking reforms that we

have made in Victoria. New Zealand wants to use our hard-hitting problem gambling advertising. The point I am making is that we have gone a long way on gambling reform here in Victoria.

These reforms would not have been needed if they had been introduced in the first place by those who were expanding gaming. We as a government have taken action, and we will take more in the future through our problem gambling round table. We have tighter and more comprehensive gaming regulations in this state — ones which are world firsts and which the world is looking at. For the first time we have seen a reduction in gambling expenditure here in Victoria. That is a sign of the initiatives we have been taking. We recognise that while most people gamble responsibly, government, the community and the industry need to be concerned about those people who have a problem with gambling.

We are proud of our gambling regulation record. It is a shame that we have had to introduce this. All I can do is ask the house to imagine the extra gaming machines and the expanded gambling industry there would be if the Bracks government had not been elected in 1999 and there had been no reforms.

JUDICIAL SALARIES BILL and JUDICIAL REMUNERATION TRIBUNAL DETERMINATION

Concurrent debate

Debate resumed.

Mr HULLS (Attorney-General) — I get sick and tired of the hypocrisy that continues to be enunciated by members on that side of the house. They attempt to talk about judicial independence, yet some of the same speakers in this debate no doubt supported the former Kennett government when it embarked upon what could only be described as a course of conduct to undermine the independence of our judicial institutions in this state.

Members on this side have already made mention of the sacking of the Accident Compensation Tribunal judges. It may well bore the Leader of The Nationals and other members of the opposition to hear it, but it is something the Victorian public should never, ever forget. When they see crocodile tears coming from the opposition in relation to judicial independence, they just need to cast their minds back to those seven dark years of the Kennett government — those dirty, rotten dark years when judicial independence was undermined in the

most extraordinary way. The Leader of The Nationals says, 'We were just getting on with the job'. If getting on with the job meant sacking judges, I would like to know who it was who thought that was an appropriate job.

Not only were 11 Accident Compensation Tribunal judges sacked, but we also remember when we are talking about judicial independence, as I understand it, that it is current policy. We do not have to look back into the past — those seven dark years — because as I understand it, it is still the policy of the current shadow Attorney-General and the opposition to introduce mandatory sentencing in this state if they ever get into government. If you are fair dinkum about judicial independence, you do not embark upon a policy of mandatory sentencing, because mandatory sentencing actually takes away judicial discretion. You can dress it up in any way, shape or form you like, you can call it mandatory minimum terms or you can call it mandatory sentencing, but the fact of the matter is it is an infringement upon judicial discretion.

We also remember — I certainly remember, because at the time I was sitting right in this seat — when the former shadow Attorney-General used this place to deliberately vilify a particular member of the judiciary, a particular magistrate. In this house he made the most serious accusations of impropriety against a magistrate. For the opposition now to be talking about judicial independence and how important it is shows it has a short memory, and it should cast its mind back to those debates. I do not recall members of the opposition, when those outrageous comments were made, standing up and vilifying their own member. Their silence could only be taken as support for the vilification of a particular magistrate, and they ought to still be ashamed all this time later.

In relation to the shadow Attorney-General's saying that this was the first Judicial Remuneration Tribunal determination under the 2002 JRT act, that is just blatantly wrong. The fact is that this is the fourth JRT determination under the 2002 amendment act. Each report and determination has actually been tabled in this place and published in the *Government Gazette*, and the shadow Attorney-General is wrong when he says that this was the first. He also stated that the judicial salary adjustments had been delayed because the government had delayed appointing members to the JRT.

I do not know if he can cast his mind back to the actual debates, but the previous JRT members' terms expired in early 2001. New legislation was developed and introduced into the Parliament in the spring of 2001. Passage of the legislation was actually delayed because

of amendments that were introduced by the shadow Attorney-General. There was a long debate in relation to those particular amendments, and the current JRT members were appointed in July 2002 and delivered their first report in October 2002. So from the time of appointment to the time of delivery of the report was a very short time — very quick, some would say.

The Leader of The Nationals stated that the Attorney-General would still have power to fix allowances and that that put the lie to the Attorney-General's assertion that he would be hands off with regards to judicial remuneration and that under the bill salaries and allowances will be treated differently. I remind him that since the passage of the JRT act in 1995 the Attorney-General has always certified non-salary allowances. There is nothing new.

An honourable member interjected.

Mr HULLS — He says that is not the point. He is making assertions as if this were something new and says how dare the Attorney. This has been in existence since 1995. Where were you? Standing up whingeing and whining after the 1995 legislation.

The hypocrisy coming from the mouths of the opposition really is quite extraordinary. The system of certification of non-salary allowances was contained in section 15 of the original Judicial Remuneration Tribunal Act. The same provisions were contained in amended form in the 2002 act, and the Judicial Salaries Bill does not affect the power the Attorney-General has had since 1995. Nothing has changed.

The Leader of the National Party then went on to say that the Attorney should have used section 14(2) to vary the JRT salary determinations but instead he chose to use section 14A to disallow these determinations, as though it were some sort of grandstanding exercise. I suggest that after this debate is over he actually goes back to the legislation, sits down in his room and re-reads it. He should re-read the legislation because he will find that salary determinations can only be disallowed by the Parliament under section 14A. That is the reality, and neither the Attorney nor Parliament has power to vary or substitute their own salary determination.

Not only should he have known that to be the fact, but he supported that when the legislation was first debated. So to stand in this place now, two years later, and say that section 14(2) should have been used to vary the determination is ridiculous. He should know full well that there is just no power to do that, and indeed he

supported the fact that there was no power under that section when this matter was debated.

An issue was raised by the shadow Attorney-General about prospectivity and the commonwealth process. Adjustments in judicial salary from 2005–06 will be effective prospectively from the date of expiration of the disallowance period set out in the Remuneration Act 1973 — which is the commonwealth legislation — and that is 15 sitting days after the relevant report of the commonwealth Remuneration Tribunal is laid before the commonwealth Parliament. So based on a typical commonwealth judicial remuneration cycle it is anticipated that Victorian judicial salaries will be adjusted in or about October of each year.

The commonwealth Remuneration Tribunal usually reports on judicial remuneration to the commonwealth Attorney-General annually, although it may report more frequently, and in its statement on the 2002 review of judicial and related officers remuneration the commonwealth tribunal noted that all future annual determinations regarding judicial remuneration would apply from 1 July each year. The commonwealth Remuneration Tribunal intends to deliver its report to the commonwealth Attorney-General, as I understand it, between June and July each year. The disallowance period for the commonwealth tribunal's determination usually expires in September or October.

The issue that was being raised by the shadow Attorney-General was that this will mean there will be a pay lag in relation to the federal judicial remuneration because whilst the period for disallowance is about October, what normally happens federally is that it is retrospective back to July. That is, as I understand it, his argument. This legislation makes it clear that the flow-on will take effect from the date of the expiration of the disallowance period, which is, as I said, about October.

This structure is consistent with interstate legislation and in particular it is consistent with the New South Wales legislation, which is the Statutory and Other Officers Remuneration Act of 1975, which provides that judicial salary adjustments are always effective in that state on 1 October in the given year, which means that they come into effect after the disallowance period in relation to the federal jurisdiction.

In the past, with the state Judicial Remuneration Tribunal, a retrospective component has been argued because of the often irregular timing in making adjustments to Victorian judges' salaries. This new structure will create greater certainty and consistency, I

suggest, in the timing of salary adjustments, which does remove the need for retrospectivity.

I repeat: I believe this is good legislation. It gives consistency in relation to judicial remuneration. It makes it quite clear that the judicial officers we have in this state are at least of the same calibre as judicial officers in other jurisdictions, and we believe they should be paid appropriately, in accordance with the federal jurisdiction, and that will come into effect on a measured and timely basis between now and 2007. Parity will kick in from 2007.

In moving the disallowance motion in relation to the JRT's findings, we believe the judicial salaries legislation not only reinforces judicial independence but also ensures that there is consistency with the federal jurisdiction in relation to judicial remuneration. The independence of the judiciary is something that should be beyond politics. I suggest that in a democracy it does not well behove any member of Parliament to be deliberately criticising members of the judiciary, and I hope in future that will not occur.

I hope the legislation does receive the full support of all members of the house. It takes us a long way from the days when the former Attorney-General was able to amend the JRT's recommendations and take our own recommendations to cabinet. That did allow interference with the judiciary. This legislation assures the independence of the judiciary and should be fully supported.

JUDICIAL REMUNERATION TRIBUNAL DETERMINATION

House divided on motion:

Ayes, 59

Allan, Ms	Langdon, Mr
Andrews, Mr	Languiller, Mr
Barker, Ms	Leighton, Mr
Batchelor, Mr	Lim, Mr
Beard, Ms	Lindell, Ms
Beattie, Ms	Lobato, Ms
Bracks, Mr	Lockwood, Mr
Brumby, Mr	Loney, Mr
Buchanan, Ms	Lupton, Mr
Cameron, Mr	McTaggart, Ms
Campbell, Ms	Marshall, Ms
Carli, Mr	Maxfield, Mr
Crutchfield, Mr	Mildenhall, Mr
D'Ambrosio, Ms	Morand, Ms
Delahunty, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Eckstein, Ms	Overington, Ms
Garbutt, Ms	Pandazopoulos, Mr

Gillett, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Jenkins, Mr

Perera, Mr
Pike, Ms
Robinson, Mr
Savage, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 22

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr

Mulder, Mr
Naphine, Dr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Motion agreed to.

JUDICIAL SALARIES BILL

Second reading

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

MITCHAM-FRANKSTON PROJECT BILL

Second reading

Debate resumed from 12 May; motion of Mr BATCHELOR (Minister for Transport).

Mr MULDER (Polwarth) — I rise to contribute to the debate on the Mitcham-Frankston Project Bill. In opening can I say the introduction of this bill into the house would have to go down as a day of shame for Victoria. As the federal Treasurer pointed out, in the history of politics he cannot remember any stage where leaders and ministers have been prepared to sit down

with a federal government, sign an agreement for the delivery of a project and promise the people of Victoria that that project — the Mitcham–Frankston tollway — would be delivered toll free and then turn around and tear up the agreement, throw it in the bin and advise the people of Victoria that the project is going to be tolled.

The simple fact is that the collection of tolls was never on the drawing board at any stage. Prior to the 2002 state election the Premier wrote a personal letter to Victorians in which he said that Labor would build the Scoresby freeway on time and on budget. These are not just election-time promises, the Premier said. He said, ‘These are my firm commitments to you and your family, and they will be honoured’.

An honourable member — Were they?

Mr MULDER — ‘They will be honoured’ is what the Premier said in a letter he sent out to the people of Victoria on this matter. On 15 April a letter was received in the office of the federal member for Aston, Chris Pearce, from the state Minister for Transport setting out issues in relation to the continued funding. The Minister for Transport referred to a continued funding commitment to the Scoresby component of the Mitcham–Frankston freeway. That letter was sent out on 15 April, but the day preceding the date of the letter, 14 April, the day on which the Minister for Transport posted his letter to the member for Aston, the Premier of Victoria announced that not only would he not be funding the Eastern Freeway extension, a firm commitment for which the Kennett government had budgeted funds, but the Bracks government, the Premier’s government, would not be funding the Scoresby freeway.

In other words, it would appear that the Minister for Transport either did not know or was not included in the negotiations or someone within his department’s media unit forgot to pull the letter that went out to Chris Pearce, the federal member for Aston. The Premier said that the Eastern Freeway extension and the Scoresby freeway would now be combined in the one project, the Mitcham–Frankston freeway, and it would be tolled. Not only had the Premier and the Minister for Transport reneged on the completion of the Eastern Freeway extension but they had also lied repeatedly to the people of Victoria. That must be remembered.

The people of Victoria will always remember that they were lied to by the Premier. He stood up with the Treasurer and the Minister for Transport, the three of them ashen-faced, and admitted that they had lied to the people of Victoria to get them past an election period, then duded them. They have now left the people of

Victoria facing a tollway right through the Scoresby corridor — it will affect not only the people who use it now but also their families in generations to come.

Some of the statements about the Mitcham–Frankston freeway that were made at the time are interesting. In June 2001 the Minister for Transport said, ‘We do not want tolls on the Scoresby’. In September 2002 the Minister for Transport said that there wouldn’t be tolls because there was no need for tolls. This was at the same time that the Minister for Transport was negotiating with the private rail operators in Victoria. He knew very well what their financial position was, and even knowing that he made no mention at that time of the fact that the situation with the rail industry would mean that the government would have to toll the Scoresby.

In September 2002 the Premier said, ‘It’s not our policy, we won’t have tolls’. In November 2002 he said:

Labor will build the Scoresby freeway on time and on budget ... They are my firm commitment to you and your family ...

This has been the trend right through this entire process. It is one of utter lies, one of contempt for Victorian motorists, and one that will go down as being the greatest backflip and greatest line of deception that has happened in political history.

I will go on to some other issues that are now being raised in relation to the Mitcham–Frankston Project Bill. Even to this point in time in the title of the bill and the contents of the bill they still refer to it as the Mitcham–Frankston freeway. You only have to go to the dictionary to see that ‘freeway’ is defined as ‘An express highway with controlled access. A toll-free highway’.

A toll-free highway! Government members do not have what it takes to demonstrate in the body of the bill exactly what this is about. The government of the day is still prepared to run down this pathway of trying to con Victorians into believing it when it says, ‘We are still going to call it a freeway, but in actual fact what you are going to get is a tollway’.

It is interesting to look at some of the comments and questions that have been raised. Once again I made a point yesterday in terms of the amount of time that we have to get bills out to interested groups in the community to get their comments. We understood that this bill was coming on for debate next week, but it is being rushed through. Councils along the Scoresby corridor have not had the opportunity to fully appraise the bill. The Royal Automobile Club of Victoria has

had a brief look at it and put some issues to me that I am going to raise in this debate. Of course one of the issues the RACV has raised is:

What is the accountability of the authority and the reviewer?
It does not specify that they must act in the public interest.

And that has always been a concern. If you look at what has happened with the Auditor-General’s report today in relation to CityLink you can understand exactly why the RACV is raising that issue. Regarding clause 208 the RACV asks:

What are the requirements for delegation of enforcement?
Who will be the enforcement officer — the winning bidder?

Who will make those decisions? What will be the powers of the enforcement officer?

And on clause 212 the RACV asks:

Despite the minister’s media releases about the invoicing, where is the provision for lesser fines for first offences? Or is it not necessary?

We know very well what is going to happen with the enforcement provision within this bill. With CityLink the provisions are spelt out — that is, \$40 for a first offence and \$100 after that. Clause 212 of the bill states that the infringement penalty is the prescribed amount, that the penalty is \$100 if no amount is prescribed, and that the prescribed amount must not exceed \$200. So you know very well what the infringement is going to be; it is going to be \$200.

Issues have been raised in relation to 14 days notice being given, and after the 14 days anybody who has issues with an infringement notice still has up until the time that the charge is placed with the courts to pay for their offence, but what it does not spell out is what the administration fees are going to be for the infringement notices. You can imagine once again that there is \$100 on the table, or is it going to be \$150 or a \$350 all-up fee for someone who happens to infringe on the Mitcham–Frankston tollway? No-one knows what that is going to be. Once again I refer to the Auditor-General’s report today in relation to fees charged by CityLink and its appalling record of dealings with the government. I will get back to that and talk about those shortly.

Clause 214 of the bill talks about refunding the penalty, but what about related costs such as the administration cost? For example, if a mistake is made by the toller and an invoice is mailed out and then paid, including an administration fee, is the administration fee going to be refunded to the person who has received the infringement notice that they were not supposed to

receive? Once again, that is not covered in the legislation.

I also turn to a matter I will talk about later on in my contribution, which relates to the way CityLink and the government have handled issues such as administration fees when they have been overcharged by CityLink. Users would still be out of pocket, but what if it goes further and legal costs are involved. If someone decides to challenge an infringement notice, who pays all the legal costs? The motorist will get the money back in relation to the infringement notice, but there is no mention of any administration fees, nor of legal costs even if these people have been wrongly fined.

There is the issue of the indexing of all charges. Where is the transparency in the justification? Again, I point to issues that have been raised today in the Auditor-General's report. On the subject of the Rowville lane closures and traffic management he said that the bill prohibits the road management authority from partially closing or changing traffic roads, except in the construction process.

I know we had these discussions at the briefing where it was suggested that it does not stop the government including traffic lanes on Springvale or Stud roads. I understand that this particular bill relates only to the project area, but given that this has been such a hot topic it would not have been bad if the bill actually ruled out changes to Springvale and Stud roads and stopped those changes being put in place to drive people back onto the toll road.

Members will recall that at a briefing I went to very early in the piece that was provided by the Southern and Eastern Integrated Transport Authority (SEITA), whose role it is to deliver this project, a so-called traffic expert was brought on board. His entire delivery to the engineers was all about using Springvale Road and Stud Road as major public transport corridors, putting in bus lanes, bicycle lanes, walking tracks, narrowing the road, handing sections of the road back to local government — and we know all too well what that process is about. It is about choking those systems for cars and driving cars back onto the tollway. It is about entrapment and driving people back onto the tollway. The very fact that SEITA was prepared to put that presentation forward and bring that particular expert on board to give that summary is a clear indication of exactly what government members have in mind in relation to Springvale and Stud roads.

Further issues have been raised about the fact the bill does not stop the government using other means with taxpayers money to induce traffic onto the freeway. I

turn to the Dandenong bypass. I know that that has been very well promoted, and indications are that it could increase traffic by anywhere up to 15 per cent. That would all end up being pushed once again onto the toll road. So wherever you look, whichever issue you look at in relation to the bill, there are concerns — and these are only concerns that have been raised in a very short period of time by the RACV. We have not got feedback yet from other transport authorities, the bus associations or the taxi industry association because quite simply they have not had the opportunity to go through the process and properly look at the bill. I will go through a couple of the issues that have been raised. One issue concerns the public accountability of the authority as the reviewer, as I said before. That is an issue that I will pick up in my contribution later when I examine the Auditor-General's report.

I turn to the Auditor-General's report now in relation to CityLink, particularly the record-keeping processes. This particular bill before the house is in many ways a lift from the City Link act; many of its clauses are directly lifted from the act. I refer to clause 246, which relates to powers of entry and access. Clause 246(1) states:

An authorised officer appointed under section 244 may enter the offices of a Project party during ordinary business hours —

- (a) to inspect any records, systems or equipment in the possession of the Project party; and
- (b) to take copies of or extracts from those records —

This is to determine the behaviour of the road authority in relation to how it is conducting its tolling operation and how it is conducting its administration. One issue that stood out clearly to me — it is the same with CityLink and I cannot find it anywhere in the agreement — relates to the tolling technology and the tolling equipment. I suppose this has some direct correlation with what is happening with speed cameras at the moment. There does not seem to be anything in the bill that deals with the issue of the calibration of the tolling equipment and regular inspections, checks and tests of that equipment to make sure that it is accurate.

Do we leave it up to the corporations that are running the business to make sure that their own money-making equipment is operating correctly, or should there be a process of open access to that tolling equipment and an outside authority on a regular basis going in and reporting to Parliament as to the reliability of the technology and ensuring that motorists' interests are being protected? I see this as being a major flaw in the bill. As I said, the bill in its entirety is flawed, but the fact that this particular issue has not been picked up will

create problems. The government knows that failure to keep an eye on technology and the inspection and measuring of test equipment similar to this type of equipment — that is, tolling equipment — can lead to a great deal of trouble. As I said, you only have to look at what happened with speed cameras.

The Mitcham-Frankston bill is almost a direct lift from the City Link act, with the inspection of records. I will tell you about some of the issues here. I wrote to the Auditor-General in relation to my concerns over motorists who had e-tags with flat batteries in their cars being charged. I also wrote to him over CityLink increasing an administration charge from \$1.10 to \$2 without getting any authority from the government to do so.

I was very concerned when I looked at the City Link legislation and saw an almost copybook clause to the one in the Mitcham-Frankston Project Bill in relation to access to records, the access of tolling inspectors and reports. What happened in 2000 when inspectors from the office of the director of Melbourne CityLink attempted to implement the statutory requirement for inspections of CityLink's books? CityLink told them to get lost. It threw them out and would not let them inspect the books. CityLink put hurdles in front of them in every way it could, even to the point of insisting on getting legal advice before releasing each individual docket or document that the toll inspectors wanted to see. This legislation is supposed to protect the interests of the people who use CityLink. It is almost a direct lift from what has not been happening or has not worked in the past!

As I said, we wrote to the Auditor-General, and he produced his findings on that matter. The major issues are, as I said, the e-tags and the administration fees. Some of the findings of the Auditor-General are quite alarming, to say the least. The fact is that since 2000 nobody from the office of the director of Melbourne CityLink has gone back into CityLink's books to have a look and gain an understanding of what has been going on. Even when the issue arose of not charging e-tag and vehicle fees when e-tags were going flat, the office did not send anyone in to see what was going on. It did not even send anyone in to inspect the books when the issue of administration charges was raised. So we have this toothless tiger — the office of the director of Melbourne CityLink — which has been doing absolutely nothing to protect the interests of motorists.

I believe the office of the director of Melbourne CityLink was pressured from within the department not to pursue CityLink on this issue. What has the minister done about that office now? He has absolutely gutted it,

shut it down and shuffled all the bureaucrats right around the system. Some of them have been moved to the Southern and Eastern Integrated Transport Authority, and we do not know where the director himself has gone. All the minister is doing is trying to cover his tracks.

The Auditor-General's report says that something about the whole arrangement stinks. The government has the power to go in to CityLink and look at its books. It had legal advice that what CityLink was doing was totally wrong. Do you know what the government did? It used what it calls its contractual relationship with CityLink to resolve the matter. No-one knows even today how much money was overcharged in administration fees or how much money was taken from motorists who had flat batteries in their e-tags.

Even in this report CityLink acknowledges that it does not know what the real numbers are. So how do you come to a contractual arrangement — —

Mr Haermeyer interjected.

Mr MULDER — No, it's a bottle of red and dinner one night! CityLink has overcharged by \$1.3 million, and do you know how much got back to the motorists? Not a cent found its way back. The Auditor-General's report even fails to recognise where the money has gone. Where has the \$1.3 million gone?

As I said the contractual relationship deal is about a three-course meal and a bottle of Grange. That is how the matter was dealt with in the end. But there is no trace of where the dollars have disappeared to. It is an absolutely extraordinary arrangement for a government that has the statutory powers and the legal advice to go in and take some action but instead deals with it as it would its mates. The warm, cosy relationship it has with CityLink is totally, completely and utterly unacceptable. Whichever way you look at this agreement, right throughout there seems to have been absolutely no compliance in relation to CityLink.

You only have to read some of the notes in the special reviews of the Auditor-General to see that. I quote:

The state's failure to directly inspect the operator's tolling records to determine whether it has complied with the act and concession deed in imposing tolls on users is balanced somewhat by the rigorous testing of the tolling system undertaken prior to commencement of tolling of the entire CityLink road.

But what has happened since then? No one has been back to see if the thing even works. This testing was undertaken by the operator and overseen by an independent reviewer. As I said, that may have been all

well and good at the time, but technology fails and not a thing has been done to ensure that that technology has been working up until this point. Do you know what will happen if the tolling inspectors turn up and say, 'We would like to have a look at your inspection, measuring and test records and at the external certification of the system.'? CityLink will say, 'We will have to get legal advice and see if we are going to let you look at the records'. This is completely, totally and utterly unacceptable. As I said, that has not been picked up in the legislation, and it needs to be picked up. You would hope that such a matter would have been dealt with in the agreement.

Inspectors should go in on a regular basis. That should be scheduled, along with ad hoc inspections of CityLink's records. We are dealing with a huge amount of money and with a contract that a private consortium has with the government. There is no accountability. There is a complete and total arrogance in terms of the way the corporation has dealt with its customers, whose interests are obviously not being served.

It is interesting to look at some of the further comments made by the Auditor-General. I quote:

In our view, for the state's monitoring of the imposition of tolls to be effective it should incorporate infrequent but periodic inspection of the operator's tolling systems ...

That is exactly what I have been saying. I said that before. It should happen, but it has not been happening. Not only has it not been happening, the government has been told to get on its bike and ride. He goes on:

The state held a strong view, supported by legal and financial advice, that the operator had breached the concession deed and overcharged the administration fee, and that it should refund the amount overcharged to users. The basis for this view was the contractual requirement for the fee to be cost based.

Nothing could be plainer than that. That is exactly what took place. The government had the advice, everyone told it which direction it should head in, but for some unknown reason it failed to take that advice and decided to sit down and do a private deal with CityLink behind closed doors.

The Auditor-General also said:

Ultimately the state did not persist with or seek to enforce (under the concession deed or through legal action) its request for the operator to refund the amounts overcharged to users. Instead it agreed on a compromise in May 2002 which achieved a reduction in the administration fee from \$2.00 to \$1.20 —

that is not a reduction, it is still an increase, because it was \$1.10, and all it did was go back to the starting point and give CityLink an increase —

and provided free travel on CityLink on the day of the 2002 Melbourne Cup ...

The 2002 Melbourne Cup! That was the deal that was struck behind closed doors. How much did that cost? Did that cost \$1.3 million? Did it cost \$300 000? What happened to the other million? Who carved that up? Who has got that in their pockets? They are the issues that need to be addressed with this. How has this been allowed to take place? The government had legal advice but the minister was overlooking it.

An officer sat down with the director of Melbourne CityLink and made a deal enabling us to get free travel on Melbourne Cup Day if the corporation got to keep what was left over. That is absurd. I have never seen anything like it. You would never again hear anything like that. Not even in the private sector do they do deals like that. For the government to sit down and do a deal against the legal advice it had is totally unacceptable.

The report went on to say:

The state did not determine the extent of overcharging of the administration fee from July 2001 before agreeing with the operator that customers would not be refunded overcharged fees.

In other words, the \$1.3 million is what CityLink told the government it believed it had overcharged, but it said, 'You are not coming in to look at our books to verify whether that is right or not. We will give you a round of figure of \$1.3 million and, if you are happy to accept the Melbourne Cup Day free travel, do not pursue us for the rest of it'. That is exactly what the Auditor-General says:

We were advised that the state sought but did not obtain information from the operator which would have enabled an estimate to be made of the overcharging.

How is that? Provisions were in the agreement allowing the government to do it, and there was legal advice which said it could do it. The government asked for it but was told to get on its bike, so it did not pursue it. It did not take up the legal challenge on behalf of the motorists. That is completely, totally and utterly unacceptable. Yet the government turns up here today with the same provisions and the same opening and opportunity for a toll road operator to do exactly what CityLink did to the government and to its customers on that occasion. We have got a weak-gutted minister who decided he would take the easy road. He decided he did not want to upset those with whom he had had a very warm and cosy relationship over a period of time. He

did not want to upset them, and he did not want to expose the true extent of the overcharging. That is totally unacceptable.

The Auditor-General said:

The operator later indicated that the disputed fee was charged to users approximately 1.45 million times in 10 months ...

It was charged 1.45 million times, yet no-one in the government had what it takes to get up and challenge that. He went on:

To resolve the dispute the state agreed that the administration fee no longer had to be cost based —

so they changed it —

and that it should be set at a level which acts as a deterrent for road users who fail to carry their e-tags.

The government lost the plot. The issue was not about motorists who fail to carry their e-tags, it was about motorists who had e-tags that had batteries in them and the technology had failed. So what did the government do? It turned around and curtsied to CityLink again and allowed it to put in place a fee, and CityLink could determine what it wanted it to be. No longer does CityLink have to seek the approval of the government — that got too hard. What it will do now is advise the government what it wants to do, and the government will accept it. It is unbelievable. It is a weak-gutted approach by a weak-gutted minister and an absolutely appalling government that has not taken into account the needs of the people who use that tollway.

What a terrible scenario this is in terms of the government doing deals. It goes behind closed doors with Connex, and it goes behind closed doors with Yarra Trams. It has a history of rolling over and getting rolled and duded at every corner. If you ever want to see a great example of absolute weakness have a look at what happened here. This is appalling. I have never seen anything quite like it.

The office of director of Melbourne CityLink has recently been relocated to the Roads Corporation, VicRoads. The director was not relocated; he was shafted and rolled out the door. The Auditor-General went on to state:

... the director currently reports to the Secretary of the Department of Infrastructure. Many of the former staff of the office transferred to the Southern and Eastern Integrated Transport Authority, which will oversight the contracting for and construction of the Mitcham–Frankston freeway.

You can only hope none of the culture from the director of Melbourne CityLink has gone with these people over

to the Southern and Eastern Integrated Transport Authority. The Attorney-General continued:

We were advised that legislative changes are imminent which will abolish the statutory position of director, Melbourne CityLink, and transfer the director's legislative functions to VicRoads.

I wonder whether VicRoads will have the gumption, if this type of situation were to turn up again, to go down the pathway of taking a toll operator on. Clearly, as I pointed out and will continue to point out, the minister is quite happy to set in place the same legislative framework that will allow exactly the same thing to happen again. He does not want to rock the boat; he wants to have a warm, cosy relationship with the toll operator. He knows very well that there is going to be great difficulty with making the Mitcham–Frankston freeway — or the tollway, as we call it now — work. So what do you in relation to the deals you do with the operator who is going to come in? You say, 'Okay, we will have a look at the tolls. We will set the tolls. We will try to ducness everybody out along that tollway, but what we will do is give you an open book in relation to administration fees and charges'. That is a bit like the greedy banker who says, 'Here is the interest rate but do not look at the administration fees, the account-keeping fees and every other fee we are going to hit you with'. That is exactly the path we are heading down with this piece of legislation.

I pointed out before in relation to infringement notices — the costs and the fees, including the administration fees for issuing infringement notices — that it will happen across the board. No longer will the toll operator have to come back to the government and say, 'We would like to increase our fees. We want permission from you to increase our fees on a range of different products we have for our customers; however, what we will do in the future is tell you what we are charging'.

I would love the Minister for Transport to provide me with an autographed copy of the Auditor-General's report because this comes on top of a number of woeful projects he has handled over the last two or three weeks. The Auditor-General's report shows that he has completely and totally stuffed up CityLink and negotiated and duded Victorian motorists out of millions of dollars. We have had his appalling performance with the toxic waste dump; his appalling performance with the Western Ring Road speed cameras — and it goes on.

Mr WALSH (Swan Hill) — The National Party opposes the bill, which is an absolute act of treachery. This government has set a new low in the credibility of

people keeping their commitments — an absolute new low! This is a government that has actually dragged down the credibility of all politicians for not keeping the commitments it made at an election. On the issue of credibility, I refer to a Monash University report *Protecting the Reputation and Standing of the Institution of Parliament — A Study of Perceptions, Realities and Reforms*, prepared by Dr Ken Coghill, a former Speaker of this place. The study aimed to:

determine why the community has such a negative attitude to politicians;

evaluate the public's understanding of the role and functions of the Victorian Parliament and its parliamentarians;

gauge the esteem in which citizens hold the Parliament of Victoria and the parliamentary process; and

provide an opportunity for citizens to suggest reforms that may help to reverse the disturbing trend in opinion polls.

There is one issue that is vitally important when talking about the bill and about the credibility of the government — the issue set out in the report about accountability. It states:

People felt strongly that MPs should be held accountable for their actions. Most comments are in the context of accountability for promises made at election time —

I emphasise that —

but not kept. People insist that:

promises should be honoured.

That is vitally important. We have a government that went to an election with the promise to build a freeway and we now have a piece of legislation to build a tollway. That is an absolute piece of treachery by a government that cannot keep its word. How can anyone in Victoria believe what is said by this government in the future? The bill talks about a freeway, but it is not a freeway, it is a tollway. If the government had any credibility it would be up front in the legislation and call it a tollway. It is a continuation of a lie. As the previous speaker said the definition of a freeway is that it does not have tolls. This bill reinforces the government's lie by the fact that it calls the Mitcham–Frankston project a freeway instead of a tollway. The federal government put \$455 million on the table to assist with the building of this so-called freeway prior to it becoming a tollway. There was a federal-state intergovernmental agreement signed for the building of the project. That agreement has now been broken. Not only does the government break its promise to the electorate, but it has broken its promise in a contract with the federal government!

The federal Leader of the Opposition says continually that this state government should keep its commitment to build a freeway and not a tollway. In my area we have the continual issue about the funding of the Wimmera–Mallee pipeline. One of the issues is that the federal government does not trust the state government to keep to contracts and its word.

Mr Haermeyer — That is pathetic.

Mr WALSH — That is not pathetic. You have a signed agreement to build a freeway and the government has broken the agreement and broken an election promise. Why would anyone believe the government would keep its word in the future? That is not sad; it is the truth. The government has destroyed its credibility and the credibility of politicians because it will not keep its word.

Mr Nardella — Liberals first and Victorians last!

Honourable members interjecting.

The ACTING SPEAKER (Mr Smith) — Order! The member for Swan Hill has the call.

Mr WALSH — The member for Melton should look at what party I actually belong to.

Honourable members interjecting.

Mr WALSH — No, what party I belong to all the time! We are talking about the issues of commitment, trust and fulfilling promises. In north-west Victoria there was a promise three budgets ago to spend \$96 million to upgrade and standardise the Mildura railway line. That is another promise that has not been kept. We come back to the issue of credibility and the fact that the government is not living up to the things it says it is going to do.

Part 9 of the bill refers to contracts, the setting of tolls and fees. If my memory is correct when Transurban set up the tollway on the Tullamarine Freeway, those fees — —

Mr Nardella interjected.

Mr WALSH — It is a tollway, no argument about that. It is a tollway and Jeff Kennett said it was going to be a tollway. He did not tell a lie to people, he came clean and was up front.

Mr Nardella interjected.

Mr WALSH — That is not true. Not only did the then government come clean and say it was to be a tollway, but when the fees and tolls were set they were

debated in this place so members had an opportunity to have their say. With this bill the tolls and fees will be made by regulation. They will be tabled in the house, fair enough, but the only power anyone has is the power of disallowance. There will be no open debate about the legislation that puts in place the fees and tolls when the Mitcham–Frankston freeway — sorry, the Mitcham–Frankston tollway — is built. I apologise for the misinformation. We have a tollway instead of a freeway. The tolls and fees on that tollway will not be debated in this house. It is one of the biggest projects that will be built and happen in the south-east of Melbourne, yet it will not be tabled or debated in this house.

The bill also amends the Road Management Act 2004. If my memory serves me correctly, this house dealt with the bill four weeks ago. The National Party opposed that bill at that time, but the house passed the bill about four weeks ago. I am surprised that further amendments are back before this place again. The amendments to that act included a section 85 provision that apparently was not passed in the other place. Instead of calling these provisions amendments to the Road Management Act 2004, perhaps we should call them the Bob Smith amendments 2004.

Mr Nardella — That is cruel.

Mr WALSH — That is not cruel.

The ACTING SPEAKER (Mr Smith) — Order! I ask the member to refer to members in the other place by their right name.

Mr WALSH — We go to the issue of credibility which I referred to at the start of my contribution, and the Monash University report about protecting the reputation and standing of the institute of Parliament.

We ended up with an absolutely farcical situation when the bill was not passed in the other place because there was no statutory majority. That was because a particular member in the other place felt he had to go home early. Again, it did the whole parliamentary system a huge disservice.

We are dealing with amendments to the Road Management Act 2004 back in this place in order to include the policy defence that could not be passed as part of the bill in the other place because there was no statutory majority to do it. It is important to recapitulate that the bill, even with the policy defence in it, is not going to deliver anything for our country Victorian shires. I reinforce that it is going to put a huge cost onto

those shires. They are going to have employ extra staff to do all the paperwork — —

Mr Nardella — What are you talking about?

Mr WALSH — I am talking about the Road Management Act 2004.

Mr Carli — We have had this debate!

Mr WALSH — No, we have not had this debate! That legislation is absolutely useless without these amendments in it. There is no policy defence there for those councils unless the amendments are put through. It is important to recapitulate what an absolute dog of a bill that was for country Victorian shires.

Shires are going to have to put on extra staff. They are going to incur extra costs in doing their road maintenance plans. We are not going to get better roads from that act. If anything we will have worse roads, because local government will be spending more money on paperwork and administrative staff and less money on actual roadworks.

What has also been quite frightening in my electorate since the legislation was put through is that we now have shires actively talking with their ratepayers about closing roads, because they do not believe they are going to be able to maintain roads under this new system. We are finding that they are talking about closing roads because they do not want to do the paperwork and have the responsibility and the cost of trying to maintain all the roads that are out there.

The situation in country Victoria, where we have the best farmers and the best agricultural industries in the world, is that they need roads and they need access. We have shires closing local roads, which means people will not have access to their farms. It is going to be a tragedy for our industries.

We have the situation where to get economies of scale people are moving to larger machinery, and they need those roads to get access to their properties. We have a lot of trouble now with native vegetation laws, because they mean people cannot get their machinery down local roads anymore because it is too big to clear the trees that are along the sides. Shires are being stopped from clearing those trees because of the native vegetation laws. In some ways I am recapitulating what was said in the previous debate on the Road Management Act 2004, but it is an extremely important issue in my electorate. It is absolutely critical that our farmers have access to their properties along local roads, and we must make sure they are wide enough and good enough to move large machinery.

In conclusion, The Nationals oppose this bill. I reinforce again that we believe it is an absolute act of treachery that we have a government that was elected on a promise to build a freeway but is building a tollway. I remind the member for Melton of the very old saying that two wrongs do not make a right. If someone else does something wrong, do you have to do something wrong to reinforce the situation? This is an act of treachery! The government went to an election on a promise to build a freeway, and then it reneged on it. The people of country Victoria feel very disenfranchised and unhappy that the government has broken that promise.

Mr CARLI (Brunswick) — I rise to support this bill. I also rise to respond to some of the hypocrisy from the members for Polwarth and Swan Hill. I represent the Brunswick–Coburg area, and we have the Tullamarine Freeway, a road that has been used by people in that area for many years. The former government imposed tolls on that existing road — it tolled an existing road and reduced the capacity of adjoining roads so as to force people onto the toll road. At the time Labor said it made sense to put tolls on the new part of the road but not on the existing part of the road. We said that because the existing road was used by local people in the area. However, the former government wanted to increase revenue for Transurban, so it tolled an existing road. It did not do what we are trying to do — that is, to toll the new parts of the road needed in the eastern and south-eastern suburbs, the part we said we would deliver by 2008.

Mr Mulder — Talk about the Mitcham–Frankston.

Mr CARLI — The member for Polwarth says, ‘Talk about the Mitcham–Frankston’ — he did not talk about it in his speech. He spent his time talking about the weaknesses of the City Link act. I made a number of speeches in the house talking about the weaknesses of that legislation and the contract in it. I made many speeches, and I know the weaknesses in that contract. One of the things the government is doing with the Mitcham–Frankston project is ensuring that it does not make the same mistakes as the previous government.

This was a big opportunity for the member for Polwarth, it was his big opportunity to talk about the Mitcham–Frankston freeway, but he talked about anything but the Mitcham–Frankston freeway. He talked about the weaknesses of the City Link act —

Mr Walsh — On a point of order, Acting Speaker, the member is talking about a freeway when it is actually a tollway. I ask you to bring him back to that, please.

The ACTING SPEAKER (Mr Smith) — Order! There is no point of order.

Mr CARLI — The member for Polwarth talked about the weaknesses of the City Link act. This is not about the weaknesses of the City Link act, this is about a project which entails a freeway, bicycle paths and road interchanges and makes provision for improvements to public transport in the future as part of an integrated approach.

This is a project of state significance. The federal government initially came in with a memorandum of understanding, but it has not honoured that memorandum. It capped the project at \$445 million. As this is a road of national importance the federal government should have promised 50 per cent, but it was not prepared to do that so it capped it. That made it necessary for the Bracks government to go down the path of tolling the road. Why should we put tolls on the road? Because we want it built. We want it built because it is important to that part of Melbourne — indeed to all of Melbourne.

The tolling technology and the penalty system will be different to CityLink. It will be clearly different because the CityLink contract was so poor and the system put in place is so weak that the member for Polwarth spent his entire contribution to the debate — his entire 30 minutes — criticising the CityLink arrangement.

Mr Mulder interjected.

Mr CARLI — We can criticise it too, because it was your contract. It was the previous government’s contract, and it did not allow the flexibility we are going to allow. We will allow people who inadvertently use the road to be invoiced. That is far better than the simple penalty system which currently exists. We are creating a value-for-money system. We will ensure that there is a seamless connection between the two tolling systems, CityLink and the Mitcham–Frankston. We are also going to ensure that there is consumer protection.

Part of the bidding process is for the bidders to bid their proposals. We have told them we want to improve on CityLink —

Mr Mulder interjected.

Mr CARLI — We know the weaknesses of CityLink. It was your contract. We will ensure that the charges are improved. We will have a safety net, we are going to improve consumer protection and we are going to allow the bidders to come up with the best solutions. We are ensuring that it is a fairer system than what is in place at the moment.

The member for Polwarth said there was nothing in the bill to restrict the power of government to close or discontinue roads. Clause 140 of the bill specifically says the government is not allowed to do that. It will not restrict or close roads, unlike what happened with CityLink. We are looking at the whole of that corridor with an integrated approach. We are looking not just at doing a freeway but at a whole lot of improvements including public transport improvements.

It is important to note that building this freeway is a key commitment of this government. We want to deliver it in 2008 — we do not want to wait 20 years. However, we are not getting any great support from the federal government. Its capped figure was \$445 million. New South Wales roads have been funded as toll roads. The Sydney Orbital Link is being funded by tolls. We have a situation where the National Party and the Liberal Party continue to support the federal government over Victoria's disproportionately low level of road funding. Victoria provides 25 per cent of the tax base but gets only 15 per cent of the road funding. That does not stop the federal government funding toll roads in Sydney.

We want to get on with it; we want to build this road. We want a decent return from the federal government. We want to get on with the Calder and get on with the Geelong and Deer Park bypasses. We want to get these roads built and stop playing these absurd political games with the federal government, a federal government which will not fairly fund Victorian roads.

We are in a situation at the moment where the members for Polwarth and Swan Hill have come into this house and progressively attacked the CityLink contract and agreement and the measures taken by this government to ensure we get some decent road funding in this state. It is time for both the Liberal Party and the National Party to stand up for Victoria and go to their federal counterparts and say we want a fair and proper share of the road funding cake. That is what we are asking from the opposition parties — to stand up for Victoria. But they will not: they are constantly protecting their federal parties.

We have ended up with a situation where we are getting on with the job. We have an important bill before the house which sets out the arrangements by which we will progress this Mitcham–Frankston project. Parliament will be able to see the agreement that is made with the party that successfully bids for this project. It is a major public-private partnership, one of the largest ever in Australia and possibly the world. It is a major project which we will ensure will be done. The Bracks government is committed to getting on with this vital project as a toll road. We want the federal

government to stop playing politics and give us our fair share of road funding so we can get on with the job of building the roads of Victoria, including the Deer Park bypass, the Calder duplication, the Pakenham bypass and Geelong bypass — and we want them built in the next five years.

Mr HONEYWOOD (Warrandyte) — I have lived with this project for the whole 16 years I have been the local member. It is amazing how revisionist this Labor Party can be. The Hawke government put to the then Premier, John Cain, Jr, an offer to pay for the Eastern Freeway, which is the subject of this bill, to be built all the way to Ringwood. Yet year in and year out, because he hated freeways and major roads — that is why he had the so-called South-Eastern Car Park built with traffic lights every few hundred metres or so — John Cain knocked back the offer from Canberra.

When we came to government in 1992 Jeff Kennett, the then Premier, paid a visit to Paul Keating, the then Prime Minister. He said, 'Paul, we are willing to take up the offer from the Labor federal government to build this freeway with federal government money'. What did Paul Keating say? He said 'Jeff, we have changed the rules. Bob might have wanted to pay for it, but under my Keating Labor government we are not going to pay for freeways unless they go across state borders'. It gave with one hand and whipped it away with the other. It was a state Labor government that stopped my constituents from having this road built 15 years ago.

It was a state Labor government represented by former minister Kay Setches, whom the minister at the table worked for as an advisor, who discovered in Mullum Mullum Creek the walking fish that no-one else has discovered. Apparently it was released from an aquarium and has not been seen since. That Mullum Mullum Creek walking fish that has not been seen since Kay found it was the death knell for the building of the freeway. It was the excuse she needed not to get any voters offside and to procrastinate and have another study done by good old Bill Russell, the party hack who does all these procrastination reports for Labor, on why that freeway should never be built. We would have had it done 15 years ago had it not been for the incompetence on the other side.

Just look at what we did. Despite dealing with a \$35 billion debt in our first term we built a full freeway all the way from Doncaster Road to Springvale Road at the cost of \$250 million — and what a wonderful freeway at that! It is not like the roads they build with cardboard cut-out noise walls. It actually has concrete noise walls. It has pedestrian bridges that provide constituents with access to the wetland areas adjacent to

the freeway that we built as part of the environmental buffer zone. Labor does not build wetlands, and Labor does not build noise walls — it builds cardboard cut-outs. Just go down to the Monash Freeway and see the ridiculous attempt to build a noise wall there.

Let us look at the terminology in this bill. Page 7 of the explanatory memorandum says clause 4:

... describes the project as the project for an integrated transport corridor connecting the Eastern Freeway to the Frankston Freeway, including tunnels under the Mullum Mullum Creek and a link with the Ringwood bypass.

Let us look at that for a moment, because we have not heard the term 'Eastern Freeway' used for the past two years. This government would have us believe that the federal government is outrageously underfunding a commitment, yet it was only ever a commitment to build the Scoresby freeway — a freeway that starts in my electorate in Ringwood and goes down to Frankston. The federal government was never privy to a deal or an agreement to pay for the Eastern Freeway. Why was it not involved in the Eastern Freeway? Because the Kennett government left \$220 million in the 1999 state budget to pay for it to go through to Ringwood.

Where has that \$220 million gone? What has the government done with that money? Which favourite Labor road projects in the western or the northern suburbs did the member for Ferntree Gully and the member for Mitcham — who claim to care for their eastern suburbs constituents — surreptitiously rubber stamp in the caucus room to divert the \$220 million that the Kennett government left them to help out their electorates with a proper freeway? That \$220 million was meant for my constituents and for the constituents they allege to represent. It has gone missing in action, never to be seen again.

The terminology has caught them out. There in their own bill we have the Eastern Freeway resuscitated for the purposes of legal representation — and that is another matter.

The government realised that it had to find a camouflage word to show it had not reneged on the agreement to build the Eastern Freeway, the freeway to Ringwood. So it invented a new word: it said, 'Let's combine the Scoresby, for which the federal government is going to give us half the money, with the Eastern Freeway — let's throw that into the equation — and call it a project'. They were always two totally separate freeways, one going from west to east and one going from north to south. But the government combined them and called the project the Mitcham-Frankston freeway, which is

actually a tollway. Then it had the audacity in all its political spin and public relations brochures to say, 'The federal government should be paying for half this freeway project'. What an outrage! They were two separate freeways, and the government is trying to make the federal government pay for something Labor promised it would pay for. The government stole the money out of the 1999 budget and spent it on other road projects. It stole that money from my constituents!

Another important issue is what the government is going to do with surplus land, which is referred to on page 67 of the bill in clauses 121 and 122. The member for Mitcham will recall that during the last state election the Minister for Transport wanted to flog off a fair bit of land in his electorate and in my electorate — and the North Ringwood and Donvale parts of my electorate in particular. The minister would like to get rid of any surplus land and give it to developers — probably favoured developers of the Minister for Planning — to allow subdivisions to occur in this beautiful, pristine bushland setting.

Mr Robinson — On a point of order, Acting Speaker, imputations against members like that are clearly out of order, and the member ought to be reminded of it.

The ACTING SPEAKER (Mr Smith) — Order! The member for Warrandyte should not be reflecting, as he would realise, on another member. If he wishes to do so, it should be by way of substantive motion.

Mr HONEYWOOD — So we have this surplus land. The Leader of the Opposition came out during the election campaign — and we have given an iron-clad commitment — and said that we would sign an agreement on this. This is surplus land that this government wants to flog off to developers and about which the member for Mitcham is quite content to be silent in his electorate. What we find, and I will quote it, is that clause 121(1) of division 6 of part 5 says:

The Authority, with the approval of the Minister and the Minister administering section 12 of the Land Act 1958, may determine that certain Crown land in the Project area is not required for the Project and is surplus land.

Clause 122 follows, stating:

- (1) The Authority, after consultation with the Minister administering section 12 of the Land Act 1958, may, on behalf of the Crown, sell ... surplus land
- (2) The proceeds of the sale of land under this section, less any costs incurred by the Authority in selling the land, must be paid into the Consolidated Fund.

So we know what it is going to do with the land — it is going to flog it off. The land is going to be subdivided and the proceeds put into consolidated revenue, into the Treasurer's slush fund. It is not going to my constituents' benefit, nor to the benefit of the constituents of the member for Mitcham. What it means is that whereas the Liberal Party is standing up for creating new native flora and fauna reserves in the outer east of Melbourne, this government talks the talk on the environment but is willing to flog surplus land off to its subdivider mates.

Apart from the surplus land, another key issue is surely the definition of the Ringwood bypass link. The Minister for Transport came out to Ringwood in my electorate nine months ago and promised that the Ringwood bypass would not be tolled. That came as an enormous shock to us all, given that the Ringwood bypass was never part of this project and was never going to be tolled. We built at least half of that Ringwood bypass. The government has claimed that it is going to build the other half of the bypass, but what worries me is that page 7 of the explanatory memorandum of the bill says that clause 4 describes the project as:

... the project for an integrated transport corridor connecting the Eastern Freeway to the Frankston Freeway including tunnels under the Mullum Mullum Creek and a link with the Ringwood bypass.

I want a commitment from the minister today that he is not going to renege on another agreement, the agreement he gave to my constituents, that the Ringwood bypass would not be tolled.

This bill is so ambiguous in its wording that it leaves open to the minister of the day the ability to toll the Ringwood bypass as well. The first toll motorists will cop is when they come through Springvale Road; then they will get another hit when they come out of the Mullum Mullum tunnel that this government agreed to build — of course, it reneged on that as well — and then they will get another hit on the Ringwood bypass. It is three tolls before they get to Ringwood. After this Minister for Transport claimed that there would be no tolls for my constituents, they will be tolled all the way to Ringwood.

Mr ROBINSON (Mitcham) — Before I commence, I need to congratulate the Deputy Leader of the Opposition, because up until now I had no idea the Liberal Party had invented pedestrian bridges over freeways and concrete sound walls. If opposition members are taking credit for inventing them, good luck to them. We will nominate them for an award.

This is a significant debate because it involves a massive infrastructure project in anyone's language. It is worth some \$2 billion, and it is the biggest project we have seen in Melbourne for some considerable time. I do not mind acknowledging that it is creating some consternation in the electorate. It may well be that at the next election there will be some form of electoral impact because people would prefer not to pay tolls, and as a marginal member I think I understand that as well as anyone else. We also understand that it is the prerogative of every voter when he or she goes into the privacy of the polling booth to weigh up all sorts of issues at election time; but I suspect that the hopes of the Deputy Leader of the Opposition and his leader to capitalise on any change of sentiment may depend on whether he can hold the votes of a much smaller group of voters in the privacy of their own voting room upstairs well before the next election! I have a feeling that I am on much safer ground than the two of them; but we will wait and see how that works out.

The opposition's position in this debate has been characterised by a number of things. One is a fascination with CityLink, and we thank opposition members for that because if ever we want to demonstrate the folly of the CityLink agreement, we will not go back to the debates of 1994, 1995 and 1996, we will go back to the speech given by the member for Polwarth today because it is an excellent exposition of the folly of his side when in government, and we welcome his contribution. One thing that surprised me in this debate is that at no point during the two contributions from the Liberal Party has anybody sought to comment upon the reasoning of the government in going down the path of introducing tolls. That stems from the massive public transport franchise bailout. The member for Polwarth said this was clearly a ruse, but he has had a year in which to demonstrate to the house and to the community that it is a ruse, and he cannot do it. He is not even trying, because he knows it will be a forlorn task.

It is the essential reason why the government had to change its policy, and one only has to re-examine the contribution of the member for Mornington in his former capacity as Minister for Transport — the genius who signed off on the ticket machines; the lifeblood of the franchises — to understand why the opposition does not want to talk about it. This was a bloke who, at the very end, as minister signed off on the requirement for the provider of those machines to upgrade them to do what they were meant to do in the first place. For the government's trouble, it was sued by the manufacturer. It said, 'You cannot ask us to do what you think we were meant to do!'. And it took a \$60 million

settlement of taxpayers money to get those machines to be upgraded to do what they should have done in the first place. No wonder the companies were going broke. It is extraordinary. Another weakness in the opposition's position — —

Mr Mulder — On a point of order, Acting Speaker, on the matter of relevance, ticket machines have nothing whatsoever to do with the Mitcham-Frankston Project Bill.

The ACTING SPEAKER (Mr Smith) — Order! I do not uphold the point of order. It has been a pretty free-flowing debate all the way through.

Mr ROBINSON — It might be the only time I ever agree with you, Acting Speaker, but you are dead right — it has been. Let us continue. Oppositions are meant to develop alternative policies, and in talking about the bill and the reasons behind it, as we have been doing for the past year, the question has been asked of the opposition: what would you do if you were confronted with an unforeseen, billion dollar blow-out?

I have even asked this question on radio of Chris Pearce, the federal member for Aston. I asked: would you rather cut spending in other areas; increase taxes; or delay the completion date? But he will not even engage in that discussion. It is a classic head-in-the-sand situation. We did have one suggestion put forward at a public meeting which I was never invited to — contrary to other claims — and I understand this might have come from the — —

Mr Wells interjected.

Mr ROBINSON — No, I was never invited. The member for Scoresby is surprised. My invitation must still be in the mail. It might have been addressed to Roger Pescott! I can assure members that I was never invited.

Mr Wells interjected.

Mr ROBINSON — The member knows that if he invited me I would make a point of being there because I have a very high regard for him!

I understand that the suggestion was put forward by one Liberal member that what we ought to do is simply take the gaming licences and use them to pay for the project. This is an interesting proposition: that the gaming licence, which is not up for renewal until 2012, which is of an indeterminate level, and the proceeds of which belong to all Victorians, should be put towards the project. That would have been a brilliant suggestion were it not for the fact that the shadow Treasurer does

not want to know about it. He would run a million miles from that one. He knows the dangers of such a proposition, and it has never been put up since that meeting.

We have had the extraordinary claim that the government's policy will increase traffic congestion, that the project with tolls on it will increase local traffic congestion. I find this fascinating because this is not CityLink. It is not an existing road where traffic will be diverted, it is actually a new road. This is called 'Road management 101'. You build a new road, and with a toll — and CityLink shows it will still attract traffic. The level of traffic it might attract is an argument in itself, but it will not increase local traffic congestion; it will relieve it — of that there is no doubt.

We have had the Liberal Party claiming, particularly regarding clause 140 of the bill, that there will be all sorts of sneaky conspiracy theories around about closing off lanes of major roads, and in fact that this is somehow the plan — that there is a nod and a wink or a glass of wine, as the honourable member for Polwarth suggested. This is rubbish. Clause 140 is very specific, and I invite opposition members to understand it.

It has been suggested by the opposition that we need to rule out all roadworks, even roadworks associated with things like SmartBus. SmartBus was an initiative of the former government — the opposition takes great pride in that — and it involved a series of ongoing works of improving the ability of buses to get along major arterials. The opposition wants us to say that even if there are any more works associated with SmartBus, we ought to rule them out. That is nonsense. SmartBus is quite a good initiative and we support it. In fact road capacity is influenced by many things such as local traffic light coordination and the signalling sequencing. VicRoads officers were out in my area recently, trying to make some improvements at Blackburn Road and South Parade, and there are a million different things one can do to improve management and the capacity to carry traffic. We will keep doing that; so claims such as that put forward by the opposition are clearly wrong.

I conclude by saying that this is undoubtedly the most responsible course of action the government could take in the circumstances it found itself in a year ago. I understand it will not please many people — they will be upset and that is their prerogative — but I also understand that the major concern of people in the eastern suburbs is to get this road project started and completed as soon as possible. The member for Brunswick was spot on about that. In thinking about this point I am drawn to a quote from a well-known and

well-regarded constituent in the Mitcham electorate who said this in 2001:

Without tolls there would be a shortfall of some hundreds of millions of dollars in government funding.

He went on to say:

The savings in travelling time and fuel would make the amount of the toll insignificant.

I find myself agreeing with that sentiment. It has taken me a while longer to come around to it, but I find myself agreeing with that particular fount of wisdom, which comes from none other than the former Liberal member for Forest Hill, Mr John Richardson. It has taken me a few years, but I now recognise his undoubted wisdom on this matter. The bill is the means by which the government will get this important project delivered in the most effective and efficient way, and in that respect it certainly deserves support.

Mr WELLS (Scoresby) — The Mitcham-Frankston Project Bill puts into legislation the lie the Bracks government told to the people of the outer east in 2002. For the first time in my 12 years as a member of Parliament I am seeing a situation where a government has legislated a blatant lie. This is a first. We were promised in 2002 that there would be no tolls, and I clearly remember the letter sent to me on 11 September 2001, during the Aston by-election, by the Premier, Steve Bracks. It started:

Dear residents ...

And it was signed by Peter Batchelor, the Minister for Transport. In the letter he reaffirms the state government's commitment to its 50 per cent funding for the Scoresby freeway.

In that same letter he goes on to say:

The Bracks government believes that the federal government should immediately commit to its full 50 per cent funding share of the Scoresby freeway.

That is the crucial point. The Bracks government called on the federal government to fund 50 per cent of the Scoresby freeway.

Mr Nardella interjected.

Mr WELLS — That is what you did, and I will come back to that in a minute. Then during the by-election for the federal seat of Aston the Minister for Transport wrote to Kim and Judy Wells at our place in Wantirna and said:

Unfortunately the Liberal candidate for the Aston by-election is misleading people and trying to score political points over this important project.

Down at the bottom of it he writes:

On July 14 you have a chance to send John Howard a message that we want better transport in Aston — not just more Liberal Party lies.

That is what he said.

Honourable members interjecting.

Mr WELLS — We now have the Labor Party backbench agreeing with two vital points that we are making — firstly, that it called on the federal government to provide 50 per cent of the funding for the Scoresby freeway, and secondly, that it was going to get on and do some important projects. It is important to note that the Scoresby transport corridor agreement between the commonwealth of Australia and the state of Victoria says in relation to the freeway that Victoria agrees to provide 50 per cent of government costs for the construction of the freeway. That agreement goes on to say:

Victoria undertakes to ensure that users of the Scoresby freeway will not be required to pay a direct toll.

It is signed by the federal Minister for Transport and Regional Services, John Anderson, and the Victorian Minister for Transport, Peter Batchelor.

Mr Nardella interjected.

Mr WELLS — So we have a situation where in a letter to the residents of Wantirna the government called on the federal government to pay for 50 per cent of the Scoresby freeway, and in that document the federal government agreed. Nothing has changed. If the people on that side of the house think for one moment that anything has changed, they are wrong, wrong, wrong! There has never been a capping.

Mr Nardella — No, no, no.

Mr WELLS — There has never been a capping. The wording in this document is that the federal government will pay for 50 per cent. So if the cost is \$1.2 billion for the Scoresby freeway component, the federal government will pay \$600 million.

Honourable members interjecting.

Mr WELLS — Let me make that point again, because the Labor Party does not understand it. The federal government has promised to pay for 50 per cent of the Scoresby freeway. There has never been any

doubt about that. It has put \$445 million up front in its forward estimates. If the federal government's contribution is 50 per cent and the Scoresby freeway costs \$1.2 billion, then its contribution under the agreement that the Minister for Transport signed is \$600 million. That is the agreement between the state and federal governments. There is nothing in here about a set amount. There is nothing in there about \$445 million. It is 50 per cent.

Mr Carli — You capped it in the budget!

Mr WELLS — The member for Brunswick says, 'You capped it in the budget'. He does not understand what is going on. He does not understand the budget process. There is \$445 million in the forward estimates, and if the state comes back and says it is \$1.2 billion, the federal government has a commitment under this agreement that it is 50 per cent. The commonwealth has never broken that.

Mr Carli — I don't believe you.

Honourable members interjecting.

Mr WELLS — It has never broken it. Ask yourselves why the Minister for Transport has just walked out, because the agreement that he signed said 50 per cent. It never said \$445 million.

Mr Nardella interjected.

Mr WELLS — Does the member for Brunswick understand that? The member for Melton interrupted and said it costs \$2 billion. Is that what he is saying? Is he saying \$2 billion? Does he understand the concept here? This is about the Scoresby freeway.

Mr Nardella interjected.

Mr WELLS — Fifty per cent of the Scoresby freeway is payable by the federal government. Nothing has changed there. But what did change after that was the slimy, underhand Bracks government all of a sudden said, 'No, we are not going to do the Scoresby freeway. We are going to call it the Mitcham–Frankston project. And we are going to add in the tunnels and all these other things'. Then it wanted the federal government to step forward and pay for half of that as well.

Honourable members interjecting.

Mr WELLS — That was never in the agreement in here. It was never the agreement.

The ACTING SPEAKER (Mr Smith) — Order! I have let things go a bit, but the house is going a little bit too far. The member for Scoresby, in silence.

Mr WELLS — So we say, 'Where in the budget is the \$250 million that the Kennett government put aside to pay for the tunnels?'. What have you lot spent it on? What a disgrace! You have spent it on nothing identifiable.

Let us look at some of the facts. During the 2002 election campaign over and over again the state ALP candidate for Scoresby, Pollyanne Williams, dropped leaflets in my letterbox that said to me and Judy:

There are no delays to completing the Scoresby. The Bracks government has negotiated and signed the 50-50 funding agreement with the commonwealth government.

What Pollyanne was telling the people of Wantirna was right. They had signed a 50 per cent deal. But then she went on to say,

There will be no tolls on the freeway under a Bracks Labor government.

What a disgrace! Today the government brings in a bill which will make sure that a lie is going to be put in legislation for the first time in the 12 years I have been in this place.

Another point I want to make is one highlighted by the member for Mitcham. Opposition members have concerns about the deal that is going to be done between the two consortiums. That is something the member for Mitcham touched on. How do we know that a lane on Stud Road or Springvale Road will be for buses only? How do we know that? In the legislation we expected the lanes to be kept open on Stud and Springvale roads, and we expected them to be in this bill. The reason I expected that was because I had asked the Premier a question on 29 April 2003. I expressed my concern about lane closure on Stud and Springvale roads, and he gave a commitment and an understanding that there would be no lane or road closures or anything like that.

What opposition members want to know is why that is not in this piece of legislation. Is it because the government has something to hide? Mark my words: there will be a bus lane on Stud Road and there will be a bus lane on Springvale Road. Do you know what that will do? It will force traffic onto the Scoresby freeway. It is another blatant lie to the people of the outer east. Government members need to hang their heads in shame. This is another disgrace they have brought before the Parliament.

Ms ECKSTEIN (Ferntree Gully) — I am pleased to join the debate to briefly speak in support of the bill. It is a very important bill, and it is very important that this project goes ahead. The bill provides the legislative

support for the construction of this vast and complex project, the Mitcham–Frankston project. That the project goes ahead is really the key concern of the people in the outer east and south-east. They want to see this project go ahead, and they want to see it sooner rather than later — the sooner the better, in fact.

The Bracks government is committed to delivering this important piece of infrastructure by 2008, and government members are getting on with the job of doing just that. This bill is an important part in that process. The bill enables the state to enter into an agreement to build, maintain and operate the project. That agreement is of course the key contractual document dealing with the commercial arrangements for delivering the project. The agreement will need to be tabled in both houses of this Parliament, and Parliament will be able to disallow it within six days of tabling. Similarly any subsequent amendments to the agreement that the parties subsequently agree between them need to be tabled and approved by this Parliament. These are important provisions that ensure openness and transparency.

The bill also confers powers in relation to land acquisition, and it enables the transfer of land already acquired for the project to the Crown so that the project can proceed. It also enables the further acquisition of private, council or other public land should that be necessary.

The Mitcham–Frankston project is an absolutely essential piece of infrastructure for the Victorian economy. It will be of enormous benefit to the people of the east, the south-east and the outer east, including those in my electorate of Ferntree Gully. Approximately 40 kilometres of road will link Mitcham to Frankston and the suburbs in between through the south-east. The completion of the road in 2008 will see enormous benefits for motorists and businesses alike in terms of faster travel times, less congestion on the existing network, faster freight transport and so on.

Stud and Springvale roads are close to a standstill at peak times, and Burwood Highway, High Street Road and Wellington Road are not any better — in fact they are about the same if not worse. The provision of a new road system will inevitably lead to improvement in traffic flows on the key arterial roads I have just mentioned. It will inevitably lead to less congestion and faster travel times. It is essential to the south-eastern suburbs and to the community out in the south-east as well as to the Victorian economy that the project goes ahead.

The project will create an enormous number of jobs in the area during the construction phase, as well as drive the economy of the region through faster transportation of goods and services for business. Once completed the project will see a massive improvement to traffic flows and travel time for people in the region. The Bracks government is committed to delivering the project on time and on budget by 2008. I commend the bill to the house.

An honourable member interjected.

Ms ASHER (Brighton) — It always is, and I love being heckled. Of course the opposition opposes the Mitcham–Frankston Project Bill. The bill specifies the agreement that will be made as the key document in this project.

An honourable member interjected.

Ms ASHER — If you want to see gridlock, try the Nepean Highway.

The bill specifies tabling requirements and disallowance requirements for the agreement, as have been outlined by previous speakers. The bill also sets out the use of land road closures. The government has said it is particularly proud of the fact that it is claiming that road closures will not occur to funnel traffic. Of course members of the opposition have expressed their early reservations in relation to that. Road closures are permissible during the construction phase, and the government has made a range of claims in relation to those. Time will be the test.

The bill specifies the tolling regime, and not surprisingly it is the tolling regime that I want to touch on. But first of all I want to refer to the minister's second-reading speech. I note the previous member also referred to the second-reading speech. The minister outlined the benefits of this project. It is almost as if the minister thinks that the opposition, or indeed the public, is not aware of the benefits of the project. The project is enormously beneficial.

I agree with the minister that it will improve connections between major industrial areas, the ports, the airport, major freight routes and other commercial precincts. The second-reading speech refers to maintaining Victoria's position as a key manufacturing state. It also refers to 'unlocking' — that is the word used — a range of transport options for more than 1.5 million Victorians living in the south-eastern corridor. No-one is disputing the benefits of this project. No-one is saying anything against the project per se. The issue of course is the tolling issue. Again it

is not tolling per se. The bill specifies that the tolling regime is different, especially in relation to casual use, from the tolling regime in place for CityLink.

CityLink was always going to be a toll road. There was no promise made that CityLink was going to be a free road, but what we see here in this bill is the legislating of the breaking of a promise. This was a particularly significant promise, because the Premier wrote a letter to a number of people living in that corridor in which he referred to the fact that it was a personal pledge from him that there would be no tolls.

Indeed I have before me a pamphlet that was distributed to people living in the electorate which urged them to vote Labor, to vote for Pollyanne Williams as the Labor candidate for Scoresby. I note that the people there, in their good sense, voted for the Liberal candidate as the member for Scoresby, because he has advocated their case. This pamphlet is entitled 'Only Labor guarantees Scoresby freeway'. This pamphlet claims that the Bracks Labor government 'has' — in upper case in the pamphlet — negotiated and signed the fifty-fifty funding agreement with the commonwealth government, a fact that I noted by way of interjection was disputed during the course of the speech made by the member for Scoresby. Most importantly what we can also read is the Labor candidate's claim — again in capital letters — that there would be no tolls on the freeway under a Bracks Labor government.

So the issue with this bill is not that there are tolls per se, because there have been occasions when my party has supported tolls, but the fact is that this was a pledge, a solemn commitment from the Premier. It was an election commitment that this road would be a freeway and that it would not be funded by way of tolls. This legislation brings before us a tolling regime.

The member for Scoresby outlined and read from a signed agreement with the federal government that involves an amount of \$455 million being placed on the table. This is an extraordinary circumstance: a Victorian minister of the Crown has signed a contract with a federal minister of the Crown, and now this government has walked away from the contract. It is a most extraordinary circumstance. It is a government reneging on a contract and a government reneging on a pledge.

I want to move on now to make reference to the funding mechanism the government intends to use for this particular project — that is, the project will be funded as a Partnerships Victoria project, or a public-private partnership. I am aware of the consternation within the ALP, particularly within the

left of the ALP, about this funding mechanism, but a series of questions — —

Mr Batchelor interjected.

Ms ASHER — I am very happy to see the Minister for Transport is at the table. I hope he will make some comments about this funding mechanism in his response. It would be terrific if he could respond firstly to the question: will the minister wash his hands of this project once it starts — if it starts — like he did with the Spencer Street station redevelopment? Or will the minister abort the project, like he did with the airport rail link? Or will it take three years to negotiate the project, like it did with the Motorola project? We have seen what I would call poor performance by the government in relation to its Partnerships Victoria programs and projects, and the minister needs to provide some assurance to the house about that.

There are a number of additional issues. I note from the information provided to the Liberal Party by the Southern and Eastern Integrated Transport Authority that the evaluation of the bids is 'going fairly well'. There are, however, a number of key issues in relation to the ownership of large construction companies in Australia. There is a real fear there may not be sufficient competition in the bidding process, there is a real fear the project may not be viable financially and there is a real fear that a lesser quality of road could end up being delivered. We must never forget the south-eastern car park delivered by a previous Labor government, the Cain Labor government, in this state.

I do not have any faith in the minister's capacity to deliver this vast project. This is the minister responsible for the toll decision; this is the minister who washed his hands of the Spencer Street station project even though it is his responsibility; this is the minister responsible for the toxic dump decision; this is the minister responsible for the multipurpose taxi fiasco; this is the minister responsible for the fact that every major project in this state is either late or over budget; and this is the minister responsible for the speed camera fiasco. Based on the past performance of this minister I do not have a great degree of faith in his having the capacity to deliver the project.

I note the Minister for Manufacturing bobbed his head up when I referred to the issue of the toxic waste dump. This is the minister whom *Stock and Land* refers to as 'Tim Holiday'. How right is *Stock and Land*!

The bill before the house also includes the Bob Smith amendment. This amendment shows that a minister with so many troubles now has to achieve a statutory

majority to pass the amendments to the Road Management Act. I note the government's spin when in the second-reading speech the minister said:

Honourable members will also be aware that the government gave a commitment on 5 May to introduce legislation that will rectify this situation.

That refers of course to the situation of one of its members failing to attend and provide a statutory majority. So what sort of spin is this? The government has given a commitment that the government has an obligation to rectify its errors, even if those errors have been imposed on it by one of its own members — in this instance, the Honourable Bob Smith in the other place.

I note also that the bill contains a section 85 amendment. I remember clearly the railing of the now Attorney-General against section 85 amendments in bills. They were the end of democracy. They were the scourge of government when we were in power. I note the regularity with which these section 85 amendments now come before us in the house.

The project is a very good project, but I have grave reservations about the minister's capacity to deliver given his form and most of all about the tolling mechanism in the bill. The fact that tolls will be imposed with this project is a massive betrayal of and departure from the promises made by the Premier himself in the run-up to the last election.

Ms MORAND (Mount Waverley) — I welcome the opportunity to speak on this bill. This bill will clear the way for work to commence on the largest urban road project in Australia. It will be a 40-kilometre link between the Eastern freeway and Frankston. It is a \$2 billion project. It will provide very important support for Victoria's economic growth and will be a vital link in improving road connections between major industrial areas. I am looking forward to seeing this road being built and completed. When it is fully functioning I am sure the benefits will be substantial.

The business community and the broader community are going to enjoy the benefits and advantages gained from this road transport corridor. They will be able to move around the south-eastern corridor, a corridor which is home to 1.5 million people and produces 43 per cent of Victoria's manufacturing output. No-one is disputing the enormous benefits this road will provide, as the member for Brighton has conceded.

A great deal has been said and written about this project, and the road has been talked about for 30 years. This bill will bring that discussion to reality. The

opposition will continue to attempt to gain political mileage from the issue of introducing tolls, but I like to hope it will see that now the most important issue is for the road to be built and built on time so that the benefits of this major infrastructure project can be realised and appreciated.

It is a bit disingenuous for the opposition to complain about tolls being imposed when it was responsible for the first toll road in Melbourne — that is, CityLink. The experience of the first toll road in Melbourne deserves discussion and comparison with what is in this bill. Firstly, patronage on CityLink has far exceeded expectations. Despite being tolled, people choose to use these roads for convenience and to save time.

Of course CityLink is different to the Mitcham–Frankston project, as in CityLink alternative routes were closed. This bill clearly provides that no roads can be closed to channel traffic onto the Mitcham–Frankston project. We know from the experience of CityLink also that there is far more commercial traffic on CityLink than on any other road in Victoria. Traffic on Melbourne's roads is growing at about 2 per cent annually and on CityLink it is growing at 7 per cent. There are sections of CityLink that used to be toll free — from Toorak Road to the city and from Bell Street to Flemington Road. Now more people use those sections than when they were toll free. CityLink is a clear example that when time savings, fuel savings and convenience are allowed, people will make a choice to use that route.

There are currently 5 toll roads in Sydney and 3 more announced under construction — that is, 8 in total. These roads are both transport corridors and investment and development corridors. The federal coalition government seems to have embraced toll roads in Sydney. It has committed \$345 million to the Western Sydney Orbital, which is currently under construction. As the Minister for Transport and the Premier have said many times before, Victorians pay 25 per cent of the national fuel taxes and get 15 per cent of federal road funding. New South Wales pays 30 per cent and gets back 42 per cent. It seems to me that the Prime Minister might be playing favourites.

The federal government cannot deny its support for toll roads — if they are in New South Wales. John Howard shows enthusiastic support for toll roads in New South Wales and pouring hundreds of millions of dollars toward subsidising toll roads in Sydney. It is disappointing that the Howard government is only willing to recognise the benefits of private sector investment in major road projects if they are located in New South Wales or in Sydney.

However, the Prime Minister and the Victorian Liberals continue to use the Mitcham–Frankston project in an attempt to gain some sort of political advantage for the upcoming federal election for its candidates, instead of supporting this vital infrastructure project for Melbourne. The election of Liberals to Canberra seems to be far more important to the Prime Minister and also the Leader of the Opposition than supporting the Victorian community, particularly the Victorian business community. Once again, they are Liberals first and Victorians second. This is the sentiment from the Leader of the Opposition who was part of the government that introduced tolls in Melbourne on CityLink.

A great deal has been said about the memorandum of understanding (MOU) with the federal government, which said that the federal government would contribute 50 per cent of government contributions to the construction of the freeway. Nowhere in this MOU was the figure of \$445 million mentioned. This road is costing \$2 billion, and \$445 million is not 50 per cent. It does not add up. This is the figure that the federal government unilaterally capped in its contribution when it decided to rip up the MOU.

The member for Scoresby says that there was no cap, but if you look at the budget statement from 2002 and a media release put out by the federal transport minister, John Anderson, at the time — —

Mr Nardella — What date is that?

Ms MORAND — It is 14 May 2002. In that media release John Anderson said that the federal government's total contribution was capped at \$445 million. I thought the member for Scoresby said there was no cap.

The Mitcham–Frankston road running across the south-eastern suburbs will enable much faster and more convenient travel times. However, those who do not want to pay a toll do not have to. That will remain a choice. Using this road is not compulsory. The current routes will remain and those who do not wish to use a toll road can continue to use the current routes. Unlike CityLink, existing roads will not be closed or channelled into the Mitcham–Frankston project.

It is now time to move on with the debate concerning this road, time to start building the road and time to look forward to the enormous benefits that this project will provide for Melbourne. I commend the bill to the house.

Mr COOPER (Mornington) — This particular bill, as the member for Scoresby said, is legislating a lie. It

puts in place a situation in regard to tolls that will legislate for something that this government said would never happen. It ran that lie right up to, through and beyond the last election. It said there would be no tolls. Even three days before the Premier made the announcement that he was backing away from his promise we had the member for Bayswater standing up in this house and he said in regard to the Scoresby freeway project — it is in *Hansard* for those who want to read it — ‘No tolls, no tolls, no tolls’. That was what the member for Bayswater said, and the people of his electorate are not going to be forgetting that.

At the next state election in 2006 it will be no seat, no seat, no seat for the member for Bayswater, because his constituents now see the spectacle of members out on the Scoresby project, like the member for Bayswater, having breakfasts under the title ‘Come along and hear why tolls are good for you’. What a disgrace! We have the member for Bayswater so frightened about the broken promise that he is now trying to get even more money out of people's pockets in his electorate by getting them to come along to a breakfast and paying money to hear the spin from the Minister for Transport about why tolls are good for you.

We just heard the member for Mount Waverley saying, ‘It is all very well for the Liberals to be complaining about tolls, but the Liberal Party brought in CityLink’. Yes, we did, and we brought it in as a toll road. We did not make a promise that it would be built without any tolls on it. We said right from the word go there would be tolls on it. We are not against tolls. It is, as the member for the South-West Coast said, a great project. We are not against tolls. What we are saying to this government is, ‘You made a promise based on good information’. The good information was that if you put tolls on the Scoresby freeway it would threaten the viability of the project. That is what the tolls will do.

I and a number of other members of this house, including the Minister for Transport, went to a briefing on 7 July 2000 from a respected transport economist, John Cox, held at the Springvale Civic Centre. At the briefing Mr Cox warned that direct tolling of the Scoresby freeway would mean the net economic benefits of the project would be neutral or negative and would force more than half the intending users off the freeway. That is what he said, and that is what everyone else is saying.

Mr Cox is not on his own. He has been joined by the Royal Automobile Club of Victoria and other people who know something about road transport. They say that if you put tolls on this road and you do not restrict the availability of neighbouring or nearby roads, the

motorist will make his own decision by driving on the roads that do not have tolls. We have a commitment, as much as we can believe it, from the Premier and the Minister for Transport that Stud and Springvale roads will not be restricted in any way.

Mr Nardella — And they won't!

Mr COOPER — Now we have the member for Melton, who never goes out to the eastern suburbs and who would not know.

Dr Napthine interjected.

Mr COOPER — The member for South-West Coast reminds me that he has to check on his property holdings out there! Nevertheless, the member for Melton now says that is what will happen. What will then happen with the viability of the Scoresby? What will happen with the traffic flows? The bulk of the traffic will head off down to Stud and Springvale roads and motorists will not use the Scoresby freeway. The reality is that the Scoresby is very important indeed to my part of the world. It has been argued on many occasions that this project needs to go ahead, but as a freeway, not a tollway. This is the argument we are advancing. There is much to be gained for Frankston and the Mornington Peninsula if it is a freeway; there is much to be lost for Frankston and the Mornington Peninsula if it is a tollway.

Another thing that is doing the rounds and needs to be put to bed by the Minister for Transport when he sums up this debate is the prospect that the government may weasel out even more from its commitment and only part build the project. So it will not be a Mitcham–Frankston freeway, but it could well be a Mitcham–Dandenong freeway or tollway. If that is the case, it will be a disgrace. The minister will have the opportunity, sometime today when the debate concludes and he sums up, to put that particular prospect to bed, because councils south of Dandenong — in fact, councils all the way along the Scoresby project, but particularly the Frankston council and the Mornington Peninsula council — are very concerned that they may be duded by the government regarding this project.

We are talking about a broken promise, and we are talking about the viability of a major project for the state. It is no good the government ranting and raving about how good the project is when it is threatening its very viability by placing tolls on it. It is no good the government abusing members of the opposition for rightly and properly raising the fact that the government promised to build the project without tolls — and got re-elected in many cases in eastern suburbs seats —

Mr Holding — Very many places!

Mr COOPER — Yes, seats like yours. It is nice to see that you are back in the place today. We appreciate that you have honoured us with your presence, you and the Deputy Premier. We expect your next trip overseas to be next week!

Mr Holding — What is your margin?

Mr COOPER — My margin is fine. The margins in the seats held by the member for Cranbourne, the member for Frankston, the member for Bayswater and other members along the Scoresby corridor are very much under threat. How those members can come into this house and support a bill and a government that has broken its promise so blatantly to the people of Victoria amazes me. I can say one thing: despite the rabbiting from the minister, those members will be in fear and shaking come the next election. The people in those electorates will not forget. I have been to rallies and public meetings attended by hundreds — in fact the last one in Frankston was attended by thousands of people — who are angry at this government. They are angry at the fact that members along the Scoresby corridor will not talk to them about this broken promise, about the viability of the project or about the fact that Stud and Springvale roads will be put under increasing pressure from a tolled freeway. They are angry at those members and at this government, and they will take out their vengeance at the next election. This bill legislates a lie and for that very reason should be defeated.

Mr PERERA (Cranbourne) — I am pleased to speak in support of the bill, which is a crucial part of the framework for the construction of the Mitcham–Frankston freeway. By definition a freeway is free of traffic lights and has traffic flowing freely. The Mitcham–Frankston freeway is a road of national importance, which at least the Bracks government still recognises, even though the commonwealth does not. It is the largest urban road project in Australia: it is approximately 40 kilometres long and includes 16 major interchanges, over 90 bridges, a complex tunnel under the Mullum Mullum Creek area, 35 kilometres of pedestrian and bicycle paths, and provision for integrated public transport.

The Mitcham–Frankston freeway model is based on the new concept of connecting suburbs horizontally, as opposed to the old vertical model of connecting suburbs through arterials pointing towards the central city of Melbourne. It will provide access to a major growth corridor in which 40 per cent of Melbourne's manufacturing and production activity is based.

This has been talked about for 30 years by various governments, but only the Bracks government has had the guts to promise to build it by 2008. Linking the Frankston freeway with the Monash and the Eastern freeways will vastly improve interconnectivity, transport options and traffic flow to and throughout the south and east. It will benefit not only residents in the Scoresby corridor but also those who must travel to or through this area to connecting roads and freeways. The economic benefits will be considerable, with improvements to major freight routes connecting many businesses and industry centres, ports and the airport.

That the Mitcham–Frankston freeway is going ahead as a tollway is not the preferred option of the Bracks government. The opposition knows this very well and is playing politics. I do not know how these people in suits talk against the freeway when they did not raise their hands when the Kennett government introduced a tollway. To fund this \$2.2 billion integrated project of national importance the federal government has offered less than 25 per cent of the cost. At the outset it said it would go halves, but when it entered into the memorandum of understanding it backed out. On 14 May 2002 the Honourable John Anderson, the federal Minister for Transport and Regional Services, said he would introduce a cap of \$445 million — and that is nowhere near enough. The freeway will cost \$2.2 billion.

The Bracks government had to make the hard decision to use private capital, since it could not afford to pay around \$1.5 billion due to other pressures on the budget, such as the unexpected cost of \$1 billion to bail out the public transport system when National Express walked away from the contractual obligations entered into by the previous Kennett government.

The Bracks government rejected the former Liberal government's CityLink model of tolling, which is based on tolling existing taxpayer-funded sections of roads and closing other existing roads to force people onto the tollway. Therefore the massive capacity that the freeway will provide will be in addition to the capacity of existing routes. A large majority of commercial operators may use the tollway, since the toll expenditure is tax deductible. This will ease the burden on the existing arterials and will mean less congestion is experienced by road users who prefer to commute on alternative routes.

The addition of this freeway will provide a high speed road, allowing existing roads to serve more appropriate purposes and benefiting all road users, including local residents in these suburbs, truck drivers and the freight logistics companies. The legislation presents an

important framework and is a vast improvement on the arrangements for tolling compared to the Kennett government's CityLink. Rather than casual or accidental drivers being punished with a fine, they will receive an invoice and have 14 days in which to pay it. Similar to the administration of traffic offences, if the owner was not driving the vehicle at the time a penalty was incurred, they will have an opportunity to nominate the actual driver, who will then receive the invoice.

This bill provides for the government to enter into an agreement for the construction of the freeway. When an agreement is reached, it will be brought before the Parliament for approval. The agreement will contain all the details of the tolling of the freeway, including any allowances for future variations, the length of the contract for the building and the operation of the tolling. It will also include the final design of the freeway and the performance criteria which the winning bidder must meet.

It also sets out how the winning bidder will work with utilities corporations and how any disputes will be settled. My electorate at the Frankston end of the freeway will share in the many benefits that this road will bring. Travelling times from Frankston to the city of Melbourne, the Hume Highway, the airport, the northern and eastern freeways and the eastern suburbs will be reduced. The new Rutherford Road interchange will facilitate the fast growing industrial area of Carrum Downs, which is in my electorate. A north-south connection onto the Mitcham–Frankston freeway will reduce the numbers of heavy vehicles currently using local streets in my electorate.

The forecast growth of the Frankston area, particularly of its industrial and commercial bases, will result in significant traffic bottlenecks without the connection to the Mitcham–Frankston freeway. Residents and businesses in the Carrum Downs, Seaford and Frankston North parts of my electorate will have improved access to employment and business opportunities in the growing industrial areas such as Clayton, Mulgrave and other industrial hubs in the south-eastern and eastern regions.

The project itself will generate 4900 jobs, and the resulting increase in economic activity is expected to create a further 8100 jobs. The freeway will make the region more competitive in attracting businesses in terms of other parts of Melbourne, Victoria and Australia. I look forward to the progress of this project and the benefits it will bring to my electorate and to Victoria. I commend the bill to the house.

Mr INGRAM (Gippsland East) — I rise to speak on the Mitcham-Frankston Project Bill and state from the outset that building a freeway in this area is not of enormous benefit to my electorate. It is important that I raise a few issues about the bill for the record, at the risk of entering into the politics which surrounds the debate on this piece of legislation. I am not going to get involved in whether governments should make promises, go to elections and then change their positions. I prefer not to get involved in the blame game around state and federal governments. We have the state and federal governments — not only over this road but over a whole range of road projects at the moment — trying to blackmail each other in the lead-up to the federal election. I do not think that is good for politics. It is not something we should be involved in, and I will explain that.

The question I would like to focus on is tolls on metropolitan freeways — or in this case, as it is not a freeway, tolls on large road projects. If you look at why this road should receive federal funding, you find that it is a road of national importance (RONI). I would seriously argue that a metropolitan freeway is not a RONI, because in my view a road of national importance should benefit the entire state. A RONI should not just benefit a section of metropolitan Melbourne, it should benefit the entire state. In my view this road is more of a road that links sections of the city and gets people in and out of the city.

Dr Napthine — The Western Ring Road benefits the whole state.

Mr INGRAM — The argument I am putting forward is that these roads should be funded by ratepayers or the users of the roads and not necessarily by the state and federal governments.

Dr Napthine — You would not extend that too far in country Victoria.

Mr INGRAM — The member for South-West Coast says they would not accept that in country areas. In most country areas we pay for our roads through our rates. Most of the linking roads in and around major towns are funded by ratepayers. The Road Management Bill contained a raft of changes to the definition of roads. That made it much easier for a metropolitan road to become a state-funded road. However, the definitions made it harder for roads in rural areas to be funded. We have an economic gerrymander in road funding in the state and across the country which discriminates against country people. I would like the member for South-West Coast to argue against that.

It has been argued for many years that public transport should be subsidised to reduce the demand for roads in metropolitan areas, thereby reducing greenhouse gas emissions. The cost of public transport should be part of the metropolitan area's road funding allocation, but it is not. A large portion of funds is allocated for subsidies for metropolitan public transport. I would not necessarily argue with that, but it should be part of the same thing. If you look at funding for rural roads, you see that shires are struggling to maintain the basic infrastructure of roads.

If you compare the funding arrangements, you find that where we have put money into large metropolitan freeways, by some amazing coincidence the rates are the lowest in the state. If you compare the rates paid in rural areas with those paid in metropolitan areas, you find that in some instances the rates being paid in country areas are four times the rates that are being paid in metropolitan areas. The reason for that is that the state is subsidising public transport and freeways. Because of that country people are paying not only for their local roads but also for people in metropolitan areas to get to and from work.

With a bit of luck I will be presenting some information in the Parliament tomorrow which highlights the issue of rate valuation in metropolitan areas. For example, the City of Stonnington has a total rate valuation of about \$19 billion. The average household income in that area is about \$40 000, and the rate revenue for that council is \$32.724 million. Ballarat, Bendigo and Greater Geelong have similar valuations of landholdings, yet their ratepayers pay \$86 million more in rates than the ratepayers of Stonnington on land of the same value. This applies across a number of councils. The six Gippsland councils — Bass Coast, Baw Baw, East Gippsland, Latrobe, South Gippsland and Wellington — have basically the same valuation base as the City of Stonnington, the same value of land, yet their ratepayers pay \$66 million more in rates every year. You have to ask why that is the case.

Ms Munt interjected.

Mr INGRAM — The simple reason is that there is a direct cross-subsidy to metropolitan consumers. One of those subsidies is the continued building of freeways by both state and federal governments from the taxes we all pay while the roads which get people to and from work in a country town like Bairnsdale are funded by local government. Country ratepayers are paying twice — we are paying to get people in Melbourne to and from work and we are paying to get ourselves to and from work. City ratepayers are not paying for that.

In my view we should support tolls on metropolitan freeways, particularly country members of Parliament. Unless we change the way roads are funded in this state we will continue to perpetrate the economic gerrymander which is driving up the cost of living and rates in country areas. We will have more and more councils whose ratepayers pay four times the amount paid to councils with similar land valuations in metropolitan areas.

I think it is time the government and all parties recognised that we need to overhaul this. We cannot go into every election with the outer metropolitan fringes demanding freeways. Freeways are funded, and we keep having planning disasters where we expand the cities out forever, away from public transport links and metropolitan freeways, and then at election times those constituents demand a freeway and the state and federal governments then fund that freeway. As far as I am concerned, we should toll these roads to ensure that we start getting some of our planning systems right, start building up in the metropolitan areas instead of out, and stop dividing up some of our good country market garden areas on the fringes of our cities.

Ms BEARD (Kilsyth) — What a pleasure it is to speak on the Mitcham-Frankston Project Bill. This bill provides legislative support for the delivery of the project and facilitates the delivery of Australia's largest urban road project, a 40-kilometre continuous link commencing at Nunawading and connecting to the Frankston Freeway. It provides for pedestrian and bike paths, road interchanges and ancillary works, and provision for future public transport improvements.

The Southern and Eastern Integrated Transport Authority is currently assessing the proposals lodged by the bidders, with the winning consortium to be recommended to the government later this year. This bill clears the way for construction to start on the Mitcham-Frankston project. It allows the state of Victoria to sign a contract with the winning bidder to build and operate this road. Passing this legislation provides the greatest certainty for the construction timetable. It means that work can start as soon as the government enters a contract with the winning bidder to have this project delivered. The bill also explains how the winning bidder must work with utilities such as gas and power companies.

The Mitcham-Frankston project will vastly improve the connections between major industrial areas, maintaining and expanding Victoria's position as the premier manufacturing state. It will also provide a range of transport options for the people living in the east and south-east, particularly in my electorate of

Kilsyth. There has, of course, been a degree of controversy regarding the tolling of this road. I would like to share with the house some interesting quotes about tolling. The first is regarding the Melbourne City Link Bill in 2000:

Options included increasing the state franchise fee on petrol, government funding of approximately \$170 million a year through the Better Roads program and introducing a toll system. There was no hope of the government funding such a project, even with a third of the funds being guaranteed for country Victoria. The National Party —

I should have said it was by Mr Jasper, the member for Murray Valley. I have given it away now —

thought there was only one option — the introduction of a toll system. It considered that the project should be privately funded to ensure that it would be completed and successfully connect the freeway systems operating in Melbourne.

Another quote is from the member for Benambra in regard to the Melbourne City Link Bill:

If country people driving to the city want a single thing that will shorten their driving time from a country area to the city, it is CityLink. No other single roadworks will provide the same significant amount of timesaving that CityLink will give to country motorists.

And again on the bill:

A government has two choices: it can spend \$2 billion of its own funds on constructing the project, which can mean funds for other essential areas such as education, policing and health services are diminished, or it can levy a tax via motor registration or fuel ... The important thing to remember is that CityLink is a great project that has been funded with not 1 cent of taxpayers money. The project has been funded by the private sector.

That contribution was from the member for Kew. And the last one:

The many people I have spoken to about tolls think they are fair because they are part of a user-pays system. Those who use the toll roads will gain the maximum benefit at the expense of those who choose not to. That is the most fair and equitable way of funding the project.

It will also provide infrastructure that the government cannot necessarily afford because of its other priorities for funding. Infrastructure is important but costs millions of dollars. The government would have to go into horrendous debt to provide major infrastructure developments and believes in this case it can be best provided by the private sector.

The private sector can build roads and other systems much faster than the public sector ...

That was not me telling them, it was the member for Nepean — and I thank him for his contribution. The Bracks government is getting on with this project and will deliver it by 2008. I commend this bill to the house.

Mr THOMPSON (Sandringham) — The Mitcham–Frankston tollway will pass through a number of suburbs, including Nunawading, Mitcham, Ringwood, Ringwood North, Wantirna, Wantirna South, Scoresby, Rowville, Mulgrave, Dandenong North, Noble Park, Keysborough, Dandenong, Dandenong South, Bangholme, Carrum Downs and Seaford. I ask government members to put themselves in the shoes of either a veteran, a pensioner or a health care card holder who faces the impost of the motor registration fee; formerly it was a full concession but now they will be obliged to pay \$80 a year indexed, presumably under the monetary units legislation, successively over the next generations. I ask them to put themselves in their shoes when prior to the last federal and state elections they received literature in their letterboxes. They received a letter from the federal division of the ALP and one from the state division of the ALP addressed to them at their home address saying that the Labor Party would build the Scoresby freeway without tolls. I ask you what their reaction would be.

I am not sure the Government Whip has done a favour to the members of the government backbench by lining them up to speak on this bill. While their words reverberate around this chamber there is a very clear understanding in middle Melbourne as to what the facts of this case are. There is a very clear understanding that pensioners, health care card holders and veterans will be obliged to pay \$80 a year for the right to drive their motor car, and in addition they will be obliged to pay a toll on a road that prior to the last federal and state elections they were told they would not have to pay.

This particular freeway or tollway will also be of benefit to the suburbs of Mordialloc, Parkdale, Mentone, Beaumaris, Black Rock, Cheltenham, Highett, Hampton and Moorabbin. The reason it would be a benefit to those suburbs is that there will be a diversion of traffic via the road from Nepean Highway and also from Beach Road, so it is a very significant regional project that will be of great importance to the wider Melbourne metropolitan area in taking freight around Melbourne, thus facilitating commerce.

What has been the community reaction to the reversal of the government on the project? The Royal Automobile Club of Victoria (RACV) government relations manager, David Cumming, said on 14 April 2003:

It was a core promise made repeatedly by the Premier Mr Bracks himself at the last election that the Mitcham–Frankston freeway would be built without tolls.

In addition, the Maroondah City Council had this to say through its mayor, Cr Les Willmott:

At last year's election local candidates stood on a 'no toll' platform and now we have a complete backflip of policies by the Premier which is likely to have a considerable detrimental impact on the regional economy and local road network.

There have been a number of statements made in this chamber within recent times that may still just bounce and reverberate around its walls. There are important points to note that the Labor Party and the Bracks government had explicitly stated: firstly, that Labor Party policy was no toll roads, and secondly, the Scoresby freeway will not be tolled. According to *Hansard* of 10 October 2001 the following remark was made by the Minister for Transport:

The government has now secured funding for the Scoresby freeway without the need for tolls. The Howard government has picked up Labor Party policy, which is not to have tolls.

He went on to make another comment the same day:

The Prime Minister knows it is the Labor Party policy that is more acceptable to the people of the eastern and south-eastern suburbs ...

Robert Smith, a member for Chelsea Province in the other place, made this comment on 23 May 2001:

I put on the record that the Victorian government does not support direct tolls on motorists.

Again on 23 May 2001 Mr Gavin Jennings, deputy leader of the government in the Legislative Council noted:

The government has repeatedly made it clear that it does not support tolls ... The Prime Minister believes the Scoresby freeway will be toll free and is negotiating financial arrangements with the Victorian government and the private sector on that basis.

I would like to put some more material into the *Hansard* record:

The opposition does not accept road tolls on highways. It is a pernicious form of taxation.

I would like to repeat the remark made on 12 May 1998 by the honourable member for Thomastown, the Minister for Transport, when he was in opposition:

The opposition does not accept road tolls on highways. It is a pernicious form of taxation.

Another remark made on the same day by the current Minister for Transport is:

The toll that arises from this bill —

the Exhibition Street extension —

and the original CityLink project will create a huge cost burden for individual motorists ...

...

For many working people the monthly or quarterly toll bills will be greater than their electricity bills.

There are also some further remarks. I think the difference between the CityLink project and the Scoresby freeway was that the Liberal Party did not campaign on the basis that CityLink would be toll-free, but at the 1996 state election, the then member for Tullamarine was actually returned when this was an issue in that particular campaign.

The current Treasurer had this remark to make on 11 October 1995 when in opposition:

I refer to a 1993 Treasury submission to the Industry Commission which warned against the use of tolls on roads in Melbourne describing them as problematic because of the capacity for widespread avoidance by using existing roads.

And another remark on 3 October from the current Treasurer when in opposition:

Victoria seems to be repeating the mistakes of New South Wales.

To ensure certainty and security I believe governments should avoid entering into long-term contractual arrangements which are unnecessarily controversial and which create open-ended liabilities.

Here is a very good remark, made in this chamber on 3 October 1995:

... major long-term contracts should be consistent with pre-election commitments and directions.

No matter what remarks reverberate around this chamber today and the other place next week, the key issue is that the people in the Scoresby freeway corridor or the Mitcham–Frankston project corridor will understand the implications of this bill. Here is another remark:

Like Fagin and the Artful Dodger, the Premier's hand is in the pocket of every Victorian, searching for more money in taxes and charges.

That was the current Treasurer, then the Leader of the Opposition, as reported in *Hansard* of 30 May 1995.

But the record of reversal by the government is not just confined to the Mitcham–Frankston Project Bill. We have had the reversal on the multipurpose taxi scheme and the reversal on the Dingley bypass. In relation to this last matter I will quote some comments made by the then Leader of the Opposition, Mr Bracks, as reported in the *Mordialloc Chelsea Leader* of 17 May 1999:

If we were elected last time (in 1996) we would have built the Dingley bypass, and if elected we will do it.

Then there is this further statement made on 10 September 1999:

Labor has committed an initial \$30 million to build the Dingley bypass between Warrigal Road and the Springvale bypass, and that road would be toll free.

Not only is it toll free, it is road free! Then we had the breach of an election promise in relation to the community business employment program, where on the very day that the ALP web site stated that the government supported the continuation of the employment program it reneged on that pre-election commitment.

We have the example of the history of transport mural: on the one hand the government was going to keep it, then on the other hand it said it was going to put the mural into storage — and then it again said, 'We will keep it in place'. Then there is the fast rail project to Tullamarine, which was a pre-election commitment. As we speak today, there is no fast rail project to Tullamarine. Then there is the question of the toxic waste dump in rural and regional Victoria — and the list goes on.

The ACTING SPEAKER (Mr Smith) — Order! The honourable member's time has expired.

Ms McTAGGART (Evelyn) — I welcome the opportunity to speak on the Mitcham–Frankston Project Bill. This is the largest urban road project in Australia, at a cost of \$2 billion. I heard the honourable member for Scoresby say in this place today that it is a \$1.2 billion project. I think he is getting that confused with the blow-out in the public transport system. That is the reason why we have had to toll the Mitcham–Frankston freeway.

The member for Scoresby also said the federal government had not capped its contribution to the project. I would like to refer to a media release from the Deputy Prime Minister and Minister for Transport and Regional Services, John Anderson, in which he said the federal government's total contribution would be capped at \$445 million. I think he needs to look at his numbers.

This project will provide a 40-kilometre freeway, commencing at the Eastern Freeway, connecting with the Frankston Freeway and opening up the Mornington Peninsula for those who choose to travel on it. The bill gives legislative support for the delivery of the Mitcham–Frankston project, which will include bicycle

paths, road interchanges and ancillary works such as sound barriers, as well as provision for public transport.

I am proud to say that the two councils in the electorate of Evelyn — the Manningham City Council and the Shire of Yarra Ranges — certainly support the delivery of this project now. They do not want to wait any longer; they want it built by 2008, and this government will do it. This is reinforced by business groups in my electorate as well. Given the importance of transporting fine food and produce to the market and to our ports, the freeway will certainly expedite delivery to consumers locally, interstate and internationally. I am sure they will welcome this project.

The Mitcham–Frankston freeway will be built on time, and work will start as soon as the government enters into a contract with the winning bidder later this year. We are doing it quickly; we are delivering it by way of a tollway so we can actually build it. No other government has built it, and the Bracks government will deliver.

The bill deals with eight key areas — the agreement, the concession deed, land acquisition, land management, the interface with utilities, statutory approvals, road management and tolling. In relation to land acquisition the authority will be able to acquire private land for the project, and the Land Acquisition and Compensation Act will apply. Public authority and council land will also be able to be acquired for the project generally, without compensation.

The bill enables the state government to enter into an agreement to build, maintain and operate the project. This project is an essential part of infrastructure, linking the eastern and the south-eastern suburbs. I lived in Ferntree Gully for many years before moving into the seat of Evelyn, and it was an absolute nightmare travelling along Stud Road, Wellington Road and Springvale Road. I know this project will eliminate traffic congestion and ease traffic flows, and this also applies in Doncaster as well. I see the member for Bulleen in the chamber. I am sure he appreciates what the delivery of this project will bring to Doncaster Road and Springvale Road. It will certainly ease traffic flows.

Unlike the previous government and its City Link act, we have not closed any roads, and I am certain we will not be closing any. Unlike the previous Kennett government, which caused enormous difficulties for the poor people living along the Tullamarine Freeway — closing all their feeder roads and then expecting them to pay for a road already existing — this government is doing the right thing by Victorian motorists.

I will refer to the second-reading speech, in which the minister stated that the freeway will vastly improve the connections between major industrial areas, the ports, the airport, major freight routes and other commercial precincts, maintaining and expanding Victoria's position as the premier manufacturing state.

I also notice that the Minister for Manufacturing and Export is in the house, and I am sure he supports the bill as well. The project will also unlock a range of transport options for more than 1.5 million Victorians — —

Dr Napthine — On a point of order, Acting Speaker, I understand the honourable member was actually quoting the second-reading speech, which is inappropriate and against standing orders. She may paraphrase it, but not quote it.

The ACTING SPEAKER (Ms Lindell) — Order! I uphold the point of order. Quoting from the second-reading speech is not allowed, but certainly referring to it is perfectly in order.

Ms McTAGGART — Thank you, Acting Speaker. I would also like to touch on the federal government's lack of commitment to Victoria, not only on road projects but on health and other issues as well. I insist that it stop using this issue as a political football, along with other federal Liberal members. I certainly commend the bill to the house.

Mr DELAHUNTY (Lowan) — I rise as another National to speak on this jaundiced and unfortunate bill. It is an act of treachery by the government, not only against the people out there in the Mitcham–Frankston tollway area but also against Victorians in general, because it has told pork pies.

One thing I pride myself on is my credibility. This government is losing credibility very quickly with this backflip, telling lies about the tollway when it has a signed agreement with a very good federal minister, John Anderson, to build this as a freeway. It has lost credibility for not delivering on standard rail lines across Victoria and for the way it has dealt with the toxic waste dump — and it could not have pushed it any further away from Melbourne if it had tried, deciding to put it in the seat of Mildura.

It has also lost credibility with pensioners and health care card holders and veterans, who now have to pay \$80 for motor registration fees, which they did not have to do before. So the credibility of the government is going down day by day.

If we were promised a freeway, why do we now have a tollway? The question is why it should be so. Since Labor came to power five years ago its income has gone up 21 per cent — 21 per cent! And yet when it promised to deliver a freeway it could not do it. It would be different if the income had been going down, but the reality is that it has been going up — and those figures were recorded by the Auditor-General.

Not only was there that revenue increase of 21 per cent, but on top of that was added a very generous federal government offer to fund the project. It is a signed agreement, and what has happened explains why this government is not trusted by others, by the federal government and particularly by the ministers. They do not trust it. Members of this government say things and sign agreements but they do not deliver. The reason why we now have not a freeway but a tollway is that the government's expenditure has gone up 35 per cent. In a newspaper article I have kept, from the *Herald Sun* of 2 May — I will show it to the house — the headline says 'State blow-out reaches \$1.6 billion'.

The state government departments blew their budgets by more than \$1.6 billion last financial year. That would have paid for the freeway. If this government could have managed its departments it could have managed the money it had.

Dr Walsh — They can't manage money!

Mr DELAHUNTY — They cannot manage! The member for Swan Hill has helped me there. They cannot manage. If they had been able to manage and had kept people to their budgets, that \$1.6 billion could have been used to fund this freeway, but unfortunately we have seen a \$1.6 billion blow-out.

The Auditor-General's report on budget development and management within departments was released today. I note that figure 5E on page 51, headed 'Department of Infrastructure, performance against budget, 2002–03', highlights that in the budget the government allocated \$223.6 million and spent \$286.3 million — a 28 per cent increase in expenditure. So you can see why it had to turn it from a freeway to a tollway. I think that explains why we have that unfortunate situation where the credibility of this government has gone down.

However, I particularly want to cover the provision that affects section 85 of the Constitution Act 1975 in relation to certain amendments being made by the Mitcham-Frankston Project Bill to the Road Management Act 2004. It was mentioned by the member for Swan Hill in his address. This is called the

Bob Smith amendment. When this legislation gets through this house — I think it might just get through — and goes to the upper house, I hope it does not debate it on a Friday because I do not believe Mr Smith works as a member of Parliament on a Friday. If they want to get the numbers, they should make sure it is not a Friday.

Councils have raised with us in the National Party their concern that this amendment will increase their costs and will not improve the roads, bridges and footpaths in any of their areas. It will be a smorgasbord for lawyers. The Nationals went down to East Gippsland and were fortunate enough to speak with the councils down there. The councils pointed out to us that they have 995 kilometres of sealed road, 1095 kilometres of unsealed road, 165 timber bridges and 160 concrete bridges and that last year they spent \$5.5 million on maintenance and upgrades to their roads. They should have spent \$10.8 million.

Mr Batchelor — Come back to the bill!

Mr DELAHUNTY — It is part of the bill. It is part of your bill. It is part of this bill.

Mr Batchelor — It's not part of this bill.

Mr DELAHUNTY — It is an amendment called the Bob Smith amendment. I highlight again that the Shire of Yarriambiack, which is over near the western part of Victoria, spends about \$400 a head — —

An honourable member — You read this last time.

Mr DELAHUNTY — Not quite! I have updated the figures since this went through this house. The figures have gone up from \$320 a head to over \$400 a head. The minister is sitting there, and I appreciate that he will be well aware of this. I am sure he is fully abreast of this. The City of Greater Dandenong spends about \$5 a head. The councils in country Victoria were not happy that this non-feasance protection will be taken away on 1 January 2005. We argued very strongly that across Australia we need consistency in this non-feasance issue. Some states have given some protection to councils, whether they be in Tasmania, New South Wales — —

Mr Robinson — Can you start again? I missed the first bit.

Mr DELAHUNTY — You did. I apologise to the member for Mitcham but I have only got 3 and a bit minutes to go and I have gone 7. Why, with all Labor states and all Labor ministers of transport, do we have no consistency or protection for councils under the

non-feasance rule? Unfortunately this minister did not take it on.

Mr Lupton interjected.

Mr DELAHUNTY — There is more than one problem, but the reality is that legislation can fix that. If it can be done in Tasmania and New South Wales, why can it not be done in Victoria? The member for Prahran is a lawyer.

As I said before, this will not improve the standard of roads in Victoria and will not improve the bridges and footpaths, and it will be a smorgasbord for lawyers. I highlighted in my previous contribution a letter I received from the chief executive of the Yarriambiack Shire Council, which said that the smaller councils would basically revert to the days of roads, rates and rubbish because of this type of legislation, which does not give them protection.

I also want to refer to a copy of the minutes of the East Gippsland Shire Council on 8 October 2003, when it was discussing the then Road Management Bill. It states:

... that council ... opposes the matters included in the draft bill relating to the powers given to VicRoads to declare local roads and to the apportionment of costs for street lighting on arterial roads partly to councils. This is a deliberate cost shift from the government to councils.

The minutes also state:

... that council ... expresses concern at the deletion of the provision to provide a 'policy defence' for road authorities —

that is the non-feasance issue that I have already spoken about.

Again as the member for the Lowan electorate I want to highlight that we are very concerned about that provision, which did not constitutionally get the support of the majority of members of the upper house. This is something country members are very concerned about, the upgrade and maintenance of their roads.

One thing that is great is the support given by the federal government under the Roads to Recovery — —

Honourable members interjecting.

Mr DELAHUNTY — It is a great program, and it is unfortunate that this state government does not bring forward a similar — —

Mr Robinson interjected.

Mr DELAHUNTY — It was a good deal. A good National Party member lobbied hard and got a program that has been widely accepted by country councils. Its continuation was widely supported, and it is a pity that when the state government is getting GST funds pouring into this state it does not come forward with a similar program to the federal government's Roads to Recovery program, because it is a good one. I have said many times that when I started out I would have councils knocking on my door on a weekly basis lobbying for road funding.

Mr Cameron interjected.

Mr DELAHUNTY — The minister spoke about something before that I must come back to. The reality is that the government has this Roads to Recovery funding and is very happy about it. The Minister for Agriculture, who is at the table, during question time spoke about the continuation of the upgrading of the facilities that was started by the previous coalition government. I know he was in Horsham opening a facility last week, and we thank him for the continuation of that program.

I know that a former minister, Bill McGrath, opened the new upgraded facilities, but it has taken five years for the government to continue that program. I want to highlight that although the government might have given some money for capital upgrade, again we see in the budget papers that there has been a decrease in the recurrent funding allocation to the Department of Primary Industries.

Mr Cameron — That is false.

Mr DELAHUNTY — That is not false. I want to see the minister get up and refute the fact that the state government has reduced the recurrent funding budget to the Department of Primary Industries.

Ms BEATTIE (Yuroke) — Members might think that I am going to highlight the difference between the Mitcham–Frankston project and CityLink. Members might also think I am going to talk about the hypocrisy of the Liberal Party, of the federal government and of individual members in this house. In fact I am going to talk about all of those things!

So I will just start with the differences because it is obvious to me that those on the other side of the house do not know the difference between the Mitcham–Frankston freeway and the CityLink project. I will tell them. The Tullamarine Freeway was built and owned by the taxpayers of Victoria, and the Kennett Liberal government handed it over to a private operator. It sold it

to a private operator without any consultation. Were the people consulted at all? Absolutely not! The road was just handed over to CityLink and it was told, 'Do what you like with it'. The Kennett government did not give a damn about people in the northern suburbs; it did not even talk to them. It just handed it over to CityLink, and that is the difference between the Kennett government and the Bracks Labor government.

An honourable member interjected.

Ms BEATTIE — Don't talk about a toxic dump! We have one of those in Tullamarine, and I can tell you a thing or two about them. We will get on to your hypocrisy about that as well a bit later.

But let us get back to the Mitcham–Frankston project and talk about the hypocrisy of people opposite. I want to talk about them because the member for South-West Coast seems to think the government is imposing the tolls. We are imposing tolls on this road — it is a 40-kilometre stretch of road, a \$2.2 billion project — but there is a bit of confusion about how it is to be financed. John Anderson says the federal government's contribution is capped at \$445 million, but that is not right. The member for Scoresby says it is capped at \$445 million and that we are going to pay half of it. Opposition members are absolutely inconsistent in their message!

Members in this house have supported tollways in the past, but they just do not like this one. One of the reasons is the federal Liberal government and the upcoming election. Opposition members want to defend their federal colleagues, because one of the things that has happened is that their federal colleagues have given all the money to New South Wales. They have robbed Victoria. Victoria does not get its fair share of money. We have got 15 per cent of federal funding.

An honourable member interjected.

Ms BEATTIE — Yes, I have got the notes and they are right. We contribute 25 per cent of commonwealth fuel taxes. I think that is patently unfair, as does everybody else. What we have is a federal government that is only interested in the other states. It is not interested in Victoria at all. And what we have opposite is the Liberal and National parties defending that position. It is absolutely appalling. They are Liberals and Nationals first and Victorians last.

I also want to tell you what the federal government is doing in Sydney. It is funding a couple of roads in Sydney: the F3 to Sydney Orbital Link and the Western Sydney Orbital. Whose money is the federal government using? It is Victoria's money that is going

towards those Sydney roads, so I do not think that is fair.

The federal government tore up the memorandum of understanding that we had with it when it capped the funding at \$445 million, despite committing in the memorandum of understanding to fifty-fifty funding. What we would get is closer to 30 per cent. So again the federal government has walked away, just like it has walked away from other road commitments in this state. Another of those road commitments was the Albury-Wodonga bypass. The federal government said it was going to fund an external bypass, but now it has changed its mind and is funding an internal bypass.

I turn to the hypocrisy of individual members. I want to get onto that for a while. They are not all hypocrites. I will quote from one of their members. I want to talk about the Mitcham–Frankston project because a wise man has said:

The failure to build the freeway is holding up important industrial developments in Cranbourne, Frankston and surrounding districts. The number of jobs created by the freeway will be vast and the economic benefits of the freeway development are obvious. Equally obvious is that the only way to build the Scoresby freeway is by obtaining private investment, and that means tolls. I do not have a problem with that, and the people who would use the freeway would not have a problem with it either. The cost of a toll to take a truckload of merchandise along a freeway would be minuscule compared to the economic benefits.

Who said that? A former member of this house, John Richardson, in the year 2000; he is known as the Father of the Parliament and he is a wise man. This government has proven that it can build roads. This government is a building government. It can build roads. Have a look at the Hallam bypass, which was delivered before time and on cost. Everybody rejoiced in that road when it was delivered.

One thoughtful contribution that has been made in this house was that of the member for Gippsland East, who had actually given some thought to the whole process of road building. He put forward a thoughtful contribution, although I did not always agree with him. He talked about the cost of building infrastructure and its economic benefits. I commend the member for Gippsland East on his thoughtful contribution. But what do we have from the opposite side? They are running around scaring people, quite frankly — absolutely scaring people! They are saying that the government will force cars onto the Mitcham–Frankston project.

We will not be doing what the opposition effectively did in government, when it closed lanes on Toorak Road and Mount Alexander Road for the CityLink

project. There are alternative roads to take, unlike the CityLink project, which was an existing road. The Mitcham–Frankston project is a brand new road, and I urge opposition members to go to the minister's office and have a look at some maps. It is a brand new road, not a part of a road that already exists. But instead we have the opposition running around saying there will be bus-only lanes on key local roads such as Springvale Road. The transport minister has completely rejected the opposition's interpretation of the bill, and we will see it — —

An honourable member interjected.

Ms BEATTIE — You can trust this minister! This minister has built a road before time and on budget.

The previous government never did anything. What the previous government is famous for is closing schools, closing hospitals, building nothing, building up a big surplus and then saying, 'It is our money, and we are not going to spend it'. This government is going to keep providing the infrastructure in schools, the infrastructure in hospitals and the road infrastructure, which we do so well. This government is a government that builds the state and not a government that puts a dead hand right over the state and shuts it down like the Kennett government did.

This government is doing business in Victoria, and I will talk about some of the businesses. The seven long, dark years of the Kennett government are still being felt, and opposition members should come out to the northern suburbs, where the opposition says we do not know anything about tolls or toxic waste dumps, because every time one of them comes out to my electorate my vote goes up! I want them out there seeing these things. They should come out; they are welcome to visit as often as they like. I have still got the ghost of Bernie Finn floating around in the ether waving the 80 cents he was going to pay for the tolls — he was going to throw it in a bucket!

This is a terrific bill. The Bracks government is a nation-building, state-building government — —

The ACTING SPEAKER (Ms Lindell) — Order! The member's time has expired.

Mr KOTSIRAS (Bulleen) — This bill is about lies and deception. This is all about Labor's lies. It has lied to the public since 1999, and it continues to lie to the public. I wish to talk briefly on this bill and put forward some questions from Manningham City Council. It is interesting to note that the member for Evelyn said that Manningham City Council supports tolls. That is not

true. Manningham City Council does not support tolls, and the member for Evelyn should know better than to come in here and misrepresent the council.

This project is a prime example and illustration of this government's poor management skills and its inability to manage a project. This is the first time that I know of that a state government has signed a contract with the federal government and then walked away from the project. Never before has this occurred, but it has under this government, which has lied to the people of Victoria.

The people are sceptical about whether this is another major project that will never get off the ground. The people are sceptical because this government has a poor record of delivering projects on time and on budget. And can you blame them? Initially it was meant to be a freeway that was to be completed by 2008. If you look in *Hansard*, you see that the member for Bayswater said in his contribution to a debate:

We have heard a bit about tolls. All I can say, 'No tolls, no tolls and no tolls!'. Tenders will open this year, with construction proposed next year and the completion of the project set for 2008.

But he was not alone. If we have a look at the newspapers of that time we see that the *Herald Sun* of 25 September quotes the Premier as saying:

It's not our policy; we won't have tolls ...

In the same article the Minister for Transport is quoted as saying:

Payments will be made to a private contractor through an availability charge ...

And again in the same article the Treasurer is quoted as saying:

Well, we haven't made a decision about that ...

The article goes on to say:

The state government is gripped by confusion over road tolls after the Premier and Treasurer yesterday clashed over the move.

Steve Bracks emphatically denied the government planned either fixed road tolls or so-called shadow tolls to pay for a \$400 million blow-out in freeway construction costs.

But Treasurer John Brumby left open the option of a shadow toll on an interchange between the Scoresby and Monash freeways.

The contradiction came as Mr Bracks went into damage control after the transport minister Peter Batchelor on Monday refused to rule out tolls for the planned Eastern Freeway extension.

I also wish to put on record some of the concerns of Manningham City Council, and I urge the minister to respond to them if he can. I received an email from John Bennie, the chief executive officer of Manningham City Council, and I know every other member also received the same email. It is interesting to note that the member for Evelyn refused to read the letter she received from John Bennie. I will quote from the email. It states:

You will be aware that the subject bill has been introduced to Parliament.

Council first received advice of this through the SEITA community advisory group. I am council's representative on the group ...

The time available for review, comment and advocacy for any change is obviously very short.

... the challenge in any legislation or delegation of authority of this type is where the balance may sit in ensuring that the authority is exercised with due consideration to the local community and/or those that may be impacted by any action.

...

The bill does not at this stage include any detail that will emerge from the successful tender. This situation highlights a concern that we have previously expressed to the MAV ... that too often legislation is tabled and passed without the detail ... the Minister for Transport is to be granted the authority under the bill to sign off on the concession deed ... The practicality of this is understood, but we will be searching for the transparency ...

We will also seek to understand what role if any, local governments ... will have in influencing any determination by the minister. If there is none, a key purpose of the CAG is lost; the Parliament have an opportunity to review the determination of the minister up to six days after he signs or intends to sign the concession deed. Does this give stakeholders the opportunity to influence — or is six days too short to be of any benefit at all? The concession deed will in effect be the contract and contain much of the necessary detail that local government will be interested in. It is not dissimilar therefore to the process ... that results in the passage of the detail at a later stage — and without meaningful opportunity for consultation or input to those aspects that affect the community most.

The bill gives power to the authority (SEITA) and, once appointed, the freeway corporation ... over roads.

I urge the member to seek some answers from the minister and to relay these to John Bennie. John is the chief executive officer of Manningham City Council. He did say there was not sufficient time to consult or speak to people. The member for Evelyn has this email and it is unfortunate and selective of her that she has decided not to quote from it.

I say that this government has failed once again to show any integrity. It has lied to the people of Victoria, and since 1999 people know that you cannot trust this Labor

government. I am sure that the member for Ivanhoe, whose electorate is adjacent to mine, would not like more traffic going through his electorate. This bill will result in road closures and many drivers who will not like to pay tolls — the huge amount of money that they will have to pay — will come through Bulleen and go through Ivanhoe before going to the central business district. It is unfortunate that members opposite — the cabbage patch kids who look different but who all say the same thing because they do not have the spine to stand up to the minister — can sit on the back bench and do nothing. They are not there for the residents — they are Labor first and their electorates second!

All they want to do is stay in government. They and the minister enjoy the perks of office, but they do not care about the residents. They do not care if they have to pay or find alternative routes. All they want to do is support their minister and the government to ensure the bill is passed. It is very disappointing. I am sure that the member for Melton, who is due to speak next, even with his one brain cell, understands two words, 'lies and deception'. That is what this government is about. I am pretty sure that the residents in his electorate and in the electorate of the member for Ivanhoe know that they have lied and that the government has lied and will not accept it.

Mr NARDELLA (Melton) — The Mitcham-Frankston Project Bill is very important for the people of the east and south-east. It is amazing to see the hypocrisy of honourable members opposite who are now claiming that this is the worst thing that has ever happened to the east and the south-east. It is even worse when you have the situation that in the major part of the debate — and we are now coming to the tailenders — that the Leader of the Opposition is missing in action. He is not here. This is such a seminal piece of legislation that is so important for the Liberals and its campaign in the east that he is not even present in the chamber and will not join the debate on this important bill.

Honourable members interjecting.

Mr NARDELLA — I do not know where he is. He is missing in action. The real Leader of the Opposition — my candidate, the member for South-West Coast, is here and the member for Brighton, the other hardworking member of the opposition, has been here today speaking on the bill, making a valued contribution, but not the Leader of the Opposition.

Let us analyse what members opposite are saying and why they hate the eastern and south-eastern suburbs.

The Liberal and National parties do not want to build this freeway. They do not want to see the benefits that this freeway will give to industry, to the private sector, to motorists and to the commercial and retail sectors. Everyone who has any skerrick of understanding or form of intelligence knows that this freeway will give a major boost to the region. Why do I say that? I say that because it has already occurred in the outer suburbs with the Western Ring Road. What the eastern suburbs have been asking for is what this bill and the Bracks Labor government will deliver in four years, whereas the former Kennett government did not do a thing during its seven long dark years.

It did not have discussions from 1996 to 1999 with the Howard government when it had the opportunity to put this project into play and get the money off the Howard government. No, they were Liberals first and Victorians last, and they continue to be that way until this very day. Opposition members had the opportunity from 1992 to 1999, but they squandered the opportunity. They squandered the opportunity for the eastern and south-eastern suburbs — the constituents and residents and the commercial and private sectors within that region. They have the gall to come in here today to oppose the bill and the freeway that will benefit the motorists and the residents, supposedly their constituents who have voted for them in the past.

The only lone voice they have out there is the member for Scoresby. What is his position? He does not want to build the road. He wants to have the Liberal Party policy implemented. That is very simple. The Liberal Party policy on this project is to close schools and hospitals — and it has form on this. It closed 365 schools from 1992 to 1999; it sacked teachers and nurses; and it closed 13 hospitals in its period of government. Why would the Liberal Party do that? Because then it can put in the \$2 billion to build this freeway for the south-east. That is its policy. But it gets worse. Liberal members support the discredited policy of the Howard government.

John Anderson, the National Party leader and Deputy Prime Minister, is supported by The Nationals here. The party is the National Party in Canberra but The Nationals here. National Party members here do not want to be discredited by the federal party so this state party calls itself The Nationals. This federal minister has gone out of his way to cap the federal contribution of \$445 million. That is the real reason why this project is to be a toll road. That is the reason why this government had to review the decision it made to protect the integrity not just of the budget but of programs for working people and all Victorians at this point in time. The Liberal-National party alternative is

to rip away those services, take away the infrastructure, stop the rebuilding of schools, stop the replacement of portables and build a road for the east and the south-east. It is a disgrace that they come into this house with that particular policy.

It is even worse that they support the Howard government when in New South Wales it is supporting and providing money for the orbital freeway, toll roads and programs that the federal government believes is necessary to win marginal seats. The state Liberal and National parties do not support Victorians, Victorian business, the commercial sector or motorists, but are supporting the motorists of New South Wales and Queensland. It is a disgrace. That is why they are condemned and why they will be in opposition for a long time to come. They have no commitment or understanding of what is needed within a growing region. They have no commitment to arguing the point and putting a strong view to the Howard government when it affects their constituencies.

The position opposition members are taking will not protect, as they believe it will, the sitting federal Liberal Party members out in the south-east in seats ranging from Casey, Aston and Deakin to Dunkley. The proposition that the opposition supports the building of the Mitcham–Frankston road but opposes the tolls will not protect those candidates. It is an absolute disgrace that the opposition is continuing this.

The other reason that we have to toll this freeway is the disastrous and abysmal public transport contract that the former Kennett government entered into. We have had to go in there and bail out the private operators because — —

Dr Napthine interjected.

Mr NARDELLA — The honourable member for Caulfield can only dream about being in a cabinet room, but the honourable member for South-West Coast was in the cabinet room when the concession deeds and the contracts were signed. He stands condemned, because we have had to pull them out of the dirt, and that is one of the reasons for this. If I were not in Parliament, I would have said another word instead of ‘dirt’!

The Liberal Party hates private enterprise! It has gone back on the vision and ideology of Sir Robert Menzies, Dick Hamer, Lindsay Thompson, Henry Bolte and the rest, because it does not support private enterprise being in partnership with the Victorian government and the Victorian people. We are building a very important piece of infrastructure — a very important road — in

this state. That is where the opposition is falling down. That is why it is discredited, and it will not win any seats out in the east or the south-east whilst it continues to hold this abysmal position.

Dr NAPHTHINE (South-West Coast) — If ever a student wanted a study of clear thinking — or a lack of clear thinking and hypocrisy — there it was in the speech from the honourable member for Melton! It was an absolutely classic example of hypocrisy, of a lack of clear thinking and of inconsistency with the position he and his party had adopted over many years.

The bill is about the Scoresby freeway and the extension of the Eastern Freeway. This is a vital project for the south-eastern and the eastern suburbs of Melbourne, but more than that, it is an absolutely essential project for the whole of Victoria. It will improve traffic movements in the project area, but most importantly it will improve business efficiency and competitiveness. For many of the businesses and communities out there it will also provide much speedier access to CityLink, to the ports, to the Hume Freeway and the north, to the west of the state, to the east of the state and to the Mornington Peninsula and the south. It will improve social links.

Anybody who has travelled along Springvale Road or Stud Road will know what traffic jams are. This will be very like the Western Ring Road was for the western suburbs in terms of not only improving the flow of the traffic but adding to the economic infrastructure there. There will also be other great and significant benefits that come from a major project.

In recent years I had reason to go out to the Cadbury Schweppes factory at Ringwood. When I asked the people I talked to what their highest priority was as far as anything the state government could do, they said it was to have the Scoresby Freeway built. It is a great project, and it will deliver great benefits and great opportunities. But this project and this bill have been damaged by the deception and the lies of Premier Bracks and the Labor government. This 172-page bill is built on the lies and deception of Labor ministers, the Labor Premier and Labor candidates and members in the eastern suburbs, the south-eastern suburbs and the rest of Victoria.

Many Labor members in here were elected on a lie. They were elected on a campaign built on lies. They doorknocked telling people lies. They had public meetings telling people lies. They put messages in their local papers, letters to the editor and articles telling people lies about the Labor Party and its position on the Scoresby Freeway. In contrast, we have the CityLink

project, a project I am proud of, a project that has been great for Victoria. It has probably been the most significant project for Victoria in the past 100 years. It is an absolutely fantastic project, and it was built on the truth. It was built by a government that was prepared to say that this project which would be good for Victoria would be built as a tollway, as a private sector project. It was built on the truth — the government of the day went to an election on that and was re-elected in 1996 with people knowing that truth. It was a great project.

The difference here is we have a project built on lies. Let us look at some of those lies. Let us look at what the Labor Party was saying in the lead-up to the 2002 election. I will use just one of many examples, and that is a pamphlet delivered to every household in the seat of Scoresby. It was headed ‘Only Labor guarantees Scoresby freeway’ and states:

The Bracks Labor government has negotiated and signed the fifty/fifty funding agreement with the commonwealth government.

A re-elected Bracks Labor government has committed to calling for expressions of interest from construction contractors by the end of this year.

Another lie!

Under the signed state-commonwealth funding agreement, the freeway will be completed by 2008.

Most importantly, it states:

There will be no tolls on the freeway under the Bracks Labor government.

The words ‘no tolls’ appear in capital letters. That is the campaign this government and many backbench members took to electorates in the south-eastern suburbs. They told people that to vote for a Labor candidate was to vote for no tolls on the Scoresby freeway. As soon as they got in they were exposed as liars, hypocrites and cheats. They cheated their way into Parliament, and they should feel guilty about that. They should apologise to their electorates and those communities, because they deceived them and they did it deliberately. The worst thing any political candidate or any member of Parliament can do is deliberately deceive their electorate. Those members know who they are, and they ought to feel guilty about it. It is an absolute disgrace. It is a fraud on the electorates they represent, and this government committed that fraud on the people of Victoria.

The government said at that time that it was opposed to tolls and that the Labor Party was a no-toll party. I will quote a few of the present Minister for Transport’s comments over the years. In February 1996 he said:

The Transurban tollway is simply a money-making machine for wealthy investors at the expense of ordinary motorists.

It is the modern-day equivalent of highway robbery.

This —

tolls —

is outrageous interference in the rights of individuals to freedom of movement ...

This is the same Minister for Transport who said CityLink was a great white elephant. It has proven to be a great success. The minister does not know what he is talking about when it comes to transport. He does not know what he is talking about when it comes to infrastructure, but he does know what he is talking about when it comes to lies and deceiving the people of the eastern suburbs. He did it in the Nunawading re-election, and he did it in the 2002 state election when he was accompanied by a band of people who were prepared to deceive and lie to the people they purport to represent. That is an absolute disgrace. They should be ashamed of themselves.

On top of that, the Bracks Labor government, through its Minister for Transport, had the temerity to sign an agreement in October 2001 — a memorandum of understanding between the commonwealth of Australia and the government of Victoria. It states:

Victoria undertakes to ensure that users of the Scoresby freeway will not be required to pay a direct toll.

That is what the Minister for Transport signed on behalf of the Victorian government. However, he lied again — he lied to the commonwealth government.

Mr Nardella — On a point of order, Acting Speaker, the honourable member for South-West Coast understands, as I do, that he is using unparliamentary language. I ask you, Acting Speaker, to ask him to desist.

Dr Naphthine — I did not call him a liar.

Mr Nardella — He said the Minister for Transport has been lying, and that is unparliamentary. I am not asking for him to withdraw.

The ACTING SPEAKER (Ms Lindell) — Order! There is no point of order.

Dr NAPHTHINE — Absolutely correct — because he has lied to the people.

There are members in this house who are continuing to deceive and con their electorates with the speeches they have made today. They are misrepresenting the truth;

they are not telling the people the true facts about this situation. This bill is built on lies and deception, and unfortunately that has continued here today. The people concerned, the Labor members of Parliament, ought to be embarrassed by and ashamed of their performance. We oppose this legislation because it is a bill that is built on lies and deception.

Part 12 of the bill deals with the Road Management Act — the Bob Smith amendments. Once again, this is a disgrace. We oppose this because the Road Management Act and the amendments proposed to be made to it by this bill simply create more red tape and more bureaucracy and will not provide any dollars for filling pot holes, fixing bridges or maintaining or upgrading gravel roads or dirt roads or single-lane bitumen roads. It is opposed by rural shires, it is opposed by the forestry industry and the Liberal Party will also oppose that part of this legislation.

This government has an appalling track record on the Scoresby freeway. This is a government which has lied, cheated, deceived and defrauded the people of the eastern and south-eastern suburbs with regard to an absolutely vital and important piece of road infrastructure. It is not only road infrastructure but economy-building infrastructure. It is a project that should go ahead, but it should not go ahead under the cloud of lies and deception this government and these Labor members have perpetrated on their communities. Their communities should be embarrassed and ashamed, but more importantly the Labor members who continue to deceive, lie and defraud their electorates should be embarrassed and ashamed, and they should resign.

Mr MERLINO (Monbulk) — I am very pleased to join this lively debate on the Mitcham-Frankston Project Bill 2004. I am supporting the bill for two reasons. Firstly, this piece of legislation paves the way for construction of this vital piece of infrastructure by 2008. I agree with the member for South-West Coast that this an essential piece of infrastructure that will provide great benefits in terms of traffic movement and management, business opportunities and promoting economic development. But secondly, this bill provides the framework for the construction of the Mitcham-Frankston project, in stark contrast to CityLink under the Kennett government. The bill provides for the construction and framework in very much a Labor way rather than what we saw under the previous Liberal-National party government.

It is unlike CityLink, where the emphasis of the government at that time was on the needs and desires of

the developer rather than on ensuring the consumer was the no. 1 priority. As a local member in the outer east I have been acutely aware of the Mitcham–Frankston project, particularly from the time of the decision made in April last year to toll. I expressed disappointment at that time, but I have consistently said not only to constituents but also to the media that have approached me on a regular basis since then that whilst I expressed my disappointment, this was a tough decision and one that was also the financially correct decision.

To not toll would have meant either that it would have taken 20 years to construct this freeway or the government would have gone into excessive debt. What sets the Bracks government apart from the Kennett government is that we are focused on health, education, community safety and the environment. These are the issues the people of Victoria want state governments to focus on. We have done that in an environment where we have over a period of five years consistently brought in budget surpluses, where we have had record economic growth, employment growth and record infrastructure spending. This is what the people of Victoria have been seeing from this government over the last five years. To not toll the Mitcham–Frankston freeway would have put that in jeopardy; the government made the correct decision in concluding that that is not the way we should go.

The second observation I would make as a member in the outer east is that over the last 18 months or so, increasingly over the last 12 months since the initial controversy of the decision, there has been a great desire from the communities of the outer east and the south-east to have the freeway built. That is what people want — they want it constructed. They want the government to get on with it. That is what this legislation paves the way for.

In terms of my comment about the Mitcham–Frankston project being set apart from CityLink, there are three key differences: the agreement, road closures and the tolling arrangements. Part 2 of the bill deals with the issue of the agreement, and clause 16 deals with the power to enter into an agreement. Unlike CityLink, the concession deed will not override the act. The legislation provides the framework and clarifies as much as possible the requirements and obligations of the government. It puts the two strong bids, and I stress strong bids, that have been lodged in a position of having maximum clarity and understanding of the state's position vis-a-vis their own. This environment will provide the best opportunity for the best possible bids. On the one hand, the legislation provides certainty and a clear framework for the bidders, and on the other

hand, it provides consumers with the confidence that those bids will provide the most competitive tolls.

Mr Mulder interjected.

Mr MERLINO — I will get onto tolls right now. The government has made it clear that the tolls will be similar to CityLink but the government is going much further than that, in that it is providing much greater flexibility and a much greater level of customer satisfaction. Unlike CityLink, where there are enforcement procedures after three days if there is an inadvertent use of the tollway, customers that forget to purchase a day pass or do not have an e-tag or a Mitcham–Frankston pass will have 14 days. They will be issued with an invoice and will have 14 days to pay the cost of the toll plus a small administrative fee. That is very different to the situation with CityLink when you have committed an offence three days after having travelled on the road. And that is an improvement the Bracks government achieved with CityLink, in that initially you created an offence after 24 hours. There will be much more customer friendliness with the tolling arrangements.

Sitting suspended at 6.30 p.m. until 8.02 p.m.

Mr MERLINO — Prior to the dinner break I was talking about the three key differences between the Mitcham–Frankston freeway and CityLink, and I had spoken about two of these. The first one was the fact that the concession deed will not override this act, unlike CityLink. The second was about the tolling arrangements, which will be much more customer friendly by giving people who inadvertently use the road 14-day invoices, so they will not be committing an offence if they do not pay after three days, as happens with CityLink. The third issue and another important one is about road closures. Unlike the CityLink arrangements, under which the Kennett government deliberately closed or narrowed roads to funnel road users into using CityLink, proposed section 138 in part 7 of the bill only allows for temporary road closures, and section 140 is crystal clear when it states:

Nothing in this Act permits the Authority or the Freeway Corporation to close to traffic or discontinue a road for the purpose of increasing traffic on the Mitcham-Frankston Freeway.

That is a third way in which this project is much fairer compared to CityLink. I will just finish on the final issue about the Liberals' lies and deceit, and their reference to the agreement between the Bracks government and the federal government. I would point out that the first break with the agreement was by the federal government. The agreement was for fifty-fifty

funding, and it was the commonwealth government that set its price at \$445 million, which is closer to 30 per cent than 50 per cent. So the first break came from the commonwealth government.

My suggestion to the state opposition and to the members of the Liberal Party in the outer east is that they work to provide Victorians with a fair share of road funding. We have said it ad nauseam, but it is an amazing statistic: we pay 25 per cent of the road taxes but get back around 15 per cent of the road funding. It is an absolute disgrace. This is about getting on with the job of constructing the Mitcham–Frankston freeway.

Mr McIntosh (Kew) — This Scoresby freeway, as everybody calls it, is built upon a whole series of lies and deceit by the Bracks Labor government. Of course it is now just a demonstration that the philosophy of the Labor Party is what Graham Richardson calls ‘doing whatever it takes’. One can imagine in the lead-up to the last state election all these nervous Labor candidates, many of whom are sitting on the back benches now, doing their doorknocks and being invited into the living rooms of some of their now constituents where one of the hot topics — the Scoresby freeway — would have been raised.

We know it was a hot topic because the Minister for Transport wrote to all the constituents during the Aston federal by-election and Labor Party members were putting out numerous statements about the Scoresby freeway. They were saying in the lead-up to the last state election that it would be a no-toll freeway. Can I say it any more clearly than that — a no-toll freeway. These members were invited into the homes of constituents, who said to them, ‘What do you say about the Scoresby freeway?’. And I bet they told a lie. They misrepresented the truth. What they said was, ‘It will be a no-toll freeway. It will have no tolls’. I do not know how much more plainly one can say it.

I have seen the documentation, the dodger by the Labor candidate for Scoresby, and it says:

There will be no tolls on the freeway under a Bracks Labor government.

They probably innocently said during these doorknock visits, ‘Yes, that is correct. There will be no tolls’, and one would expect the interpretation of that to be that there would be no tolls. Indeed the government even signed a memorandum of understanding, an agreement with the commonwealth government, which said it would be a no-toll freeway.

In the lead-up to the last election the Minister for Transport said in the government policy that it would

have no tolls. This is a demonstration that the Bracks government was elected on a lie. I have taken the opportunity of looking up the word ‘lie’ in Roget’s *Thesaurus*, and I would like to make it clear that a lie is a fib. It is a whopper. It is a false statement, and all of the people over there were making false statements to their constituents to seek election to this place. This was a concoction, a misinformation. It was disinformation. It was a deception. It was a misrepresentation, a falsification. It was disingenuous. It was a lie. They were telling an untruth, and they deliberately perpetrated that lie and blamed everybody else, but it was clearly an invention.

They created an urban myth that this freeway would have no tolls and they repeated the lie to constituents in letters from the Minister for Transport to the constituents during the Aston by-election. The Labor Party put it in its policy and said, ‘Have a look at this. But what we are telling you is actually guff!’ It is fake; it is fatuous. It is a lie. Now the real trouble comes, because it was intentional, which means it is a fraud. It is a fraud on their own electors, on the people of Victoria. It is phoney. It is bogus. It is a sham. And every one of you standing up here and saying it is everybody else’s fault but your own is wrong. It is your fault; you are the ones who made the representations. It is a counterfeit representation. It is a forgery. It is bogus, and ultimately you can sum it up by simply saying it was just a load of bull. You do whatever it takes. You are allowed to perpetrate the lie, to continue it, and you are standing up here, one after another, saying what a great project this is.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member shall address his remarks through the Chair.

Mr McIntosh — The Labor Party is quite happy to sit there and say that this is a matter that it took to the people at the last election. It says it is an open, accountable and transparent government. But that open, accountable and transparent government told a fundamental lie about the tollway. It was clearly of crucial importance to the electors in the eastern suburbs, but also to the people in my constituency, because it will ultimately be connected to the Eastern Freeway which travels along the northern part of my electorate.

It was a terminological inexactitude. It was simply a bold-faced lie. The Labor Party told porkies to its own electors in its own constituency, to the people of Victoria, and now it has the gall to come in here and say it is everybody else’s fault. It signed an agreement with the commonwealth government saying it would be a no-tolls freeway. It signed a document representing

what it said as being the truth, but it was a lie. It represented to the people of Victoria, through its policy statements repeated by many ministers, by many candidates and by many members that this freeway would have no tolls. And one has to ask why.

I reckon it has something to do with the union movement. Let us look at the way the government behaved in relation to the Melbourne Cricket Ground. Everybody knows the government rejected \$90 million worth of commonwealth money, and the government put up its own \$77 million just to protect the closed shop for the Construction, Forestry, Mining and Energy Union at the MCG. And that closed shop is preserved to this day, and everybody knows it. The government knows that if it were to take any commonwealth money for infrastructure projects, immediately the commonwealth would have some involvement in what happens in those infrastructure projects. And of course a closed shop is against not just the commonwealth law but the law of Victoria.

That is the reason we have a lie, a fib, a whopper and bull. It is bogus, a simulation, a forgery and a fraud. That is the reason you did it — whatever it takes!

The ACTING SPEAKER (Mr Ingram) — Order! I remind the member that reflections using ‘you’ and ‘your’ are reflections on the Chair. The honourable member needs to direct his remarks through the Chair and not across the table using the terms ‘you’ or ‘your’.

Mr McIntosh — This is a lie perpetrated by the government, by the candidates and members seeking election deliberately to cover up the government’s own mistakes. Importantly, here we know what that was. It was to protect the government’s union mates, because if the government took commonwealth money the project would be subject to commonwealth government scrutiny, and it is against the law to have a closed shop.

In conclusion, I raise another important matter that the bill addresses, which is the great embarrassment of the so-called Bob Smith amendment. What an extraordinary circumstance, that this government, when in opposition, railed against the Kennett government for its use in various bills of section 85 statements, which take away the jurisdiction of the Supreme Court, yet we have seen a litany of bills — three this week — that contain section 85 statements, and during the course of the session we will no doubt have many more section 85 statements.

When the government could not get a statutory majority in the upper house because of the absence of a member who was away from the Parliament — not ill, not

absent with leave, just away — rather than being taken away the bill was passed with great slabs of it being voidable, and the most important thing is that the confusion that created will be rectified by this bill. It is an embarrassment to the government, but more importantly to this Parliament.

Something that was apparently important to the government when in opposition has been turned on its head when in government. It is a dramatic step — you blithely pass a bill without an absolute majority, then rectify the situation by bringing in this amendment. It is an embarrassment. But more importantly this no-tolls project, this entire bill and this whole government are built upon a lie, a fib, a whopper, if not just a terminological inexactitude.

Ms Lindell (Carrum) — I am somewhat perplexed tonight to stand and make this contribution to the debate on the Mitcham-Frankston Project Bill, because I have to admit that I agree in part with what the member for South-West Coast said. He opened his contribution by saying of the previous speaker that his speech was full of hypocrisy, that there was a lack of clear thinking and that it showed great inconsistency. Can I say exactly the same? Ditto. Absolute hypocrisy, lack of clear thinking and inconsistency shown by the speaker before me.

The other thing that the honourable member for South-West Coast had to say was that this is a great project and a great opportunity, and I wholeheartedly endorse those comments. It is indeed probably the most vital piece of infrastructure for Victoria, especially for the east and south-eastern suburbs. As people here would know, this freeway finishes in the southern tip of my electorate.

I would like to turn to some of the things that have been said in this debate and talk of hypocrisy and narrowness. It defies belief, what we have heard through the afternoon. There is no option on how we build this road. We build it and we build it quickly, and we know that we need to and that we need this infrastructure for those eastern and south-eastern suburbs. I see the member for Nepean is here; he knows how important this project is for his electorate, for business development, for job opportunities and for economic growth. So we do it in five years and take until 2008 or we spend 20 years trying to eke out sufficient funds from a budget to build the project. It is not an option.

Dr Napthine — Why didn’t you tell the truth at the last election?

Ms LINDELL — In his contribution, the member for South-West Coast said that we should apologise, and indeed the Premier has apologised. I do not know how many times the opposition has said we need to apologise for making a financially sound decision.

Dr Napthine — You were lying to the electorates.

Ms LINDELL — The Premier has apologised. But let's look at how we got to this situation.

Honourable members interjecting.

The ACTING SPEAKER (Mr Ingram) — Order! Without the assistance of the member for Benambra and the member for South-West Coast!

Ms LINDELL — How did we get here? We got here because of an amazingly failed and incompetent contract signed for the public transport franchisers. We know that the state budget had to find \$1 billion in five years to keep the trains on the rails. But the opposition is going to say 'No, no, that's not so'. Well, as people in this house know, I am a fairly simple person. Yes, they will all agree — I am pretty simple. I made a promise to my children once that I would take them on a holiday, but I could not do it. That was a financially responsible position that I took. Did I feel mangy about it? Did I feel horrible about it? Were they angry with me? Yes, sure, all of those things. But at the end of the day the choice was — well, what was the choice? What is the choice of the government?

Do we say that we will cut health services or that we will cut education services? There are always options for government, and the member for South-West Coast has been in government and he knows all about the choices that need to be made. The choice of this government was to build the freeway without cutting much-needed services right across Victoria. I am amazed at members of the National Party, that they could stand here and say that their constituents should pay for a road in the south-east of Melbourne. I do not know. I think I agree with the honourable member for Gippsland East, who is currently in the chair, that they have absolutely lost all idea of who they represent. To think that country Victorians would be asked to pay for a road for the south-east and eastern suburbs of Melbourne. To ask the constituents of Swan Hill to pay for that is beyond belief.

Mr DIXON (Nepean) — The decision to toll this freeway really has quite far-reaching effects. One of those is the effect it will have on the Mornington Peninsula. The southern Mornington Peninsula which I represent has grown incredibly in population but also in

popularity as a tourist destination and a business centre of sorts as well. The Mornington Peninsula certainly needs improved links to Melbourne whether for business — and that is two-way business, both to and from Melbourne — or tourism. It is especially the case for a good tourist spot that is marketed as being accessible from Melbourne. It needs to have good road links to Melbourne both ways, in and out of the Mornington Peninsula as well as for commuting.

A large number of people live on the Mornington Peninsula and work in the eastern suburbs or even right in Melbourne and need to commute regularly. They need good and cheap roads for that and for social use. There are many retired people in my electorate too. Many of them have come from the south-east and the eastern suburbs of Melbourne, and that link is vitally important to them and their families to keep in contact, especially when their families are coming down to visit older people who do not drive. So for a whole range of reasons the Mornington Peninsula is very much affected by this tollway decision.

One thing I welcomed was that I thought this freeway would be very good because there is an incredible problem at the moment with the Monash Freeway clogging up and turning into a car park at peak times in the morning and the evening. That also happens on the Western Port Highway. A huge number of people, including me, commute from Melbourne to the Mornington Peninsula via the Monash Freeway and the Western Port Freeway. The Scoresby bypass or freeway — whatever you want to call it — would certainly relieve a lot of that traffic congestion and would be a shorter route from Melbourne and the eastern suburbs down to the Mornington Peninsula, but that will not be the case. Now that people know they will have to pay to use that route they will continue to use the Western Port Highway and also the Monash Freeway.

Also there is a developing tourism route between the Yarra Valley and the Mornington Peninsula. In my role as opposition spokesperson for tourism I visited the Yarra Valley recently and a number of the tourism operators there are saying that they want to develop that link between the Yarra Valley and the Mornington Peninsula. A great freeway link between those two areas would certainly encourage that touring route. In fact the tourism bodies from both of those areas are applying for Australian government funding to push this concept along. The fact that this route will now be tolled when it was not expected to be is certainly going to put a spanner in the works for that tourism route.

Interestingly the other day I was going through some of my files and I noticed the one and only leaflet that the Labor Party put out in my electorate during the last state election, the one that promised there would be no tolls. I knew this happened in the eastern suburbs — that is, lots of personal letters being written to residents as well as some leaflets being distributed — but this one even filtered down to the Mornington Peninsula. There is another broken promise, and I will be reminding the people of the Mornington Peninsula of that at the next state election.

One thing we have seen a lot of tonight is the government trying to defend its decision by talking about what happened with CityLink and making comparisons between the two projects. I think that is an absolutely spurious sort of comparison to make. First of all, we did not lie; we were up front about it. Everyone knew right from the very start that CityLink would be tolled, and that is how it was tackled right from the very start, whereas what we have now is a freeway that was promised, but now the promise has been broken and people have been doublecrossed. Even putting that aside, when we were in government and this government was in opposition, it put up the high-jump bar and railed against the very thought of tollways. They were the worst things that could possibly happen. Labor Party members said it would never happen if they were in government.

But I am not talking about the broken promise. I refer to something that all members of this government hung their hats on. It was a firm belief of theirs that there would be no tolls. It was not only a rock-solid promise, it was rock-solid belief — and it is that that has been overturned. That is the thing that upsets people more than just the fact that it was a broken promise. That is what upsets me most about it, the fact that this was one of Labor's very tenets, the thing its members spoke so vehemently against time after time. We were the worst people in the world because we dared put in a tollway, and they turned around and did the same things themselves. That is what upset me and upset the people in my area as well.

The Eastern Freeway extension is an extension of an existing freeway. Originally both Labor and Liberal governments were never ever going to toll this road, but it has been conveniently put into this major project for Mitcham-Frankston, and now it is going to be tolled. With respect to the tunnel at Ringwood, again neither Labor nor Liberal governments were ever considering tolling this tunnel, but all of a sudden it is going to be tolled as well. I am sure when the people of Melbourne start driving on that Eastern Freeway extension and through that tunnel and find that they are tolled, they

might actually get over the fact that the old Scoresby bypass area is being tolled. They are going to get an awful shock when they realise that it is the Eastern Freeway extension that is being tolled. They are going to be very upset about that. I think the chickens will come home to roost there more than the fact of there being a tollway on the Scoresby section.

That Mitcham section did not have to be tolled. I suppose government members were surprised about the proposal. Because they took so long to get around to doing it they lost the momentum and the costs went through the roof, so the whole thing had to be made into one huge project from Mitcham to Frankston. The blame is at their feet. They cannot blame other people for that, because the runs are on the board. In fact there are no runs on the board because how many major projects can you name that have been started and finished on time and on budget under this government? I cannot think of one, and this is a very good example of it. To add these two extra sections to this total project is something that is this government's decision. It is the government's fault and no-one else's.

When I travel along the Monash Freeway I see the nice blue signs saying that it will be the site of the bypass and that it is going to be finished by 2008. We only have to look at the government's record on major projects to realise what will happen — for example, my place in town looks down over Spencer Street station. That redevelopment is dragging on and is well behind time. I think six months is a very — —

Mr Plowman — You try catching a train there.

Mr DIXON — That is half the battle. A six-month delay in redevelopment is absolutely nothing. It is going to blow out unbelievably. I notice in today's paper that another road in Melbourne — that is, the Collins Street extension — will probably have to close so that construction can continue on the station. This government has a poor record in major projects. I just cannot believe this project will ever be finished in 2008.

I go back to where I started from. This tollway is going to have a major effect on many aspects of life on the Mornington Peninsula. When I look at the tourism aspect, which is my portfolio responsibility, I see it is going to have a major effect on tourism on the Mornington Peninsula and on some of the links that are building up with the Yarra Valley.

Ms BUCHANAN (Hastings) — It gives me great pleasure to speak briefly on the Mitcham-Frankston Project Bill. I will start my commentary with a few facts. The first is that the tangible opportunities for the

Frankston and Mornington Peninsula region are incalculable and have outstanding long-term, positive benefits for the region. The second point is that the tangible opportunities for the growth corridor of Cranbourne and Western Port are incalculable and of positive long-term benefit for that region as well. My third point is that this is vital and needed infrastructure that will secure employment and enhance our growing export industry in this south-east corridor, and that is a very important thing to acknowledge here in this chamber. My fourth point is that the one issue no opposition speaker has dared raise is the issue of the options this project affords motorists, residents and businesses — that is, the issue of choice. People can choose to use the new Mitcham–Frankston project or the existing roads that are there. That has never been offered in any other toll project in this state before.

Along with all the other major road projects being undertaken in this region, such as the duplication of the Cranbourne-Frankston Road, Thompsons Road and the Clyde–Five Ways road, to name but a few, it means that the access to and the movement around the south-eastern region of this suburban metropolis will be the best it has ever been. I commend the Bracks Labor government for the sensible and realistic financial position it has taken on this project. It has ensured that this vital transport link will be completed as soon as possible to benefit residents, tourists, visitors and businesses in this area.

I commend the Minister for Transport for being the minister to put this project up after many years of having to put up with a gunna government. I bring to the house's attention that the previous Minister for Transport under the former government was colloquially known down his way as the Minister for Ninety-Kilometre Zones, because the only thing he ever did was move Coolart Road from a 100 kilometre-an-hour zone to a 90 kilometre-an-hour zone. That is the only thing he did for this region. This minister is getting on with the job of providing vital infrastructure for the Mornington Peninsula and Western Port regions.

Many mayors in the region whom I have spoken with certainly acknowledge the vitally urgent need in terms of the sustainable development of their councils for this important infrastructure project to proceed. I wholeheartedly commend this bill to the house.

Mr PLOWMAN (Benambra) — The opposition opposes the bill before the house on the basis quite simply that it is based on a lie. I do not think I have ever said that in 12 years, but clearly there has never been a

greater example of a bill that is based on a lie and on deception.

It is terribly disappointing to have to say that. When you think about it you realise that probably the most important issue in this debate on the Scoresby freeway, which is what it was to be, is the breaking of the signed agreement between the state and federal governments. In the history of the arrangements between state and federal governments there has never been an example like this. An agreement was signed —

Mr Maxfield interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member for Narracan should acknowledge the Chair when he passes and should not interrupt out of his place.

Mr PLOWMAN — As I was saying, Acting Speaker, the most important issue in this debate is the breaking of the signed agreement between the state and federal governments. In the history of the relationship between state and federal governments there has never been an example like this involving an agreement made and signed off by the relevant ministers. The agreement was not torn up by anyone, it was simply not continued by this state government. It walked away from a written agreement between it and the federal government. The difficulty with this is that there has always been a level of trust between the state and federal governments on the basis that whenever they made and signed an agreement on any issue it was then ratified by both governments and maintained and kept. It is the loss of this trust that is the most significant factor facing us as we discuss this bill tonight, and it is very disappointing that that is the case. The bill is based on the lie. The commitment was made by this government not only prior to the election but also by way of the signed agreement between it and the federal government.

Nobody doubts the urgency of this project, nobody disputes the benefits of this project and nobody is arguing that tolls can be a very effective means of building urgently required infrastructure. The member for Hastings, who has now left the house, discussed those issues, and nobody is arguing against her point that there are very important issues in respect of the building of what was to be a freeway. But this question should be asked: will the building of what was to be a freeway but what is now to be a tollway alleviate the traffic problems in that part of eastern Melbourne running through to the Mornington Peninsula? There are enormous problems there, but given that it is going to be a tollway, will this road alleviate them? There is

every indication that the tollway will not alleviate the traffic problems in the same way that a freeway would.

Another question has to be asked. Why did this government not accept the federal government's contribution of \$455 million? It clearly would have been more, because the federal government committed to its share of this project. Why does half the cost now have to be met by the motorists of Victoria when the federal government was going to meet it? That is a very difficult question to answer, because it is very difficult to see why this state would forgo that amount of money for a major project.

Acting Speaker, when you spoke earlier tonight you said that in Gippsland East there is a fair degree of cynicism about the fact that Melbourne roads are subsidised by all taxpayers whereas country roads, such as those in your electorate and in mine, do not get the same level of cross-subsidisation. I would like to remind you on this occasion that maybe we should also look at how much of a subsidy goes into rail services, particularly to East Gippsland. I wonder whether that has some balancing effect on this debate.

But I would like to get back to the question of whether this project will be built in its totality and whether the government will be able to attract the necessary private funds to build it as an entire project. If it is not built as an entire project, it will be second best to what was initially proposed. It is of concern that, despite the fact that this road was to be funded by the state and federal governments, there is now a real chance that we will come out of this with a road that is definitely not as good as what was initially proposed.

I have to say that one of the greatest deceptions ever foisted on the community of the eastern suburbs, and in fact on all Victorians, was that pre-election promise given by the Bracks government that the road would not be a tollway. I also have to say that if you went to the far-flung regions of my electorate of Benambra, you would wonder why people would be interested in whether the road is to be a freeway or a tollway. But they all say to me, 'What is happening when a road that was promised to be a freeway becomes a tollway?'. Even the people who are not going to use the road are questioning whether this government can be trusted. They are not going to use the road, but they understand that a promise is a promise.

You can fool some of the people some of the time, but I promise you that you cannot fool country people. A promise is a promise, and that election promise on a major issue, which was made to all the people of Victoria, was broken. I remember quite well a

constituent of mine in his 90s saying to me, 'That Bracks fellow can't be trusted'. I had never heard that before from that part of the electorate, but people see and understand. They said, 'This is a broken promise'. Why was it done? How can they then trust a Premier and a government that is going to break a promise as significant as that to the people of Victoria?

But what about the tolls and the promises? I will just relate a few promises that were made. This goes back to when CityLink was being proposed by the past government. The current Minister for Transport is reported in the *Age* in 1997 as having said:

Once you have an electronic tolling system with transponders, no road is immune from tolls. ...

As a result tolls could well end up ... being used as a funding mechanism on new roads such as the Eastern Freeway, Calder ... or the proposed Scoresby freeway.

That was the current Minister for Transport in 1997. I am very pleased that my friend and colleague the Minister for Transport has joined us, just to repeat those words to him.

Mr Batchelor — Just to hear you! I was rung and told the most scintillating speech of the evening was under way and I had to come to the house and hear it — —

The ACTING SPEAKER (Mr Ingram) — Order! The minister should not interject.

Mr PLOWMAN — And he can come clean and tell all Victorian motorists what other road projects could be hit by a new toll. This is what the current Minister for Transport said in 1997. I find it hard to believe that the minister could be so duplicitous as to say that in 1997 and continue to say there would be no tolls in the state of Victoria from that stage right through for the next seven years and then come forward with the fact that this road is to be tolled. It is the greatest turnaround of any transport minister in history, and I think he owes us all an apology.

Mr MAXFIELD (Narracan) — I rise to briefly comment on the Mitcham-Frankston Project Bill. Members of the opposition talk in here about honouring commitments, but go back to when the federal government promised to pay half the cost of building the freeway. Did it honour that commitment to come up with half the money? Of course it did not. It tore up the agreement and threw it back in our faces. It said, 'No, we are not going to pay half'. So we have got a federal government that cannot be trusted and cannot be honest with the Victorian community.

You had the same thing with the Pakenham bypass. The federal government said, 'We will declare it a RONI (road of national importance) and pay half the cost of the Pakenham bypass', and federal ministers trumpeted into Gippsland and said, 'We are going to pay half'. But have they actually come up with half the money? Of course they have not. The Bracks government has budgeted \$121 million to pay its half. Where is the federal government's \$121 million? It is not there. It has not turned up. We cannot get the federal National-Liberal coalition government to actually come up and pay its share of the road funds. It is disappointing to hear that.

We have heard some great conspiracy theories today. Apparently the unions are all to blame. We used to have reds under the bed — now we have reds under the freeway! You never know where the reds are. They are hiding everywhere, apparently. The union menace is here. What a bizarre theory. They must be pretty desperate in this place to come up with weird, strange comments like that.

But I will say it is important that we get our fair share of funds from the federal government to build roads in this state. We can put in a decent road network, but it has got to be a partnership between the state government and the federal government. It is one-way at the moment: we come up with all the money and the feds spend it in New South Wales and Queensland. In concluding I will commend this bill to the house.

Mr RYAN (Leader of The Nationals) — I am pleased to be, I think, the penultimate contributor to this legislation. It is a pivotal piece of legislation for reasons completely apart from the content of the bill itself. Very obviously for the purposes of this contribution to the debate I need to address my comments to the bill, and far be it from me to think otherwise, let alone do otherwise, but there is a link — if you will pardon the pun — between what the bill contains and what I regard as the critical issue that underpins this whole discussion.

I had not intended to make a contribution until I heard what the member for Narracan had to say just a moment ago. But the reality needs to be reinforced to the Parliament before there are matters that consequently occur. The principal thing to remember is that the minister at the table, the Minister for Transport, signed his name and committed the Labor Party of Victoria now in government to an agreement whereby the federal government would contribute \$445 million to the construction of the freeway as it was then defined. This minister now sitting at the table signed an agreement that —

Mr Batchelor interjected.

Mr RYAN — I will be interested. The minister is now saying to me that I am wrong in my assertion. I am happy to say I stand to be corrected in terms of his view of the agreement he signed. Perhaps, if we can take it in parts, there is an agreement between the state government and the federal government. I think there is general acknowledgment that such is the case. I think there is general acknowledgment that the signature of the state transport minister who now sits at the table is upon that agreement on behalf of the Labor Party now in government in this state.

There may well be some difference of view as to the precise wording within the terms of that agreement, but I think it is a fair assessment to say that the commonwealth government agreed to contribute an amount of \$445 million or thereabouts — I might be wrong about the exact amount of money, but it is of that order — on the basis that the state of Victoria contributes a like sum for the construction of the road, which is referred to in the body of that agreement and which is generally termed to be a freeway. The commonwealth contribution is there on the basis that no tolls are to be charged in relation to this particular section of road. In a general sense, without getting down to the specifics, that is the tenor of the arrangement between the two levels of government.

What has happened here, of course, goes to the absolute core of governance, whether it is at the local government, state government or federal government level. Indeed it relates to how business and communities operate and people generally conduct their lives. The essence of this point is that if parties come to an agreement, let alone in circumstances where they sign up to it, there is the expectation that the parties to that agreement will keep their part of the bargain. It applies more particularly to intergovernmental agreements.

Unless you have an acknowledgment and an acceptance between intergovernmental structures that this will be the case you risk the fabric of the way in which these massive infrastructure projects will proceed. That is so because the reality is when you strip it away you might have different flavours of government at different levels. You might have conservative politics at one level, Labor Party politics at another, and that can vary from time to time. So it is important that there are structures and agreements in place that are able to transcend whatever may be the particular colour of government at a particular point in time. It is an imperative and is essential. If that does not happen it means that you risk the way in which

relationships between different levels of government are able to occur. That is why that issue is so pivotal and important. That is one reason that The Nationals, as outlined by the member for Swan Hill, have taken strong objection to the content of the bill.

It is not that the bill itself does not contain provisions that are appropriate to what is intended to be achieved under this newly structured arrangement that the government of Victoria wants to put in place. That is not the point. The point is that the whole bill is so jaundiced by the way in which the state government has betrayed its part in the agreement that that of itself means the bill should be opposed on the floor of the house. That is the first thing.

The second issue is a corollary of the first. Where people are reliant upon governments and political parties of any persuasion to adhere to the promises they make going into elections — whether we like it not, and however we style it — those promises have a scale in people's minds. When you are talking about massive amounts of money like this in an environment where there are competing interests across a range of spheres, people form views and vote according to their belief as to whether the people who make those promises will keep them in circumstances where they are in a position to enforce them.

What has happened in this case is that the current government has chosen to walk away from an agreement which it signed up to and which it promised the voters of Victoria before the last election. That is palpable treachery — absolute treachery on its part. It goes to the heart of governance and is one of the issues that for all time people remember. That is justifiably so, because if governments of any persuasion are prepared at a whim to sign their name to a document that commits them to these sorts of projects and are prepared to trade on the fact that in the eyes of voters they will honour those agreements for all the reasons I have mentioned, and then if subsequently for whatever reason they choose to betray the trust people have placed in them, that is an enormously important issue.

It is even more so in this case because as I remember — and I do not have the document in front of me — on 14 April last year the Premier announced to the people of Victoria that the Labor government, after having won governance of this state, would turn its back on the agreement signed by the Minister for Transport, and that it would not honour the promises made to the people before the last election. It is only a year and a few weeks since that occurred. Again in the context of this legislation, it is only in the last couple of weeks that the Premier has come to this place and said that there

will be land tax cuts equalling \$1 billion over the next five years in circumstances where on 14 April last year he said the state of Victoria could not afford to honour the promise it had made to Victorians because \$1 billion, funnily enough, so he said, had to go into the transport system in Victoria.

This is important legislation by any measure, but I make it clear to the house that the reason why The Nationals are opposed to it is not so much the content of the legislation itself but because of the fundamental principle that a government of the day of any persuasion should be made to honour its promises. That is exactly what this government should do.

Mr BATCHELOR (Minister for Transport) — I thank the 28 members of the house who contributed to the debate tonight. It is an unusually large number of contributors. In particular I thank the members for Polwarth, Swan Hill, Brunswick, Warrandyte, Mitcham, Scoresby, Ferntree Gully, Brighton, Mount Waverley, Mornington, Cranbourne, Gippsland East, Kilsyth, Sandringham, Evelyn, Lowan, Yuroke, Bulleen, Melton, South-West Coast, Monbulk, Kew, Carrum, Nepean, Hastings, Benambra, Narracan and Gippsland South. People from the length and breadth of Victoria have joined in this debate. That is a very healthy development.

This bill is an historic step in this government delivering on the most important road project in Australia at the moment and probably for a long time to come. The bill sets up the legislative framework for Australia's largest urban road project. In fact it is ranked in the world as one of the most important public-private partnerships currently under way. It is significant that a substantial number of members of the Victorian Parliament should be debating this measure.

It is also important and historic because this bill will deliver the project by 2008. That is exactly what the people along the corridor — through the east and the south-east of Melbourne — have been calling for. They have been calling for this not just over the last 12 months, but for years. The only government that will deliver this is the Bracks government. The previous state Liberal-National coalition could not do it. The federal Liberal-National coalition government could not do it. Only the Bracks government in Victoria is able to do it and will do it by 2008. We are delivering it as a tollway because that is the only way we could do it by 2008; otherwise it would take in excess of 20 years to deliver without tolls. It will be just like the Western Ring Road, a project that has brought enormous benefits to the north and west but which is still not finished.

What we are saying is that this bill will enable the delivery of this piece of infrastructure, which is important to the economy of Victoria, and particularly to the south and the south-east of the state — and it will be delivered by 2008. Otherwise the people along that corridor would have to wait until 2028, and they are not prepared to wait that long.

A lot of issues have been raised about the role of the federal government, and the facts need to be spelt out clearly and plainly. The first fact is that the federal government and the state government joined an agreement in October 2001, when they signed a memorandum of understanding (MOU). That memorandum of understanding was that both governments would jointly fund the construction of this project. It is important to understand that.

A lot of people have made mention of the figure of \$445 million. That is not mentioned in the memorandum of understanding. If you go through the memorandum, you do not find any mention of \$445 million. You do not find mention of \$900 million, which is double that! What we agreed to do was to fund this project on a fifty-fifty basis. There was no mention of \$445 million, there was no mention of \$1 billion, there was no mention of \$420 million, and there was no mention of \$2 billion. What was mentioned and what was signed up to was an agreement to fund it, jointly between the commonwealth government and the state government. That is what we expected to have implemented.

I have to tell the house that this agreement was ripped up by the federal government in May 2002. After months of weaselling around and after months of ducking and weaving, the king of sneer was responsible for ripping this up.

Mr Plowman interjected.

Mr BATCHELOR — The member for Benambra wants to know who it was. I will tell him who it was — it was Peter Costello!

Mr Plowman interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member for Benambra!

Mr BATCHELOR — The king of sneer!

Honourable members interjecting.

Mr BATCHELOR — It was Australia's king of sneer, and he has never stopped sneering since. He smirks and sneers day in day out, because it was he, as

the federal Treasurer, who in the May budget of 2002 introduced a cap on the federal government's contribution. Never before was it mentioned, and it broke the MOU. It is not the only time that the federal government broke the MOU, but it was the first time — and he did it. It was that sneaky, slimy Peter Costello who made John Anderson, the federal Minister for Transport and Regional Services, mention it in his press release, which was put out for the 2002 federal budget. On 14 May 2002 John Anderson said:

The federal government's total contribution is capped at \$445 million.

The capping of that amount was a breaking of the MOU, because he knew, in doing that, that it would not provide enough money for the project to go ahead and that we would have to find some other way of dealing with it.

Rather than being prepared to stick to the deal and doing the right thing by Victoria, his home state, in a reckless and deceitful act the federal Treasurer got the federal transport minister to rip up the MOU to break the deal. It was announced not in an upfront way, like sometimes governments have to do when they change positions, but in a deceitful sneaky way, when he got John Anderson to put it out in his press release.

Of course the National Party will do anything the Liberals tell it to do. Peter Costello told John Anderson to slip this out in his budget press release, and no announcement was made. It was the most deceitful, slimy, sneering, sneaky act that has occurred for many a year. Not content with ripping up the agreement once, the federal government went ahead and ripped it up again in December 2002.

Mr Plowman interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Benambra!

Honourable members interjecting.

Mr BATCHELOR — Twice — you are right.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Benambra and the Leader of the National Party!

Mr BATCHELOR — He is just saying 'twice'.

Mr Plowman interjected.

Mr BATCHELOR — I will tell you how. The member for Benambra wants to know, and he ought to know because it was in relation to a road project in his

area. The original memorandum of understanding provided for the 'concurrent' construction of the external bypass and the internal boulevard between Albury and Wodonga as part of the national highway. Let me make this very clear: the MOU provided for the concurrent construction of both the external bypass and the internal boulevard. That was the second occasion John Anderson ripped up the MOU, because in December 2002 he explained to the world that the federal government was not prepared to build the external bypass. This is notwithstanding the fact that John Anderson had signed up to do both projects in the MOU.

Mr Ryan interjected.

Mr BATCHELOR — The Leader of the National Party can laugh, but he is not laughing as much as the sneering federal Treasurer. Everybody here knows that it is the federal Treasurer who wants to be the next leader of the federal Liberal Party; unfortunately for him he will sneer all the way into being leader of the federal opposition rather than Prime Minister.

Between December 2002 and April 2003 there were months of political argy-bargy, political toing-and-froing where the state government and the federal government were at loggerheads, with the state government trying to get the federal government to live up to its commitments. The federal government was never going to do that, so this government had to find a way of funding the road. As we remember, there was a very dramatic instance in the financial and commercial life of Victoria when National Express went broke and the government had to do the financially responsible thing to keep public transport functioning here in Melbourne and right across country Victoria. We had to make sure that there were sufficient financial resources for that and for other projects.

It is interesting to note that in their contributions here tonight members of the Liberal Party and the National Party have said nothing positive at all about this project. They simply relied on the old falsehood — the lie — that it was this government which broke the memorandum of understanding when everybody knows that it was the federal government which broke it. Members opposite have said nothing about the positive impact this project will have. Even the Leader of the National Party implied that benefits would come from it, that it was a document that would deliver benefit. No-one from the opposition has said anything about the jobs that will be created in construction. They have said nothing about the increased economic activity that will occur along the corridor and the benefits of that for the Victorian and Australian economies.

Members opposite said nothing about the needs and desires of the local people to have the project completed by 2008. They said nothing about the impact it will have in making traffic in the region flow smoother, quicker and easier. They said nothing about the reality that traffic will move off those competing parallel roads, whether it is Maroondah Highway, Stud Road or Springvale Road, and onto the tollway, which will be a win-win situation for those who want to use the tollway and are prepared to pay for it — and they will do that. They will do that in their thousands, and it will make it easier for those who want to use Maroondah Highway, Stud Road and Springvale Road for local purposes.

Those people who tomorrow and the next day find themselves stuck in traffic out there on Springvale Road, on the Maroondah Highway, on Stud Road and many other locations need to understand that on this night in Parliament the National Party and the Liberal Party tried to stop construction of the Mitcham–Frankston freeway. We are not going to let them stop this project. We will not let the federal Treasurer, Peter Costello, stop this project, and we will certainly not let the Prime Minister, John Howard, do it. Tonight Labor is going to provide the wherewithal for this project to go ahead.

The people who are stuck in traffic today and tomorrow will know that by 2008 they will get relief from that traffic congestion because of the actions of this government in this chamber tonight. They will know that if the Victorian Liberal and National parties had their way in Victoria, because of the Victorian Liberals or the Victorian Nationals or the federal Liberals or federal Nationals, they would stop this project from going ahead. They will not succeed, nor do they deserve to succeed.

Mr Ryan — On a point of order, Acting Speaker, I simply wish to inquire whether the Minister for Transport has read Hans Christian Andersen and *The Emperor's New Clothes*.

The ACTING SPEAKER (Mr Ingram) — Order! There is no point of order.

House divided on motion:

Ayes, 58

Allan, Ms	Jenkins, Mr
Andrews, Mr	Kosky, Ms
Barker, Ms	Langdon, Mr
Batchelor, Mr	Languiller, Mr
Beard, Ms	Leighton, Mr
Beattie, Ms	Lim, Mr
Bracks, Mr	Lindell, Ms
Brumby, Mr	Lobato, Ms
Buchanan, Ms	Lupton, Mr

Cameron, Mr	McTaggart, Ms
Campbell, Ms	Marshall, Ms
Carli, Mr	Maxfield, Mr
Crutchfield, Mr	Merlino, Mr
D'Ambrosio, Mr	Mildenhall, Mr
Delahunty, Ms	Morand, Ms
Donnellan, Mr	Munt, Ms
Duncan, Ms	Nardella, Mr
Eckstein, Ms	Neville, Ms
Garbutt, Ms	Overington, Ms
Gillett, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Hardman, Mr	Pike, Ms
Harkness, Mr	Robinson, Mr
Helper, Mr	Savage, Mr
Holding, Mr	Seitz, Mr
Howard, Mr	Stensholt, Mr
Hudson, Mr	Thwaites, Mr
Hulls, Mr	Wilson, Mr
Ingram, Mr	Wynne, Mr

Noes, 24

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

The DEPUTY SPEAKER — Order! I advise the house that as the required statement of intention has been made under section 85(5)(c) of the Constitution Act 1975, the third reading of the bill is required to be passed by an absolute majority. The question is that this bill be now read a third time. As there are some voices for the noes I ask the honourable members who support the bill to stand in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

APPEAL COSTS AND PENALTY INTEREST RATES ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 6 May; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — The bill before us amends the Appeal Costs Act and the Penalty Interest Rates Act. The appeal cost system that we have here in this state is reputed to be the best in the country. It is a mechanism whereby the state, by way of an appropriation from the budget as well as through the collection of the fees charged by the various registries and prothonotaries of this state for the issuing of proceedings and other documentation, makes a contribution to a pool of funds that ensures that people who suffer a financial loss as a result of a court case being adjourned or aborted in some way through no fault of either themselves or the other party are compensated for their legal costs. The classic situations include a witness being unavailable on a particular day or a judge falling ill or an appeal being successful.

While the ambit of the act is quite broad, the amendments are quite specific. We are told that the reason for the amendments relates to the fact that the fund apparently now finds itself in deficit. I did not know that there was a problem; I thought it was always in deficit and that it was a matter of the government continuing to top the fund up. However, the Attorney-General has brought this bill in on the basis that there is a deficit in the fund, and the changes being implemented are cost-saving measures. The first lot of principal amendments deals with the adjournment of criminal proceedings and the awarding of indemnity certificates, again by virtue of an adjournment being the result of no fault by either party.

The restriction that is being placed on this particular provision relates to the costs of the day of the adjournment and perhaps in some circumstances the next day that the hearing was supposed to proceed. Of course those legal costs are paid to the party who suffered the loss or those who will have to pay the fees of their various lawyers, irrespective of what happens in the case.

Importantly this is associated with the reason for the adjournment being through no fault of either party. What the provision does is implement a more strident view, where the court must actually determine that the indemnity certificate will be granted only where the

delay has not been caused by the fault of one of the litigants.

In a civil case this does not apply; it only applies in criminal proceedings. In a civil proceeding if one of the parties causes the proceeding to go off because of the unavailability of a witness or not being prepared or making an amendment or something like that, then that is usually a reason for the court to award the costs of that day or any costs thrown away by reason of that adjournment against the guilty party. But in criminal proceedings by a rule of thumb, certainly in the County Court and the Supreme Court where juries are involved, those costs are rarely awarded against the Crown. Even at the end of a trial when someone is acquitted, it is almost unknown for costs to be awarded against the state for bringing a prosecution that did not lead to a conviction.

But here it is specifically stated that the court must look into whose fault it was, and it seems to me that there is a slight difficulty — and perhaps the Attorney-General can clarify this matter — in that in awarding an indemnity certificate on the occasion of a proceeding being adjourned, there is the possibility that the court may look at compensating the innocent party by an award of costs against the state. Of course awards of costs against the police in summary prosecutions are now a matter of course in the Magistrates Court, but they are rare in the County or Supreme courts, and this would seem to indicate that a judge must be satisfied that it was not the fault of one of the parties, naturally including the Crown. Accordingly you may have a rush of applications for costs to be awarded against the Crown in those proceedings.

Limits are also placed upon the amount that is payable, and the Attorney-General can set those limits on amounts payable in criminal proceedings by way of regulation, essentially in the sense that the Attorney-General publishes them in the *Government Gazette*. The Attorney-General indicated in his second-reading speech that those fees would be limited to or slightly above the legal aid scale, and it is a matter of concern that fees would be limited to the legal aid scale where the innocent party may have incurred fees for barristers on a private basis that may be well in excess of the legal aid scale. The legal aid scale is a mechanism whereby the Legal Aid Commission pays for the fees of a defendant in criminal proceedings. We understand that legal aid funds a large number, if not the vast majority, of criminal proceedings in this state, but there are still a number of private fees payable to barristers, and it is a little unfair to those people.

Indeed it is the subject of a letter that I received from Lex Lasry, the chairman of the Criminal Bar Association, and I will quote from the letter. It is dated 2 May, but it was delivered to my office today, so I suspect it was written a tad later than that. Mr Lasry complains that the association has tried to speak to the government about the amendments to the appeal costs fund. It became aware of them and made inquiries of both the Attorney-General and the Department of Justice as to this matter. However, Mr Lasry said:

To date we have had no response.

‘To date’ may be 2 May; it is a bit unclear.

We are very concerned that modifications to the operation of the fund might interfere significantly with the operation of the process of the case management system in all courts in Victoria. That process depends, in large measure, on the cooperation of counsel. The inability of counsel for an accused to be remunerated for his or her commitment to a summary hearing or trial when, through no fault of the accused, the hearing of the case must be adjourned or delayed for some period may seriously affect counsel’s decision to commit to matters. That will have an adverse effect on the case flow that is important to controlling costs. As has always been the case such considerations do not seem to apply to counsel for the Crown.

We are similarly concerned that those accused persons who fund their own defence will suffer significantly if, for example, a hearing or trial is aborted after days or weeks of hearing, and those costs are literally thrown away or compensated on some nominal capped amount. Such people would be effectively called upon to finance a delay caused by those prosecuting them.

The process of certificates under the act remains an important component of ensuring continuity of counsel for the accused in criminal cases wherever possible, and thus significantly assisting the efficiency with which criminal cases are disposed of. If there are changes that affect the ability of counsel to commit to cases and provide that continuity of representation it will inevitably have an adverse effect.

Apart from a few other matters, that is the totality of the letter, and it is signed by Lex Lasry, the chairman of the Criminal Bar Association. I am happy to make that letter available to the Attorney-General, who has just re-entered the house. The letter is dated 2 May, but it only arrived in my office today.

In any event, there are a number of other amendments that have general application to civil and criminal matters. The board, when making a determination in relation to grants and indemnity, can do so now without any formal hearing. It can make that determination on the papers, so to speak. I understand from the Attorney-General that that is the current practice and that this merely formalises that process.

There are a number of exemptions in civil cases that are a matter of some note. The first significant change is that a company with a paid-up capital of more than \$200 000 is not going to be in any way able to seek compensation from the appeal costs fund. That \$200 000 is an arbitrary figure. The Attorney-General says that in most cases \$200 000 companies are public companies and it would not apply to small businesses and private companies. That is again a generalisation. It is an arbitrary figure, and I am sure there may be some small businesses which conduct their affairs through a family company or trust that may well have paid-up capital in excess of \$200 000 because that is the way they have structured their affairs, but as I said it is a matter of some note.

What will now be exempted is insurance companies, and a litigant who subrogates their right to an insurance company will not be able to recover any form of indemnity from the appeal costs fund. Unlike the company with paid-up capital of in excess of \$200 000, perhaps economics would dictate that in most cases insurance companies can bear that cost, although it is a matter of some concern that we are drawing this line.

The other insurance situation — and this comes out of the explanatory memorandum — is where under the terms of the policy the cost of litigation can be compensated through the insurance policy. In those cases a party proceeding cannot seek indemnity from the fund. The other thing to note is that while companies with a paid-up capital in excess of \$200 000 and insurance companies subrogating the rights of the party are not able to claim under the fund, that does not apply to successful appeals whereby a respondent suffers the additional costs of going to an appeal and having that appeal succeed. In that case these rules do not apply.

In considering the amount of compensation to be paid, the board must now take into account both the seniority and number of counsel. Again this will be to the detriment of litigants who are able to make their own decisions. What they are seeking is not the funding of their old proceedings but funding in relation to civil proceedings that have been adjourned through no fault of their own.

The board now has to inquire into whether or not the counsel who were briefed at the time of the adjournment of the case sought to mitigate their loss. Again it is a matter of some concern that the board has to make those inquiries, such that counsel almost become a party to the proceedings. The board can award taxation or seek the taxation of costs, but interestingly enough the cost of that taxation can be

recovered from the applicants in those circumstances. The time limit for bringing an application to the board has now been restricted to 12 months, with the exception that in doing justice to the parties the board has the discretion to extend that period.

The final amendment deals not with appeal costs but with the Penalty Interest Rates Act, and the Attorney-General set out the details of that in his second-reading speech. Some slight difference or anomalies may have occurred because of the practice creeping in that calculations of interest are determined from the date of the signing or approval by the Attorney-General rather than by the date of gazettal. That might lead to a few days anomaly in the calculation of interest, but again I do not see it involving huge sums of money. This bill will validate retrospectively to clear up this ambiguity, which has become entrenched in practice. I am not aware of it, but apparently it is a matter of some concern. However, as I said, it does not involve big dollars.

With that said, Acting Speaker, the opposition does not oppose this legislation. Those are the concerns I wish to raise on behalf of the bar council, but there is one other matter I wish to raise. The Law Institute of Victoria has delivered to me a letter about the amendments that have been sought, dated 27 April and addressed to Mr Greg Byrne, the director of legal policy in the Department of Justice. I do not profess to know substantially what the issues are, but for the sake of completeness I think it appropriate that I quote from the letter. Perhaps the Attorney-General can address the matter in his summing up. The president of the law institute, Christopher Dale, wrote to Mr Byrne, and apart from the initial discussion, I quote:

The LIV notes however that given the decisions in *Solomons v. District Court of New South Wales*, and *DPP (Cth) v. Hunter and Milner*, which exclude the operation of the act from commonwealth criminal matters, a situation is created where Victorian court users in commonwealth criminal matters will suffer sharp financial discrimination. Therefore, it is suggested that the state government should legislate through the Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill to overrule these decisions.

With those remarks, I will not take it any further.

Mr RYAN (Leader of The Nationals) — It is my pleasure to join the debate on this important legislation. I should say that this is another of those instances where collectively as a Parliament we try to do the best that can be done through the legislative process to manage a situation of forever diminishing returns, as it were. There is not always enough money to go around, and there are always checks and balances involved in trying to manage these difficult situations. I also think it is

important to approach this legislation on the basis that we are talking about a series of innocent parties, in the sense that the orders that are made under the principal act occur only in circumstances where trials, for one reason or another, do not go ahead.

I remember very well the days when the Supreme or County Court circuit would come to Sale, where I then lived and practised — and where I still live, though I no longer practise, before I am accused of moonlighting. The order of the business of the court, which was usually there for a month, was that the criminal trials would be dealt with as a priority because they entailed assembling jury panels and all the paraphernalia that went with that. The next order of business was the civil jury trials, and then finally there were the civil proceedings that were to be conducted without juries. That was the order of precedence of the disposition of the business before the court, and that applied whether it was the Supreme Court or the County Court.

I had a pretty substantial criminal law practice in my early days with my firm, Warren, Graham and Murphy, but in later years, as time passed, I had more to do with civil procedures. One of the things I did when the circuit came to Sale was to go across on the first day of the hearing of the criminal trials to make sure they got under way and the list did not collapse. There might be one or two trials listed for any one of a number of offences, be it murder, manslaughter or other serious crimes of various sorts; but the point in regard to this legislation is that from time to time, and with more regularity than one would have liked, the criminal trials did not proceed. That would happen for a variety of factors. Most usually it was to do with the absence of witnesses.

There would be a key witness upon whom a trial depended who for some reason simply did not front. In the context of this debate the reason does not matter; the witness simply was not there. The result was that the parties to that criminal trial were at the court and ready to go, but the trial could not proceed simply because the key witness was not available, more often than not for the prosecution.

Just to set this scenario, you had a position where the Crown had come to the court in good faith, ready to go and having issued subpoenas to all parties concerned, but a key witness had not answered that subpoena. For their part the defence were also there ready to defend the proceeding. More often than not they were represented through some form of legal aid, but sometimes not, particularly depending on the severity of the crime. They in turn were there ready to proceed, but could not do so because the trial simply could not

go ahead. The prosecution in this sort of an instance would make an application for an adjournment and, given all the circumstances, that application would be granted.

So you have this situation where, because it is not particularly the fault of either one of the parties to the proceeding, the trial has to go off and be adjourned to another day. That in turn would mean from my personal perspective that I would then be able to bring on the civil trials. Of course we were always ready to go; those of us in the civil jurisdiction were always ready in the box and we were able to proceed. Therefore the interesting thing about this legislation is that by definition it is dealing with a difficult environment in the sense of ring-fencing it. It is dealing with a difficult situation in that the parties concerned are for the most part not able to go simply because of extraneous factors as opposed to the parties themselves. It is with all that sort of a background that I look at this legislation and the second-reading speech which accompanied its introduction into the house.

As the second-reading speech reflects, the whole design of the principal act is that it is intended to apply to the situation where the state is responsible for certain errors and delays that are not the fault of the parties, and in those circumstances the state should bear the financial burden arising from errors or delays. That is one of those first principles. We then find in the second-reading speech that the fund is running in deficit. Historically I think that has been the case. As is my wont, I have not sought a briefing from the department, and I emphasise that that is a matter entirely on my own head.

Mr Hulls — Always happy, Peter!

Mr RYAN — The Attorney-General says we are always happy. I do not know whether he means that in a generic sense or in another particular context. I think he means it by way of a response to my saying in effect that if I request a briefing, I will be provided with one. Indeed I must say that that has been my experience, but for one reason or another I do not generally do so. I emphasise that the responsibility for my lack of a briefing rests entirely on my own head. I look forward to the Attorney-General being able to tell us the specifics of the extent to which there is a deficit, some of the particulars of the period of time for which that has been the case and if there is any break-up as to why it is so; then I think that would add something to this general debate.

So what will take effect here through this legislation — which I should say The Nationals do not oppose — is a

series of endeavours to try and have the fund operate more stringently to the betterment of all concerned. It is an attempt to share an amount of money which is never enough, I readily acknowledge, on a basis which is more equitable to everybody concerned.

But I see within clause 4, under the heading 'Adjournment of criminal proceeding', which will substitute new subsection 17(2), that having regard to the provisions now contemplated the court may only grant an indemnity certificate under the act, without going into it all, if it is satisfied that it is appropriate to make such an order for costs against any party or any other person. I pause on that point, because there is a clear distinction between a party to the proceeding and a person who may otherwise, apart from one of the parties, have caused the delay to have occurred and therefore the trial not to have proceeded.

I suppose the bottom line is that I think it would be most unfortunate if the legislation were to go forward on the basis that the parties to a proceeding were in some way to pay the penalty for the fact that some person had not fronted the court and that an order was made of some sort against that particular person, which was intended to provide the indemnity to the parties who had lost the money. I think that would be most unfortunate because it would be in effect a de facto cost shift away from the state and away from the principles that underpin the principal. It would shift it over to that particular person as opposed to being within the tenor of the original legislation.

The other element to be said about the same thing is a point that has already been made by the member for Kew — that is, that since there is reference to any party, that of itself, of course, means a reference to the Crown and there are issues that arise there in the ways the member for Kew has raised already in his contribution. We need to be careful about that in the general application of this legislation.

There is reference in the second-reading speech to the culture of entitlement which is said to apply to the issuing of these certificates. I must say that I am not so sure that such is the case, but in any event it is in the second-reading speech. I think for the main part people are pretty careful about these things because the parties want to dispose of the business at hand. They want to get the trial on, conclude it and move on. That is simply borne out of the fact that everybody concerned, particularly from the perspective of the legal representatives, has prepared the thing and it is ready to go; therefore the notion of having to put all of that off and come back another day is simply a pain. Despite what is often the popular misunderstanding of this, the

fact is that the parties want to get it on, they want the trial finished and to move on to something else. I do not know that the culture of entitlement is a fair assessment of the situation.

The next point raised in the second-reading speech is that there will be a limitation in criminal adjournments to a period of two days on the basis that two days provides counsel with sufficient compensation for the lost opportunity to earn income and time to seek other work. I freely confess that I have not looked closely at the legislation, but I would hope that a get-out clause is available for the court and a discretion so that the court can look at this on a case-by-case basis. That is because it is not difficult to think of those instances where it is intended that a long trial be undertaken and it falls over for one of these nefarious reasons and cannot go on and counsel have committed themselves to being involved in it. It is not as simple as the second-reading speech would suggest — that is, that alternative work simply be garnered so that the counsel can be gainfully employed.

The next element of this is that the Attorney-General will be able to set maximum amounts payable for each day that a matter is adjourned. Again I think that needs to be done very carefully, but, of course, the Attorney-General will no doubt say that he will be generous to a fault — some would say as his wont — in making sure that fairness and equity applies. I am sure the members of the bar will be interested to see what actually comes out from the material disseminated by the Attorney-General in that regard.

The next provision relates to the exclusion for certain classes of applicants for making application to the fund. By definition this is discriminatory. There is an irony in this. The Attorney-General often speaks in this place about his opposition to discrimination. Here is a piece of legislation where he is positively pursuing discrimination. He will no doubt say that it is all in the name of the greater good and that he is trying to share these diminishing amounts of money in a way which is equitable to all concerned, but in fact it is discriminatory. It is not difficult to think of many instances where the qualifications that he has placed upon this discrimination could be patently unfair to parties to a proceeding, but that is the provision contained within the bill.

The bill goes on to extend that discrimination to insurance companies. For all the fact of wanting to again give the Attorney-General another tap about being discriminatory, when it comes to insurance companies quite frankly I do struggle, I must say, so I understand more easily how it is that that provision is

said to apply to insurance companies, with which I had a lot to do over my years of practice — usually, I must emphasise, from the other end of the bar table.

The next element deals with the capacity of the Appeal Costs Board to make an extensive investigation of claims. Again, as a principle that is a fair thing, and I do not think anybody would shy away from that. Furthermore the board will be able to require claims to be subject to taxation if it sees fit, which again is appropriate. It will also be able to determine claims on the basis of the papers that are lodged in support of them, which seems to be a legislative enactment which accommodates the practical operation of the system at the present time, and I have no objection to that. Furthermore the bill requires that applications be lodged with the board within 12 months of the final determination of any matter. That is a reasonable provision — if people are concerned about these issues, they should be able to get their act together within that time frame.

The other element of this bill relates to the Penalty Interest Rates Act and the issue of penalty interest applying at the time of a notice being signed off by the Attorney-General as opposed to the date of gazettal of the notice. Legal advice is to the effect that the rate should only apply at the date of gazettal, and that seems to me to be a fair thing. I cannot help but think of those who may be caused grief by the fact that the distinction between the amount of money accumulating over one or two days as opposed to three or four days might be the difference between the date of the notice itself and the gazettal. Perhaps it is more than that and I am not giving it sufficient currency. Nevertheless I think that particular provision within the legislation is appropriate, and in all the prevailing circumstances The Nationals do not oppose the bill.

Mr LUPTON (Pahran) — It is a pleasure to speak in support of the Appeal Costs and Penalty Interest Rates Acts (Amendment) Bill. The Appeal Costs Act, which is the principal act being amended by this legislation, serves an important purpose in the system of justice in this state. The principal underlying the act is that the justice system itself should be responsible for errors and delays that are not the fault of a criminal defendant or a civil litigant, and in those circumstances it is appropriate that the state should bear the financial burden of those failures. However, the system operating under the Appeal Costs Act is one that involves considerable amounts of public expenditure, and it is appropriate in those circumstances to take appropriate measures to ensure that the act is administered in a financially appropriate and responsible manner.

In order to achieve that end the bill seeks to amend the way in which the Appeal Costs Fund is administered by excluding certain applicants from the operation of the fund, by increasing the powers of the Appeal Costs Board in its administration of the fund and by making some changes in the way payments for criminal adjournments are made. In addition to those changes, it is proposed that a time limit be put on applications for payment out of the fund.

The exclusion of certain applicants from the operation of the fund is designed to ensure that companies with a paid-up share capital of \$200 000 or more and their subsidiaries will not be able to claim against the scheme and also to ensure that insurance companies that are litigants in subrogation of the rights of a policyholder will not be able to make claims against the fund. The exclusion of corporations is consistent with the position that already applies in the commonwealth, the territories, New South Wales and Western Australia and will serve to ensure that the administration of the fund is carried out in a more equitable manner.

The powers of the board will also be increased to make sure that the board is able to look at the appropriateness of engaging a particular seniority of counsel or engaging more than one counsel. That is an appropriate and sensible power for the board to have. It will also be able to make claims subject to taxation of costs, if appropriate. There will also be a limitation on the amount of time in criminal adjournments for which payments can be made. This is also a sensible change to the way in which the fund is administered and will allow the fund to be spread in a more equitable fashion.

The other amendment that is being made by this bill is a rather technical amendment to the Penalty Interest Rates Act to ensure that the date of gazettal is the appropriate date for the calculation of penalty interest. That is a technical amendment that is designed to put beyond doubt the method of calculation of penalty interest, so it is not a contentious issue.

The main point of the bill is to ensure that the Appeal Costs Act is administered in a financially responsible and appropriate manner. It is a bill that deserves the support of the house.

Mr HULLS (Attorney-General) — In summing up briefly I thank all members for their contributions. The shadow Attorney-General mentioned a letter from the Law Institute of Victoria. I know of the contents of that letter. I wrote to the federal Attorney-General, Philip Ruddock, in relation to that matter asking him to fund commonwealth cases under the Appeal Costs Act, and he has written back to say that he will consider that in

the 2005–06 funding round. Those cases are a problem for all jurisdictions, so I hope the shadow Attorney-General will help me lobby the federal Attorney-General in relation to this matter.

In relation to the Criminal Bar Association letter that has been kindly handed to me by the shadow Attorney-General, I note it is dated 2 May 2003, so it is an old letter that raises some of the issues in the early stages. I note in the letter that the association says it has not received a response from me. The government has been negotiating with the Criminal Bar Association over the last 12-month period, and there is no cap on a trial that is aborted or discontinued and none of the changes in my view should affect counsel being able to commit to a matter. As you can see from the second-reading speech, they will just not be paid what was previously described as a ‘disappointment fee’ for more than a couple of days. A lot of the matters raised in that letter have been addressed through consultation.

Regarding the deficit issue raised by the Leader of the National Party, the deficit in 2002–03 was \$3.8 million. That is why — —

Mr Ryan interjected.

Mr HULLS — Consolidated revenue. That is why we do need to ensure this is cut back in a fiscally responsible manner and is why we believe these changes will go a long way towards ensuring that that occurs. I commend the bill to the house.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

DEATH NOTIFICATION LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 6 May; motion of Mr HULLS (Attorney-General).

Business interrupted pursuant to sessional orders.

Sitting continued on motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — This bill arises out of a report by the Secretary of the Department of Human Services into the system for dealing with multiple child

deaths. I understand there was a particularly difficult situation in which the department found itself in relation to a family, I think in Geelong, where a number of deaths arose. I have had the opportunity of perusing that report, but I cannot say I have read it in detail. It is a matter of concern to all of us where a family has suffered the loss of any child, but to suffer the loss of a subsequent or second child is a matter of profound concern.

The principal purpose of the bill is to create a new category of what is called ‘reviewable death’. We have reportable deaths where there is an unnatural or violent death or the death of a child under the care of the Secretary of the Department of Human Services, but this measure creates a reviewable death, which occurs in the situation where in one family a second or subsequent child dies. The definition of family is extensive, in that it includes the normal situation of a married couple or foster parents or adoptive parents, as well as the guardian and a person who has custody or daily care or control. So it is a fairly broad definition of parent and in some situations a notional family. The child in that situation would be covered in the definition of reviewable death.

Once there is the notification of a reviewable death there is the obligation to report the matter by medical practitioners, police officers and so on. It sets up a register where the registrar of births, deaths and marriages is to provide the coroner with information regarding reviewable deaths and the existence of living siblings. It is not just to go through the coronial process, because under the legislation the coroner is required to conduct an inquest into that death or review that death. The measure also initiates a process and mechanisms of support for the family and the siblings to determine whether there are extensive problems which the family and the children may face. It is both looking back and addressing a prospective problem.

The opposition has no difficulty with this measure and certainly agrees with the principle. The member for Caulfield will address this matter. She has a far more extensive knowledge of the issue that we are dealing with here.

Amendments are made to the Human Services (Complex Needs) Act to bring the confidentiality provisions of that act into line with the Mental Health Act and the Health Services Act. It makes sense to have concomitance across pieces of legislation. The bill will give greater powers of investigation to the Victorian Institute of Forensic Medicine and the Consultative Council on Obstetric and Paediatric Mortality and Morbidity to investigate the instances of multiple child

deaths. With those few words, the opposition supports the principle of this bill.

Mr RYAN (Leader of The Nationals) — Might I say from the start that the brevity which I suspect will be associated with the overall debate on this important legislation bears no relationship to the significance with which I am sure all members of the house view these issues. The matters that are contemplated by a bill of this nature are in a sense beyond the understanding of many of us, because it deals with issues of a scale of tragedy that, if I may say, one would hope never to have to contemplate, let alone experience. I make that opening remark in the sense of saying to the house that I do not intend to make protracted comments on the legislation.

In August 2003 the Premier requested a report on the adequacy of the system that was then in place dealing with multiple child deaths within one family and recommendations as to how the system could be improved. The circumstances of the query arose from a tragic trail of events that occurred in Geelong. In all the circumstances the names and such do not matter in the context of specifics, but the general principle was that the Premier called for a report and the legislation before the house is the outcome of that report.

Presently the coroner has to review a range of what are called reportable deaths, and those are defined in accordance with the principal act. In the general sense they are deaths that are unexpected, unnatural, violent or occur in persons who are under various forms of state supervision. At present not all deaths of children are reportable. This bill amends the Coroners Act to create a new category of what are termed 'reviewable deaths', which are defined as being second or subsequent deaths of children of a family. The coroner will have the same power in relation to reviewable deaths which now exists in relation to reportable deaths.

The coroner is also empowered under this bill to report a reviewable death to the Victorian Institute of Forensic Medicine. The coordinator of the institute is empowered to investigate a reviewable death and to advise the coroner of such investigations, including any assessment that may be made as to whether the family should be referred to specialised health or support services and whether a child protection notification should apply to any surviving siblings. Obviously the principle underpinning all this is to accommodate the needs of the other siblings in the family where, for one reason or another, the circumstances of the legislation are triggered. There are amendments to a number of other acts which are intended to ensure the exchange of information on a basis that is determined by the content

of the bill and the capacity for intervention, which is intended to best protect siblings of a child whose death is categorised as being reviewable.

The situations that might arise to bring this legislation into play are probably beyond the comprehension of most of us. Be that as it may, the tragedy which gave rise to the Premier first calling for this report and which in turn led to the development of this legislation goes to demonstrate that these situations do occur from time to time. This bill is intended to address them, and The Nationals wish it a speedy passage.

Mr WYNNE (Richmond) — I rise to support the Death Notification Legislation (Amendment) Bill, and I thank the opposition parties for the sensitivity with which they have dealt with this piece of legislation.

As has been indicated by previous speakers, this bill has arisen as a result of a request by the Premier in August in 2003 to report on the adequacy of the systems for dealing with multiple deaths within one family. As we know, the concerns arose over the deaths of four children in the same family but where no connection could be made between the deaths until the fourth child died. As my colleagues have indicated, it is almost unimaginable to think of the death of one child in your own family, but to even consider for a moment the death of four children in the family is truly horrific, and it is appropriate that we put in place a set of checks and balances to seek to support families in those circumstances.

I want to touch briefly on some of the key outcomes of the report, because they are illuminating. There was a joint report from the Department of Human Services, the State Coroner and the Chief Commissioner of Police which focused on the systems for dealing with two or more deaths in the one family. It highlighted the need for an effective and coordinated approach between agencies. This sounds very simple, and in essence it is, but in a systemic way given the tragic circumstances that we have seen in this particular case, they did break down. The report revealed that there was no systemic means of triggering a multidisciplinary assessment of the needs of the surviving siblings or the risks to prospective children.

Currently a child's death can only be notified and recorded where a person has a reasonable belief that a living sibling may be in need of protection from physical or sexual abuse or neglect. Where there are at least two child deaths in the one family a query may be raised as to whether any surviving siblings may be at risk, but this in itself does not constitute reasonable grounds that a living sibling is at risk of significant

harm. The Department of Human Services has no authority to investigate children and their families unless it receives a notification that a child may be in need of protection. The law in this case attempts to strike a balance between the need to protect children and the need for families not to be subjected to unwarranted and unnecessary state intrusion. The report identified the fact that there was no systemic means of enabling all the relevant authorities to identify cases of multiple child deaths within the one family unit.

In view of the gaps in the reporting process a number of legislative changes have been recommended, including the creation of a coordinator to assist families coping with child deaths. The report appropriately suggests a multidisciplinary approach to bring together the expertise and perspectives of all the different professionals that have contact with the family.

An amendment to the Coroners Act will create a position within the Victorian Institute of Forensic Medicine for the gathering and coordination of information in relation to the health and/or child protection needs that may be forthcoming from a family's circumstances. The coordinator will consult all those with relevant information, including the police, doctors, coroners and other staff, and assess the need for child protection. That may include a case conference, which is a well-established process within the Department of Human Services. As the opposition parties have indicated, we want to ensure there is a greater, system-wide focus.

A new category of reviewable deaths will be introduced into the Coroners Act. Clause 4 of the bill provides that all second or subsequent deaths of children are to be referred to the State Coroner for investigation. These reviewable deaths will be referred to the registrar of births, deaths and marriages by those already required to report reportable deaths under the act.

Following the death of any child in Victoria, the registrar of births, deaths and marriages will provide information to the coroner of any previous child deaths or living siblings. Registrars across Australia will examine the possibility of linking the registers of births, deaths and marriages to try to keep track of families who move interstate. It is important that we work towards a national approach. The Attorney-General, through the Standing Committee of Attorneys-General process, will be seeking to achieve national consistency to ensure we are able to track families because there are circumstances where families are mobile and move from state to state.

The government has moved quite quickly on this. From the perspective of all sides of the house this piece of legislation enjoys bipartisan support. It is important that we understand that multiple child deaths are quite an infrequent occurrence in the Victorian community. I understand from the briefing provided by my colleagues in the Department of Justice that there may be 1, 2 or 3 cases a year and sometimes there is none. Nonetheless it is cause for us to pause when we hear of these tragic circumstances — many of us have young children ourselves — and to reflect for a moment on the devastation sudden deaths wreak upon the parents, surviving siblings, extended families and the support structures around those families.

It truly is devastating when a child dies in circumstances which are unexplained; in fact, it is devastating when a child dies in any circumstances but most particularly when a circumstance is unexplained — it leaves so many questions open and outstanding for families. I think the approach taken here by the government is indeed the appropriate one, with a multidisciplinary approach at the heart of it. I commend the bill to the house.

Mrs SHARDEY (Caulfield) — I rise to make a contribution on the Death Notification Legislation (Amendment) Bill. The opposition does not oppose this piece of legislation. We know that the genesis of this bill lies in the tragedy of four child deaths in one family of five children. I am sure everybody in this house regards the death of any child as an absolute tragedy. In my lifetime two family friends have lost children; one was less than 10 days old and the other was about four years of age. In each case it was a viral infection that caused those deaths. I am acutely aware that this devastated those families, and in one particular case probably caused a marriage breakdown.

However, there are important issues with this particular situation. The issue that arose in relation to the tragedy of these four child deaths in the one family was that even though the Department of Human Services (DHS) protection unit had been notified of each death, unfortunately it seemed unaware that four children in the one family had died until after the fourth death. When all of this came to light in August 2003 the Premier called for a report which was prepared by the coroner, the police commissioner and the Department of Human Services. As has already been noted, and I quote from the *Australian Financial Review*:

The report found that no coordinated action was taken to investigate the Geelong case until after the fourth death. It recommended clarifying the roles of agencies dealing with child deaths and better information sharing.

That is what this legislation is about. While apparently there was no legal requirement for DHS to make links between the deaths of these four children who were not in the care of the department, it does seem very sad that having received information about each of the deaths and having provided advice to the coroner, records were not kept and the alarm bells did not ring leading to the situation we found ourselves in.

I suppose in a sense what the Liberal Party would like to see as an overall policy direction in relation to some of these things is a commissioner for children and young persons. We believe this is a direction which would perhaps offer the opportunity for such an office to look at these sorts of situations. From time to time we see very serious issues arising in the child protection area. While this is not an issue of child protection as such, it has the potential to be so, and that is why this legislation is so important.

When a child dies there is a defined process, as there is when an adult dies, which involves the need for a death certificate, for burial. A declaration of a reportable death is needed if a reason cannot be found and the death was unexpected, unnatural or violent. It involves a coronial investigation of reportable deaths. It involves children and adults in the care of the state who die being treated as reportable deaths, which leads to an inquest. It involves an inquest taking place. Where there is a suspected homicide it involves the Victorian Institute of Forensic Medicine being asked to perform an autopsy to determine the cause of death. It involves an autopsy for all cases where sudden infant death syndrome is suspected. It involves the registrar of births, deaths and marriages being notified in order to register a death, and it involves a form being sent to DHS when a child dies to determine if the child was in the care of the state or there had ever been a notification of abuse which may be relevant to a coronial inquiry.

The Department of Human Services has made it clear that without a notification about a living child, the child's name would not be recorded on the CASIS (client and service information system) database and DHS would have no means of tracking the child or family in the future. As I have said already, perhaps it is time regardless of there not being an absolute requirement that when advice is given the department should record those names to ensure there could be follow up and linkages made, regardless of any other processes in place.

Additionally the Victorian Child Death Review Committee reviews investigative reports of all deaths of any child or young person who was a client of DHS child protection services at the time of or within three

months of their death. All children who have been in the care of DHS should be investigated. The three-month rule should not apply. I do not believe it applied under the previous government. That is something I happen to be passionate about.

Of course what prompted this review was the four deaths in this particular family. Although the police identified that there were previous deaths in this family and had advised the coroner, neither the police nor the coroner has a system in place for making connections between deaths and identifying living siblings of the deceased children. The Victorian Institute of Forensic Medicine has the capacity to identify previous deaths in one family but only if they are in the coronial system. In this particular instance apparently the coroner assumed the DHS had a link in place that would alert child protection to multiple requests relating to one family. For this family DHS was in this case informed of each child's death within 24 hours, but because there were no notifications about any of these children the linkages were not made.

The conclusions and findings in relation to the report that was handed down found that there were no systematic means of identifying cases of multiple child deaths and the existence of living siblings, and there were no systematic means of ensuring early assessment of the family's health needs in multiple child death cases or the needs of surviving siblings. Some of these issues are now being addressed, which I am very pleased to see.

The key elements of the bill are: the creation of a new category of reviewable death, which means that all second and subsequent deaths in a family will become reviewable and be treated the same way as a reportable death. There will be an investigation. Members of the medical profession and the police will be required to report such deaths. The coroner will be able to investigate a reviewable death as he sees appropriate. He will have the power to refer it to the Victorian Institute of Forensic Medicine for consideration and investigation. He maintains the power in relation to reportable deaths, and deaths may be both reportable and reviewable.

The coordinator of the Victorian Institute of Forensic Medicine has three functions in this process. Firstly, investigating these deaths and reporting to the coroner; secondly, assessing whether the family should be referred to specialised health or support services which it may need; and thirdly, considering whether to make a child protection notification in relation to surviving siblings. This is a very important process because it goes down a fine line. On the one hand, it needs to fulfil

the needs of the grieving family, but on the other hand it needs to protect surviving siblings who may, and I say 'may', be at risk.

I leave it to others to acquaint themselves with the other technical elements of this bill. Quite obviously this was a very sad situation for the community, but it did raise issues which needed to be addressed and which I believe have now been addressed in this piece of legislation. I go back to my previous point — I still believe that a commissioner for children and young persons would perhaps be capable of looking at all of these issues in a way which would be quite independent of departments and others and have a more overriding view. This is important for the community.

Mr HULLS (Attorney-General) — I thank all those who contributed to this debate on what is, I think everyone agrees, a very important piece of legislation. The report into the system for dealing with multiple child deaths noted it is important to keep in mind that the death of a child is possibly the most devastating experience that can happen to a family. It certainly evokes deep sorrow and empathy in the family's extended community. The trauma is compounded where a family experiences the death of more than one child, especially when there is no known medical reason for the deaths. The review also emphasised that the community not only expects the government authorities to be sensitive to the grief and trauma of families who have experienced multiple child deaths but that priority should be — and indeed will be — given to protecting living children within the family if there is reason to believe that they are in need of protection.

The legislation sets up a new category of reviewable deaths, and I understand that the state coroner's office estimates there are approximately 50 reviewable deaths each year. The vast majority of these will also be reportable deaths, and in practice will be investigated under the reportable death provisions. However, the reviewable death provisions remain a critical tool in establishing whether a child protection response is required to protect living siblings or support services are required for the grieving family. This legislation will ensure that occurs. It is important legislation. I thank the opposition and The Nationals for their support, and I wish the bill a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr HULLS (Attorney-General).

ADJOURNMENT

The ACTING SPEAKER (Mr Nardella) — Order! The question is:

That the house do now adjourn.

Hume: administration

Mr HONEYWOOD (Warrandyte) — The matter I wish to raise is for the attention of the Premier in relation to his responsibilities for the Ombudsman's office. I request that the Premier investigate concerns recently expressed by R. G. Seamer, senior assistant ombudsman, about what he described as the 'limited resources' available to the Ombudsman's office to pursue serious concerns raised by the Sunbury Conservation Society about the activities of its local municipality, the infamous Hume City Council.

Over a period of some years now this conservation society which is made up of genuine community-focused local volunteers has had major difficulties in getting the local council to reveal the true facts related to, firstly, the ownership and liability for Emu Bottom carriageway; secondly, the alleged dumping of fill which may or may not be contaminated in Racecourse Road; thirdly, the illegal removal of native flora, particularly wattle trees from Cornish Street, Sunbury; and fourthly, the problem of car dumping in various parts of Sunbury. Another ongoing concern raised is the total lack of a waterway management authority for the Werribee and Upper Maribyrnong river catchment areas.

After getting absolutely no joy from Hume council regarding these serious matters, executive members of the conservation society raised their concerns with the local state MP for Macedon. Here again they received short shrift and gained no resolution from their state MP as was also the case subsequently with the federal member for Burke, Mr Brendan O'Connor. I even have a copy of a letter dated 5 October 2002 from the conservation society to the then Minister for Environment and Conservation, the member for Bundoora, which is co-signed by Joanne Duncan and Brendan O'Connor. Two years on, however, the silence and lack of action is deafening. Apparently one of the stumbling blocks is that seven of the nine Hume city

councillors are currently Labor Party members, so the local federal and state Labor MPs do not want to upset the comrades.

As a final act of desperation the Sunbury Conservation Society wrote a number of letters to the Ombudsman, and Mr Seamer from the Ombudsman's office finally wrote back on 19 April 2004. I have the letter before me. He explained that no further action would be taken by the Ombudsman's office, and he referred to the limited resources available to him

All honourable members would have a real concern about this. We have just been debating a very important bill this week, during which we were assured that the Ombudsman will have all the available resources to investigate a wide range of police corruption issues in this state. It would worry me on two counts if we had the Ombudsman's office writing letters saying that he had no resources. Firstly, on the count that there would be a million dollars of petty cash that has been provided for the Ombudsman's additional power to look into police corruption, I would worry that there would not be enough to cover police corruption. Secondly, I would be worried about how many genuine local issues of concern involving council mismanagement, in this case, would be ignored because of the Ombudsman's other power as a result of money being diverted to that power to investigate police corruption.

Bushfires: fuel reduction

Ms LOBATO (Gembrook) — I raise a matter for the attention of the Minister for Environment concerning the need to provide information to the residents within the Dandenongs and beyond.

I request that the minister provide resources and support to conduct information sessions and consultations between the residents and other stakeholders, including the Country Fire Authority, Parks Victoria and the Department of Sustainability and Environment (DSE).

Over the past few months I have spent a considerable amount of time visiting all my CFA units in the electorate of Gembrook. Some of those around Emerald, Cockatoo and Gembrook expressed much concern about fire risk in local forests. Also these concerns were expressed by other CFA units in the Upper Yarra such as Millgrove and Wesburn. Many residents have also expressed their concern as they reside next to or close to forest areas. They consider that there is a lot of undergrowth and that that presents a risk to their safety and their homes.

From representations made to me, many residents feel very anxious about the potential for disaster in the neighbouring forest, particularly in the summer months. They sometimes believe they have done all they can to ensure that their homes are protected by putting in the necessary preventive measures, like water tanks, sprinklers and so forth; then they look next door and see what they perceive as a dense undergrowth and believe that that should be back-burnt.

Late last year I organised for a representative from the Department of Sustainability and Environment to visit Wrights forest, which is a forest backing onto some neighbouring houses in Cockatoo. The DSE visited with the concerned residents, and that exercise proved very useful. What I am asking is that there be more consultation between the DSE, Parks Victoria and residents. The Cockatoo township committee contacted me recently asking that all these parties get together, go for a walk through the forest and look at the amount of undergrowth. I think this would prove a very useful mechanism for some forums to be conducted throughout my electorate.

Schools: Victorian certificate of education

Mr DELAHUNTY (Lowan) — I raise a matter for the attention of the Minister for Education and Training. The action I seek is that a review be conducted of the acts, regulations or directions that stop teachers from informing parents of students' Victorian certificate of education (VCE) results during the school year. I ask that appropriate changes be made so that teachers can inform parents of their children's results.

In my electorate office last week I had a discussion with a parent who was extremely upset because he thought that because of the Privacy Act he was not allowed to have access to his son's VCE results. He had been up to the school to have a discussion about his year 12 student son and was told at a parent-teacher interview that the teacher could not give him the results. He thought this was because of the privacy laws. The student was at year 12, VCE level, and was studying physics.

The discussion continued, the parent demanded the result and the teacher said, 'I can give you a rough idea. Your student is about average'. The parent thought that was fair enough, so he went home and said to his son, 'I forgot to ask you this morning what your result was. What is it for physics?'. His son replied, 'It is 30 per cent'. The father was not too happy about this, and after discussion with the student the family is getting tuition to try and improve that student's results.

That parent has gone further and spoken to Mr Brian Foster, the acting chief executive officer of the Victorian Curriculum and Assessment Authority, who has still not responded to his concerns. In researching this issue I looked up the Victorian Curriculum Assessment Authority Act 2000 and found that section 6(1)(j), which is headed 'Functions of authority', reads:

... prepare and maintain records of student assessment and, on request, provide a copy of a student's record to the student or a person authorised by the student to receive it;

The trouble is that this parent is very concerned. At around the same time he was speaking to me there was an article in the paper from a police superintendent saying that parents must take more responsibility for their children. This parent highlighted to me that on one hand parents are expected to take more responsibility, but on the other hand we have Victorian government acts, regulations or directions saying that the parents cannot be informed on what their children are up to at school.

As I have said many times, education and training are vital for the continuing development of our country kids, and whether it be because of the privacy law or this law, the matter is causing some concern to parents. Again I ask the minister to review those acts, regulations or directions to see whether something can be done so that parents can be informed, without having to go to extreme lengths, of students' results during the VCE year.

Tourism: Geelong and Bellarine Peninsula

Mr CRUTCHFIELD (South Barwon) — I direct my adjournment item to the Minister for Tourism, the minister at the table, and it concerns tourism in the Geelong region. I ask the minister to take the necessary steps, through Tourism Victoria, to ensure the elevation of Geelong and the Bellarine Peninsula to a level 1 or priority destination. Geelong and the Bellarine Peninsula are significant visitor destinations, and the tourism industry is vitally important to the region.

In Victoria's tourism industry strategic plan for 2000–06 Geelong and the Bellarine Peninsula were identified as a level 2 destination. Since the launch of that plan Geelong has put forward a compelling case to become a level 1 or priority destination. This priority status is given to regions that have a strong mix of international, interstate and intrastate visitors; demonstrated international and national appeal; strong links to Victoria's key products; and proximity to Melbourne.

In 2002 the Geelong region received 26 000 international visitors, equating to 335 000 visitor nights; 1 million domestic overnight visitors; and 2.5 million domestic day visitors. Total visitor spending in Geelong and the Bellarine Peninsula region is now worth some \$478 million per annum, with this expenditure generating 4200 jobs in the Geelong region.

It is an industry that involves everyone — from the small bed and breakfast operator to the owners of the larger hotels, and from local cafes to wineries such as Minya in Connewarre and everything in between — but importantly it affects every shop and service station and every other small business.

As the member for South Barwon I have the good fortune to live in what I consider to be one of the most beautiful parts of the state, and it also has a highly active and productive tourism industry. I have no doubt about the value of tourism to the local region. We have an increasing number of visitors to our area each year, which is why I, as well as the government, regard tourism as such a critical part of this state's economy.

Geelong and the Bellarine Peninsula, therefore, warrant recognition, along with Ballarat and Bendigo, as level 1 destinations. This would entitle the area to a higher priority status for planning, development and marketing opportunities, all of which are critical to the future development of this significant industry. Geelong is a significant visitor destination. Situated near the start of the Great Ocean Road, it boasts waterfront cafes, restaurants and open spaces, and I note that many members have experienced that wonderful, eclectic mix of opportunities. They also include, as I said, its proximity to the Great Ocean Road, its proximity to Melbourne, its water-based activities and its retail prospects. The community is working hard to ensure that tourism remains a significant local industry, and for that I would like to commend Geelong Otway Tourism, Geelong by the Bay, our local tourism association, and the City of Greater Geelong.

I therefore seek from the Minister for Tourism reassurance for the communities in my electorate that he will take the necessary steps to ensure the elevation of Geelong and the Bellarine Peninsula to level 1 destinations.

Housing: software contract

Mr KOTSIRAS (Bulleen) — I raise a matter for the Minister for Housing in another place through the Minister for Tourism. It concerns the alleged payment of \$18 million to a British software company, Anite International, by the Office of Housing for the

development costs of a product. I ask the minister to investigate this deal to see whether the proper process was followed and whether the deal agreed upon is in the best interests of all Victorians.

An article I have about this company states:

Imagine a perfect world for software developers ... a developer gets paid big bucks to develop a leading-edge software product for clients with deep pockets and then earns fat annual maintenance fees from that client for years to come. And as icing on the cake the developer gets to keep 100 per cent of the intellectual property of the product it develops for the client, so it can resell the same product all over the world for huge profits.

The Office of Housing has made such a deal with Anite International to develop a new housing management system. However, the Victorian government has not claimed ownership of the resulting intellectual property. The government has paid \$80 million to a company that will be free to sell the product much more cheaply to other governments in Australia or overseas, without the government getting a return on its investment.

Anite will also earn support fees from this government for the next seven years as part of this contract. The article goes on to say that this type of deal would not have occurred in the private sector without the client claiming ownership of the resulting property. Unfortunately it has occurred here. Victoria is losing millions of dollars as a result of the debacle of its telecommunication, purchasing and marketing strategy, and the Office of the Chief Information Officer has been silent. He has not been heard of since he was appointed.

Victoria claims it is a leader in information and communications technology (ICT). Unfortunately this is a joke. Indeed the government's own web page claims:

The Office of the Chief Information Officer has been established to lead e-government and ICT strategy for government in Victoria ...

It says that the Victorian government sector will focus on ensuring the government's ICT spending is aligned with priorities, reducing costs, setting standards and providing advice on ICT to government. This seems to have failed on this occasion, so I ask the Minister for Housing to investigate to see if Victoria has lost out as a result of this \$80 million deal that the Office of Housing has signed with this overseas company.

Police: Reservoir and Preston streets

Mr LEIGHTON (Preston) — The matter I wish to raise is for the Minister for Police and Emergency

Services. I ask the minister to request the Victoria Police to investigate the activities of a particularly moronic group of speeding motorists in Reservoir and Preston streets. There is only one way to describe them and that is as hoons. There are a few different areas involved, but some of the streets I am concerned about are Cheddar Road, Rubicon Street and Pallant Avenue in Reservoir, and William Street in Preston.

The issue I am particularly raising tonight concerns an area around Darebin Boulevard and Hickford Street in Reservoir, which these hoons are using as a race track, and also an area around Invermay Street and Gertz Avenue in Reservoir, which is being used for drag racing. There have been several accidents. One hoon cut off a young woman, who wrecked her car. Another car has been run into a fence. When you look at these streets it is easy to see the tyre marks from the hoons doing burnouts and wheelies. There is a level of cunning among these hoons. They seem to know where the police are at any particular time. They disconnect their tail lights so residents cannot easily note their rear numberplates.

I acknowledge that there has been a boost in police resources in Preston and Reservoir since 1999. We have had a \$7 million new Preston police station and a 12.3 per cent increase in uniformed police, and I am also appreciative of the way the Reservoir police in particular have been responding; but the problem continues with these hoons. They really are cretins and morons. If they do not care about killing some innocent person — and the area I am talking about has an ageing population — perhaps they ought to think about the consequences for themselves if they kill someone, because that would destroy their own lives in the process.

I would be grateful if the police minister would request Victoria Police to investigate whether there are some coordinated ways to tackle this problem. Perhaps police officers could use unmarked cars and target some of these streets.

Wild dogs: control

Mr INGRAM (Gippsland East) — The matter I raise is for the attention of the Minister for Environment. The action I seek is for the minister to guarantee the resources available for wild dog control in East Gippsland and in particular to make sure that those farmers in my electorate who have been losing devastating numbers of stock — mainly sheep — to wild dogs have the capacity to deal with the problem.

I would like to highlight to the house the impact of wild dogs right across East Gippsland, particularly in the subalpine areas around Benambra, Omeo and Swifts Creek — the member for South-West Coast is in the chamber, and he knows that area well — that rely heavily on the sheep industry. It has been hard for the producers. They went through the fires in 2003, and now for a variety of reasons there is a vast increase in the number of wild dogs in those areas causing further problems. A constituent from Benambra has sent a letter to me which highlights the impact of the dogs, and not only on the agricultural areas. Clive Anderson said:

This vermin pressure on our native fauna is overpowering. We notice our native wildlife numbers diminishing. Without the extended funding, retention of the local DPI trappers and an active dog baiting program our farming enterprise is in jeopardy.

Not only that, it also highlights the major impact on producers.

There are also diary entries, and I will go through some of them. In the 12 months to April 2004 they have lost 177 sheep and lambs, and that is with the increased numbers of trappers. These producers lost hay sheds, buildings and nearly all their fences in the fires, so this is a further devastating impact. The number of sheep killed in the first two months of the year were: Friday, 9 January, 3 sheep; Saturday, 17 January, 2 lambs; Sunday, 25 January, 2 sheep; Saturday, 31 January, 4 sheep; Wednesday, 11 February, 4 big lambs; Friday, 13 February, 2 lambs; Monday, 16 February, 3 lambs; Tuesday, 17 February, 3 sheep; Saturday, 21 February, 2 sheep; and Thursday, 26 February, 3 lambs. The list goes on, and these diary entries cover over 12 months.

The devastation for producers is quite extraordinary, so I ask the minister to take action to ensure the producers are protected.

Trucks: Boronia

Mr MERLINO (Monbulk) — I raise a matter for the Minister for Transport regarding a truck advisory route in Miller Road and Albert Avenue in my electorate. The action I am seeking from the minister is that he approve an alternative truck route and the corresponding construction of a left-hand turn slip lane at Dorset Road.

Over the last 18 months I have received representations from many residents of Miller Road, The Basin, and Albert Avenue, Boronia, indicating their concerns about the safety of these roads, particularly in regard to heavy truck usage. Miller Road and Albert Avenue are

local collector roads which form part of a connection between Canterbury Road and Boronia and Dorset roads. These roads are used by through traffic, including heavy vehicles, avoiding Dorset Road.

A residents petition to the City of Knox in 2000 led to council staff meeting with VicRoads representatives and other key stakeholders in January 2001 with the intention of reaching agreement on things such as truck advisory signs. There was a general understanding at that time that major roadworks and improvements in Dorset Road and the bridging of the railway at Boronia would result in traffic that previously had diverted on to local roads using the more appropriate Dorset Road, which is designed for heavy traffic. Whilst this was the case in some instances, Miller Road and Albert Avenue gained no advantage and are still bearing a significant amount of heavy traffic, which is a concern in these residential streets.

Parents are particularly concerned about the safety of their children playing in their front yards while very large trucks travel down these residential streets. VicRoads has also received many representations directly from residents on this issue. In response VicRoads has developed a proposal for the signing of an advisory truck route along Canterbury and Dorset roads. For this advisory route to be effective modification is required to the left-turn slip lane from Canterbury Road into Dorset Road to assist trucks in making this movement. VicRoads submitted a proposal for funding in 2004–05 for the extension of the left-turn lane on the south side of Canterbury Road to the east of Dorset Road.

I acknowledge at this time the efforts of Cr Ben Smith from the City of Knox, who has worked very hard to find a solution to this problem from within the municipality and with VicRoads as well. Cr Smith and I have worked together on this issue, and I thank him for his support.

With the duplication of Canterbury Road being announced in the 2004–05 state budget there is a great opportunity to solve this longstanding issue. The duplication of this remaining section of Canterbury Road includes the Dorset Road intersection, so it makes sense to try and solve this problem at the same time as we are finishing the duplication of Canterbury Road. I ask the Minister for Transport to accept this proposal for a more appropriate alternative truck route, and I urge him to act on this quickly.

Spencer Street station: ministerial responsibility

Ms ASHER (Brighton) — The issue I have is for the Minister for Major Projects, and the action I am seeking from him is to advise the house whether or not the Spencer Street station development is his responsibility. Sometimes he takes responsibility and sometimes he does not. When it is good news he claims the development is his, and when it is bad news he says the development is not his. In the 2003–04 budget the Spencer Street station redevelopment is dealt with on page 115 of budget paper 3 and is claimed as ‘a significant achievement during 2002–03’. Further, I note in the 2004–05 budget, on page 119 of budget paper 3, that the redevelopment of Spencer Street station is a key performance indicator for the Minister for Major Projects, and the timeliness and the components of the development are specified in that budget paper.

The 13 announcements in relation to the Spencer Street redevelopment were in fact the minister’s announcements. His launch with the Premier indicated it was the minister’s project. Even as late as last week, on 20 May, he claimed it was his project in a presentation to the Public Accounts and Estimates Committee. The minister acknowledged then that Major Projects Victoria was the responsible authority. The problem for the minister is that on 6 and 7 May he told the media it was not his responsibility, and again on 21 May he told the media the project was not his responsibility.

Let us just run through this again. In 13 announcements and 2 budgets the minister has claimed the Spencer Street redevelopment project was his. On 6 and 7 May this year, in response to bad news, he claimed the project was not his. On 20 May he reported the project to the parliamentary Public Accounts and Estimates Committee as his project. Yet the next day on television, confronted by bad news about the project, he said it was not his responsibility.

Of course it is the minister’s responsibility. The Spencer Street Station Authority reports to him and he is paid to be the Minister for Major Projects, not the minister for renouncing major projects or the minister for handballing major projects. While he explains to the house about this shifting of responsibility — where one day it is his, one day it is not his; when it is good news it is his project, when it is bad news it is not — and while he grapples with that, and if he deems it appropriate to come into the house, he might also like to advise the house whether he still thinks the project

will be completed by mid-2005 as he has previously claimed.

Public transport: eastern suburbs

Ms MARSHALL (Forest Hill) — I rise tonight to bring the matter of public transport in the eastern suburbs to the attention of the Minister for Transport. The action I seek from the minister is an undertaking that he will ensure the Department of Infrastructure’s public transport division continues to coordinate the development of a public transport plan for Melbourne’s outer eastern suburbs. Nobody in the eastern suburbs wants a return to the way the public transport system was run under the Kennett government, when far too frequently there was no consultation with the community on any issue. Public transport was no exception, and many important decisions and strategies were put together by road engineers from VicRoads, local councils and Department of Infrastructure bureaucrats, without community consultation.

Then we had the ticketing machine fiasco where machines at train stations were repeatedly out of order, at times due to vandalism but in many cases due to faults with the machines. This meant that people were unable to purchase tickets, resulting in many people being fined unreasonably.

More recently we had the total collapse of the privatisation model set up by the Kennett government in 1999. The biggest private operator, National Express, bailed out in December 2002 and the other operators, Yarra Trams and Connex, have sustained heavy financial losses. The result of this failed privatisation experiment is that maintaining a viable public transport system depends on a government subsidy of more than \$1 billion over the next five years.

The people of the eastern suburbs want a well-run and maintained public transport system, and I believe the Bracks government has taken the right steps to improve public transport in the eastern suburbs. The government has developed the outer eastern public transport plan, which recognises that the eastern suburbs have experienced significant growth in the past decade. The plan recognises the importance of public transport infrastructure and will play a role in supporting current and future communities — economically, socially and environmentally.

The Bracks government has drawn up a comprehensive plan involving the input of all stakeholders — VicRoads, local councils, the Department of Infrastructure and the wider community. Community forums were held in Melbourne’s outer eastern suburbs

during February 2003. These meetings were held to gauge the views of residents, workers and businesses in the area about how the outer eastern public transport plan could accommodate their future travelling needs.

Residents in Forest Hill will benefit from this plan, particularly from the introduction of Smart Buses and the Vermont South tram extension. The SmartBus program provides cross-town bus services using arterial roads which efficiently and reliably link railway stations, shopping centres and community facilities. The program is currently successfully operating between Nunawading and Springvale railway stations on Springvale Road and between Blackburn and Clayton railway stations on Blackburn Road in Melbourne's south-eastern suburbs.

The tram extension and upgrade to bus services will combine to deliver the community a number of benefits including more flexible, integrated and higher quality public transport, making it easier to reach shops, services and job opportunities.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member's time has expired.

Responses

Mr BATCHELOR (Minister for Transport) — The member for Monbulk raised with me the issue of a desired truck route for Canterbury Road and Dorset Road, principally in relation to movements where trucks are going into the city, travelling from east to west, and there is a large number who seek to turn left into Dorset Road. The problem is, as the member for Monbulk correctly pointed out, that this is a difficult manoeuvre for many trucks, and they seek to make their journeys easier by taking other routes. This is achieved by trucks going down Colchester and Liverpool roads, turning and eventually finding their way down to the intersection of Albert Avenue and Miller Road. As a consequence there is an increasing number of trucks going off Canterbury Road before they get to Dorset Road and ending up in these areas where neither the infrastructure of the road nor the surrounding residential amenity is best suited to through truck traffic.

The member for Monbulk asked for a number of treatments to be undertaken to overcome the fundamental problem that locals roads like Albert Avenue and Miller Road were not designed to accommodate the sort of traffic that is using them. He asks us to see what can be done to help encourage trucks to use Canterbury Road and to execute their left turns into Dorset Road rather than using the other

informal truck routes he has identified. Given that the member knows his electorate very well, we understand his assessment of the requirements is probably very accurate. We will take this up with VicRoads and ask it to address the issue. There is an issue relating to truck advisory signs and VicRoads will consider whether some modifications of the existing infrastructure are required in order to help encourage trucks to use the manoeuvre of going from Canterbury Road left into Dorset Road rather than using the adjoining residential streets. I thank the member for raising the matter in this place.

The member for Forest Hill raised with me the need for the coordinated development of public transport in the outer eastern suburbs. Over the next couple of decades the outer eastern suburbs are going to grow enormously. There will be a population growth of about 22 per cent and employment growth of some 47 per cent by the year 2020. The Bracks government believes it is important that public transport is upgraded to support both the current and future requirements of the outer east and the communities who live there and who will live there in the future. That is why in consultation with the outer eastern councils we have conducted an outer eastern public transport study which will be incorporated into the metropolitan travel plan. That plan will guide the government with transport priorities over the next 5 to 10 years. Key issues for consideration include the development of a public transport network that really makes it easier for people to access principal activity centres within and nearby the study area, and this is in alignment with Melbourne 2030.

The key issues also include the development of plans for better local bus services to link that public transport network; an examination of transport interchanges near the key railway stations; and an examination of transport interchanges at the principal activity centres, which again is outlined in Melbourne 2030.

Another issue is the consideration of travel awareness and behavioural change programs, which are used to promote new services and to encourage alternatives to car travel, such as the very successful Travel Smart programs that have been trialled elsewhere. We are doing this because key public transport projects are crucial to the economic and social development of the outer east.

It is interesting to note, as the member for Forest Hill already knows, that we are undertaking a number of projects already in the outer east, which include the tramline being extended from Burwood out to Vermont South — a \$42 million project — which is expected to open in 2005. This also includes not just the extension

of the tramline out to Vermont South but also a massive upgrade in the connecting bus services that will take people from Vermont South to the Knox shopping centre. We are also implementing a Smart Bus program along Warrigal Road, which will connect Mordialloc and Box Hill with high-frequency, high-tech bus services. The work for the Smart Bus route will commence in 2004.

We are also undertaking the planning and developmental plans for the Dandenong and Ringwood transit cities programs, which will integrate urban development with transport development. All these things will go towards improving public transport, both currently and in the future, in the outer suburbs. I thank the member for Forest Hill for bringing this matter to the attention of me and of Parliament. I can assure her that the Bracks government continues to work on public transport initiatives in the outer east of Melbourne.

The member for Brighton raised with me an issue about the Spencer Street redevelopment. This is an important project that the Liberal Party here, through the member for Brighton, seeks to denigrate. It is a project that will provide an important upgrade of the interchange in Melbourne to connect country services to metropolitan services and link the central business district to the new Docklands area. It will provide jobs now through the construction phase and jobs into the future.

The Spencer Street station redevelopment is a public-private partnership, which the member for Brighton acknowledges. She seems to be informed on this matter, that it is a public-private partnership, but that information has not been concealed or withheld from the public. It is absolutely a public-private partnership formed by a contract between the state and the Civic Nexus consortium. This contract was negotiated by the state, which is protected financially from time and cost overruns on the project that are not caused by the government's seeking to make variations. One of the benefits of this partnership project model of infrastructure development is to protect the taxpayers of Victoria and require the developers and their subcontractors to manage the risks that they take on board.

An issue has been raised by Leighton Contractors and its parent company about a profit downgrade that results from contractual matters that have arisen between it and the developer of the Spencer Street project, Civic Nexus. The Liberals here and the member for Brighton would have us interfere in that relationship between Civic Nexus and Leighton's. They want us to take responsibility for the contractual obligations of Leighton's. We will not do that.

This indicates how morally and financially bankrupt the member for Brighton is. When a commercial arrangement has been freely entered into between two private enterprises, Civic Nexus on the one hand and Leighton Contractors on the other, the Liberal Party's policy appears to be that the government of Victoria, the state of Victoria and the taxpayers of Victoria should take on the risks that are involved in that private commercial negotiation, and we will not do that. This indicates the response and the attitude of the Liberal Party. Its members are morally, economically and financially bankrupt, and in her contribution tonight and on other occasions the member for Brighton clearly represents that view. In fact she promotes the financial bankruptcy that the Liberal Party represents here. She happily represents that in Parliament.

We have provided in the contract that the state has with Civic Nexus for liquidated damages of \$25 000 per day to be paid to the government by Civic Nexus for delays in the completion after the agreed extension of time. The government does not have to pay Civic Nexus any concession payments until the station is operational. We are confident that Civic Nexus and its subcontractors, Leighton Contractors, will take all the necessary steps to make sure that they live up to the contractual agreements they have freely entered into between themselves — not between the state and Civic Nexus but between Civic Nexus and Leighton Contractors.

It is absolutely preposterous to think, as the member for Brighton is suggesting, that the state should bankroll this private company. We are not proposing to do that. We want the private company to live up to the contractual obligations it has entered into with another private company, and I am amazed that the Liberal Party would support the voodoo economics being put forward by the member for Brighton.

Mr PANDAZOPOULOS (Minister for Tourism) — The member for South Barwon raised with me a very important issue, something on which he has been very active. He is a strong supporter of tourism in his area, as are other Geelong-based MPs. He raised with me the issue of elevating the City of Greater Geelong area and the Bellarine Peninsula to a level 1 tourism destination.

Ballarat and Bendigo are already level 1 destinations as part of the last business strategic plan that was produced for Tourism Victoria for 2002–06. At the time Geelong was designated as level 2. While it is located in the vicinity of our biggest region for attracting international visitors, it was felt that the Geelong area had not necessarily positioned itself to a level 1 standard. Since

that time there has been a lot of discussion with Geelong Tourism about the opportunities available, and I know that the member for South Barwon and other members have spoken to me about this and think there is a great opportunity. Certainly a lot has been happening since the 2002 plan was launched a couple of years ago, and with the Jetstar flights commencing as of 1 June there is a great repositioning opportunity for the local area.

I can assure the member that we are giving serious consideration to the matter. I will be in Geelong on Friday to talk to the relevant people, and we will see if we can advance the issue. I thank the member for his hard work for tourism. Elevating the area to level 1 status certainly would be very symbolic, but if it happens it would be recognition of the fact that Geelong is taking advantage of the ability of its neighbouring region to attract a huge number of international visitors, as well as the leveraging opportunities that are available for international and interstate visitors through Jetstar.

The member for Warrandyte raised a matter for the Premier, and I will pass that on to him.

The member for Gembrook raised a matter for the Minister for Environment, and I will pass that on to the minister.

The member for Lowan raised a matter for the Minister for Education and Training, and I will pass that on too.

The member for Bulleen raised a matter for the Minister for Housing in the other place, and I will raise that with her.

The member for Preston raised a matter for the Minister for Police and Emergency Services, and I will raise that with him as well.

The member for Gippsland East also raised a matter for the Minister for Environment. I will pass that on to the minister.

The ACTING SPEAKER (Mr Nardella) —
Order! The house stands adjourned.

House adjourned 11.13 p.m.

Thursday, 27 May 2004

The SPEAKER (Hon. Judy Maddigan) took the chair at 9.33 a.m. and read the prayer.

RULINGS BY THE CHAIR

Notices of motion

The SPEAKER — Order! I want to give a brief notice to the house in relation to notices of motion. Yesterday I expressed my concern about the inappropriate nature of number of notices given in the house. The issue was later discussed by the Standing Orders Committee. Following those discussions I wish to now make a statement about the procedure for giving notice in the house in the future.

Standing order 140 requires a member to read a notice of motion aloud and provide a copy in writing to the Clerk. Previous standing orders provided for an equivalent procedure. To assist in the operation of the standing order, I advise honourable members that from next Tuesday a member wishing to give notice must deliver its terms in writing to the Clerk prior to the calling on of notices on that day.

PETITIONS

Following petitions presented to house:

Mitcham–Frankston freeway: tolls

To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:

The humble petition of the undersigned citizens of the state of Victoria sheweth the Parliament that the Victorian government has decided to break its 2002 pre-election pledge and introduce tolls on the Mitcham–Frankston (Scoresby) freeway.

Your petitioners therefore pray that the Parliament undertake to ensure that the government:

1. honours its pre-election commitment and policy as pledged to the citizens of Victoria not to introduce tolls on the Mitcham–Frankston (Scoresby) freeway; and
2. immediately reverses its decision to impose tolls on vehicles on the Mitcham–Frankston (Scoresby) freeway and thereby honour its commitment to the citizens of Victoria.

And your petitioners, as in duty bound, will ever pray.

By Mr COOPER (Mornington) (327 signatures)

Water: entitlements

To the Legislative Assembly of Victoria:

The petition of the residents of Victoria draws to the attention of the house the potential cost to rural Victoria of proposals to claw back water from irrigation and other uses to increase environmental flows in the Murray River. The government has put on the table specific proposals to reallocate over 100 gegalitres of water. It is unclear what this water will be used for. The resulting benefits for river health are unknown and may be insignificant. There are no clear proposals from the government to fairly compensate irrigators for the potential loss of their historic access rights to water.

The petitioners therefore request the Legislative Assembly of Victoria to require the Victorian government to:

take a cautious approach to redirecting water from irrigators to the environment;

specify how additional water for environmental flows will be used and accounted for and clearly explain the expected benefits to river health;

ensure there are no adverse implications for farmers or Victorian communities as a result of the government's proposals to claw back water for river health;

fully and fairly compensate water users for any reduction in access to water resources they have historically enjoyed.

And your petitioners, as in duty bound, will ever pray.

By Mr WALSH (Swan Hill) (1257 signatures)

Ordered that petition presented by honourable member for Mornington be considered next day on motion of Mr COOPER (Mornington).

Ordered that petition presented by honourable member for Swan Hill be considered next day on motion of Mr WALSH (Swan Hill).

VICTORIAN CHILD DEATH REVIEW COMMITTEE

Report, 2004

Ms GARBUTT (Minister for Community Services), by leave, presented annual report of inquiries into child deaths, *Child Protection 2004*.

Tabled.

DOCUMENTS

Tabled by Clerk:

Statutory Rules under the following Acts:

Associations Incorporation Act 1981 — SR No 39

Building Act 1993 — SR No 46

Drugs, Poisons and Controlled Substances Act 1981 — SR Nos 43, 44

Fair Trading Act 1999 — SR No 41

Financial Management Act 1994 — SR No 42

Nurses Act 1993 — SR No 45

Residential Tenancies Act 1997 — SR No 40

Road Safety Act 1986 — SR Nos 48, 49, 50

Subordinate Legislation Act 1994 — SR No 47

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rule Nos 47, 49, 50

Minister's exemption certificates in relation to Statutory Rule Nos 48, 49.

MEMBERS STATEMENTS

Ian Holten

Ms GARBUTT (Minister for Community Services) — Every year Save the Children Victoria presents a White Flame Award. The award is given in recognition of the dedication, commitment and achievements made by a Victorian in serving the needs and rights of children. Yesterday my parliamentary secretary, the member for Derrimut, presented the award to Mr Ian Holten on my behalf. Through his work with the Oasis unit Ian Holten brings together a team of people to give some of our city's most troubled young people a meaningful chance at education. He knows that through education they can gain the confidence and skills they will need to contribute in the community.

Today the evidence is inescapable: what happens to children in their earliest years — the love or rejection they receive, the education they get and the nutrition they obtain — has a huge impact on what kind of adults they will become in the future. The Bracks government has certainly put children first in its policies right across government, in health, education, road safety, policing and, of course, protecting the environment and community services. It does not only involve young children, it is also concerned with those children in the difficult adolescent years, which are the critical years that can lead young people into a lifetime of either difficulty or constructive participation in the community. No government alone can do that on its own. It needs people out there in the community who are willing to put those policies into practice.

Justices Geoff Nettle and Liz Hollingworth

Mr McINTOSH (Kew) — I would like to congratulate Justices Geoff Nettle and Liz Hollingworth on their recent appointments to the Court of Appeal and Supreme Court of Victoria respectively.

Geoff Nettle was appointed to the Supreme Court of Victoria after a distinguished career as a barrister, taking silk after 10 years at the bar. He is highly regarded by the legal profession and judicial colleagues, and he has been a strong tip for the Court of Appeal for some time. It is a matter of some note that when Geoff Nettle was a barrister the judges of this state entrusted him to represent them in the High Court of Australia in relation to claims involving their own judicial superannuation. The esteem in which Geoff is held saw him appointed chairman of the Victorian Bar Council's continuing legal education program last year.

Like Geoff Nettle, Liz Hollingworth originally hails from Western Australia. She is a Rhodes scholar and Angus Parsons Prize winner for the most outstanding law student at the University of Western Australia in her year; she was destined for great things. She was called to the bar in 1991 and read with the current chairman, Robin Brett. I had the great pleasure and privilege of sharing a suite of chambers with Liz for nearly six years. I note with real pride, if not perhaps envy, that my old floor of Owen Dixon Chambers West, the 16th, has recently produced three Supreme Court judges. We also served together on the bar council.

To my congratulations to both Geoff and Liz I add my personal best wishes, and I look forward to their undertaking the onerous responsibilities they are now charged with.

Frankston: aquatic centre

Mr HARKNESS (Frankston) — On 15 May I was very pleased once again to hand out the medals at the Frankston and Mornington Peninsula Swimming Club's semi-annual swimming carnival. As always, the club was inundated with children of all ages wanting to participate. And what a marvellous atmosphere it is at the Jubilee Park pool as children line to race, put in all their effort and then bask in the glory of having given their all! But as I presented the medals I was struck by the inadequacy of the facilities at Jubilee Park. What was once a great swimming pool has over time become tired and unable to cope with modern demands. But I am standing up for Frankston and working tirelessly with the state government, the Frankston City Council,

Monash University and the Frankston community to see whether we can improve our aquatic facilities.

The findings of a 1999 feasibility study indicate that Frankston residents make less use of public swimming facilities than people in other Melbourne metropolitan areas. A key constraint on aquatic participation in the area is the lack of a suitable facility that provides for a broad range of interests. As a strong advocate for a new aquatic centre since my election I have proposed Monash University, Peninsula campus, as an ideal site. Frankston's residents have been demanding a better facility for years, and I am standing up for Frankston to see it finally built. Monash University's expensive Peninsula campus is an ideal location. The academic director of Monash University, Professor Phillip Steele, believes an on-campus sports and aquatic centre would help Monash University grow its links with the local community and attract more students.

After being elected in 2002 I distributed a survey to residents seeking feedback on the proposed centre, and it became clear that residents want to explore alternative sites to the Samuel Sherlock Reserve. As a member of the Bracks Labor government I am standing up for Frankston to facilitate the construction of an aquatic centre in Frankston.

Boundary Bend Estate

Mr WALSH (Swan Hill) — Recently I was privileged to attend the official opening of Boundary Bend Estate, Australia's largest producer of extra virgin olive oil. First plantings were in 1998 and they began production last year. Currently there are 500 hectares of olive trees planted, which will increase to 1000 hectares.

Boundary Bend Estate plans to be the largest producer of olive oil in Australia. It is hoped that up to 88 000 litres of olive oil will be produced this season, with these figures doubling in coming years. As I speak, 4000 tonnes of olives are being harvested. A \$400 000 machine imported from Argentina called Colossus is being used in conjunction with conventional tree shakers. It is the first time Colossus has ever been used in Australia, mainly because extra tree maintenance is required for it to perform. Colossus is highly efficient and can harvest between 100 to 400 trees an hour, depending on the size and shape of the trees. Harvesting continues 24 hours a day and olives are processed within 6 to 12 hours of harvest.

Boundary Bend Estate recently won a prestigious Italian olive oil competition, contested by producers across the world, beating Italians at their own game.

Boundary Bend Estate will export 70 per cent of its production as bulk, with the remaining 30 per cent servicing supermarket labels. Boundary Bend Estate is another demonstration that Victoria is the irrigation capital of Australia.

Australian Corporate Games

Ms MARSHALL (Forest Hill) — It was with great pleasure that I launched the 2004 Australian Corporate Games campaign at the Crown Towers in Melbourne. The Australian Corporate Games event is to be held in Melbourne from 19 to 21 November this year. Now the largest annual multisport championship event in Australia, the event's beginnings were far humbler in 1997. Back then it was the Victorian Corporate Games with only nine events and just over 2000 competitors. With the Victorian government providing support and guidance, the event organisers were encouraged to bring the national event to Victoria.

The state of Victoria has provided each of the sports with world-class facilities to train and compete in, and whilst the philosophy of the event is founded on the belief that every person of every ability is given the opportunity to compete, it is an exciting prospect for all of them to be sharing in the experience with the world-class athletes who will be competing at many of the same venues as they will be using for the 2006 Commonwealth Games.

This event not only promotes health and fitness in the workplace but brings together every level of a work force, fostering team spirit, unity and pride. There are 19 sports on the program, including Australian Rules recreational football, and it is open to all businesses and organisations. Teams can be made up of employees, colleagues, clients, family and friends and the competition is open to all ages and abilities. Games patrons have included the Premier, and this year over 750 organisations have entered and 10 000 entrants are expected.

This is a community-based mass participation event that embodies the corporate culture of the new millennium. It is a fertile ground for developing the relationships with the people you work with through a common interest in sport.

Point Nepean: future

Mr DIXON (Nepean) — This government has been beating up on Point Nepean this week, which is probably a diversion from its own crisis with police corruption and organised crime, or perhaps a diversion from the problems at Devilbend Reservoir, locally. I

remind members that the federal government decision on Point Nepean was: no commercial development at all; a maritime college that would be devoted to marine environment studies, funded to the tune of \$11 million over five years; a \$4 million upgrade of the heritage building, which has been completed; a respite centre for families with children with disabilities; a 17-hectare public park for the local shire; and incorporation of all the areas into the state national park within five years.

Compare this with the state government. It is still advocating commercial development and accommodation within the park; an 85 per cent cut to the budget of the Mornington Peninsula National Park next door; Parks Victoria does not want to manage the buildings and has said that; the Heritage Council does not want Parks Victoria to manage the heritage buildings either; and the seawalls surrounding Point Nepean are actually falling into the sea. I say to this government: fix up your own backyard before you start criticising the property over the fence!

Kyneton: arts funding

Mr HOWARD (Ballarat East) — I was very pleased to be in Kyneton last Wednesday where I was able to announce to the mayor and others present that they were about to be funded to the sum of \$200 000 through the Arts Victoria Creating Place and Space program.

They were very excited, because this money is to be used to enhance the Kyneton town hall and the Bluestone performing arts complex so they can now have more portable seating, computerised lighting, digital projection and multimedia equipment. That will enable a town the size of Kyneton to have a much greater range of arts entertainment available to the people by way of multimedia and other formal programs. They were clearly very excited to receive this funding to ensure that the people of Kyneton are able to experience a much broader range of activities in both their theatres. The mayor, John Connor, and local councillor Alan Todd were present, as was Karen Martin, the Shire of Macedon Ranges cultural services officer.

I would like to congratulate them all for working with their community to develop the concept of improving the main theatre in the Kyneton town hall and the Bluestone Theatre. This will be great for Kyneton.

World Masters Games: report, 2002

Mr BAILLIEU (Hawthorn) — October 2002 was a time of high emotion for all Australians — the horrific

events in Bali will never be forgotten. However, it was also a time of special celebration in Melbourne, where the World Masters Games were an outstanding success. The final annual report — to November 2002 — of Melbourne 2002 World Masters Games Ltd was tabled this week. The company has since been wound up. The report shows an annual loss of approximately \$237 000 and a final residual equity of \$125 000. Over the final two years a reasonable total of \$3.75 million was contributed by the state to total revenue of \$10.5 million. The company was established after the games were secured in 1997.

The games have been fairly described as the biggest ever and the biggest multisport festival in the world. Nearly 25 000 competitors, including more than 7000 from interstate and 6000 internationals from 96 countries participated over a 10-day period. Organisation was brilliant, the atmosphere was terrific, Melbourne was showcased, and it was wonderful fun for all — bigger and better than anyone had dared imagine. The success of these games is a classic reminder of the capacity of Victorians to conduct events and particularly to do so as an active, genuine, participating community without rancour, extravagance or pretension.

I congratulate games chairman, Graeme Duff, chief executive officer, Leanne Grantham, the board, staff and the thousands of volunteers who made it happen. I also congratulate both the current and previous governments on doing the right thing in attracting and supporting the games.

The Minister for Sport and Recreation in another place and I had a crack as competitors, but the minister needs a boot in the arse for not delivering the final report in a timely manner and for misleading the Legislative Council last year about the reason for that. I trust he will be more careful with the Commonwealth Games, but above all I trust that those games will be as successful.

Gippsland Women's Health Service: Lifeskills program

Ms BARKER (Oakleigh) — On Wednesday, 19 May, I had the great pleasure of attending the Gippsland Women's Health Service in Sale and launching the *Lifeskills for Women — Train the Trainer* CD. This CD is a comprehensive guide to the Lifeskills program, which is an 18-week personal development program initially developed by the Gippsland Women's Health Service and the Central Gippsland Drug and Alcohol Service that is offered free to all women across Gippsland. The program covers a wide range of life

skills including self-esteem, effective communication, negotiation, appropriate assertiveness, anger management and stress management.

There is a high demand for this course, with Gippsland Women's Health Service running two courses each year at its Sale location and delivering all or part of the program across the region. To meet the need and demand for this very popular program the health service has developed this CD to increase the capacity of health professionals across the region to implement Lifeskills in their local areas. This means more women will be able to benefit from the opportunities the program offers.

I thank Deb Milligan and the staff of the Gippsland Women's Health Service for such an enjoyable day. I particularly pay tribute to Alma Ries, who is the community health nurse at this service. Alma took me and other guests through the CD and the program. You can certainly understand why the program is so successful when you listen to Alma explain how she runs this very important program for women in the Gippsland region. As well as the many other benefits the Gippsland Women's Health Service offers women, it has now created a resource which makes this program more widely accessible to a wider audience and continues to enhance the health and wellbeing of women throughout Gippsland. I hope other regions and services pick up this CD and use it as it is a very valuable resource.

Self-funded retirees: concessions

Mr MAUGHAN (Rodney) — The Bracks government stands condemned for its shabby treatment of self-funded retirees. Governments at both state and federal levels should encourage people to strive to become self-sufficient and where possible during their working lives to save and provide for their own retirement. By refusing to take up the commonwealth government's offer of \$75 million for concessions for independent retirees the state government has shown very clearly that it is not interested in assisting those who have gone without and saved for years to provide for their own retirement.

Many of these people are now finding it difficult to cover their day-to-day living expenses. The commonwealth offer of \$75 million on a 60:40 basis would have provided commonwealth senior health card holders with concessions on municipal rates, energy, water, sewerage and motor vehicle registration costs which would have been worth around \$540 per annum to individual self-funded retirees.

By refusing to take up the offer the Bracks government has sent a clear message that it will provide no incentive for people to work hard and save in order to support themselves in retirement. This government can find \$1000 million to subsidise the travel costs of urban commuters, but refuses to take up the commonwealth's generous offer of \$75 million to assist self-funded retirees who during their working lives have contributed so much to the state of Victoria.

Horseshoe Bend Farm, Keilor

Mr SEITZ (Keilor) — I rise to congratulate the Deputy Premier as Minister for Environment and Parks Victoria for making the decision to keep Horseshoe Bend Farm open following a big community campaign. I also congratulate the people in Keilor who took up that campaign with petitions and letter writing to Parks Victoria and to myself. I also wrote to the minister. I am pleased to say that they listened to the people and took note. There has been a reprieve and they have kept the Horseshoe Bend children's farm open. I hope now when the expressions of interest are registered we can get community groups involved and interested in running it more on the style of the Collingwood Children's Farm.

I was instrumental in establishing the Brimbank children's farm in the previous Labor government under Cain and Kirner and I would be very disappointed if it closed or disappeared because it provides so much joy and fun for not only children but also for the elderly who have visited it as recreation. Scout movements have used it for camp-outs and staying there and taking care of the animals. We could involve the broader community in the whole project of maintaining that farm and have an asset there for our city children to get into contact with live animals so they do not just think the chicken comes out of the freezer in the supermarket.

Laang Speedway

Mr MULDER (Polwarth) — The Laang Speedway has been given the support of the Moyne Shire Council in its application for funds to extend the track, construct new clubrooms and improve spectator safety. These would be the first major works at the speedway since it was rebuilt following the Ash Wednesday fires in 1983. There is strong community support for the Laang Speedway with Moyne shire selecting the project as one of its three submissions for funding to the Department for Victorian Communities. The speedway hosts 10 race meetings per year and has 200 active members who compete or support the club.

The club, with the support of the local police from Terang, is to add to these numbers by implementing a program to train young Koori people from the local indigenous community in driving skills and road rules. The club is outgrowing the existing facilities, and it is important that funding is provided so as to provide the social and economic opportunities this vibrant club and the community needs and deserves. The Laang Speedway Club is almost 50 years young, and it comprises mainly young, enthusiastic country people who are supported by their families. The club has a strong focus on supporting young people to develop driving skills and to teach the repair and maintenance of motor vehicles. I was very fortunate early in the year to be invited to the Laang Speedway to drive in its celebrity speed event — —

Mr Hulls — That is only for celebrities!

Mr MULDER — I know, that is why I was invited — it was for celebrities. Unfortunately I was cleaned up by two international drivers. However, I cleaned up the rest of the field myself.

Biofuels: production

Ms McTAGGART (Evelyn) — In 2002 the Bracks government showed its commitment to reducing pollution and greenhouse gas emissions by giving community-based grants to a wide range of projects aimed at long-term greenhouse gas reductions. In the 2003 federal budget the Howard government introduced a 38 cent per litre fuel excise on biofuels such as biodiesel which reduce waste and greenhouse gas emissions. Twelve months later this legislation is still being debated in federal Parliament. The uncertainty created by the federal excise legislation has caused the cancellation of millions of dollars of investment in Victoria in biodiesel and biofuel plants and associated industries. Hundreds of potential new jobs have been cancelled and grant moneys received have been returned. The thousands of small producers of biodiesel and other biofuels who wanted to make a difference have now stopped production and their personal contributions to reducing pollution have been wiped out.

This will cement Victoria and Australia as the place with the highest greenhouse gas emissions in the world. And to what end? The Howard government has justified the excise by saying it will bring parity to the fuel excise regime — everyone will pay excise irrespective of the dangers or benefits from the various fuels. It says it will help with subsidies, but only to large multinationals, most likely backed by the petroleum industry, which already receive billions of

dollars in subsidies each year so they remain here. Who is going to pay the excise? All small producers who were to be taxed now no longer make biodiesel and other biofuels. Once again the federal Liberals have shown their true colours by backing big business and wiping out small business.

Treasurer: statements

Mr CLARK (Box Hill) — I raise concern about serious factual errors in claims being made by the Treasurer. On 13 May the Treasurer claimed during question time that just in this year's one budget the government had provided three times the amount of capital works to schools that occurred under the previous Kennett government. Page 272 of this year's budget paper 3 shows the budget is providing \$285.7 million in capital works for schools to be spent over three years. One-third of this is \$95.2 million. However, the budget information paper no. 1 for 1999–2000 shows that as at 30 June 1999 there was a total of \$148.3 million of capital works for schools in progress, with a further \$132.3 million announced in the 1999 budget.

To take just one other year of the Kennett government, budget information paper no. 1 for 1995–96 shows that as at 30 June 1996 the Kennett government had \$188.1 million of works for schools in progress with a further \$103.2 million announced in the 1995 budget. We therefore have a total of \$570 million of school capital works from these two budget papers alone, and that does not even count the millions of dollars of additional works covered in other budget papers. Thus the Treasurer's claim is patently absurd.

This latest claim adds to the Treasurer's extensive previous form, such as his claim in this house on 28 October last year that the Kennett government never cut payroll tax, when in fact the Kennett government cut payroll tax rates in three successive budgets and by far more than the Bracks government has. Occasional inadvertent errors can be excused in a complex portfolio such as Treasury, but the Treasurer's growing list of wild and inaccurate claims in pursuit of partisan point scoring undermines his own credibility.

Schools: debating teams

Ms BUCHANAN (Hastings) — I rise to commend the outstanding work of the Debating Association of Victoria and in particular those volunteers who coordinate the debates for students attending secondary colleges around Frankston and the Mornington Peninsula.

I had the recent opportunity of convening one such debate between two great state schools in the Hastings electorate, the excellent Elisabeth Murdoch and Western Port secondary colleges. The debate topic was ‘The military should have the right to censor media reports on the war’, and I commend the quality contributions made by Laurie Aiello, Michael Dickson, Scott Poulton, Owen Heggen, Jenna Hucknell and Courtney Baker. The challenging adjudicator role was expertly handled by Michelle Alexander.

The level of insight and articulation of each debater was outstanding, particularly when considering that the teams had only an hour’s notice of the debate subject. My congratulations go to both schools for the great support they are giving our students, and particular recognition must be given to Western Port Secondary College for being declared the debate winner on the night.

I thank the host school of the evening, Toorak College, for making the facilities available and I thank all the great teachers mentoring debate students across the Hastings electorate.

The dedication and commitment of our secondary teachers to their students was further demonstrated at a recent student convention at Mount Erin Secondary College, where the theme was ‘Should the environment be protected in our constitution?’. Our public schools are mentoring great future civic leaders, and I am proud to be part of a government that provides so many opportunities for Victorian students.

Highton: traders group

Mr CRUTCHFIELD (South Barwon) — I bring the attention of the house to an article in that fine piece of literature, the *Geelong News*, by a journalist called Darren McLean regarding the formation of a traders group in Highton in Geelong. I have a wonderful relationship with my traders groups in Barwon Heads, Torquay and Belmont, but there is glaring gap in traders’ representation in Highton.

I congratulate Doug Elsum from Freshly Doug, who is a fruiterer in the Highton shops and is forming a traders group. The last time there was a traders group in Highton was back in the early 1990s, and it resulted in an upgrade of the shopping centre back in 1992, coincidentally with the representation of Barwon ward by Cr Damien Gorman in the then South Barwon City Council. Damien worked very hard for that area. Doug has re-formed the group, and 30 traders turned up at a meeting last month.

I went down and spoke with Doug about the positives of traders groups, talking through the issues of upgrades and state government funding. I also talked about some of the council responsibilities in shopping centres. I also want to put on record my congratulations to Crs Harwood and Dowling, who share responsibility for that shopping centre. They worked very diligently in the recent budget to get some rewards for the shoppers. I look forward to working for Highton.

Computers: blogging

Mr PERERA (Cranbourne) — I rise to speak on blogging, the path to electronic democracy. Blogging is a fantastic tool that all elected representatives can use to communicate with their electorates. It is a concept mainly used to maintain your online diary, which constituents can visit to make comments or requests. Any number of links could be made available in the blog for visitors to access. One of the links could even take visitors to the blog owner’s biography.

This is also fantastic tool to conduct online discussions much more effectively than getting a group to present physically at a location. The elected representative could call for views from constituents on particular subject matters. The constituents could visit the blog and express their views and experiences, and the benefits of the discussion could be derived by all who visit it.

The people who make up the silent majority in present-day Australian society work at least five days a week, Monday to Friday, and have never communicated with their local representatives, mainly due to time constraints. This is a great tool to encourage such people to get to know their local representatives and communicate with them.

In the United Kingdom some members of Parliament and local councillors use this to let their constituencies know about their official visits and other important diary entries. This would be an ideal tool for members of Parliament to use when they are on overseas or interstate study tours. The outcome of each meeting or visit could be blogged. Then the constituents and colleagues could start the dialogue from day one or the first visit.

The ACTING SPEAKER (Mr Smith) — Order! The honourable member’s time has expired.

Budget: Mordialloc

Ms MUNT (Mordialloc) — I rise today to speak on the 2004 budget and economic statement of the state government. The Mordialloc electorate is home to two

huge industrial estates, Braeside and Cheltenham East, and numerous large and small individual businesses. The economic statement and the state budget are good for our local businesses, so good for our local economy and good for employment for our local citizens.

The budget will deliver to businesses in Mordialloc and statewide land tax cuts worth over \$1 billion over the next five years; a 10 per cent cut in average WorkCover premiums, saving them \$180 million per annum; and streamlined planning approvals, saving them almost \$50 million per annum. In addition, businesses and households will benefit from the abolition of mortgage duty from 1 July 2004 — a saving of approximately \$220 million per annum.

Concession reform will be good for our Mordialloc electorate families. I particularly applaud the new \$5000 first home owner grant. The new program also delivers \$74 million statewide over four years to increase the education maintenance allowance to help with schooling costs.

The Bracks government's budget is good for all local businesses and local families. As well, the Bracks government is investing in education for local students. We are investing in major capital upgrades for our local schools, with \$2.66 million for the Mentone Secondary College rebuilding works, \$2.75 million for stage 2 of the Cheltenham Secondary College rebuilding works and \$2.011 million for Mordialloc Primary School for rebuilding works. I am also particularly pleased to share in the \$60 million provided for maintenance works and toilets, with \$100 000 for toilet upgrades for Parkdale Primary School and \$70 000 for Dingley Primary School. I commend the Treasurer on this year's budget.

Community cabinet: Prahran

Mr LUPTON (Prahran) — On Monday, 17 May, I was pleased to welcome the Bracks ministry to the electorate of Prahran when it held a community cabinet meeting in the City of Stonnington. The cabinet met in the Prahran town hall, and submissions were taken from individuals and groups at the town hall later in the day.

The community cabinet is a great chance for people to meet and raise issues with ministers in the Bracks government. The meeting on 17 May was the 43rd meeting of the community cabinet since the idea was first introduced by the Bracks government after its election. A community cabinet day consists of formal and informal meetings which engage ministers with their local communities. Individuals and community

groups are able to make submissions to ministers and discuss issues of local importance.

Over 40 submissions were made on the day, ranging across areas like planning and transport and even involving the Minister for Agriculture in a discussion on scallop fishing! Forums were also held for local women, young people and businesspeople. The community cabinet day was an extremely successful endeavour, and I congratulate the Bracks Labor government for introducing the concept.

Chelsea Flower Show: Australian entry

Mr MERLINO (Monbulk) — I take this opportunity to talk about the Chelsea Flower Show, which is a great local success story. The flower show is reported as the gardening world's Olympic Games. Fleming's Nurseries, Jim Fogarty Design and Semken Landscaping won the silver gilt flora award for their garden entry. The garden is called 'Fleming's Australia Inspiration' and comprises 1200 plants, with indigenous snow gums, drought-tolerant vegetation and a high wall made of 1000 logs of river gum. I congratulate the 12-member team, including Jim Fogarty, Wes Fleming and Graham Fleming, for their outstanding success. This is an incredible undertaking. It took a year in preparation, including the shipping of 40 tonnes of equipment to the United Kingdom in February.

It is one thing to have success within the state and the nation, and it is another to tackle this major international competition. This is the first time an Australian entry has been accepted into this competition, and it is the 82nd Chelsea Flower Show — —

The ACTING SPEAKER (Mr Smith) — Order! The time for members statements has expired.

ARCHITECTS (AMENDMENT) BILL

Second reading

Debate resumed from 25 May; motion of Ms DELAHUNTY (Minister for Planning).

Mr COOPER (Mornington) — I will make a few comments on this bill about consumer protection matters in what is virtually the deregulation of architecture in this state. I note in the minister's second-reading speech that this bill is purported to give effect to the recommendations of the national competition policy review. The speech goes on, on page 4, to say:

... the bill also introduces strengthened provisions relating to the prohibition on unregistered persons representing themselves or allowing themselves to be represented to be registered architects.

I want to underline the words 'registered architects'. What the minister has said in introducing this bill is that provisions will be strengthened in regard to people who unlawfully represent themselves to be registered architects. It says nothing about people who might represent themselves just to be architects, not registered architects.

I am concerned, having had a long history in the building industry prior to entering Parliament and having spent a lot of time on building sites dealing with architects not only in this state but elsewhere in the country. I have always been aware of the high standards that the profession sets for itself and the high standards the community believes will be maintained when it deals with architects. In my opinion this bill will blur the edges of who can or cannot properly describe themselves as being architects.

I am indebted to the member for Hawthorn, who of course as an architect himself has consulted deeply and widely with his profession. During his response to this bill on behalf of the opposition the member for Hawthorn had insufficient time to direct the attention of the house to some of the submissions he had received. He has handed to me a copy of an email he received from Mr Stephen O'Connor, who is a director of O'Connor and Houle Architecture Pty Ltd, a well-known and respected firm of architects in Victoria. I intend to quote the four paragraphs of that email because I think Mr O'Connor has hit the nail on the head pretty well. His email says:

The key problem with the proposed changes to the Architects Act is the removal of restrictions on the words 'architecture' and 'architectural'. This will allow anyone to use those terms, in their company name for example, implying that they offer the services of an architect. A registered architect's professional actions are regulated by the act, and this places a number of responsibilities on the architect in the interest of consumers of architectural services.

If you only imply that you are an architect, but you are not registered, you are not bound by any of the act's obligations, therefore the consumer of your services is unprotected.

Not only will some unregistered practitioners imply that they are architects, without any of the legal responsibilities, but some architects will let their registration lapse and go on providing services exactly as they have before, in order to be free of the burdens of the act. In both of the above examples, the distinction between whose work is covered by the act and whose is not is blurred in the eyes of the consumer.

Mr O'Connor summed up my concerns very well in his email. It is very important for the consumers of

architectural services in Victoria to have the protection of this Parliament and of the law in regard to what they are receiving.

Currently my wife and I are going through the process of having additions and renovations done to our house. We have had plans drawn up, and we have been dealing with an architect in the full knowledge of who he is and what his standards are, and we have had references from other people he has done work for. We have gone and inspected those jobs, and we are satisfied with the excellent service we have received from this particular individual.

But there are people who will be taken in, because as we all know there are people who are gullible and easily convinced. This is made evident on current affairs programs virtually every day of the week; it is grist for their mill. They run stories about people who have been duped by all kinds of alleged professionals who have taken money from them and not delivered services. My concern with this bill is that the requirements and the stringent regulations that have been imposed upon architects — self-imposed in many instances, but certainly imposed through the Architects Act — are now going to be lifted. They are being lifted because the government has paid attention to the national competition policy review, and it is fair enough that it has done so. But I want to raise the concern that in doing that it may well have gone to the extent of making consumers vulnerable through those changes.

Mr O'Connor made quite an interesting point in his letter in saying that some architects could in effect let their registration lapse and go on providing the services they have provided before without the burden of having to comply with the requirements of the Architects Act or this new legislation that we are currently debating. Only those who could perhaps be loosely described as shonky might do that, but who is to say that that will not occur? All professions have their bad guys, so will what we are doing today allow those bad guys greater rein and freedom than they currently have? This is my concern, not only on behalf of the people I represent in the Parliament but on behalf of all the people of the state. Architecture is a profession that has a good reputation. Architects are in charge of overseeing many hundreds of thousand of dollars of work on behalf of their clients, who have an expectation that that will be done in a professional, honest and competent way.

In my view this bill removes some of that protection, and I would be very interested to hear from the government on what it proposes to do to keep the legislation under review and to make changes, if indeed some of the predictions that have been made by

Mr O'Connor and the fears that I am expressing on behalf of consumers come to pass. Of course one would hope those fears do not come to pass, but it would be wrong of me and any other member not to stand up here and express those views, and ask the government to take them into consideration and ensure that when the poor practice of architects or people purporting to be architects are drawn to its attention that there will not just be a wringing of hands and a response of, 'Oh gee, we cannot do much about that'. I hope the minister will be able to tell us in summing up the debate that the government will act very quickly to stamp out any shonky practices that might erupt because these doors are being opened by the bill we are debating today.

Mr HOWARD (Ballarat East) — This bill responds to the report of the Productivity Commission in regard to architects, their registration and the management of the profession. Here in Victoria and around the world we know that we rely on architects in many ways. They play a very important role in the building industry, both at a domestic level and in the construction of major structures such as large buildings, bridges and so on across the state. Therefore we need to ensure that the profession is well managed. This bill takes into account all the issues that were presented by the Productivity Commission and it ensures that the Architects Registration Board of Victoria reflects those issues and that the community can continue to have confidence in the architectural profession.

The changes that are made are not great, but they are important because they modernise the issue of the registration of architects, reflecting the standards we need to pursue in our community. Within my electorate of Ballarat East there are many architectural firms operating to carry out a great range of construction. We know our housing industry is booming, but major infrastructure works are also developing rapidly across this state.

I am very pleased to see that my electorate of Ballarat East is no exception. We have some significant buildings that have been erected recently. I am very proud to have attended the opening of the Kyneton Hospital last year. It is a new, modern construction where the architects have taken into account the requirements of health services and have designed a very practical and very attractive building. New developments have been carried out at our hospitals and health services in Ballarat and Daylesford. The designs are not only attractive but also practical, and we see examples of this right around my electorate and more broadly.

I trust that the architectural profession approves of this bill and that the profession will continue to be well managed and regulated and that the procedures for dealing with any concerns that may be raised by members of the community with regard to particular architects will be worked through with the Architects Registration Board of Victoria. I trust that our architects will continue to balance those two issues of functionality and attractive presentation.

In the past there have been examples of major buildings being designed to meet a budget line rather than to be attractive — and we know that the Gas and Fuel buildings have now gone from Flinders Street. We can all see unattractive buildings that were built in the 1950s and 1960s and some of the slab-type constructions that are being built now, but we are moving forward. Many of the buildings that are under construction now are far more attractive, although we have also been through a period when sometimes the design has been attractive and some of the functionality issues that need to be addressed have been overlooked. I am talking about centres like the Eureka Centre in Ballarat, which is a very attractive building; however, there were issues about its functionality which have now been shown to be a matter of some concern.

An honourable member interjected.

Mr HOWARD — I know that although this was a project of the former government, the Ballarat City Council and others are looking at how they can address the original design to make it more functional.

I wish this bill a speedy passage. As I have said, it recognises the need to ensure all professions, including architecture, are well managed and well regulated so that the community can continue to have confidence in all aspects of the professions.

Debate adjourned on motion of Ms GILLETT (Tarneit).

Debate adjourned until later this day.

SURVEYING BILL

Second reading

Debate resumed from 25 May; motion of Ms DELAHUNTY (Minister for Planning); and Mrs POWELL's amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this bill be withdrawn and redrafted to provide for the Surveyor-General and members

of the surveyors registration board to be appointed by the Governor in Council'.

Mr THOMPSON (Sandringham) — Surveyors perform a very important role in Victoria. The Torrens title system, based upon a system of German shipping registration, has provided the gateway to land subdivisions in this state. In Victoria this outstanding method of land registration enabled development to take place and gave security of tenure and title to many property owners. An important adjunct to the work of surveyors, it has helped enhance and protect security of tenure in many different ways.

The bill is opposed by the Liberal Party for a number of reasons. The shadow Minister for Planning has undertaken active consultation with the Surveyors Board of Victoria; the Institution of Surveyors Victoria; the Association of Consulting Surveyors; the Australian Industry Group; the Master Builders Association of Victoria; the Planning Institute of Australia, Victorian chapter; the Royal Institute of Charters Surveyors; the Victorian Planning and Environmental Law Association; individual surveyors, the Royal Australian Institute of Architects; the Urban Development Institute of Australia; the Australian Institute of Building Surveyors, Victorian chapter; the Real Estate Institute of Victoria; the Australian Institute of Building, Victorian chapter; the Law Institute of Victoria; the Municipal Association of Victoria; the Housing Industry Association; the Australian Society of Building Consultants; and the Property Council of Australia, Victorian division. As a consequence of that widespread consultation it is apparent that the Liberal Party has not arrived at its decision to oppose the legislation lightly.

A number of issues are of particular concern to the Liberal Party. In her second-reading speech the minister said:

Industry broadly supports the many beneficial aspects of the Surveying Bill 2004 ...

This is disputed by the industry and a number of people who have made representations to the shadow minister.

Another issue of concern relates to whether this will require several regulatory impact statements to be undertaken before 1 January 2005, meaning rushed public consultation and rushed administration system development. If the task is to be undertaken wisely and well, there needs to be more detailed public consultation on key issues. As I said, extensive consultation has been undertaken by the shadow minister, and he has raised very serious concerns about this bill. A further issue of concern relates to the fact

that New South Wales, Queensland and Tasmania have all recently introduced similar legislation that expands — not restricts — their boards. This represents a contrast to our present circumstance.

In relation to the important role of the Surveyor-General, one concern relates to his inability to undertake democratic or regulatory responsibilities with independence. If the Surveyor-General is subject to the Public Sector Management and Employment Act 1998, the following methods can be brought to bear to influence his decision-making: performance reviews, career opportunities and promotions, short-term employment contracts, direction by supervisor, budget influences and delegation of duties.

The independence of public officers has been a hallmark of the development of this state. People in this chamber would generally be aware that Australia has the fifth-longest-lasting system of democracy in the world. This position is underpinned by democratic institutions, some of which might have taken 1000 years to develop, and the principles that govern them. The separation of the powers of the executive, the legislature and the judiciary is one illustration of it, as is having other robust agencies.

The very strong doctrine of the separation of powers has been canvassed lately in relation to judicial remuneration. It is important that the judiciary has a clearly defined role and is not subject to direct or indirect influence from the government of the day. Some people might take such a feature for granted, but there are many other jurisdictions in the world where this is not the case. We are fortunate in Victoria that in large part our key institutions are immune from undue or corrupt influence. In the present case the Surveyor-General must have an independent role and not be subject to influences that may limit his or her independence in the decision-making process.

The next point of concern relates to the dismissal of the Surveyor-General clauses — that is, clauses 40(4) to 41(4). These provisions have been taken from the Electoral Boundaries Commission Act 1982 but should remain in that act to ensure that the independence of the Surveyor-General in performing his democratic responsibilities is not controlled by one single department of government. I emphasise again the key importance of there being an independent role for the Surveyor-General, immune from other influences, so that that decision-making process can be undertaken without fear or favour.

Currently appointments to the Surveyors Registration Board of Victoria are made by Governor in Council. It

is not the understanding of a number of people with an interest in this legislation that there is any other registration or disciplinary board in Victoria whose appointment is not made by way of the Governor in Council. With the present case there is a concern that the appointments are to be made by the minister and not the Governor in Council. The next issue of concern is why the Institution of Surveyors Victoria is not named directly as it is in the current act. The shadow minister has raised his concerns strongly in relation to this particular provision.

I now turn to a number of miscellaneous provisions under part 8 that the opposition is also concerned about. The first question I would ask is: why will there only be cadastral surveys and why will they not be done on weekends or public holidays, when it is often the best time for survey work to be undertaken? These matters of major concern are echoed by the shadow minister as a result of representations made to him as part of a very expansive consultation with the industry.

In relation to part 9 — the repeal, transitional and consequential provisions — the new bill does not recognise registered surveyors, it only recognises licensed surveyors. This is a matter of concern to industry groups. It has been argued by the profession that it is necessary to make a number of amendments to the Surveying Bill.

Firstly, the Surveyor-General should be a Governor in Council appointment and the dismissal provisions should be left in the Electoral Boundaries Commission Act to ensure independence; secondly, board membership should be Governor in Council appointments, with a lawyer replaced by a member experienced in disciplinary proceedings and members, apart from the community representative, to be nominated by professional groups; thirdly, a survey control network fee should be administered by the Surveyor-General; fourthly, power of entry should be on any day and for any survey type; and finally, registration should be expanded beyond just cadastral matters.

These summarise the key points that need to be addressed before the opposition would be prepared to support the legislation. I commend the shadow minister for his broad-ranging consultation so that these concerns have been able to be brought into the Parliament.

Mr HOWARD (Ballarat East) — I am pleased to speak on the Surveying Bill that is before the house. I have followed the progress of this bill over a number of years since its precursor was originally introduced into

the house in 2001. The main aim of this bill is to modernise the registration of licensed surveyors. Although the general public is not always aware of it, our surveying profession is very important in this state as it underpins the whole land transfer system that occurs. Whenever land is bought or sold we need to be confident that the land people believe they are buying has been appropriately surveyed so they can know the exact boundaries and that the piece of land they believe they are buying is going to prove in the future to be the piece of land they have bought.

With the great value of our land in Victoria we need to ensure that the system is reliable for both the individuals working as professional surveyors and also for those relying on the cadastral surveying system network. We need to ensure that this is maintained appropriately and that the profession is continually being reviewed to ensure that the best standards are being maintained. Part of the impetus for this review came from the national competition policy compliance review that has taken place. It made many recommendations, several of which are contained in this legislation. Some of the recommendations were able to be pursued without the need for legislation; however, other aspects of the report are contained in the bill.

A number of surveyors across this state work in a range of areas, and we need to have a system in place that meets the current standards and ensures that the means of registration of surveyors keep them challenged to ensure that they are up to date in their understanding of this profession. There are periodic changes and developments in this profession in terms of the equipment and technology that is used, and until now registration for surveyors has been on the basis of life registration. This bill introduces the concept of annual registration, which will be reviewed by the Surveyors Registration Board of Victoria, and that board will also be looking at ongoing professional development and professional conduct issues to respond to any issues where there is room for improvement.

The first issue addressed in the bill relates to the annual registration of surveyors. Another significant part of the bill involves clearly defining the role of the Surveyor-General, who is the person at the top of this system overseeing the management of both the physical network and also the organisation within the surveying profession. Previously that has been contained in two separate acts: the Electoral Boundaries Commission Act as well as the Surveyors Act. This is now going to be contained entirely within the Surveyors Bill, and we believe that is a sensible way to move.

Within the legislation we are also recognising the need to ensure there is an improved complaints mechanism applying to the regulation of the profession. These will be dealt with through the expanded Surveyors Registration Board of Victoria. At present the board has six members, but in line with national competition policy recommendations of having more people who are not presently within the profession on the board, the government believes the best way to move is to expand membership of the board to eight positions. Those additional positions will not be just from the surveying profession but will add external expertise. The Surveyor-General will continue to be the chair of the board. As I said, the board's role is to oversee registration, advise the minister of strategic issues regarding the profession and policy issues it believes should be pursued.

The opposition has tried to misrepresent aspects of the bill, particularly regarding the employment of the Surveyor-General, which is a public service appointment. The government is streamlining the way the employment of the Surveyor-General occurs and also the dismissal procedures, bringing it from the Electoral Boundaries Commission Act into the new legislation.

I now refer to the role of the Surveyor-General. There are a number of different areas — one relates to electoral boundaries, which is why the issues relating to the employment of the Surveyor-General are contained in the Electoral Boundaries Commission Act. He is one of three people who sits on the Electoral Boundaries Commission along with the Chief Judge of the County Court and the Electoral Commissioner. This is an arrangement that was established by the former Cain government to ensure a more honest approach to the evaluation of electoral boundaries. Having the Surveyor-General on that commission is seen as a sound addition as well as having the Chief Judge of the County Court.

That role will continue and there are no plans in the legislation to change that. Concern has also been raised about the network that has been in place across Victoria where pegs are placed at appropriate places which form the basis of our survey control network. They have been poorly maintained over a long period and so this government has taken the decision that it will support the surveying profession and the need for certainty in the state by adding funding of \$100 000 to ensure the markers are renewed where damaged. We believe up to 30 per cent have been damaged, destroyed or gone missing. We need to ensure they are replaced, because not only does the state surveying network depend upon the markers, but the national survey boundaries also

depend on them. They are vitally important for a range of projects, not just regular domestic property boundaries but also major infrastructure works.

The regional fast rail project is under way in my electorate, as it is in several other electorates, to improve the rail networks of country Victoria. The whole survey network is important in helping to assist determining the alignment of the tracks. I am pleased to say that the project is progressing very well. In the past disasters have taken place. I used to live near the border of South Australia. The station at Serviceton, which was beautifully constructed by the South Australian government in the 19th century, was later found to have been constructed in Victoria and this state benefited by that mistake in survey work. They are the sorts of things we must ensure do not happen. We want to see the profession continues to be supported in a range of ways and acts in the most professional way. I am pleased to see the bill progressing through the house and I look forward to its eventual success.

Mr DIXON (Nepean) — I wish to make a very brief contribution to the debate. The shadow minister and the member for Sandringham have expressed the views of the opposition regarding the bill. I want to bring it down to a local level. I was somewhat surprised to receive calls from my local surveyors who were expressing disappointment with the bill and where it is taking their profession. It is not a profession that is prone to militant action or political activism, but its members have strong views regarding the bill. I thought it was important for me as a local member to raise their concerns, and I have indicated to them that their concerns mirror the broader concerns in the community.

The Mornington Peninsula has a small but busy group of surveyors. There is a lot of growth, with building works, plans and subdivisions, so they are in great demand. They take their profession very seriously and value it. They also value the professionalism of surveyors and welcome anything that enhances their profession. That is something for which they ought to be commended. They made the point to me, not just in terms of their own profession and the implications of the bill on their profession, about the Surveyor-General's independence. This is from people on the ground working in the profession and it was unsolicited. I did not send the bill out asking them for their comments, but they came to me and said they had real concerns about where we see this bill taking the Surveyor-General's independence. That is reflected in what the industry is saying to us as well, as the shadow minister pointed out. I was very surprised that local surveyors showed real knowledge and understanding of

the importance of the Surveyor-General and his independence. Unsolicited they brought up their concerns about the importance of the Surveyor-General in terms of electoral boundaries. They made the point to me that the independence of the Surveyor-General, especially regarding electoral boundaries, is something they hold very dear within their profession.

The aspect that concerns them is that appointments to the surveyors registration board and dismissal will rest with the minister and not the Governor in Council. That concern has been noted already, but I pass on to the house that this is also what my local surveyors are saying. The member for Ballarat East said this was a streamlining process. When I go to briefings and I hear that the process that has been in place for a long time is being streamlined I get a little nervous. Streamlining is good to some extent, but when it means it is taking away some independence from a system that has worked well, particularly of a very important role such as the Surveyor-General, and might threaten his independence — when something like that is streamlined I do not think that is very good. With those few words I join the member for Sandringham and the member for Hawthorn in supporting the reasoned amendment and not supporting the bill.

Ms D'AMBROSIO (Mill Park) — I am very pleased to add my comments in support of the Surveying Bill. I commence by making it clear to the house my strong view is that having a very strong regulatory framework is essential in any industry where high standards and professionalism are required and expected by the community. That is essential because it is a matter of public confidence and goes to the heart of confidence in ensuring integrity of property boundaries in the case of surveying.

The national competition policy is a fact of life across Australian jurisdictions vis-a-vis public administration and areas which governments regulate or at least have some level of intervention in. In the case of surveying, the national competition policy is helping to produce good outcomes for the industry and consumers. A proper regulatory framework for the surveying industry is no different. That is why the bill responds to our obligations under the national competition policy through the implementation of the findings of the review into the Surveyors Act 1978 vis-a-vis licensed surveyors. The bill is a reflection of the review findings and recommendations, which reaffirmed the need to retain a strong regulatory framework. That is evidence of the need to uphold the highest standards in surveying. The areas to remain regulated include the retention of entry barriers to the surveying profession

and retention of control of the surveying profession by a single body.

I am not ashamed to say that I am a very keen supporter of this well-monitored and strong licensing regime which will no longer afford lifetime licensing to surveyors, given the new annual licensing system. Vigilance in revising standards and competencies is vital to the maintenance of any industry. In the land surveying industry, especially as certainty of land boundaries is so important, this is no less the case. The Surveyors Registration Board of Victoria can impose conditions on application or annual renewal of a licence. In the event that a consumer has registered a complaint against a surveying practice or surveyor, there are very clear and modern processes for dispute resolution. The annual licensing requirements will ensure that the highest standards, skills and qualifications are maintained.

I am sure that the professional development of surveyors, through membership of their industry board, already ensures ongoing training and development. However, membership of the industry body does not have 100 per cent carriage throughout the industry — I understand only some 67 per cent of surveyors are members of the industry body. The bill reaffirms the importance of ongoing training and review of competencies and standards by requiring participation of surveyors in continuing professional development. I understand the board will set minimum standards in this regard. That is to be very strongly welcomed.

Professionals in any industry ought to take great pride in their work and are often the strongest supporters of mandatory standards because they minimise the presence of less-than-satisfactory or unscrupulous operators within the industry. Those people can tarnish the reputation of the industry as a whole. Surveyors are no different in this regard, and this is yet another strong reason for having a properly regulated, licensed and monitored industry with annual registration, complaints mechanisms for consumers and enforcement powers for the board. I would like to emphasise the enforcement powers of the board, which will ensure that words are followed by deeds. I would go so far as to say that a number of other industries would benefit from stronger regulation and the maintenance of high standards and practices to reduce the number of disreputable operators, not to mention the benefits that would accrue in terms of consumer protection.

I am pleased that the bill not only contains the language of ensuring competencies but also provides the necessary mechanisms of enforcement. I understand the board can investigate complaints, and a panel not

including the investigating officer must apply rules of natural justice when dealing with any grievance. That is not unlike the situation in many other types of boards and tribunals where there are dispute-settling procedures in place. I understand any decision of a panel or the board can be appealed to the Victorian Civil and Administrative Tribunal.

This bill means the industry will no longer be as closed as it has been in terms of consumer protection, rather it will be subject to modern and transparent processes of dispute resolution. This is good. The community expects no less in this day and age in terms of public administration and the role of government in ensuring that private industry operates in as scrupulous, honest and aboveboard a fashion as possible.

I wish to add my comments in support of the provisions regarding the removal or dismissal of the Surveyor-General. These provisions have been carried over from one piece of legislation to another. The dismissal provisions remain unaltered. I believe the community expects no less than Parliament having an open and transparent process in regard to the dismissal provisions vis-a-vis important functions of government such as the Surveyor-General. For that reason I am very much in support of the bill.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak on the Surveying Bill. It is a bill which builds on a great tradition of surveying in the state. Many of us do not realise how fundamental the work of surveyors is to the economic and social development of our society. Without an accurate and well-documented system of surveying, orderly property development, the sale of land and the establishment of social and economic infrastructure simply could not proceed.

Victoria has had some great surveyors in Charles Grimes and Robert Hoddle. I recently had the pleasure of representing the Premier at the launch of a biography of the first Surveyor-General of Victoria, Robert Hoddle, by Berris Hoddle Colville. What is really clear from that is that Hoddle was not only responsible for the famous grid layout of Melbourne but also undertook extensive surveying work around Moreton Bay, Brisbane, the Blue Mountains, inland to the Liverpool plains, the limestone plains around Canberra, and then from Sydney and the Hawkesbury to the Shoalhaven River and the Southern Highlands. In fact his contribution as the first Surveyor-General in Victoria was also a national one, and quite a significant one.

It is important to point out that without Hoddle and his professional competence and expertise Melbourne would not be what it is today. Hoddle was not only

responsible for the famous grid of Melbourne that we have in the golden mile but also won a pretty critical battle with Governor Bourke that has given Melbourne the wide streets it has today. Governor Bourke was attracted to the old-fashioned feudal and village type models; he determined that under his governorship no town street would be more than 66 feet wide. Hoddle was not particularly enamoured of this.

Even though he was subordinate to Governor Bourke, he urged the Governor to make the streets 99 feet wide, convincing him that with wide streets there would be a huge advantage to the new city in terms of health and convenience of travel. Hoddle successfully convinced the Governor that this should occur and the legacy now is our spacious streets, which are the envy of many other cities around the world. Bourke did get part of his way too because his legacy is the small lanes and streets that abut them.

This bill will continue the fine tradition of the surveying profession in Victoria. It is an outcome of a national competition policy review. It is a sensible review. It has not recommended deregulation of the industry; it recommends continued regulation of surveying. It tackles a couple of critical areas. Instead of the previous tradition of surveyors being registered for life, they will now be required to register on an annual basis, and that is appropriate. It will encourage them to update their professional skills and to ensure they are consistent with the dramatic technological changes that have occurred in the profession.

It is interesting to look at what is happening with global positioning systems and the surveying that is now being done along the Queensland–New South Wales border. In many instances they are turning up some of the old survey pegs, but they are required to use much more sophisticated equipment to survey the long stretch of that border out the back of Bourke.

This bill will also improve the consumer protection and consumer complaints mechanisms. That is important, because in any profession where a consumer is relying on the expertise and skill of a person, whether it is an architect or surveyor, there should be an opportunity if the profession falls short of the requirements and expectations of how the job should be done to take a complaint forward. It is an important enhancement to the current framework that consumers and members of the profession who have an interest that is affected by a decision of the Surveyors Registration Board of Victoria will be able to have that decision reviewed by the Victorian Civil and Administrative Tribunal. That appeals mechanism — the capacity to take it to an

independent umpire — is an important part of the new framework.

The bill provides, contrary to the claims of the opposition, adequate protection for the Surveyor-General. We have heard a lot of claims that the government is undermining the independence of the Surveyor-General by not making it a Governor in Council appointment. It is important to point out that the Surveyor-General is a public servant under the Public Sector Management and Employment Act. Any person appointed to the position will have all the usual protections that apply to public servants. The person can be appointed as Surveyor-General for a term of up to five years and cannot be dismissed without the consent of both houses of Parliament. That is an enormous level of protection being offered to the Surveyor-General. The concerns that have been expressed by the opposition — that somehow we are undermining the independence of the Surveyor-General and that we are not giving that person the appropriate protection — are unfounded. The Surveyor-General can feel confident that he will have not only the full support of the government but also of this Parliament.

In conclusion, the bill will modernise surveying; it will ensure that surveyors are required to maintain their professional development and competencies. It will not be a sinecure for life. They will have to demonstrate to the surveyors registration board that they still have the capacity, skill and competence to be a surveyor. Providing they can meet those requirements they will continue to maintain their registration. The bill modernises the profession; it improves consumer protection and consumer complaints mechanisms; it will enhance the capacity for consumers to bring complaints and appeals. At the same time it will ensure surveying continues to make a major contribution to the social and economic development of Victoria. I commend the bill to the house.

Ms DELAHUNTY (Minister for Planning) — I thank those members who have spoken on the bill — that is, the members for Hawthorn, Shepparton, Coburg, Bentleigh, Dromana, Sandringham, Mill Park and Ballarat East.

This is an important bill, and I thank members for their contributions. Why is it important? For the first time we are bringing together the role and the functions of Surveyor-General Victoria, which is a very important to this state in the management of land, alongside the registrar of titles and the Valuer-General.

There have been some issues raised around a conspiracy theory put forward by the member for

Hawthorn that in some way we are devaluing the role of the Surveyor-General. Au contraire! In fact for the first time, as I said, we are elevating the Surveyor-General to ensure he is respected in his role in the management of land. We have responded to a national competition policy investigation of the surveying profession, as has been pointed out by the members who have spoken on this bill, in the past surveyors were only required to be registered once, so they had lifetime registration. This bill, in responding to the competition policy review, is about modernising this profession. It is an important profession in the management of land, and I do not know of any other profession these days that has lifetime registration. I appreciate the survey industry's support for the modernisation of the profession.

Many speakers raised the role of the Surveyor-General in electoral boundary decisions, and there was some suggestion by the member for Hawthorn that we were devaluing the role of the Surveyor-General in that decision-making process. Again, nothing could be further from the truth, and it is insulting to the Surveyor-General and to the surveyors profession to even suggest that. What we have done in this bill is elevate the dismissal procedures that relate to the Surveyor-General so that he cannot be dismissed without the consent of the Parliament. That shows a respect for his role that did not apply under the previous government — and of course I cannot imagine why under the previous government that situation was deemed to be quite satisfactory! As an appointment made under the Public Sector Management and Employment Act or its predecessor it has always been a public sector appointment, whether under our government or under the previous Kennett government and other governments before that.

We have responded to discussions with the industry about the role of the Surveyor-General — yes, as a surveyor — in the cadastral mapping and other technical aspects of the job by bringing all those roles and functions into one clearly defined act. However, we have gone further than that: we have actually responded to our discussions with the industry and have agreed that since the Surveyor-General has a role in the setting of electoral boundaries under the Electoral Boundaries Act, he or she should enjoy the protection of Parliament when it comes to dismissal.

I am very pleased to see this bill come to the house. It has had a long gestation, having been presented to this house before Parliament was prorogued prior to the last election. It has involved much consultation, much examination and a lot of public airing, some of which has been inexact unfortunately. We expect our

surveyors and their work to be very exact, because the way we manage, transfer and rate land is very important to the wellbeing of this community and the strength of this economy. I thank those members who have spoken on this bill, and I hope it has a speedy passage.

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

Ayes, 54

Allan, Ms	Jenkins, Mr
Andrews, Mr	Langdon, Mr
Barker, Ms	Leighton, Mr
Batchelor, Mr	Lim, Mr
Beard, Ms	Lindell, Ms
Bracks, Mr	Lobato, Ms
Brumby, Mr	Lupton, Mr
Buchanan, Ms	McTaggart, Ms
Cameron, Mr	Marshall, Ms
Campbell, Ms	Maxfield, Mr
Carli, Mr	Merlino, Mr
Crutchfield, Mr	Mildenhall, Mr
D'Ambrosio, Ms	Morand, Ms
Delahunty, Ms	Munt, Ms
Donnellan, Mr	Nardella, Mr
Duncan, Ms	Neville, Ms
Eckstein, Ms	Overington, Ms
Garbutt, Ms	Pandazopoulos, Mr
Gillett, Ms	Perera, Mr
Hardman, Mr	Pike, Ms
Harkness, Mr	Robinson, Mr
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Howard, Mr	Trezise, Mr
Hudson, Mr	Wilson, Mr
Hulls, Mr	Wynne, Mr

Noes, 25

Asher, Ms	Napthine, Dr
Baillieu, Mr	Perton, Mr
Clark, Mr	Plowman, Mr
Cooper, Mr	Powell, Mrs
Delahunty, Mr	Ryan, Mr
Dixon, Mr	Savage, Mr
Honeywood, Mr	Shardey, Mrs
Ingram, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr
Mulder, Mr	

Amendment defeated.

Motion agreed to.

Read second time.

The DEPUTY SPEAKER — Order! Is leave of the house granted to proceed immediately to the third reading?

Mr Plowman — No.

Consideration in detail

Clause 1

Mr BAILLIEU (Hawthorn) — I note that in the second-reading speech the minister referred to broad industry support for this bill. I would contend that it is quite the contrary — the industry is actually strongly suggesting that the bill is flawed, and I referred to that in my contribution to the second-reading debate. I ask the minister to comment specifically on that matter.

I also invite the minister to comment on the remarks made by her parliamentary secretary in the second-reading debate, in which he referred to practices in the surveying industry which were of the past but which require modernising. I invite the minister to indicate what practices those are. The parliamentary secretary also referred to the notion that Governor in Council appointments are old fashioned and out of date, and I would like the minister to comment on whether she supports that notion.

Ms DELAHUNTY (Minister for Planning) — Acting Speaker, I would really like to understand why the member for Hawthorn is seeking responses to members' comments rather than drawing the house's attention to clauses. I understood that we were examining the clauses in the bill, not re-prosecuting arguments that were put by members of the house. I would seek some guidance from the Chair on precisely what process we are following here.

Mr Plowman — On a point of order, Acting Speaker, in respect of what the minister has just requested, clearly she does not understand how the consideration in detail is undertaken. Clearly the opportunity to review the whole bill through clause 1 is available because that deals with the entirety of the bill, and from there you go into it clause by clause.

Ms DELAHUNTY — On the point of order, Acting Speaker, the request from the member is that we go through the bill clause by clause. Or are we, through the examination of clause 1, dealing with the issues that the opposition has raised?

The ACTING SPEAKER (Mr Ingram) — Order! I uphold the point of order raised by the honourable member for Benambra. Clause 1 deals with the purposes of the bill, and that means members can canvass the widest possible detail contained in the entire bill. Once we leave clause 1 we then proceed through the bill in detail, going through individual clauses or just picking up clauses that individual

members wish to raise. Ultimately it is up to the minister to respond to those issues she wishes to respond to, and individual members can then rise to speak on that.

Ms DELAHUNTY — Clause 1 sets out the purposes of the Surveying Bill. In part it provides for the annual registration of licensed surveyors to perform cadastral surveying in Victoria. I believe those members who spoke about the role of the profession were in fact responding to the recommendations of the national competition policy review, among which is the clear recommendation that surveyors should be registered annually, in keeping with virtually every other profession in this state and indeed this nation. That is a very good thing. Members also made the point, to which I referred in my summing up, that the notion of any professional today expecting to enjoy lifelong registration is fanciful. That is not what the surveying profession wants. It wants to be respected as a contemporary, modern profession, and that is what this bill will do.

Secondly, clause 1 provides for investigations into the professional conduct of licensed surveyors, and that also goes to the point members made that that is part of the professionalisation of the surveying profession. We are establishing the Surveyors Registration Board of Victoria; that has been dealt with by all speakers, and I do not recall any opposition to it. The matter of the appointment of the board was raised by the member for Shepparton, whose reasoned amendment suggested that not only the Surveyor-General but also the surveyors registration board should be appointed by the Governor in Council. That has not been recommended in this bill.

Mrs Powell — On a point of order, Acting Speaker, I seek some guidance. Clause 1 is fairly broad. I want to ask a question about providing for fees for the maintenance of the survey control network. I need some advice about whether I can raise the matter here or in speaking on clause 63, which deals with regulations? Can I raise that matter now?

The ACTING SPEAKER (Mr Ingram) — Order! If it is on the issue, the member can raise it now.

Mrs Powell — The matter I wish to raise is that in June 2002 Minister Garbutt announced that an extra \$100 000 was to be allocated to undertake high-priority maintenance of the survey control network. Has that \$100 000 been allocated to the network, and where are the high-priority areas?

Ms Delahunty — Which clause are you referring to?

The ACTING SPEAKER (Mr Ingram) — Order! If it is an issue in relation to a particular clause, maybe it would be better if the honourable member referred to it during consideration of that clause. Although clause 1 is fairly broad and members can raise a range of issues, if the honourable member is talking about an issue relating to a particular clause, maybe it would be better to refer to it at the time.

Mrs Powell — Is clause 63 the appropriate clause to raise that matter under? Under the heading ‘Regulations’ clause 63 says:

- (1) The Governor in Council may make regulations for or with respect to —
 - (a) securing the establishment and providing for the maintenance of survey marks;

Clause 63 does not mention fees; it talks about regulations. I want to raise the issue of fees.

The ACTING SPEAKER (Mr Ingram) — Order! The advice I have received is that whilst that is possible, it may be better to refer to it when clause 63 comes up in relation to fees.

Mr Stensholt — On the point of order, Acting Speaker, my understanding is that we will go through this clause by clause. We are on the first clause. This is actually not an opportunity to ask what has been spent on some particular program somewhere else. It is a matter of sticking to the legislative provisions — it is not about the executive — and I would ask you to make sure that when we discuss the clauses members stick to that.

Mrs Powell — On the point of order, Acting Speaker, clause 1(f) talks about providing:

... for fees for the maintenance of the survey control network.

I think it very substantially relates to that clause.

Dr Naphine — On the point of order, Acting Speaker, I wish to reinforce what the honourable member for Shepparton has said, that clause 1(f) clearly refers to maintenance of the survey control network, which is the very issue which the member is raising. It is very relevant to this legislation and very relevant to clause 1, and I ask you to allow the honourable member for Shepparton to pursue the argument.

The ACTING SPEAKER (Mr Ingram) — Order! I acknowledge what honourable members are saying in relation to clause 1, and in particular the words ‘provide fees for the maintenance of the survey control network’,

which broadly takes in provisions that relate to later clauses in the bill. The minister can respond on that issue. The advice I gave before was that it may be better to do that on the particular clause, but the minister is able to respond now, and that may resolve the issue.

Ms DELAHUNTY — In the interests of sharing as much information as the opposition and the house need, I am very happy to answer the question raised by the member for Shepparton. The bill makes it quite clear that the maintenance of the survey control network does require expenditure. Surveyors are required by the Survey Coordination Act 1958 and the Surveyors Act 1978 to place survey marks when undertaking surveys.

As the member clearly knows, these marks are predominantly used to determine both horizontal and vertical positions, and they can ultimately be included as part of the national survey control network. So the maintenance of this survey control network is absolutely critical to the community's sense of trust in how the whole network is managed. It is certainly important around infrastructure and residential developments. Just last evening in the Parliament we had the debate on the Mitcham-Frankston Project Bill. That is one example of where the survey control network needs to be absolutely spot on and well maintained.

Responsibility for the maintenance of this survey control network is with the Surveyor-General, so the question is quite apposite to this bill. How does the Surveyor-General manage what are currently 148 000 separate marks recorded on the survey network? Approximately 1000 new marks are added each year. Recent investigations say that of course a percentage of these will be damaged each year. Under this bill there is a possibility to provide for a maintenance fee to ensure the confidence of both the industry and the community around the survey control network. So that is what the bill provides — that is, the opportunity to ensure that that fee is available.

The head of power has been quite properly included in the bill to enable a fee to be charged for the maintenance. The exact level would, as is normal process, be determined by a regulatory impact statement. I should say, though, that the Department of Sustainability and Environment was very conscious of the requirement that we have an up-to-date and well-serviced survey control network. The member was quite right in saying that additional funding was provided in 2002–03, and there has been an additional allocation in the 2004–05 budget to ensure that we have adequate maintenance.

Mr BAILLIEU (Hawthorn) — In her summing up the minister referred, as have other government members, to bringing all the roles and functions of the Surveyor-General into the one act. That is not my understanding of the case at all. The Surveyor-General has functions under the Survey Coordination Act, and I invite the minister to make that correction or advise the house as to why the functions of the Survey Coordination Act were deemed to be such that they should be in a separate act.

I note also that in her summing up just a few moments ago the minister said that the dismissal provisions for the Surveyor-General were new and had not been in place before. That is not my understanding, and I invite the minister to address that matter.

Ms DELAHUNTY (Minister for Planning) — Could I clarify which clause the member for Hawthorn is referring to? Clause 1 is very general. He is asking very specific questions. I am very happy to answer them, but I would like the member for Hawthorn to say which clause specifically he has the detailed question relating to.

Mr Baillieu — Clause 1.

The ACTING SPEAKER (Mr Ingram) — Order! The Chair is not in a position to direct an honourable member to inform the minister which clause in particular we are referring to. We are still on clause 1, which is the purposes of the Surveying Act. Likewise the Chair does not have the ability to direct the minister how to respond to honourable members.

Dr NAPHTHINE (South-West Coast) — The member for Hawthorn invited the minister to respond to some issues on clause 1. Clause 1 is a broad clause, and it would be more appropriate and would help the committee as a whole if the minister addressed these as they arose, otherwise they just keep getting raised on other clauses as we go through the bill. Perhaps the minister could address the issue and help the committee rather than being difficult.

Clause agreed to.

Clause 2

Mr BAILLIEU (Hawthorn) — Clause 2 is the commencement clause. Amongst the many concerns expressed by the industry is a concern about the possibility of a 1 January 2005 commencement date. The bill refers to the creation of regulations, and the creation of those regulations will require a regulatory impact statement and consultation — it is essentially a six-month period to complete that — before the act

comes into force. I invite the minister to assure the house and the industry that there will be adequate time for consultation before those regulations are finalised and the act comes into operation.

Ms DELAHUNTY (Minister for Planning) — I thank the member for his direction. Clause 2 does provide, as every bill does, for the commencement of the act. In this case it is 1 January 2005; however, the question was about whether there has been adequate consultation. Is the Pope a Catholic? How long have we consulted on this bill? I know the member for Hawthorn always takes a little bit longer to get up to speed on these things, despite briefings being offered, but he was involved in the preceding bill, the bill that gave rise substantially to the bill that we are discussing in this place today.

That bill was consulted on extensively through the industry and was certainly the subject of much public discussion. The bill was in the house before this place was prorogued in time for the 2002 election. So there has been substantial consultation, and since the election of the second Bracks government we began the process again.

I do not need to remind honourable members in this house that that election took place in November 2002. We are now in May 2004. There has been extensive consultation on this bill, and I think the member is really wasting a little bit of time here. I do not think consultation has been an issue. Of all the issues that have been raised on this bill, consultation has not been one. I can recall my meetings with the association members when they raised issues verbally, and in writing to the department and then to me saying that they supported this bill. They then decided that they wanted to raise another issue, as is their right and as is appropriate. I very much enjoyed my conversation with the representatives of the surveying peak bodies. I recall quite vividly saying to them, 'If you have specific issues you would like changed, please present them on paper. We would certainly like to include these discussions in the bill as appropriate'. I think they were quite stunned by that. I do not know who they had been dealing with previously, but they were quite surprised that they would be so invited. They were invited by the department and by me, as minister, through my meetings with them.

As with any regulations that are being proposed, there is — particularly under this government — always a serious round of detailed discussion. That is the difference between this government and the previous government. Perhaps this is the reason that the member asks this question. The previous government rammed

things through this house. There was no consultation; it was the death of democracy. I can understand why the member for Hawthorn has raised this question. There will be adequate consultation and there always has been adequate consultation. As I said in my previous answer, there are regulatory impact statements to be completed. We always assume that they will take as much time as is required.

We will not delay what has been agreed to in the national competition policy as to what is expected of us. We will not delay modernising the surveying industry. That is what the industry wants and that is what is expected of us as a government under competition policy agreements. I hope there would not be anybody on the other side of the house who would be arguing that this bill, which has been in gestation now for many years, should in any way be delayed so that then Victoria is fined. Under the federal Liberal government agreement, if you do not fulfil competition policy obligations you are fined. There is a financial cost to the state. This is an extremely well-managed state and we have no intention of allowing any sort of — —

Business interrupted pursuant to standing orders.

The ACTING SPEAKER (Mr Ingram) — Order! The time for the Attorney-General to make a ministerial statement has now arrived. The minister may continue her presentation on the consideration-in-detail stage when the bill is next before the house.

MINISTERIAL STATEMENT

New Directions for the Victorian Justice System 2004–2014

Mr HULLS (Attorney-General) — I wish to make a ministerial statement.

It is not often that a minister has the opportunity to present something of such resonance to the house. As Victoria's Attorney-General I have had the great honour of presiding over an unprecedented amount of reform in the legal landscape. In our first term this reform sprang forth from exhilaration at winning the chance to undo the damage of the conservative legacy; return the rights that had been filched from the grasp of the community and lift the veil of secrecy and disregard for the integrity of ordinary people that had been laid over public institutions.

Well into our second term, we now have the privilege of being able to look to the future, creating a legacy not only of righting historic wrongs, but fashioning a vision

that will continue to bear fruit in coming generations. The justice statement that I present today is the foundation of this vision — the most comprehensive analysis ever undertaken of the way our legal system operates and the product of meticulous work by my department and all those with a stake in my portfolio.

However, the justice statement is not a culmination but an inception. It is a beginning, rather than an end, providing every member of the community with a map and signalling openly the terrain which justice will explore in the short and long term. Never before have the legal sector and the wider community been equipped with such a map. Never before has Victorian law had such clarity of direction under an emphatic statement of our belief in a system that reveres the rule of law and recognises that equality, fairness, accessibility and effectiveness are essential to the operation of any truly democratic society. Given the extraordinary climate of anxiety and self-interest that faces us nationally and internationally, perhaps there has never been a better time to make this statement, reiterate our beliefs in these principles and fight to defend the integrity, the protections and possibilities of the law.

Importantly, the justice statement recognises that justice should be reflected in people's daily lives and interactions, that it has something to say about every facet of government and of life in Victoria. The statement recognises that justice intersects with economics, infrastructure, the environment, education and community services and that it impacts on the opportunities that Victorians face and on their confidence to embrace such opportunities and to avoid the traps of alienation, disadvantage and self-doubt.

Just as crucially, much of this statement's strength is drawn from its status as a symbol of partnership across the entire legal sector. Across the spectrum of the law, practitioners discuss the successes and the challenges that they perceive before them on a daily basis. Yet absent from this field has been a place for these discussions to converge — an opportunity to examine the breadth of the system, its impact on the lives of all Victorians, and to articulate what it is that we value about the law and why. Nowhere has there been, until now, a point at which we can appraise the need for reform with the benefit of depth, context and collaborative insight.

If, then, we are to conduct this appraisal, if we are to fulfil the promise of our legal system and shape one that is cooperative, flexible and compassionate, then we must start from a recognition that the law is there not to be alienating and remote but for the protection and

benefit of the community. It is a mechanism that we can use to define what behaviour we find acceptable as a community, address disadvantage and inequity and resolve conflict — in short, to help us live cooperatively with each other.

This is, in the true sense, a radical statement. Historically the independence of the law has often allowed it to operate in a vacuum, removed from day-to-day experience. Over the last four years, however, the Bracks Labor government has been making, and will continue to make, the law more accessible and relevant to all Victorians.

To do this properly we must build the law's authority on lucidity and inclusion rather than mystification and exclusion. The existence of the justice statement signals this and, guided by the themes of 'modernising justice' and 'protecting rights and addressing disadvantage', considers in turn the subjects of criminal law and procedure, civil disputes, the courts and the legal profession, protecting human rights, addressing the causes of overrepresentation of disadvantaged groups in the criminal justice system, improving responses to victims of crime and improving legal information, advice and assistance.

The statement flags 25 major initiatives and many more minor projects which the government will undertake over the next 5–10 years. Rather than catalogue each initiative here today, I shall highlight a selection that, in my view, illustrates the broad coverage of the statement and exemplify the values that lie at its heart. It is my hope that they prompt lively discussion about the legal system we want for Victoria in the 21st century.

Legislative and procedural reform

In my view a starting point in this discussion must be the provision of a well-functioning criminal justice system, a system which is capable of dispensing a fair and independent process to the accused, recognition and justice to victims, and consistency and authority to the wider community in the context of constant change and complexity. The legislation and procedures that support this system, therefore, must be clearly and logically organised to be accessible and comprehensible when questions of a person's liberty are at stake.

Currently in Victoria this is not the case. From the Crimes Act 1958, which deals with the most serious criminal offences, through the Bail, Evidence and Sentencing acts, the fast pace of change in the law and in the wider community has left the legislative response behind. The Crimes Act was last consolidated 46 years ago, and since then over 1500 amendments have been

passed. Containing 594 sections, with one of them over 90 pages long, this act has become increasingly inaccessible, no longer logical or coherent and really an ad hoc compilation.

I am pleased to announce, therefore, that the government will embark on comprehensive reform of the legislation that supports the criminal justice system, remedying inconsistencies and ambiguities in the Crimes Act and bringing us abreast of national developments. We will also improve coordination between jurisdictions and allow matters to be heard in the lowest appropriate jurisdiction, thereby reducing complexity, cost and delay. Consequently we will examine current thresholds between courts, as well as appeals from the Magistrates Court to the County Court where defendants have a right of full rehearing, to assess the benefits to all parties and to the legal system as a whole.

Similarly, fairness demands that we aim to narrow proceedings to the issues genuinely in dispute, resolving matters at the earliest appropriate point. We will therefore strive to maximise the benefits of committals and case management initiatives, and though I emphasise that it would be a false economy to abolish committals, we must nevertheless ensure that they are used in the most effective way. We will also explore a sentence indication procedure, where defendants may be given an indication of their likely sentence if they plead guilty. Such a reform would encourage offenders intending to plead guilty to do so early in the process to avoid wasting court time and resources.

Just as important as improvements to the Crimes Act is reform of the Bail Act to ensure that bail is not denied to people who have a legitimate right and that aspects of bail not currently covered in the act, such as bail in respect of appeals, are addressed in a coherent and fair manner. Similarly the Evidence Act, which lies at the heart of all court procedure, is currently a potpourri of disorganised provisions that are difficult to follow. Recourse to the common law is often necessary to determine issues not addressed in the act. The Australian Law Reform Commission's review of evidence rules formed the basis for a model widely endorsed as being better than the common law, and the government therefore proposes to implement legislation consistent with this model, adapted to Victorian needs. All these reforms will equip Victoria well in the context of an increasingly nationalised profession and legal landscape.

Having already implemented significant recommendations from the Freiberg sentencing review,

such as the establishment of the Sentencing Advisory Council and the provision of guideline judgments, other recommendations of the review will of course be progressively implemented, such as providing courts with a greater measure of discretion where a defendant has breached the conditions of a suspended sentence and the development of community-based orders more specifically targeted at rehabilitation.

Finally, to complement legislative reform in the criminal sphere, the government will reform the Coroner's Act, now in its 20th year of operation. The environment in which the Coroners Court operates has changed dramatically since its inception, with forensic technology creating greater potential and higher expectations of coronial practice. The government values the coroner's forensic and accident prevention roles enormously, and an update of its supporting legislation will increase the jurisdiction's capacity to respond to technological developments, contribute to accident prevention and ensure that the needs of families of deceased persons and others affected by sudden tragedy are met.

Flexible approaches to resolving civil problems and disputes

Of course legislative and procedural reforms will only go so far unless we change the way we approach the human problems that come before the courts. Rather than collapse the role of justice to the parameters of the courts, we must expand and integrate the role of the courts into the wider part that justice plays in the community.

Outside the criminal justice system, all societies need to find ways of resolving disputes between their members and living cooperatively with each other. While these disputes may be private, governments play an important role in establishing the means by which they can be resolved, in order that the rule of law may be effective and justice be achieved. As with the criminal sphere, the traditional method of civil dispute resolution has been adversarial and highly dependent on legal advocacy to navigate the law's complexities. While this method is appropriate for more complex matters, I believe that the starting point for the resolution of any civil dispute should be the lowest possible level of intervention.

This is because I want justice in Victoria to be accessible, efficient and adaptable to the needs of disputants. Perhaps most importantly, I am convinced that the law grows stronger where parties feel they have participated in the decisions that affect them. Many share this belief and the use of appropriate, or

alternative, dispute resolution — or ADR — has grown exponentially in the last few decades. However, this growth has been neither systematic nor has it been accompanied by a consistency in those who conduct resolution processes. Consequently, accountability and methods employed vary wildly, making it impossible to quantify the level of demand for ADR.

We need to interrogate what we want from dispute resolution, and the justice statement undertakes to facilitate this examination and make appropriate dispute resolution methods more accountable, accessible and effective for every Victorian. In doing so the statement promises a Gateways to Justice project to:

identify the range and requirements of existing dispute resolution services;

understand and define the types of disputes that occur, both current and emerging;

develop an approach to dealing with different types of disputes;

identify service providers, and who can best be a gateway to their services;

allow matters to move between different stages of resolution procedure;

provide feedback and information about dispute patterns.

The project will examine the potential of the ‘multidoor courthouse’, a court that acts as a doorway to a range of resolution services from which disputants can choose. Further, we will give magistrates the power, currently employed by the Supreme and County courts, to order mediation between litigants, and investigate pre-litigation protocols that require parties to have made a genuine attempt to resolve the dispute before resorting to litigation. Any such policy must obviously be sufficiently flexible to ensure that only appropriate cases are subject to the requirement and that access to the courts is not unfairly denied.

Modernising courts

This change, of course, cannot succeed unless our courts continue to evolve with the community. While the justice statement moves away from monolithic institutions and traditional modes of adjudication, the courts are the axle on which any such move must turn: giving the rule of law substance and curbing the excessive or arbitrary use of power, their determinations carry weight beyond individual circumstances. We should not assume, however, that

the strength of any court lies in atrophy, and the courts are developing an autonomous strategic directions agenda to meet the challenge of the new century and enable Victorians to navigate the law as smoothly as possible.

Obvious first steps are the adequate dissemination of information and the provision of accessible facilities, and the justice statement signals plans to help courts improve the integration of IT between jurisdictions and accessibility for those with mobility, visual or audio impairments or with English as a second language. The statement also calls for greater liaison between jurisdictions, improved coordination with agencies and the expansion of staff skills. Governance arrangements and a transparent budget process that have the confidence of both the courts and government are also essential, and we will work with the courts over the next 12 months to progress reform in these areas.

Significantly the government believes in creating material unity and intends to house every jurisdiction in a combined legal precinct. As part of this, we will be embarking upon a master plan for the development of Melbourne’s central business district that will leave a tangible legacy for the future. Further, the government will explore the potential for a single, one-stop registry to create greater clarity, consistency and access to all Victoria’s courts.

Addressing disadvantage

Speaker, we will build on the valuable work of existing problem-solving jurisdictions, such as the drug court, the sex worker list and the proposed family violence division of the Magistrates Court, and we will extend the Koori court to Mildura and Gippsland. We are also developing a children’s Koori court in our attempts to identify new ways to respond to the complexity of human issues that Victorians bring to the law. We will do this because this government knows that marginalisation contributes to people’s alienation from the law, driving them into a cycle of crime. To stop this cycle, the justice system must be smart enough to take account of disadvantage, whether cultural, health related or the simple matter of an offender’s age. This is why, Speaker, I am pleased to announce that the government will implement its commitment to increase the jurisdiction of the Children’s Court to include children aged 17 years, halting the steady march of these children into the adult system and instead steering them towards the greatest chance of rehabilitation in the juvenile justice system, and their best opportunity to avoid the cycle of crime.

Rights and responsibilities discussion

Finally Speaker, I would like to turn to an iconic element of the justice statement, and one over which I believe Australia is at a crossroads. Human rights and their associated responsibilities are those essential to human dignity, freedom and tolerance, and are essential to any truly democratic society. They represent the integrity afforded to all members of a community regardless of their individual attributes and are a statement of our common humanity. Australia, however, is currently unable to make this statement with any veracity. While, along with other members of the international community, we have ratified and therefore agreed to uphold the major human rights instruments, we are persistently failing, at a national level, to give these instruments life.

This failure is due, I believe, to eight years of a federal government that views the vulnerable as a threat, rather than a responsibility; the law as an impediment, rather than a protector; and human rights as a peripheral and maddening inconvenience. The question before us, then, is how can Victoria make these things a reality when they are flung aside with such abandon by the commonwealth? Changing the law is the most obvious step we can take to recognise our rights and responsibilities. However, just as important is the role of broader debate about their place within our legal and civic life.

For eight years now a cloud of expediency has cast its shadow on the national stage, seeking to create a society of line drawers, between citizens and non-citizens, included and excluded, worthy and unworthy. These dichotomies are based on concepts of judgment and fear rather than a recognition of the inherent rights that every person possesses simply because they are human beings. Once we start talking in terms of legal and enforceable rights, however, these lines become blurred and will, I believe, eventually disappear.

It is time, then, to return human rights to centre stage and recognise that they are the international extension of the fair go, that simple concept that Australians have historically embraced but grappled with less successfully in reality. We need to put the fair go back on the agenda, to have a conversation about its place in Australian society, talking openly about rights, their associated responsibilities, what they are and how they might be realised, who is missing out and how they should be promoted and protected. With this in mind, the justice statement will foster this discussion.

For many the potential destination of this discussion may be a formal instrument, such as a charter of rights and responsibilities or a citizens charter. Australia is, after all, one of the last developed nations not to have a rights instrument to mediate the relationship between the state and its citizens, the UK, Canada, South Africa and New Zealand all having passed relevant legislation in the past 25 years. In 1987 the Victorian Legal and Constitutional Committee recommended the insertion of a declaration of rights and freedoms in our constitution as a guide to Parliament, while not enforceable at law. Similarly, the Constitution Commission in 2002 recommended that rights be recognised in our constitution.

However, others argue that it is not possible to enshrine the spectrum of rights and responsibilities and that judicial interpretation offers greater flexibility and an opportunity to evolve with community expectations. It is a difficult balance to strike. Whatever the result, it is essential that we have the discussion. Through the justice statement process, and through thoughtful leadership, we can explore the merits of the various models in use around the globe and, together, unearth the most appropriate direction for Victoria.

Conclusion

This is just one path down which my portfolio will head over the coming years and, as with the many others signalled in the justice statement, I am convinced it will be a fruitful one. Speaker, the justice statement is an indication of our fundamental belief in the importance, and the vulnerability, of the law. At every turn it affirms the rule of law as integral to a properly functioning democracy, acknowledging that we cannot talk about the recourse that the law offers us without acknowledging the defence that we must offer the law. The statement is about cementing this defence, securing the confidence of the community in the law's mechanisms and exciting their imagination in its potential. It urges the participation of all those who feel passionate about the protections and the possibilities of the law. I therefore encourage all members of this house to read the justice statement, to talk about it with their colleagues and constituents and to reflect. I look forward to lively and thoughtful debate in the months and years ahead and commend this statement to the house.

Mr McINTOSH (Kew) — At a time when this state is faced with a serious crisis in its police force and in the integrity of the criminal justice system; when we have drug trials potentially aborted because of problems in proof of evidence and perhaps the tainting of that evidence by allegations of corruption in the police

force; at a time when the Attorney-General is passing legislation that severely impacts on the judiciary — a matter that he says goes to the very heart of our democracy and to the very heart of the way we dispense the system of justice in this state, which may very well be a platitude that can be put out to the public, but the judges know they are feeling severely burnt by the conduct of this Attorney-General in relation to judicial salaries — one of the two principles that go to the cornerstone of an independent judiciary — what we have here is a statement of self-congratulation by the Attorney-General. Perhaps it is designed more for the benefit of media highlights than as a concrete blueprint.

At the last election Victorians were promised a concrete blueprint as to what the Attorney-General would do in relation to justice and dispensing justice in the state. What we have got is a bunch of platitudes and rhetoric that I certainly, and many other members of this house, are critical of because the rhetoric does not match the actions. It is a matter of real concern.

I shall take up a couple of simple things. I refer to the appointment of the chief justice of the Supreme Court of Victoria. The Attorney-General knew for nine months precisely the day when the most senior judicial figure in the state, the chief justice of the Supreme Court, would retire. Despite that we had to go through an incredibly urgent rush to pass a constitutional amendment to enable the appointment of an acting chief justice for three months while the Attorney-General went about appointing a chief justice in a way that was not timely and was subject to public controversy.

This government has taken away the rights of a fisherman who is currently undertaking litigation through an act of Parliament. We have also had to deal with the situation where we may have the Parliament taking away the private contracting rights of individual parties in the near future. It is a matter of profound concern.

The Attorney-General says 25 major initiatives have been announced and a number of minor initiatives. He talks about the consolidation of the Crimes Act. Yes, it is 46 years old and in this session alone we have had three or four substantial amendments, but again the rhetoric does not necessarily match the actions of the Attorney-General. We are amending the Crimes Act in a higgledy-piggledy way. What is the process that we will go through in amending that act to bring it into the modern world? Will we undertake another review, perhaps like the sentencing review, which the Attorney-General lauded in his justice statement.

A fundamental basis upon which the changes to sentencing in this state were implemented by the Attorney-General was the creation of the Sentencing Advisory Council. Over 12 months ago that legislation went through this house. The opposition was very critical of it, saying that that was exactly what the Court of Appeal actually does, but the Attorney-General pressed on and said the Sentencing Advisory Council would survive for a long time and would change sentencing by providing guideline judgments for other judges to follow when issuing sentences. What do we get? I am not aware whether the Sentencing Advisory Council has been appointed. It is now 12 months down the track and we do not yet have a Sentencing Advisory Council. I might be only the shadow Attorney-General, but judges of appeal do not know whether the council has been appointed 12 months down the line. Again there is delay and obfuscation.

Parliament has just recently dealt with an amendment to the Bail Act. Why deal with the Bail Act in the higgledy-piggledy way the Attorney-General is undertaking? We have had a substantial review of the Bail Act by the Victorian Law Reform Commission, yet we get higgledy-piggledy amendments to the Bail Act. Similarly with the Evidence Act. Yes, the Australian Law Reform Commission undertook a substantial review 10 years ago. About seven years ago the commonwealth implemented the commonwealth Evidence Act as a model for every other state. It is now seven years since that time and this government has been in power for four and a half years, yet still we only get a promise that the state will do it eventually. Are we going to have another review or will we have a concrete proposal coming into this house?

We have talked about bringing the Coroners Act into the 21st century with the introduction of information technology services and other forensic medicine activities. It is a matter of profound concern that for almost two years forensic medicine has been in crisis. Yes, the government has finally done something about it by promising extra money to increase the staffing levels, which was a crucial concern over two years ago. We had magistrates giving bail to very serious alleged drug traffickers because the Victorian Institute of Forensic Medicine could not provide the required evidence within the two-year period and magistrates were saying that was unacceptable. It is a matter of profound concern that while these platitudes are uttered we do not have any concrete blueprint for a proposal.

The Attorney-General promises that we will have a review of the jurisdiction levels of different courts. That has been around for years. Indeed it was part of Labor Party policy at the last election.

Mr Hudson — We are doing it!

Mr McINTOSH — The member for Bentleigh is yelling out that they are doing it, but what are they doing? It has now been 18 months since the last election, and we still do not have any concrete proposal as to what the government wishes to do, apart from ‘We are going to review the situation’.

We have the promise of developing a master plan for the legal precinct in the central business district. The possibility of the Victorian Civil and Administrative Tribunal (VCAT) moving into the old County Court building has been around for three years. This would create a centralised situation where we would have not only the Supreme Court, the County Court and the Magistrates Court but also the Federal Court, the High Court and the Family Court all within 100 metres of the Owen Dixon chambers. I agree that that is very appropriate. I welcome the prospect of looking into the idea of having a central registry, particularly if those courts are centralised around a single place. What I do not understand is how that will translate into rural and regional Victoria. It is a matter of profound concern that once again all we are getting is promises — like promises of reviews — without any concrete proposals.

A former coalition government introduced the system of alternative dispute resolution (ADR) in both the Supreme and the County courts. That government was concerned at that time not to introduce the mechanism of alternative dispute resolution into the Magistrates Court because of the costs involved. Yes, the government should review it and look at the system to see whether it can be improved, but it should not turn around and claim it as its own. It is a matter of profound concern that after four and a half years the system of dispute resolution has not been enhanced in the Magistrates Court. It is therefore a matter of concern that the alternative dispute resolution process available in the Magistrates Court is different from the process which is available in the Supreme and County courts. The bottom line is that it is more costly to implement the system of ADR in the Magistrates Court because of the size of litigation involved.

I would have thought that if you were talking about alternative dispute resolution mechanisms the one thing you might consider as a real prospect would be early intervention — decisions that could be made at an early stage as guidelines. We have guideline sentences being announced for the first time, after having been on the agenda for about four and a half years. Shortly before I was elected to this place this was being discussed by the then chairman of the criminal bar association, who was publicly calling on the then Attorney-General in the

lead-up to the 1999 election and this Attorney-General when in government to implement a mechanism to give guideline sentence indications. That could also translate into the civil jurisdiction, but there certainly has been no discussion of that anywhere that I have seen in relation to alternative dispute resolution mechanisms.

We have talked about information technology and the Coroner’s Court. One of the big issues around at the moment in the legal precinct is the Supreme Court building itself. I worked there for some 12 months and practiced regularly there as a barrister. I have some personal affection for that building, but it is completely inappropriate in a modern world. One would hope that in reviewing the legal precinct in the central business district the Attorney-General would make provision for a modernised Supreme Court. Yes, retain the present building and enhance and maintain it as a significant and important public institution. Yes, maintain sittings in that court in certain circumstances, but the building is now very much confined and creates difficulties with access to justice, including the ability to get in and out of the building and obtain proper access to IT facilities.

We have been promised more transparent court budgets. That is fine, but let us talk about the way the budgets are actually implemented. In the past four and a half years we have seen a burgeoning in delays in the courts. I know the Chief Justice of Victoria, the Chief Judge of the County Court and the Chief Magistrate are seeking to address all those matters, but the delays are blowing out. I would welcome more transparent court budgets, but I would have thought that addressing those particular matters would be above politics. If we are actually talking about accessing justice, any delay means justice denied, and that is a significant matter. The government should not just talk about more transparent court budgets, it should make it a real issue and make a commitment to properly resource our courts.

I have total confidence in Tony Parsons as the head of Victoria Legal Aid. I think he is undertaking some significant reforms in relation to legal aid, but I would like to see a greater commitment. I acknowledge that this government has increased the state’s contribution to legal aid over the past few years, including in the recent budget, but I would like to see that properly brought into line with other jurisdictions, particularly in relation to the civil jurisdiction. I am concerned that this is just another way of saying in relation to criminal law in this state that we effectively have two monopoly briefers — Victoria Legal Aid and the Director of Public Prosecutions — and that they can effectively drive the price of a service down substantially. That should be included in any review of the court budgets.

I welcome the Attorney-General's announcement that the jurisdiction of the Children's Court will be extended to include people under the age of 18. It is an appropriate development. However, it is a matter of some note that this government promised this clearly and categorically. Whatever else it did in its policy statement in the lead-up to the last state election Labor promised that it would raise the age to 18. What we have here is another promise to do it. Why have we not seen in the three sittings since the last state election a piece of legislation that actually increases the age? People such as Peter Norden have been calling for this and making a public issue of it, and again we find that it becomes important to this government only when it starts getting adverse headlines. It is a matter of real concern that 18 months after the last state election we still do not have any concrete blueprint as to when are we going to get it and what it is going to look like. All we have is a mere humble promise to do so.

In relation to the Koori courts in Mildura and Gippsland, any measure that deals with indigenous Victorians and their overrepresentation in our prison system is welcome. I note that when you compare Victoria to the other states we come out reasonably favourably. I welcome the introduction of the Koori courts in Mildura and Gippsland. However, one of the great developments that came out of VCAT was the consolidation of all the little tribunals which were self-managing. While there are separate divisions and separate courts — for example, Koori courts, family violence divisions and drug courts — they should be properly resourced.

One of the matters that has come to my attention is the issue relating to the drugs court at Dandenong. Apparently the ability of that court to provide the diversion programs so hotly promised by the Attorney-General is not being delivered. Effectively the drugs court is operating merely as a Magistrates Court. Yes, it is a division of the Magistrates Court, but it should be properly resourced, particularly the diversion programs. This applies not only to the drugs court at Dandenong but elsewhere as well. The provision of diversion services on the ground is not being delivered in the way this Attorney-General has announced.

It is a matter of real concern in this state when the integrity of our criminal justice system is being brought into serious question by allegations of corruption in the police force. The gangland killings when people are being shot on the streets — three in my own electorate — are a matter of profound concern. The government is reacting to adverse headlines by setting up a police ombudsman. Yes, we acknowledge the additional powers, but again it is the transparency of the

process. The Ombudsman is still constrained whereby he cannot initiate his own inquiries unless he gives notice to the Minister for Police and Emergency Services or the Chief Commissioner of Police and gives a copy of the report before it is tabled in this place to the minister and the chief commissioner. I would have thought this would have been the most critical aspect that this government could address in relation to the criminal justice system.

Ordinary Victorians are now openly expressing concern about the integrity of their police force. Yes, we all accept the hardworking dedicated law enforcement officers which our policemen are. But it is a matter of real concern that we still do not have proper mechanisms in place. Everybody out there, apart from the government and the Chief Commissioner of Police, is saying this issue should be transferred to the Ombudsman in those difficult circumstances. These are the important issues that I was expecting to see in the justice statement.

This is another step in a long line of rhetoric. There are profound matters of rhetoric and high principles in the statement, but little delivery of action; there are few actual outcomes for the people of Victoria in relation to dispensing justice. The first three pages are full of very big words, very important words, but they do not actually deliver anything. We were promised a blueprint, a step-by-step blueprint, for the delivery of justice services in this state. What we get is just big words.

Even in relation to the issue of human rights, nobody is denying the importance of an individual in the face of the law. It is our treatment of those individuals in the face of the law that marks us as a liberal democracy. But this is going down the course of just starting a dialogue. It is not even a review as to whether the state gets a bill of rights. I note that the debate is not just being started in Victoria, it has been going on for 25 years ever since I have had any association in the law. It is a matter that does not start here. It is not the beginning at all; it is just part of a transitional process. There are diverse views. I note that Premier Bob Carr has absolutely ruled out the issue of a bill of rights in New South Wales. He feels a bill of rights in New South Wales would introduce a litigation culture, a culture of entitlement that would bog the courts down. There is nothing new here. There are three pages of just what is a blatant attack on the federal government, with platitudes. There is no substantial evidence — it is just platitudes.

The taxpayers of this state paid almost \$700 000 to get this document before us. It is 18 months late. It was

promised as a result of the policy — it was a crucial part of Labor's policy at the last election. The people have paid \$700 000 for this very thin, shabby document. That payment was made to KPMG Australia, the consultants on this report. I would have thought for \$700 000 we would have had a much more substantial document — not self-congratulatory, not full of all of these big words, not with the rhetoric the Attorney-General is so noted for. I would have thought we would have had an action plan, or a timetable.

We should have had a document saying, 'We want to move the court precinct into the area around the corner of William and Lonsdale streets', or 'We propose to move into the old County Court building. We will renovate it in this time frame', or 'We will introduce a bill amending the Crimes Act or consolidating it into a criminal code in this state, if you like', or 'We will do something in relation to the Bail Act'. It should not be the way the government is going about it here, which is a higgledy-piggledy reaction to adverse headlines.

This government has demonstrated, not only in the area of justice but well and truly outside it, that it can make big, loud statements. However, when it comes to delivering on the ground it cannot appoint a chief justice on time; it cannot appoint a sentencing advisory council; it takes away fishermen's rights; and it introduces bills depriving private contracting parties of their rights. It is all rhetoric. It is all hot air. It takes this state no further.

Mr RYAN (Leader of The Nationals) — By the rules imposed on this Parliament by this Labor government I have 10 minutes in which to respond to this ministerial statement. This will be, shall we say, brief, and, I would hope, to the point.

The ministerial statement is a disappointment. These occasions are few where ministers actually do deliver a statement of this nature. One would have thought we could have had better from the Attorney-General, particularly in the prevailing circumstances. This is a grab bag, most of it old, some of it new, some elements are good — but in the total scheme of things it is a disappointment. It contains in the broad a proposal to review some acts of Parliament, particularly with regard to the operation of the criminal law in Victoria, to review the alternative dispute resolution mechanisms, more particularly as they apply to the Magistrates Court, to continue the use of IT in relation to all jurisdictions of the court system, and to increase the Children's Court jurisdiction so it is applicable to those of 17 years of age, which is an initiative I strongly welcome on behalf of The Nationals — the government is to be congratulated for that.

There is some tired old rhetoric in relation to human rights, and in this year of a federal election the commonwealth comes in for a bit of a belting. Then there is a plan for a legal precinct, which in any event is largely self-established up around the William Street area and those other locations where the courts and barristers chambers are co-located. So in that sense, it is a disappointment. The narrowness of the content and views expressed in it is to me the greatest disappointment. This ministerial statement talks about considerations over 5 to 10 years. It should be talking about 20 and 25 years, and it should be talking about the ways in which the justice system in the state is going to be chafed over the next couple of decades. It should be looking laterally to deal with some of the issues of the day. I call upon the Attorney-General to be bold in relation to these things and not to be constrained in the way this statement indicates.

There are two particular matters that I want to refer to. It is an extraordinary and glaring omission of immense proportions that there is no reference in this ministerial statement to the necessity for a crime and corruption commission or something of a similar ilk in the state of Victoria. Page 2 of the document makes reference to the fact that justice should be reflected in people's daily lives and interactions. I am here to tell the Attorney-General that there is a hell of a lot of interaction going on in the daily lives of Victorians at the moment, because they are worried about what is happening on their streets. We have had years of people being shot and murdered, of a drug trade that is at risk of running rampant and of severe suspicions about corruption in our police force, yet this ministerial statement is absolutely, utterly and completely silent on those issues. I believe that is a dreadful omission. It again is an instance where I say to the Attorney-General, 'Seize the day, for heaven's sake!'.

What we should have heard announced in this document is the prospect of a new act of Parliament to establish a new body to deal with the issue of crime and corruption. It should be chaired by someone appropriately qualified for the task, it should be properly staffed, it should be properly resourced and it should be fully empowered. The police are talking about the necessity for this, for heaven's sake! The Law Institute of Victoria and the Victorian Bar Council are doing likewise.

We have a unanimous litany of respected people and commentators experienced in these issues out there in the community calling for a new approach to all of this, and here we have the government completely ignoring it in a document which is said to be a headline statement by the Attorney-General of the state of

Victoria on matters which are of significance in the lives of Victorians today and going forward. It is a dreadful omission, and the Attorney-General stands condemned for missing the opportunity to address this, particularly when this is his ministerial statement.

The second issue I want to talk about is the structure of our courts. I want to offer something to the Attorney-General in the spirit of ministerial statements that I think merits some consideration, especially if he is going to seize the day, be bold and think laterally. I think it is time that we looked at wrapping into one court structure our Supreme Court, our County Court and our Magistrates Court, although obviously not the Victorian Civil and Administrative Tribunal or the Federal Court. It is time that the government at least gave consideration to this in the interests of doing the sorts of things which to some extent are talked about by the Attorney-General in the course of his statement.

We could create one new court in Victoria comprising three divisions, and those divisions would in practical terms reflect the present separation between the Supreme, County and Magistrates courts. I say that this bears examination, because in practical terms it is happening anyway, given the many elements of the court system in this state. We have circumstances where discussions in relation to financial jurisdictional limits are all about whether they should be in one or other of those courts. If we had one court with these three divisions in it, we would have a greater capacity to deal with these issues.

I invite the government to consider doing this. We would end up with a court that would be multijurisdictional, and we would have the opportunity to redefine the financial parameters of those three divisions in terms of the operation of civil proceedings. It would have the opportunity to redefine the way in which matters involved in the criminal law are dealt with across the jurisdictions here in Victoria. It would establish, importantly, one administration.

I might say there is no reference in this ministerial statement to anything to do with country Victoria. I invite the government to look at the way in which court administration functions, particularly in the circuit centres around country Victoria. In my home town, Sale, the one area in the Magistrates Court also looks after the County Court and Supreme Court circuits. There is no reason why in this age of technology we could not have one administration that looks after all of the court system. It would help caseload management immensely, and it would provide us with the opportunity to have an integrated system of dispute

resolution. There are huge opportunities in this proposition.

It would certainly assist the situation regarding budgeting and information technology development. It would enable us to properly lead the way in Victoria over how we deal with our ethnic communities and migrant groups who come into contact with the court system. I believe it would enable us to truly say that we are leading the way in these regards. It would streamline court procedures, and it would give us the opportunity of dealing with the vagaries of the actual rules of court that apply across the three separate jurisdictions at present.

I say to the Attorney-General and the government: be bold about this and think laterally. If you want to form a task force and properly resource it and give it a task which has some meaty considerations to it, this is something that I think the government could truly usefully do. On the same point I ask the government to approach this on a tripartisan basis, if I can put it that way — get us all involved in this.

If members look at this ministerial statement, which comprises 10 and a bit pages, they will see that three pages of it is political rubbish. The government should take all that out of it and let us have this discussion on a basis which I believe can be constructive. I think also the government has to have regard to the way these sorts of investigations, inquiries and reviews impose on the private legal profession. The profession already contributes an enormous amount to these things. Therefore the government has to be careful about the way it goes about these processes to ensure not only that we have a look at the issues that are important for the future — and that is to the government's credit — but also that we recognise the enormous drain on both the financial and physical resources of the private profession. I also ask the government to make sure that the resourcing of the inquiries is done properly departmentally. The statement is silent on that. We need to make sure we do not overstretch ourselves and that these things are properly resourced.

I call on the government to make certain that the interests of country Victorians are preserved in this. I know it is important from my position, and also from your position, Acting Speaker, as the member for Mildura, and for all of us who represent seats in country Victoria that our particular areas are a focal point of considerations by the government.

Therefore, in closing, given the brief time I have to contribute to the debate, I return to where I started: with

a statement such as this, the Attorney-General has an opportunity to truly lay out the future for the operation of the system of justice in Victoria. I say to the Attorney-General: seize the day, be bold and think laterally. Let us all get something of benefit to the state out of this.

Mr WYNNE (Richmond) — I was honoured to be approached by the Attorney-General yesterday and asked whether I would be prepared to respond on behalf of the government to the debate on the justice statement. It is indeed an honour for me to support what by any measure is a bold and courageous ministerial statement by the Attorney-General.

It is important to understand the background of the Attorney-General because it gives us some insight into the drive and commitment that he brings to his portfolio. He was elected to this Parliament in 1996, and as we all know he has been a strong and passionate supporter of justice. This passion has not abated, and as we also all know, his most forthright commitment is to protecting and advancing individual rights and freedoms. The vision for the future is one of justice for all; it is a forward-looking justice statement that is able to respond to the many emerging challenges facing our justice system.

There is an insight in the Attorney-General's maiden speech which I think indicates the drive and passion and principle which are so much hallmarks of the work of the Attorney-General. He said in his maiden speech that he was interested in a legal system that was accessible, affordable and independent from government. In my view that is the principle that has guided his time as Attorney-General.

It is important to look over what has happened over the past four and a half years to understand how that informs the roadmap for the next 10 years which is outlined in this statement. Since taking office the Attorney-General has implemented in this house an extraordinary range of legislative reforms. In excess of 90 bills have been debated through the Attorney-General's area over the past four and a half years.

I just want to remind the house of some parts of that reform package. I shall do so very briefly. We restored the democratic rights stripped away from all of us by the previous Liberal government. Here is the essence of where we started. We have enhanced rights in the equal opportunity legislation. We have restored the powers of the Director of Public Prosecutions and made the office of the Director of Public Prosecutions independent of government. We have resurrected the Law Reform

Commission, which was abolished by the previous Liberal government. We should not forget those days. We have restored compensation for pain and suffering to victims of crime — again something that was abolished by the previous Liberal government. We have protected whistleblowers and modernised the courts, including constructing a new County Court and upgrading facilities in regional centres. We have improved security and implemented a massive upgrade in the information technology area.

We have introduced court diversion programs at 13 magistrates courts; established a drug court pilot in Dandenong; and opened three Koori courts in Warrnambool, Shepparton and Broadmeadows. One of the Attorney-General's enduring legacies must be his appointment of people of the highest calibre at all levels of the court process: women magistrates and judges, including that most superb appointment of the Chief Justice of Victoria in the Supreme Court. We have signed and resourced the Aboriginal justice agreement; removed that dreadful discrimination against same-sex couples with the amendment of 57 pieces of legislation in the last Parliament; introduced privacy legislation; brought in a new electoral system; initiated the pro bono secondment scheme; and signed the landmark Wojtobaluk land-use agreement, which is an historic first land-use agreement in this state.

On and on the reform package goes, from things like the establishment of a new judicial college through to alternative dispute resolution mechanisms. We have introduced incredibly important legislation in relation to cyber stalking, confiscation and enduring powers of attorney, as well as the vast suite of initiatives around protecting the community with the emerging issues relating to terrorism and the international threat to all of our communities.

By contrast, what did we get from the opposition? The member for Kew, as the shadow Attorney-General, had an opportunity today both to respond to the Attorney-General's statement and also to lay out at least a little bit of a roadmap showing what the opposition was proposing in terms of policies.

Mr Hudson interjected.

Mr WYNNE — My colleague the honourable member for Bentleigh suggests a bit of a track forward on what the opposition's thinking is on matters relating to the justice portfolio.

What did we get from the member for Kew? Frankly, we got a mean-spirited effort that was full of envy and bile. The member for Kew had the opportunity to say,

‘There are things in the justice statement that we agree with; there are things there that we think the government ought to have done better; and here is our plan’. Not in full — nobody expects at this stage of the electoral cycle that the opposition parties will outline in full what their policy direction is, but the opposition could have provided at least a little bit of a pointer showing how it would like to go forward. But there was nothing — it was absolutely silent.

By contrast, the Leader of the National Party, who in my view always makes a very measured response in these debates, came forward with some proposals. He said, ‘We would like you to look at a new structure for the way that the court process works. We think you should have a tripartite discussion about how we might make the court system work better’. So you sit there and say to yourself, ‘Well, it is an idea. It is a worthy policy proposal. At least it is something you can actually debate and have some dialogue about’. But I must say that from the government’s perspective the Liberal Party is silent. It is absolutely silent so there is no possibility of having an active engagement with an opposition that clearly has not done the work and simply has no direction or vision for the way forward for the judicial system in this state.

I had the privilege of working with the Attorney-General for three years, and as his parliamentary secretary from 1999 to 2001 I understand the deep passion he has for those who do not get a fair go in society and for those who have to interact with the criminal justice system and who need to be supported in that. I had the opportunity to work with him, as indicated earlier, on that magnificent reform package for the gay, lesbian and transgender community, and I know he is deeply proud, as am I, that this government fought for and put that reform in place.

The work the Attorney-General has done — that groundbreaking work in relation to the indigenous community through the Aboriginal justice agreement — is going to stand as a hallmark of not only the work of an Attorney-General in this area but also of the government’s response in a systemic way to our indigenous community that we all know is manifestly overrepresented in the criminal justice system. It is in that context that projects like the Koori Court and the Aboriginal justice agreement are so important at the interface between the indigenous community and the criminal justice process. We need to ensure that people as far as possible are diverted from the criminal justice process and not trapped within it.

This is a road map forward. This statement outlines 25 major initiatives that set a pathway for us for the next 10 years. By any measure this is a bold statement

which sets the direction for the next 10 years and outlines where this government is going, what it seeks to achieve, and what it is informed by. It is informed by the social justice principles which I and my colleagues stand by in this Parliament. That is why we are in this Parliament and members of the Labor Party and why we want to contribute to the community, and particularly to the debate on ensuring that we have a justice system that is in fact equal for all, so that anybody can get access to the justice system and that nobody gets left behind in the process.

I want to finish with what I think is the essential element of the justice statement, what is in fact the essential driving force behind the zeal with which the Attorney-General pursues his portfolio. I will finish with this point: the justice statement urges the participation of all those who feel passionate about the protections and the possibilities of the law. This truly is a bold and sweeping statement; it is a Labor statement, something we as members of the Labor Party are proud of. It is strongly rooted in social justice principles, and I commend it to the house.

SURVEYING BILL

Consideration in detail

Debate resumed on clause 2.

Mr BAILLIEU (Hawthorn) — Acting Speaker, when the debate on clause 2 was interrupted, the minister had responded to my query on behalf of the surveying profession in regard to the commencement date being 1 January 2005 and the concern that the necessary processes to go through a regulatory impact statement, consultation and the development of the associated administrative system would be very short and they were looking for reassurance. The minister failed to give that reassurance, and I invite her to address that matter again.

Ms DELAHUNTY (Minister for Planning) — As I said before we interrupted the debate to hear the justice statement, we have had extensive consultation with those key stakeholders around this bill. I met with Peter Sullivan of the Institution of Surveyors Victoria; Terry Mawson of the Association of Consulting Surveyors (Victoria); and the Surveyors Board of Victoria whose chairman is the Surveyor-General, John Tulloch. We will go on consulting with the surveyors. They are a very important part of the land management and property industry of Victoria and, of course, they are the very basis of the trust we have in the surveying industry and network. There is sufficient time to

conduct a regulatory impact statement, to consult with the industry on details such as fees and in the details of continuing professional development.

Clause agreed to.

Clause 3

Mr BAILLIEU (Hawthorn) — Clause 3 includes a definition of ‘licensed surveyor’ and other matters. I invite the minister to advise the house why the definition of ‘licensed surveyor’ has changed and why the definition of ‘registered surveyor’ has dropped out, and why that was necessary given the separation of those two terms in the existing act.

Ms DELAHUNTY (Minister for Planning) — Clause 3, which is the usual definitional clause of any bill, sets out in great detail the definitions of terms used in the bill. The definition of ‘board’ relates to the establishment of the board contained in clause 44. There is a definition of ‘cadastral survey’, which for the purposes of the house means a survey made for or in connection with or for the purpose of making a plan or survey data to be used for or in connection with a matter dealing to the alienation of Crown land or affecting title of any land. There is also a definition of ‘chairperson’. I think we are pretty au fait with what that means these days, although we usually use the term ‘chair’.

The definition of ‘licensed surveyor’ is ‘a person whose name is entered on the register’. As I explained to the house before, we have included in this bill the expectation and requirement that a licensed surveyor be registered each year in order to hold their licence. This is an astonishing industry in 2004, if you consider that up until this bill was introduced the profession of surveying allowed any surveyor, once registered, to hold that registration for life. The government is about modernising a very important profession, and that is what the profession itself wants, so a licensed surveyor is defined as a person who is named on the register, and they are required to be registered each year. In my last answer I also alluded to a requirement around professional development.

I would hope the question coming from the other side is not in any way implying that we should not be modernising this profession. If the opposition is suggesting that members of the surveying profession should stand out and not be required to register annually and that they should maintain this rather quaint notion of registration for life, I think it ought to say that and put it on the record, because that is a very different spirit of engagement.

The government is on about professions being open and transparent and being respected. I do not know what the opposition is on about, but I think implicit in that question was that opposition members do not want to see any modernisation of this profession. I trust that is not the case.

Mr BAILLIEU (Hawthorn) — It would appear that the minister does not wish to address the question I asked, which was why the definition of ‘licensed surveyor’ has changed and why the definition of ‘registered surveyor’ has been dropped. Perhaps it is because the minister does not know. The reality is that there is a difference in the current act between a registered surveyor and a licensed surveyor, and I am inviting the minister to address the question as to why that has been changed. I would also like to know why the definition of ‘registered surveyor’ has been dropped and why the cadastral surveying endorsement has been dropped as a function for licensed surveying. What will be the consequences of that?

Ms DELAHUNTY (Minister for Planning) — I do understand the rules of this place. In this case the opposition puts questions to us and we are not obliged to answer in any particular way. The process is to illuminate details of this bill. In fact the member for Hawthorn has been the opposition spokesperson on planning for longer than I have been planning minister. He was opposition spokesperson when the first bill came to the house, and I hope he has now read the new bill.

What the government is requiring is that you must apply for registration in writing. That has certainly been the accepted practice and will continue to be so. The board may require an applicant to provide further material, and that certainly is new. Is the opposition opposing that? Is the opposition actually saying that the Surveyors Registration Board of Victoria has no right to seek the appropriate information before it makes a decision on registration? I hope not.

A statutory declaration under section 107 of the Evidence Act may also be required. Is the opposition saying the board should not have the right to seek that information? Is the opposition really saying, ‘We want to close down this industry, not apply a modern spotlight to it and certainly not apply the conditions that apply to all other professions that appropriately could be compared to the surveyors?’ Also, the proof of identity requirement has not changed.

Clause agreed to; clause 4 agreed to.

Clause 5

Mr BAILLIEU (Hawthorn) — Clause 5 refers specifically to qualifications needed for registration as a licensed surveyor. I note that the minister has just suggested that I might not be aware of certain things, but I am certainly aware, unlike her, that when the bill came before the house it was not a bill in the planning department — but it would be churlish of me to suggest that she did not even know that.

Clause 5 refers to the qualifications for registration as a licensed surveyor. I again invite the minister to compare the qualifications for registration as a licensed surveyor under the existing acts, which involve an endorsement for cadastral surveying, and I invite the minister to advise the house why the definition of ‘licensed surveyor’ and the qualifications needed for registration as a licensed surveyor have changed, as well as why the registered surveyor category no longer exists.

Ms DELAHUNTY (Minister for Planning) — The essence of the requirements and the qualifications for registration are based on two things: extensive negotiations and investigations under national competition policy and extensive discussions both with the industry and with those affected by the industry.

The intention is to make very clear what qualifications are now needed for registration through the board. The clauses set out the qualifications a person needs to be qualified. We must remember that the requirements for registration as a cadastral surveyor are threefold: you have to pass an examination in cadastral surveying; you have to undertake practical training; and you have to complete a course of study. That is not onerous. Currently there are two courses in cadastral surveying in Victoria, run by the University of Melbourne and by the Royal Melbourne Institute of Technology. Of course applicants are also able to seek registration on the basis of a similar course or similar courses interstate or in another country to have those qualifications recognised in Victoria.

I do not know how much clearer it needs to be. The person has to have passed an examination set by the board. The board itself can set the examination or it can be set on its behalf. Applicants have to have undertaken this practical training in cadastral surveying, which again is required by the board, and they have to have completed a course of study approved by the board. The board can decide that a qualification is, in the opinion of the board, substantially equivalent or is based upon similar competencies to a course of study approved by the board, and so approve that

qualification. Given that this is an international profession, one would expect such internationalisation of registration to be supported. The board can also recognise a qualification by a reciprocal board authorising the person to practise cadastral surveying.

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

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to a telephone call at 4.00 p.m. yesterday to one of my staff from the head of the Victoria Police media unit challenging what I had said on radio about the need for an anticorruption commission. I ask: was it the Premier’s media unit or the Chief Commissioner of Police’s office that authorised this pathetic and clumsy attempt at intimidation?

Mr BRACKS (Premier) — I know absolutely nothing about such a phone call. It is entirely a matter for the Leader of the Opposition and the Chief Commissioner of Police’s office. The government knows nothing about it. We have no — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is inappropriate!

Mr BRACKS — The government and the Premier have no knowledge of any of those matters. It is a matter for the Leader of the Opposition and his dealings with the office of the chief commissioner. The first time I heard about it was just then from the Leader of the Opposition.

Population: government policy

Mr HARKNESS (Frankston) — My question is to the Premier. Given that government policy promotes Victoria as the place to be, can the Premier advise the house about recently released population data confirming the government’s approach?

Mr BRACKS (Premier) — I thank the member for Frankston for his question. Just this morning the Australian Bureau of Statistics released an update on population levels around the states and territories for 2003. Those figures show that Victoria has recorded its biggest population increase since records on population

began to be kept by the ABS. The update shows that in 2003 Victoria's population grew by some 1.29 per cent, which is higher than the national average population increase. It also shows in straight population terms that Victoria's population was 4 947 985 and that it is expected therefore that the 5 000 000 figure will be realised in Victoria in the next couple of months.

Our population increased by some 6333 people during that year, and as I mentioned, that is the biggest increase in population that Victoria has recorded in the 17 years these population figures have been kept by the ABS. What is important about the composition is that whilst domestic migration has moderated and slowed, overseas migration has increased enormously. If you look at overseas migration as a proportion of the total increase, you will see that we had a population increase in immigration of something like 10 000 over the previous year. That represents about a 36 per cent increase in overseas migration.

To put it in other terms regarding Victoria's share of overseas migration, in 2002 our share was 23 per cent, and it lifted, because of the policies and objectives of this government, to 28 per cent in 2003. I expect that that will improve even further following the release of the government's skilled migration strategy, including the \$6 million fund we have to attract overseas migrants to this state. We are a migrant-friendly state. We want to increase our population, and we want the economic benefits that come from an increased population. We have an ambition of having a population of 6 million by 2025. We also have an ambition of increasing our regional population as well. I have to say that the figures released today show that we are on track to achieve the very things we set out to achieve.

Water: irrigators

Mr WALSH (Swan Hill) — My question is to the Minister for Water. Is it the intention of the minister to take water away from irrigators without paying them direct compensation?

Mr THWAITES (Minister for Water) — I thank the member for his question, which I must say is somewhat perplexing, given that it is this government which has supported our irrigation sector with improvements and with massive funding commitments like the Wimmera–Mallee pipeline — commitments of funding that unfortunately are sorely lacking from his federal counterparts.

There are also commitments like our Water for Growth strategy, with \$30 million to improve farm irrigation practices, with funding going to our farmers. We have a

proud record of working with farmers to improve irrigation systems. We are not about taking water without having a proper arrangement with farmers, and we will continue that into the future.

Crime: statistics

Ms MARSHALL (Forest Hill) — My question is to the Minister for Police and Emergency Services. Can the minister advise the house on recent evidence that demonstrates a sustained reduction in crime in Victoria and that the government's firm stance on crime is working?

Mr HAERMEYER (Minister for Police and Emergency Services) — I thank the member for Forest Hill for her continuing interest in community safety. Victoria has long had a reputation as being the safest state in Australia. It gives me great pleasure today to advise the house that this morning the Australian Bureau of Statistics (ABS) released its crime statistics for 2003, including the recorded crime victimisation rates. These statistics are unambiguously good. They show that Victoria again has the lowest crime rate in Australia — not by a small margin but by a huge margin. That has improved over the last year.

The ABS figures show that Victoria's crime rate was 23.6 per cent below the national average. They also show that over 2003 our crime figures fell by 9.9 per cent — so last year crime in Victoria fell by 9.9 per cent. Our crime rates per 100 000 people were below the national average in almost every category.

The government's investment in over 1000 police, with more to come — and with 135 police stations and extra police resources — is paying dividends. I think there can be no greater endorsement of that investment and of the work done by Victoria Police than the statistics released by the ABS today. They show that Victoria's assault rate last year fell by 7.8 per cent. It is the lowest in Australia, and a staggering 56 per cent less than the national average. It is also 78 per cent less than in New South Wales. It is the lowest assault rate in Australia.

Honourable members interjecting.

Mr HAERMEYER — Some of the members opposite think that is a laughing matter; obviously they do not go out there and talk to victims.

Mr Doyle interjected.

Mr HAERMEYER — Do you really want to go there, Robert?

Victoria is now a much safer place than when the Bracks government came to office in 1999. The figures released by the Australian Bureau of Statistics show that in 1995 in Victoria the crime rate per 100 000 was 5146. It began to climb — in 1996 it was 5274; in 1998 it was 5377; in 1999 it was 5677 — as the impact of the cuts to police took effect.

The SPEAKER — Order! I ask the Minister for Police and Emergency Services not to hold up a graph and to speak in a manner which makes sense to Hansard as it reports his words.

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster!

Mr HAERMEYER — As the impact of the added police has started to kick in, our crime rate has come down from 6157 to 4958. Let us look at some of these figures. Motor vehicle theft is down by 18.6 per cent; burglary is down by 15.9 per cent; kidnapping is down by 13.3 per cent; robbery is down by 11.3 per cent; assault is down by 7.8 per cent; homicide is down by 7.2 per cent; sexual assault is down by 5.8 per cent —

Honourable members interjecting.

The SPEAKER — Order! There is too much interjection from the corner on my left. I ask members to be quiet.

Mr HAERMEYER — The rate of driving causing death fell 23.8 per cent from that of the previous year, and again it is 25 per cent below the national average.

These are great statistics for Victoria, and they are great statistics for Victoria Police. It means that there are fewer victims of crime in this state, and that is a great credit to Victoria Police.

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster is too loud.

Mr HAERMEYER — It shows what you can do when you provide the police with the numbers and the resources to go out there and do the job. Let me say, we have a decent police force — the overwhelming majority of those officers are good, decent police officers who are producing great results like this. The vast majority of the Victorian public is proud of this police force, and I have to say I am one of them.

Police: corruption and organised crime

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to his refusal to establish an anticorruption commission and to today's revelation that the Victoria Police law enforcement assistance program (LEAP) database has been inappropriately used to access the address of a Ceja task force detective, and I ask: have any other Ceja or Purana task force investigators had their files and personal details illegally accessed?

Mr BRACKS (Premier) — Clearly this is a matter for Victoria Police. Since this incident occurred — and this was made clear by police representatives today — the chief commissioner has announced much tougher penalties for police caught accessing the LEAP database, including, in the future, dismissal. The government certainly supports these new arrangements.

Justice statement: law reform

Mr WYNNE (Richmond) — My question is to the Attorney-General. Can the Attorney-General outline to the house how the initiatives in the recently announced justice statement fit into the government's program of reform of the legal system and how this will benefit the people of Victoria?

Mr HULLS (Attorney-General) — I thank the honourable member for his question. I have to say that I was extremely proud to present the justice statement to the house today, because it is a true Labor initiative.

The Bracks Labor government has a vision for our justice system and through the justice statement has conducted the most comprehensive analysis of the way it operates that has ever been undertaken. It is also the first time that all relevant stakeholders have been brought together to appraise the need for reform, with the benefit of depth, context and collaborative insight.

The justice statement is all about taking a holistic approach in ensuring that the law is capable of delivering justice to the most marginalised sections of our community. It took a Labor government to recognise that justice should be reflected in people's daily lives and interactions and that it has something to say about every facet of government and of life in Victoria.

Just as crucially, the statement is constructed on the basis of values which the Bracks government considers to be fundamental to a properly functioning democratic society: equality and the role of an independent judiciary in protecting this equality; fairness; accessibility; and also effectiveness.

The statement is guided by themes of modernising justice and protecting rights and addressing disadvantage to consider possibilities for modernising criminal law and procedure, civil disputes, the courts and the legal profession; for protecting human rights; for addressing the causes of overrepresentation of disadvantaged groups; and for improving legal information, advice and assistance.

I say proudly that the justice statement flags some 25 initiatives and many more minor projects which the government will undertake over the next 5 to 10 years. These include supporting the needs of victims, such as assisting their recovery from violent offences, improving their experience in the court system, examining the potential for a victims' charter, improving the provision of legal information, advice and assistance in civil matters — —

Mr Plowman — On a point of order, Speaker, on the basis of repetition — and one might say tedious repetition — the house has heard almost word for word what the Attorney-General has been saying to us now in the ministerial statement before lunch. I ask you to rule on the basis of repetition based on what the house has heard previously.

The SPEAKER — Order! The Attorney-General has been asked a question and he is answering it.

Mr HULLS — We are proud of access to justice on this side of the house, we are proud of it. That is why we are proud of the justice statement — —

Honourable members interjecting.

The SPEAKER — Order! I ask members to show courtesy to each other during question time and allow ministers who have been asked questions to answer them without that level of noise coming from both sides of the house.

Mr HULLS — Perhaps the honourable member might get someone to read it to him! We will also be modernising the Equal Opportunity Act, extending its focus from individual complaints towards a systemic focus which encourages proactive compliance such as industry codes of practice, accreditation and model employer schemes — —

Honourable members interjecting.

The SPEAKER — Order! I ask the member for Kew and the members of the opposition at the table to cease interjecting in that manner.

Mr HULLS — With the Equal Opportunity Commission we will encourage employers to monitor their work forces to identify where barriers to equality occur, and we will ensure that we have appropriate mechanisms in place to vet all legislation to eliminate unintended discrimination.

Honourable members interjecting.

The SPEAKER — Order! I have asked the members of the opposition at the table and previously the member for Doncaster to stop interjecting at such a loud level. I warn the member for Doncaster.

Mr HULLS — In conclusion, now more than ever before it is essential that we secure the confidence of the community in the law's mechanisms and excite their imagination in its potential. I trust that every member of this house, including the member for Benambra, would want to participate in the debate and be part of a legacy that will shape the face of the Victorian justice system for many, many years to come.

Questions interrupted.

DISTINGUISHED VISITOR

The SPEAKER — Order! Before calling the next question I acknowledge the presence of the previous Speaker of the Legislative Assembly, Alex Andrianopoulos, in the gallery. Welcome, Alex.

Honourable members interjecting.

The SPEAKER — Order! I have spoken to the Leader of the Opposition before and I ask him to behave in a more parliamentary manner.

Questions resumed.

Local government: grants

Mr INGRAM (Gippsland East) — My question is to the Premier. According to the Victoria Grants Commission statistics, the valuation of all rateable properties in the City of Stonnington is approximately the same as the cities of Greater Bendigo, Ballarat and Greater Geelong combined, or alternatively the six Gippsland councils. Given the approximate equality in valuations, ratepayers in the three major regional cities pay approximately \$86 million more in rates and ratepayers in Gippsland pay approximately \$66 million more in rates than they would on property of equal value in the City of Stonnington. Can the Premier explain to the house this inequity in regional and rural Victoria?

The SPEAKER — Order! I have some problems about how that question affects Victorian government business, but I will ask the Premier to answer it.

Mr BRACKS (Premier) — I thank the member for his question. The transfer payments which operate from the commonwealth for local government are administered by the state, and we distribute the lump sum money under the Victoria Grants Commission formula to councils around the state. The member has asked about the distribution and has criticised the distribution which he believes is in favour of the city rather than the country.

I will go to that very matter. The matter is contained in a set of national principles established by the commonwealth government, and to change those principles fundamentally, particularly a ceiling which is available for certain councils — a mandated matter by the commonwealth — would require the majority of states and territories and the commonwealth agreeing on a new set of principles and a new formula for the distribution of those commonwealth grants.

The requirement on the Victoria Grants Commission to provide as-of-right entitlement — that is, a certain entitlement mandated no matter what formula is applied — is a matter which is obliged on every state and territory government by the commonwealth. To change that requires the agreement of the commonwealth and the states and territories together.

I just go to what it would mean if it was changed. The amount of as-of-right funding is a small portion of the total funding which occurs from the commonwealth as transfer payments to local government through the Victoria Grants Commission. In fact of the \$258.9 million in general purpose grants under 4 per cent is an as-of-right payment, and if that were distributed around councils it would be less than the 4 per cent increase to some of the country and rural councils.

The Victoria Grants Commission, as an independent statutory body, operates on the basis of what is a perceived disadvantage in the distribution of those funds. I think it does a very good job with the distribution. I will give an example in the member's own electorate.

Honourable members interjecting.

Mr BRACKS — Yes, I am on top of this!

The East Gippsland Shire Council is an illustrative point which bears this out. That council received a general purpose grant of \$5.567 million — an increase

of about 3.4 per cent from the previous financial year. The shire's grant is equivalent to a per capita grant of \$139, which is more than two and a half times the state average. The reason that was applied at a greater rate was that the Victoria Grants Commission applied that on the basis of remoteness, and therefore the disadvantaged index was based on that to increase the funding to that council.

There is a distribution mechanism under the Victoria Grants Commission. Some parts are mandated, and the matter which the member refers to effectively is mandated, which is required by the commonwealth under national guidelines and is unable to be changed unless we have agreement with the commonwealth.

Children: protection reform

Ms LOBATO (Gembrook) — My question is to the Minister for Community Services. Given the importance that the Bracks government has placed on the protection of children, will the minister advise the house of recent evidence that confirms the direction of the government's reforms to the child protection system?

Ms GARBUTT (Minister for Community Services) — The death of any child is a tragedy and has a devastating effect on families and everyone involved in their lives. We know there are stresses and strains on the system, but our reform process is on the right track. Child protection notification rates in Victoria have dropped, compared to notification rates in the rest of Australia, which have climbed by 128 per cent. Victoria's rate has gone down. This confirms the direction of our reform process and that we should focus on early intervention and prevention.

We are putting Victorian families first. There has been over \$160 million extra in the last three budgets for our child protection and family support systems. However, the 2004 annual report of the Victorian Child Deaths Review Committee, tabled today, is a reminder of the task ahead to work hard to better protect children. It is worthwhile noting that there has been a dramatic reduction in the number of deaths of children in care — 32 in 2002 to 12 in 2003. However, more needs to be done. We acknowledge that, and the report will assist in our reforms.

The Victorian Child Deaths Review Committee investigates the death of children in the child protection system or those who die within three months of their case being closed. However, yesterday the member for Caulfield claimed that under the previous government the review committee investigated the deaths of all

children who had been in contact with the child protection system, and that the three-month cut-off did not apply and that we had changed it. That has never been the case. The member could have asked the member for South-West Coast.

I quote from the 1996 report of the Victorian Child Deaths Review Committee to the member for South-West Coast when he was the Minister for Youth and Community Services:

The ambit of this accountability has been extended to include those ex-clients where protective services involvement was ceased within the three months prior to their death.

Clearly that has not changed, so the member for Caulfield was wrong. In the report that I tabled today the committee endorses the government's reform direction. It states:

Over the last 12 months the committee has been heartened by a firm commitment by government to significant development and implementation of initiatives for the service system, setting out an agenda for widespread reform.

That confirms the direction of the government's reforms. Most members in this place would recognise that child protection is an emotional issue and one which should be treated with some sensitivity. To quote a previous minister for community services:

Child protection is an emotional issue and unfortunately is sometimes clouded by politics and sensationalism.

That was the member for South-West Coast. He is right: it is an emotional issue. We are dealing with difficult and tragic cases; however, sadly not all members in this house appreciate that.

Police: corruption and organised crime

Mr WELLS (Scoresby) — My question without notice is to the Minister for Police and Emergency Services. I refer the minister to today's revelation that the Victoria Police law enforcement assistance program (LEAP) database has been inappropriately accessed yet again. I further refer the minister to an official complaint from the Australian Federal Police about security breaches of the Victoria Police LEAP system by a detective sergeant in the ethical standards department in November 2003. Why has this federal police complaint not been investigated? Is this not further evidence that we need an anticorruption commission?

Mr HAERMEYER (Minister for Police and Emergency Services) — If the honourable member has a question about such a complaint, I suggest he direct it either to Victoria Police or to the office of the

Ombudsman. Members opposite seem to be far more concerned about this accessing of the law enforcement assistance program system now that they are in opposition compared to when they were in government.

If the member for Scoresby cares to give me the details of what he wants to raise, I would be happy to draw that to the attention of the Chief Commissioner of Police. Inappropriate accessing of the police database is taken seriously by the government and by Victoria Police.

Honourable members interjecting.

Mr HAERMEYER — You do not want an answer to your question, do you?

Mr Doyle interjected.

The SPEAKER — Order! The Leader of the Opposition! The minister, through the Chair.

Mr HAERMEYER — The chief commissioner has implemented tough new measures to prevent inappropriate access to the police database. I believe those measures are appropriate. I believe the measures are working and will work.

Justice statement: human rights

Ms D'AMBROSIO (Mill Park) — My question is to the Attorney-General. Can the Attorney-General advise the house how the government's recently announced justice initiatives will promote human rights and the elimination of discrimination in the Victorian community?

Mr HULLS (Attorney-General) — The justice statement recognises the central role of every government in cementing equality and a sense of rights and responsibilities in its constituency. It puts the fair go back on the agenda by calling for community debate on returning human rights to centre stage by talking openly about rights and their associated responsibilities — what they are, how they might be realised, who is missing out and how they should be promoted and protected.

The justice statement will foster this exciting discussion, the potential destination of which may be an instrument such as a charter of rights and responsibilities or a citizens charter. While for some this is the answer, others argue that it is not possible to enshrine the spectrum of rights and responsibilities and that judicial interpretation offers much greater flexibility. It is difficult to strike that balance, but it is essential that we have the conversation and that through

the justice statement process we unearth the most appropriate direction for Victoria.

The Bracks government has an enviable record when it comes to protecting a fair go for ordinary Victorians. The justice statement will build on the legacy of this reform, which has recognised the rights of marginalised Victorians, and send a clear message that intolerance is antithetical to Victoria's values. Complementing the human rights discussion, the justice statement proposes ways to strengthen the existing mechanisms designed to protect those values. This includes expanding problem-solving approaches in our courts, such as extending the Koori court to Mildura and Gippsland and establishing a Koori children's court.

Importantly the statement builds on Victoria's enviable record of having the lowest national crime rate, as we have heard from the Minister for Police and Emergency Services, by calling for the reform and clarification of the legislation surrounding the criminal justice system, including rewriting the Crimes Act, the Bail Act and the Evidence Act as well as looking at a sentence indication process. That will enable offenders intending to plead guilty to do so early after being given a likely indication of the sentences they may receive.

The statement also emphasises the benefits of problem-solving approaches and taking account of disadvantage in our fight to prevent crime and break the cycle of reoffending. Just as importantly, as part of this process we will increase the jurisdiction of the Children's Court to include kids aged 17 years, diverting them away from the adult system and towards a greater chance of rehabilitation in the juvenile justice system.

In conclusion, my hope is that the justice statement will prompt robust discussion across government, the legal profession and the courts. I hope the member for Benambra actually reads it — —

Mr Plowman — On a point of order, Speaker, in respect of tedious repetition, in *Rulings from the Chair* the Deputy Speaker ruled — —

An honourable member interjected.

Mr Plowman — This is in respect of *Rulings from the Chair*, if you do not understand.

Honourable members interjecting.

The SPEAKER — Order! Members who wish to raise points of order in the house are certainly entitled to do so without interruption. However, they are

required to address those points of order to the Chair and not the general chamber.

Mr Plowman — My apologies, Speaker. In respect of this, after a point of order claiming tedious repetition the Deputy Speaker ruled that the second-reading debate on the bill should be adjourned, which was upheld. The Chair stated that the member should proceed without repeating material that had been put before the house previously. Clearly this material, almost word for word, has been put to the house previously — only a matter of hours before question time. I ask you, Speaker, to rule on that as has been ruled in the past.

The SPEAKER — Order! The member for Benambra in raising his point of order said that the Speaker's ruling referred to debate in relation to a second-reading speech and a speech on the business of the house. The Attorney-General was asked a question. I understand he has answered it.

Mr HULLS — In conclusion, we are about justice for all, not just us!

Honourable members interjecting.

The SPEAKER — Order! Has the Attorney-General completed his answer?

Mr HULLS — I certainly urge every member of the community to read the justice statement and to take part in this very important and exciting discussion. This really is a once-in-a-lifetime opportunity.

SURVEYING BILL

Consideration in detail

Debate resumed on clause 5.

Ms DELAHUNTY (Minister for Planning) — Before the interruption for question time we were discussing clause 5, which sets out qualifications for registration. I will not repeat all that I said before, but I will point again to the fact that a person must have passed an examination in cadastral surveying set by or on behalf of the board and has to have undertaken practical training in cadastral surveying required by the board. They must also have completed a course approved by the board.

Under the Surveyors Act 1978 there was a category for unregistered surveyors. These surveyors perform non-cadastral surveys — for example, mining surveys. The national competition policy review found — and I

remind the house that the review is what this bill is based on — that regulation of this category was no longer required as it does not represent a risk.

Continued regulation of licensed cadastral surveyors is required as they are responsible for the lodgment of plans of subdivisions within the land registry and the quality of their work may well affect the integrity of the cadastre.

I understand there are currently 17 registered surveyors compared to over 1000 licensed cadastral surveyors. I am reliably told of a quite interesting expectation: that number is expected to fall to 500 or 600 with the introduction of annual licensing. That interesting figure raises a fair amount of evidence for the introduction of this bill. The requirement for annual registration, I would hope, is supported by both sides of the house — although I have not heard that from the other side — so that we have a modernised, updated, highly skilled practising body of surveyors.

The surveying industry is very supportive of the work this government has done following the national competition policy review. I would like to refer to a letter that was sent to the government from the Institution of Surveyors Victoria: It states:

Dear Mr Rickard,

Re: Surveying Bill 2004

He was thanked for making himself available for ongoing consultations. It continues:

We appreciate your open and approachable attitude. It is very reassuring.

The institution was thanking the government.

The Surveying Bill was a long time in its formation and many of us have continued to be involved in its progress from the beginning.

So I think we can jolly well put to rest the furphy of the opposition that there has been unsatisfactory consultation.

We are very keen to see many of the great changes implemented that we know will benefit surveyors, government and the community.

We have had a conspiracy theory, we have had allegations of lack of consultation and we have had all sorts of mad propositions from the member for Hawthorn, but what we have here is a letter from the Institution of Surveyors Victoria, the peak body of the surveying profession, saying they know many of the changes will benefit surveyors, government and the

community. I guess that just about covers everybody except the opposition.

You have our full support to these changes you alluded to, particularly those matters relating to annual registration —

and that has been raised in the questions relating to a couple of clauses —

CPD —

that is professional development —

and the powers and functions of the Surveyor-General.

Who signed this? Rob Bortoli and Terry Mawson, so we have the president of the Institution of Surveyors Victoria and the chairman of the Association of Consulting Surveyors Victoria. I do not think those words are ambiguous. It is amazing — the opposition does not like to hear the facts.

Clause agreed to; clause 6 agreed to.

Clause 7

Mr BAILLIEU (Hawthorn) — Clause 7(4) in division 1 of part 2 refers to the notion that the board may refuse to renew the registration of a licensed surveyor who, amongst other things, has not practised as a licensed surveyor for 12 months. It is a concern of the Institution of Surveyors Victoria (ISV), and I notice that the minister has just read in part a letter from the Association of Consulting Surveyors Victoria and the ISV. It is my understanding that that letter actually predates the arrival of the bill, so I think that explains why the institute of surveyors has expressed its concerns so dramatically subsequently. I invite the minister to look at the letter she has received subsequently.

I ask the minister whether it is the intention of the government that those registered surveyors who have not practised as licensed surveyors in the past 12 months should not stay as registered surveyors? Clause 7(4)(b) refers to:

... further professional education or training in cadastral surveying in accordance with the determination of the board ...

Given that the ISV currently conducts continuing professional development and that all ISV members are required to practise in that way, will that remain a determination of the board, or is it the intention of the government to change in any way the continuing professional development arrangements of the ISV?

Ms DELAHUNTY (Minister for Planning) — Clause 7 refers to the processes for both applying for registration and the grounds upon which the board may refuse to renew registration, so I would agree that this is a very important clause in this bill.

It allows the board to refuse to renew the registration of a licensed surveyor if that licensed surveyor has not practised during the previous 12 months. This is the essence of the change in this bill. I do not think the opposition understands the fundamental change that we are making. This is a profession whose members have had lifetime registration without any requirement to update their skills in a rapidly changing, highly technological environment. Cadastral surveying is changing by the minute — it is at the cutting edge of new technology — and it is extraordinary that anybody, either in the profession or purporting to represent the views of some members of the profession, would in any way be opposed to annual registration. I am staggered that the opposition by their question, is clearly belting a dead horse, an ancient horse around annual registration.

If this is the view of opposition members, they ought to come out and say it. They ought to come out and say that for some reason which is inexplicable to us and to the rest of the community they believe that this one profession which is so critical to the structure and the reliability of the land demarcation system should be allowed to expect that its members can be registered once without having to renew in any way their professional expertise or skills and that they can continue to practise and be registered to practise. That is the fundamental change in this clause: you can be refused registration if you have not practised during the previous 12 months and if you have not sought registration annually.

You can be refused also if you have not undertaken continuing professional development. I think I have covered that matter now. Or you can be refused if your right to practise in another state, territory or country has been cancelled or suspended because of conduct which, if committed in Victoria, would have entitled the board to suspend or cancel registration. I think that is a perfectly reasonable part of the clause. That certainly acknowledges that we are dealing with a national industry — a global industry in fact — and if your registration has been suspended or cancelled in another jurisdiction, of course the board would have the right to refuse registration or renewal in Victoria.

The board requires the power to be able to refuse renewal if an applicant is not keeping up to date either in terms of practising the profession or keeping up with the current trends in cadastral surveying. As I said, it is

a highly technical area of work. It is changing dramatically. I must say there are a wonderful group of young women coming out of university now who are highly skilled in this area. They are giving the older members of the profession, who are pretty well overwhelmingly male, a different view on the way that you can effectively, efficiently and fairly conduct the job of cadastral surveying. A decision by the board to refuse renewal of registration is appealable to the Victorian Civil and Administrative Tribunal, so there is an appeal right under clause 33 of the bill.

Clause agreed to.

Clause 8

Mr BAILLIEU (Hawthorn) — Clause 8 refers to conditions, limitations and restrictions on registration. The minister told the house just before that she expected the number of surveyors to halve and that this was a good thing. The minister has also sought to present the case that somehow the opposition is opposed to annual registration. The real position is far from it, and I said so in my second-reading remarks. The reality is that the Institution of Surveyors Victoria and the surveying industry generally are asking why the government is so keen to reduce the number of licensed surveyors in Victoria.

Ms DELAHUNTY (Minister for Planning) — Although this does not relate to clause 8, in the interests of clarifying the inaccuracy of the member for Hawthorn, I did not say that I expected there would be a fall in the number of surveyors. It has been reported to me, and certainly I did not say or imply — and it is very mischievous to suggest that I did — that that was a good thing. I noted the factual representation that that could occur and that was the advice that was given to me. It may not occur. I certainly made no pejorative judgment about it, and it was mischievous to suggest that I did.

Certainly I think you will find — and I am sure the member for Hawthorn would agree — that unless we produce more surveyors through our universities, which, of course, has to be funded by the federal government, we will see a decline in the number of registered surveyors. What I do not want to see is a decline in any way in their professional skills. That is why central to this bill is an agreement from the Institution of Surveyors Victoria, and indeed also from the Association of Consulting Surveyors, that we have ongoing professional development. I repeat what they have said in writing: you have our full support for those changes, particularly those matters relating to annual registration and to continuing professional

development. They are saying we have their full support for this and also the powers and functions of the Surveyor-General.

The DEPUTY SPEAKER — Order! I remind the house that I have allowed some fairly broad comment on this clause. In consideration in detail the matters raised must relate to the particular clause that is currently under consideration.

Mr STENSHOLT (Burwood) — This clause refers to conditions, limitations and restrictions on registration. It does not talk about trying to limit the number of surveyors in any sort of way, which seemed to be implied by the member for Hawthorn, as if there is some sort of secret agenda out there and that the board will go out and hack into the number of surveyors. That is clearly not the case from my reading of this particular clause. It is phrased in a very moderate sort of way insofar as it says that the board ‘may’ do certain things at the time of registration or renewal of registration. The use of ‘may’ reflects sensible governance. The Bracks Labor government is all about sensible and good governance in Victoria. The particular purpose of this bill is to bring the regulation of surveying practice into one comprehensive bill, which is what we have here before us.

The board may impose any condition, limitation or restriction on a registration that it thinks appropriate. This allows a reasonable latitude to the board. The board may also amend, vary or revoke any condition, limitation or restriction. In any profession people work to carry out their professional practice in a variety of ways, particularly surveyors, who have a wide range of skills. They are not always doing cadastral surveys. Some of them are working on large-scale projects; some of them work part of the time overseas or interstate, particularly if they are associated with large-scale developments.

The situation is not quite the same as Major Mitchell going out on the back of a horse and measuring up things from one hill to another; or indeed it is not the stick and measure with the theodolite any more — the profession is involved in a very sophisticated use of technology in a range of activities in practising their profession. I remember only a couple of years going with the then minister to Glen Iris — —

The DEPUTY SPEAKER — Order! I remind the honourable member for Burwood that I cautioned all members about being specific to the clause that is being addressed.

Mr STENSHOLT — Thank you, Deputy Speaker. I was just talking about conditions, limitations and restrictions which have to take into account the various skills and the way the profession may well be used by the particular member seeking registration or renewal of registration and the way that the board may look at that member when their registration comes up for such renewal. It has to take into account the conditions, which may be quite varied within this particular profession. I commend this clause.

Ms DELAHUNTY (Minister for Planning) — Still on the clause, I refer to the numbers I quoted earlier. I think the context which I should explain to the house is that at the moment not all licensed surveyors actually practise. It is expected that only those practising regularly will seek registration. That would be the normal expectation. Of course quite a few of them do not practise. It is estimated that of the 1000 licensed surveyors only between 500 and 600 practise regularly, hence the figure that I used earlier about how many it is expected will register to continue under the regulatory regime. So they do not all practise at once, and you have to be practising to seek registration.

Mr CARLI (Brunswick) — I will just make a comment on clause 9. There is the suggestion that somehow this provision seeks to reduce the ability of a person to register or renew a registration as a surveyor and to force them out of the industry. That is clearly not part of the clause, and there is ample opportunity here for — —

The DEPUTY SPEAKER — Order! The member for Brunswick is speaking to the wrong clause. We are on clause 8.

Mr CARLI — Then I will speak on clause 8.

The DEPUTY SPEAKER — Order! We would appreciate that.

Mr CARLI — On the issue of registration or renewal of registration, it is clear that the intention is to go from a system where a surveyor is registered for life to one where there is annual registration so that there is a renewal process. It is very important to recognise this as part of the reform and not as an attempt by the government to reduce the numbers or somehow limit the ability of people to practise as surveyors. It is very much about putting in place a process that follows the national competition policy review. The government is clearly seeking to modernise the industry, and ensuring that any condition, limitation or restriction on the renewal of a surveyor’s registration is appropriate to the

industry is not an attempt to reduce the numbers or to force people out of the profession.

Clause agreed to; clauses 9 to 37 agreed to.

Clause 38

Mrs POWELL (Shepparton) — Clause 38 goes to the issue of interference with survey pegs. Clause 38(1) says:

A person must not, without reasonable excuse, interfere with a survey peg or survey mark placed in position by or under the direction of a licensed surveyor.

There is a penalty there. The issue is, particularly in country Victoria, that a number of pegs or markers have been moved or demolished or covered over by all sorts of things. Who inspects the pegs, and are we to have more inspectors? There has been some criticism of the monitoring and maintenance of pegs in the past, and with the inclusion of this provision and a penalty I am wondering how many inspectors are in the rural area. This criticism has been made by the Auditor-General, the Surveyor-General, surveyors and a review by RMIT. The maintenance and monitoring of survey pegs is a very important issue.

Mr BAILLIEU (Hawthorn) — I was not going to speak on this clause, but given that the member for Shepparton has raised it I will. I raise a further point on behalf of the Construction Contractors Federation, which has indicated concern that this clause and preceding clauses may have an impact on its members. Those members do a lot of road construction work and obviously have an obligation to move such markers on many occasions. They do not want this provision to be imposed on their members.

Ms DELAHUNTY (Minister for Planning) — Clause 38 relates to an offence of interfering with survey pegs. As I said earlier, cadastral surveying is a very precise science. It is an extremely precise science. It means that you need to put the pegs in the right place. If you move the pegs you are going to find that your boundaries are damaged and subject to some dispute. We do not want to see that.

The Surveyor-General is responsible for the survey coordination network. That is part of his or her responsibility, and the Surveyor-General has a works program to review these markers regularly. That is part of his or her duties. I am told that there are around 148 000 marks in the network. That is quite a substantial number of survey marks, and that is why a regular works program is undertaken by the Surveyor-General.

I am sure that both the member for Shepparton and the member for Hawthorn would want it to be seen as an offence for anyone to be playing around with these survey pegs or marks. I hope there is no suggestion that this should not be seen to be a very serious matter, moving survey pegs or marks without due authority. It is an offence, unless you have a reasonable excuse, to interfere in any way with survey marks or pegs placed in position by or under the direction of a licensed surveyor. For the purposes of section 86 of the Sentencing Act 1991, compensation for the loss of, destruction or damage to property as a result of this offence is to include any expenses incurred in replacing or re-establishing a survey peg or mark. If it is a legitimate activity, such as the fencing of a property or the construction of services, they are of course not subject to this provision.

In the debate in this place on Tuesday, I think it was, the member for Shepparton referred to the movement of the marks due to drought, which is a known phenomenon. As I said, cadastral surveying is a very sensitive and highly sophisticated area, so the effects of drought have been factored into the way we manage the survey coordination network. Surveyors are very aware of the effects of drought, as they often work in drought conditions. An extra \$100 000 has been spent in 2003–04 on the network, and it might be fair to assume that quite a bit of that money has been spent on examining the survey markers that have been either damaged or diminished in some way by the contraction of land due to drought. As I have already said in a previous answer on clause 1, the government is providing through the Department of Sustainability and Environment further funding support for the survey coordination network.

Clause agreed to; clause 39 agreed to.

Clause 40

Mrs POWELL (Shepparton) — Clause 40 concerns the employment of the Surveyor-General. In part my reasoned amendment talked about the employment of the Surveyor-General being by appointment by the Governor in Council. The minister said she had huge discussions with the industry on this. From letters I have received I understand that the industry itself is asking for the Surveyor-General to be appointed by the Governor in Council, the reasons being that it feels he would be more independent and impartial and could therefore report to the minister without fear or favour. There has been criticism coming through the newspapers and a number of other organisations that under the proposed employment arrangements the Surveyor-General may not be able to report in that way.

One of my concerns is with clause 40(3), which talks about the Surveyor-General being appointed for a five-year period. The concern I have is that if during those five years the person is critical of the minister or the department, then during the reappointment process the minister, whether that person be the present minister or a future minister, may not look positively on their re-employment.

Mr BAILLIEU (Hawthorn) — In addressing clause 40 I ask the minister to say whether she agrees with a former Liberal planning minister, Alan Hunt, who when he introduced these clauses into the Electoral Boundaries Commission Act in 1982 said that locating them in that bill would:

... remove the influence of politicians over electoral boundaries and raise the voting system to a new level of independence and impartiality.

He went on to say that as a consequence the chief electoral officer and the Surveyor-General would:

... have absolute confidence in performing their roles with the impartiality and integrity demanded of them and will be seen to be impartial and independent by the public at large.

Does the minister agree with that statement, and why have these clauses been relocated against the wishes of the surveying profession?

Mr CARLI (Brunswick) — The current situation is that the Surveyor-General is employed as a public servant under the Public Sector Management and Employment Act. Surveyors-general have not been and will not be appointed by the Governor in Council. That has not stopped the Surveyor-General being independent and giving impartial advice. It is very clear that the most important political role of the Surveyor-General is to work with the Chief Judge of the County Court and the Electoral Commissioner in determining future electoral boundaries. Clearly all three are impartial and work as a team.

There is an underlying assumption by the opposition that somehow this government is trying to nobble the Surveyor-General and that somehow this legislation will change the processes through which the state impartially determines the boundaries of various electorates. I think it is very important to recognise that the current practices are being continued.

A number of public officers are employed under the Public Sector Management and Employment Act. They are impartial and give impartial advice. They are independent, and there is nothing untoward about this. Certainly I cannot understand what would be gained by having the Governor in Council appoint the

Surveyor-General. It certainly has not been made very clear in the arguments presented by the opposition and The Nationals.

Mr STENSHOLT (Burwood) — I rise to support this particular clause, because I think the elements set out in it are very appropriate. The Surveyor-General is a public servant who is part of a department that performs a professional function; therefore, like other professionals within that particular department, he reports to the secretary and is employed under the Public Sector Management and Employment Act. It is quite appropriate that he perform a professional function as a public servant within the state of Victoria. It is accepted that there has to be a full-time professional doing this and that that person should be a licensed surveyor. Of course there are the usual caveats in terms of non-performance, including becoming bankrupt, which may lead to a person being removed from office. The expectation of all public servants is that they remain professional and execute their duties in that regard.

I find it quite strange that people could imply that there may well be ministerial interference in this. It is actually putting down public servants to say that they cannot be professional just by being ordinary public servants. In this case it is an appropriate way to appoint a senior public servant, and I support this particular clause.

Ms DELAHUNTY (Minister for Planning) — The heart of this issue is the status of the Surveyor-General, and it is one that the government examined very closely in the preparation of this bill. It has been the issue of most concern to some surveyors. We certainly spent a lot of time examining what the best process would be. Let me put a few facts on the table. It is always helpful to start with the facts rather than with the furrphies which have been presented mostly by the member for Hawthorn.

The Surveyor-General in this state has always been a public servant. He or she has always been appointed under the equivalent of the Public Sector Management and Employment Act. He was employed under a public sector management act under the previous Kennett Liberal government and under governments before that. Other state surveyors-general are also public servants. What is different in Victoria in 2004 that means, for some reason yet to be explained to me, that the Surveyor-General should be different from the surveyors-general in other states and that he or she should be different in status from, for example, the registrar of titles or the Valuer-General? The Surveyor-General is a part of that critical team made up

of a critical trifecta — including the registrar of titles and the Valuer-General — which is responsible for the protection, the management and the precision of our land management system and the transfer of our land.

Let us just move the nonsense! If there is a conspiracy theory about that, present the evidence! The facts do not bear out what the opposition is trying to push. The facts as I have stated them are that the Surveyor-General has always been a public servant. He or she is expected to respond to the sections and conditions of the Public Sector Management and Employment Act 1998, which was an act of the previous Liberal government. So I ask again: what is the difference between the Surveyor-General in 1998 and the Surveyor-General in 2004? There is no difference!

For the very first time we have incorporated the functions of the Surveyor-General. We have brought all the functions of the Surveyor-General into one bill in a very detailed way for the first time. You would argue that that is open, transparent and providing clarity that did not exist before. The bill will clarify the role of the Surveyor-General. For the first time, it sets out in one place the employment, the suspension and the removal provisions applicable to the Surveyor-General. The member for Hawthorn raised the issue of the Electoral Boundaries Commission Act and its relation to the dismissal. That is appropriately covered under clause 41.

Clause agreed to.

Clause 41

Mr BAILLIEU (Hawthorn) — I repeat the matter I raised previously and invite the minister to respond.

Ms DELAHUNTY (Minister for Planning) — As I said earlier, the bill incorporates the parliamentary dismissal provisions for the Surveyor-General currently applying under the Electoral Boundaries Commission Act 1982. This is significant for two reasons. It is quite correct that the Surveyor-General is part of the three office holders who are responsible for electoral boundaries. The Surveyor-General also has many more detailed functions than that. Acknowledging that he or she has a critical role in that area, we have added new, stricter dismissal provisions in this act. These are new dismissal provisions which acknowledge the role that the Surveyor-General has under the Electoral Boundaries Commission Act. The Surveyor-General's dismissal requires the consent of Parliament under that act. That provides extraordinary protection for this officer in doing this important and critical work.

I would like to refer to further support that the government has received from the surveying industry, the surveyors peak bodies and industry associations. I spoke about a letter that we have received from the Institution of Surveyors Victoria and indeed from the Association of Consulting Surveyors in Victoria. I now refer to a letter from the Surveyors Board of Victoria. It is addressed to the executive director of Land Victoria:

Thank you for briefing the board on behalf of the minister regarding the Surveying Bill 2004.

... the board is of the view that, overall, the bill is a positive response to the needs of the community and the profession in relation to cadastral surveying.

We ask that you convey to the minister our support for the passage of the bill.

The date of this letter is the 20 May, 2004. There is a lot of support from the industry for this bill and we welcome that.

But, completing my remarks on clause 41, which relates to the suspension and dismissal provisions, I note that they are not new provisions under the Electoral Boundaries Commission Act but are now located, unaltered, in this new bill. We are elevating — if you like — the protection for the Surveyor-General. The provisions of that act that require parliamentary dismissal are relocated, unaltered, into this new bill, the Surveying Bill 2004.

Clause agreed to.

Clause 42

Mr BAILLIEU (Hawthorn) — It is fascinating to listen to the minister. It just dawned on her in her last answer that she actually got it wrong. At the last minute she was able to correct herself, so that is something of a blessing. The letter she read from the Surveyors Board of Victoria was, as I indicated in my second-reading speech response, secured under pressure.

Clause 42 goes to the matter of the functions and powers of the Surveyor-General. The minister asked before what is different. What is different is that this government has interfered with the Surveyor-General. That is the finding of the Auditor-General, the surveyors board and the surveying profession, and that was highlighted by the *Age* newspaper in an editorial.

Clause 42(2) refers to the Surveyor-General having an overarching power. It says:

The Surveyor-General has and may exercise all the powers necessary to perform his or her functions.

I invite the minister to indicate whether that power will override the requirements of the Public Sector Management and Employment Act, under clause 40, when it comes to direction by public servants of the Surveyor-General.

Ms DELAHUNTY (Minister for Planning) — The honourable member is quite correct. Clause 42 sets out the powers and functions of the Surveyor-General. As I said, this is the first time that the powers, functions, role, suspension and dismissal provisions relating to the Surveyor-General are together clearly enunciated in one bill. I think that is definitely a move in the right direction.

Why is it important? Since the days of Charles Grimes and Robert Hoddle in the 19th century land surveyors have played a key role in the development of Melbourne and development right across the state of Victoria. Surveying provides secure boundaries for agricultural land, for commerce, for transport and residential development.

Cadastral surveying is the fundamental role of the Surveyor-General — and this clause refers to powers and functions. We have to understand how important this role in the cadastral network is, because it fundamentally supports the integrity of Victoria's land administration system. I said that in my remarks several hours earlier, when we began discussing this bill in detail. This is about the integrity of Victoria's land administration system, and it is about having confidence in that system. It is about having confidence in the property boundaries.

The land administration system is critical to Victorians' confidence in their property market. It is also absolutely critical for our economy. The property market now represents about \$557 billion worth of assets. We are talking about an engine of growth in this state. Let us put it into context. Let us move away from the dark conspiracy theories dreamt up in the back rooms of the member for Hawthorn's small office. Let us concentrate on what the function of the Surveyor-General is.

Have we got it right on his powers and functions? We have a letter of support from the surveyors board. The member for Hawthorn's statement is a great insult, and I hope the member will withdraw it, because I am sure he does not want anyone outside this place to think he is foolish enough to try to suggest that any professional surveyor would write and sign a letter on behalf of their board without believing in what they were doing. I think that is fanciful. He really is starting to believe these tragic Harry Potter conspiracy theories. He is

back there in Hogwarts, and I think he ought to stay there.

It really is not something to be amused by, because it is very offensive to the Surveyors Board of Victoria. I am sure that when he thinks about it in the cold, hard light of day outside this place he will find that he has made a goose of himself, that it is extremely embarrassing and that people outside this place who do understand fair play will be completely insulted by the suggestion that someone as eminent as a member of the surveyors board would insincerely write a letter saying:

We ask that you convey to the minister our support of the passage of the bill.

The letter is dated 20 May 2004, and I am very pleased to know that this government can work closely with the surveyors who are really interested in getting on with the job. There is obviously an attempt by the member for Hawthorn to manufacture something that does not exist. I think that the new, young surveyors — and as I said a lot of them are young women — do not want to play around with nonsense. They want to get on and live out the profession for which they have been so highly trained. I certainly welcome their working in the profession.

Clause agreed to; clauses 43 to 46 agreed to.

Clause 47

Mrs POWELL (Shepparton) — Clause 47 goes to the membership of the Surveyors Registration Board of Victoria. Clause 47(1) states:

The Board consists of 8 members appointed by the Minister.

In the original board, the former surveyors board, there were six members, and most of them were employed by Governor in Council appointment, except the chair and the deputy chair, who were public servants.

The questions I ask are: why was the change made from having Governor in Council appointments for the rest of the board, and who recommended that change to the minister, given that I have received a letter dated 24 May from the Institution of Surveyors Victoria which states that it is very concerned about that change?

Mr BAILLIEU (Hawthorn) — I rise to speak on a similar matter concerning clause 47. The surveying profession was given the undertaking in discussions prior to the bill's preparation that no such change would be made. I also invite the minister to address the question of why the change has been made.

Ms Delahunty interjected.

The ACTING SPEAKER (Ms Barker) — Order! The minister will be able to reply.

Mr BAILLIEU — It is always a pleasure to have the minister interjecting. The minister has through this process demonstrated that she has no knowledge of the bill whatsoever. Only when the notes have been put in front of her has she been able to correct herself.

One of the concerns expressed by the surveying industry — —

Ms Delahunty interjected.

Mr BAILLIEU — It hurts the whole of Victoria I am afraid, Minister.

One of the concerns expressed by the industry is that the bill has been driven by bureaucrats and not by the minister, and she has shown by her knowledge of the details of the bill that she is not in control of this. I invite her to address the specific questions which have been put to the government on a number of occasions by the industry but which are yet to be responded to.

Mr CARLI (Brunswick) — I support clause 47. It is important to note that this clause is very specific about who will be on the board. It is true that the board will be appointed by the minister, but we must recognise that the clause is specific on how involved the industry will be in its appointment.

I remind the house that one of the members on the board must be the Surveyor-General — a public servant, as I have already indicated, who is independent. Two members must be licensed surveyors selected by the professional body representing the majority of licensed surveyors. There will be a panel to which three names will be submitted, from which two will be chosen. It will not involve the minister choosing names at random, so it will not be a case of the minister making appointments that are restricted in some way. It provides the opportunity for the industry, through the licensed surveyors, to submit three names, and the panel of professionals will decide who will be appointed. They will obviously be people who will best represent their profession.

Also, one person on the board has to be involved in the teaching of cadastral surveying in a tertiary institution. There are only a limited number of people with such expertise, so again the clause is a very specific in prescribing the position, and it is clear about that person bringing a particular skill to the board. Another member must be a licensed surveyor registered under section 6

of the act and employed in the public sector. Finally, there must be a lawyer.

It seems to me that the specifications in this clause will ensure there is a strong, independent and skilled board. It is clearly appropriate that the appointments be made by the minister under the conditions specified in clause 47.

Mr STENSHOLT (Burwood) — I am surprised and appalled by the attitude of the member for Hawthorn, the shadow Minister for Planning. Here he is, once again, coming out and attacking public servants. He says this has been dreamt up by bureaucrats and in doing so is putting bureaucrats down. It is very much standard fare for the opposition Liberal Party to put bureaucrats down. That is just appalling. These people are great public servants who for many years have used their professional skills for the benefit of the state and the people of Victoria to ensure that — —

The ACTING SPEAKER (Ms Barker) — Order! I remind the member for Burwood that he must refer to clause 47, which deals with the membership of the board.

Mr STENSHOLT — I am, Acting Speaker, referring to it by building on the statement by the member for Hawthorn that the membership of the board had been dreamt up by bureaucrats. I am a very strong supporter of public servants in Victoria. The issue of surveying is very much a public function, and we ought to support the public servants who undertake the particular public function proposed here. The minister will appoint to this particular board people who have the range skills, both public and private, to inform it. It is most appropriate that there be a mix of skills to support the public servants who undertake the function.

I was surprised by the member for Hawthorn's statement, because it virtually impugns the Surveyor-General. There will be a good mix of skills to assist the Surveyor-General and his staff in undertaking that public function. The mixture includes the skills of those in the public sector who deal with land and those of others who have an understanding of administrative law — and in terms of administration, this is very much a prime public function. The board members will have to take into account the interests of the community, particularly property owners, as well as those of the profession itself. There will be a strong degree of involvement by the minister, as well as the latitude for her to be able to make appointments. I support the clause as it is currently drafted.

Ms DELAHUNTY (Minister for Planning) — Clause 47 provides for a skills-based board. It is entirely consistent with what we are doing in this bill to modernise and increase the professional capacity of the surveying profession. This skills-based board will be expanded, as the member for Shepparton said, from six to eight members.

It will comprise practising surveying professionals; and is required to have a lawyer experienced in administrative law. This is the requirement on any of our public boards. We have to have a mixture of skills and members with both legal and accounting proficiency, but the board will comprise surveying professionals. We are requiring in this bill that the minister of the day represent the interests of the community and the property developers — the property industry as well, which works very closely with and relies on the surveying industry.

The ministerial appointment provisions of the Surveyors Registration Board of Victoria formed part of the 2001 bill — part of the original bill. It was acceptable then, and I cannot understand why it is not acceptable now. It was acceptable in the 2001 bill, but suddenly it is not acceptable now. It has been put to us in all the discussions and negotiations about this that it was acceptable under the 2001 bill and has been carried forward in this bill — it is efficient, appropriate and will provide a skills-based board to lead the work of this profession.

Clause agreed to; clauses 48 to 62 agreed to.

Clause 63

Mrs POWELL (Shepparton) — The issue I wish to raise is about the regulations that the Governor in Council may make. The specific issue I ask about refers to paragraphs (e) and (f) of clause 63(1). I refer to the prescribing of forms of certificates for plans and field records and abstracts of field records by surveyors. I want to know what is the status of the central plan office, which is the repository of all the information that surveyors file. I understand the Surveyor-General stated that function had diminished over the years through failure by some agencies to lodge survey information — for example, survey plans. Is the central plan office to be retained, which the review said strongly is very important and should be retained?

Ms DELAHUNTY (Minister for Planning) — Clause 63 sets out the various regulation-making powers under the bill and refers only to the regulation-making powers. I would expect that the question should relate to the clause.

Clause agreed to; clauses 64 to 73 agreed to; schedules agreed to.

Bill agreed to without amendment.

Remaining stages

Passed remaining stages.

TRANSPORT LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 25 May; motion of Mr BATCHELOR (Minister for Transport).

Mr KOTSIRAS (Bulleen) — It is a pleasure to briefly speak on this bill. I know a number of members wish to make a brief contribution, and to have to do this at 3.45 p.m. at the end of a very busy week is inexcusable. The government has introduced this bill which makes many changes to many acts, and I would have thought the Minister for Transport would be present in the chamber to advise the house what the changes mean. Unfortunately, when the Labor Party was in opposition it was very vocal about introducing such complex bills into the house during a busy week. How quickly the Labor Party tends to forget.

The bill amends the Road Safety Act 1986. The selling of personalised numberplates started in 1984. VicRoads has been making money ever since. It has been ripping off Victorians since then, even though it had no authority to do so. This bill validates the practice and allows VicRoads to continue the practice of ripping-off motorists.

Under the bill VicRoads will be allowed to issue personalised numberplates for a fee fixed by the corporation, by tender or by auction. This is one way VicRoads will raise a lot of money because people will pay excessive prices for numberplates. The bill also validates previous sales and fees charged for personalised numberplates — in other words the provisions in this bill are retrospective. Why is this being introduced? Because of an individual who decided to take VicRoads to court. I read from a newspaper article of 6 June which states:

A man will take legal action against VicRoads to retain personalised numberplates the state roads authority claims were incorrectly issued to him ... a dealer offered him \$10 000 for the plates which match Holden's new limited-edition Monaro HRT 427 coupe. Mr Robinson paid \$310 for plates inscribed HRT 427 and has a receipt. But ... he would have to return them.

VicRoads said a staff member failed to check if the plates had already been ordered. Mr Robinson was offered a refund and a free set of equivalent customised plates.

Mr Robinson said he bought the plates as an investment and didn't believe VicRoads' excuse.

If members look at the application form for personalised numberplates prepared by VicRoads, it does say that once the corporation accepts the money and the application the numberplates are the owners. I quote briefly from the application form:

... if VicRoads accepts your application, allocates your chosen combination and issues the plates:

...

No-one else can obtain rights to display the combination or the plates without your permission.

You can transfer the combination to someone else through VicRoads.

It is only logical that this individual who paid the money and received the numberplates should have the right to use and sell the numberplates. It is important that the government, before supporting this type of legislation, have a full investigation into the issuing of numberplates, the costs involved and how much profit VicRoads has made over the years. Why is this government afraid of an investigation? The bill also provides that ownership rights of personalised numberplates may expire after 12 months unless the owner of the plates writes to VicRoads. I would have thought the reverse would have been more appropriate. If the owner did not wish to keep the numberplates the owner would contact VicRoads.

The bill amends a number of other acts. It covers drivers who refuse to give blood samples because the doctor or authorised person is not present. Under the bill the police officer can accept that a person saying no to offering a blood sample means no, but not because there is no doctor present to take the sample. This is the result of a recent court ruling where a driver refused to give blood because he said no doctor was at the scene. The bill also provides for drivers who lost their licences prior to May 2002 having their licences restored, subject to an alcohol interlock condition. This is a good provision, and I commend it.

The bill amends the Public Transport Competition Act 1995. Unfortunately there has been some confusion and it is a shame that the minister is not in the house to explain what effect the proposed amendment will have. As I said, because other members wish to speak on this bill, I will conclude my contribution and allow them to speak.

Mr SAVAGE (Mildura) — I thank the member for Bulleen for his consideration. I rise to support this bill. The measures in it, especially the road safety measures, will have an impact on the safety of every Victorian. I had a long career in the police force. In that time I must have tested about 2000 people who were in need of breath tests, and I can only say none of them was fit to drive a motor car on the highway. I have some insight into the mayhem they can cause, so any tightening of this legislation has my full support.

This bill amends a number of acts, and I will mention a couple of them in passing. The CityLink provisions are procedural, and I do not have any issue with them. However, in terms of CityLink, it rankles when I drive on the parts of CityLink which were taxpayer-funded freeways and are now tollways. I find that an issue in some respects, but overall I think CityLink makes a significant contribution to free passage for vehicles across Melbourne. I am certainly not reluctant to use it and do so whenever I am in Melbourne.

I was puzzled by the opposition of some country members yesterday to the Mitcham–Frankston tollway. Country motorists should not have to pay for that road. I think the people who use it should be the ones who contribute towards its cost —

Mr Mulder — That is not the issue.

Mr SAVAGE — The member for Polwarth says that is not the issue, but I think it is a very important issue. I will not enter into a debate on whether broken promises are appropriate.

Mr Mulder interjected.

The ACTING SPEAKER (Ms Barker) — Order! The member for Polwarth! The member for Mildura, on the bill.

Mr SAVAGE — The bill also amends the Road Transport (Dangerous Goods) Act. That gives me an opportunity to mention the fact that if there is a toxic waste containment facility built in my region, then dangerous goods will be an issue on our highways.

Dr Naphine — No, it won't — you will fight against it.

Honourable members interjecting.

Mr SAVAGE — I have not given up on either of those issues. We will see. There is a long way to go before the toxic waste facility is established in the Mallee. We are going to make sure we address a whole range of environment effects statement proposals in an

appropriate way. I think it is disappointing that standardisation has not occurred. This is something which is vital to the economy of the state and the region I represent. If there is going to be a toxic waste containment facility, there is no way under any circumstances that this material should be carried on the road.

The member for South-West Coast made some observations about my being remembered for a legacy of B-doubles going up the Calder Highway because I supported the Bracks government in 1999. However, he overlooked the fact that there was an election in 2002 in which there was significant support for the current government, irrespective of my support for it in 1999. The member needs to reflect on history.

I have done no deals with this government for standardisation. It is a commitment by the government, as is the case with the passenger rail. If I were going to do any deals, I would have done them back in 1999. I did not, and I have not on this occasion. As the Premier has said, the Honourable Barry Bishop in the other place should apologise for that lie.

While we are talking about untruths, some other significant ones are being put out by the National Party. They have had some real gems in my area — —

The ACTING SPEAKER (Ms Barker) — Order! The member for Mildura, on the bill.

Mr Walsh — On a point of order, Acting Speaker, I ask you to bring the member back to the bill.

The ACTING SPEAKER (Ms Barker) — Order! I do not uphold the point of order at this stage, because the member for Mildura was referring to roads and some examples within the bill and using that to refer to issues within his electorate. However, I am sure the member will refer very directly to the bill from now on.

Mr SAVAGE — Thank you for your guidance, Acting Speaker. Hazardous waste material is an issue in this bill. An amendment is made to that legislation, and I think that gives me some leeway to talk about rail transportation and getting hazardous material off the roads. That is exactly what I was doing. I know the National Party is very sensitive about the activities of some of its people in other places and the regions, and I can understand why its members want to suppress any form of discussion about that. In fact it was not so long ago that a former National Party branch president in Underbool was forced to hand in his firearms because he had threatened to shoot me at the local post office.

Dr Napthine — On a point of order, Acting Speaker, the member is now straying well and truly from the bill. You have asked him to come back to the bill. He was given the opportunity to speak for a very short amount of time by a Liberal Party member curtailing his speech, and I ask that he restrict his comments to the bill.

The ACTING SPEAKER (Ms Barker) — Order! I ask the member for Mildura to speak on the bill.

Mr SAVAGE — The recent Auditor-General's report into rail passenger services and their increased cost has some relevance to this debate. The Leader of the National Party put out a press release indicating that the member for Gippsland East and I should apologise for the cost overrun of passenger services in Gippsland and the failure of passenger services to arrive in Mildura. I have to take issue with the Leader of the National Party, because in his report the Auditor-General said there was no reflection on the fact that the private rail providers were criticised. If you look carefully at that report you see a clear indication that one of the problems the government faced was an issue with the nature of the contracts and the franchises for those arrangements. The National and Liberal parties entered into this 45-year contract. This contract takes rail freight back to 20 kilometres per hour.

Honourable members interjecting.

The ACTING SPEAKER (Ms Barker) — Order! I ask the member for Mildura to speak on the bill.

Mr SAVAGE — On the point of order — —

The ACTING SPEAKER (Ms Barker) — Order! I was not taking a point of order; I just asked the honourable member to refer to the bill.

Mr SAVAGE — Thank you, Acting Speaker, I will take your guidance. I think I have made the point quite clearly, and there are people here who are sensitive to the truth being reflected upon.

Dr Napthine interjected.

Mr SAVAGE — And hypocrites.

The bill covers a number of safety issues relating to provisions for CityLink, the Marine Act and the Road Safety Act. I support those measures, as I have always done in this place, and I wish this bill a speedy passage.

I will make one point in conclusion: when it comes to citizens who have been photographed by speed cameras, they have 28 days to notify the traffic camera

office as to the identity of the driver. There should be some provision that allows the points to be deferred onto the responsible driver even after the 28 days. Often people overlook the fact that they have a notice or they are not aware until some later date that they were not the driver, and that causes problems. If you are not the driver, you should not wear the points, even if you paid the ticket. Again I wish this bill a speedy passage.

Mr DIXON (Nepean) — I wish to make a brief contribution to the debate on the bill, especially as it relates to the Public Transport Competition Act 1995, where it introduces a new raft of bureaucracy in relation to non-scheduled bus operators and minibus operators. This will encompass council and community bus routes.

I wish to mention the community bus that is running in the Mornington Peninsula shire. Negotiations are under way with VicRoads to have this bus taken over by Grenda's, which runs a service down that way, rather than having it run by the council. I hope the implications of this bill do not get in the way of the negotiations taking place between VicRoads, the council and Grenda's Bus Service. With the limited public transport on the Mornington Peninsula it is important that an on-call minibus service which feeds into the main bus routes is encouraged so members of our community can get to Frankston and other parts of the Mornington Peninsula. As many pensioners are now being slugged \$80 for car registration, they will have to rely more and more on public transport, and this minibus service is a very important part of that.

Turning very briefly to the numberplates, they are worth a lot of money. They are very valuable to people and often businesses have relevant numberplates. There are a few people in my family who find them to be very valuable.

Business interrupted pursuant to standing orders.

The ACTING SPEAKER (Ms Barker) — Order! The time set down for the consideration of items on the government business program has arrived, and I am required to interrupt business and deal with the items on the program.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

TREASURY AND FINANCE LEGISLATION (AMENDMENT) BILL

Second reading

Debate resumed from 25 May; motion of Mr HULLS (Attorney-General).

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 12, page 13, line 33, omit "(9)" and insert "(8)".
2. Clause 12, page 14, line 7, omit "(9)" and insert "(8)".
3. Clause 12, page 17, lines 23 to 27, omit sub-clause (8).
4. Clause 12, page 17, line 28, omit "(9)" and insert "(8)".
5. Clause 12, page 17, line 35, omit "(11)" and insert "(10)".
6. Clause 12, page 18, line 4, omit "(10)" and insert "(9)".
7. Clause 12, page 18, line 5, omit "(9)" and insert "(8)".
8. Clause 12, page 18, line 10, omit "(11) Subject to sub-section (12)" and insert "(10) Subject to sub-section (11)".
9. Clause 12, page 18, line 19, omit "(12) Sub-section (11)" and insert "(11) Sub-section (10)".
10. Clause 12, page 19, line 1, omit "(13)" and insert "(12)".
11. Clause 12, page 19, line 20, omit "(14)" and insert "(13)".
12. Clause 12, page 19, line 25, omit "(15)" and insert "(14)".
13. Clause 45, page 60, line 20, omit "50(3A)" and insert "28(3A)".
14. Heading to clause 46, omit "49" and insert "49A".

Third reading

The ACTING SPEAKER (Ms Barker) — Order! I advise the house that as the required statement of intention has been made under Section 85(5) of the Constitution Act 1975, the third reading of the bill is required to be passed by an absolute majority. As there is not an absolute majority of the members of the house present, 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.

ARCHITECTS (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Ms DELAHUNTY (Minister for Planning).

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).

ADJOURNMENT

The ACTING SPEAKER (Ms Barker) — Order!
The question is:

That the house do now adjourn.

Fishing: PrimeSafe

Dr NAPTHINE (South-West Coast) — I wish to raise a matter for the Minister for Agriculture, and the action I seek is for him to delay the implementation of PrimeSafe for Victorian commercial fishing and processing industries until important anomalies and issues have been resolved.

On 21 May I attended, with some 30 to 40 commercial fishermen and processors, a meeting in Portland hosted by PrimeSafe. The meeting could only be described as a disgrace and a shambles and was highlighted by the complete lack of readiness on PrimeSafe's part to implement the provisions on 1 July 2004. Some of the key issues include, firstly, that the proposed fees will apply from 1 July but that no implementation of quality standards will take place until July 2005. Any delay would not impact on seafood safety or quality, and the current rules would still apply.

Secondly, the fees and quality assurance costs will apply to fishers who land or process fish in Victoria, but Victorian-licensed cray fishermen who operate in South Australia or land their fish in South Australia will not be subject to these Victorian rules and indeed will be subject to South Australian rules. But the issue is that South Australia has no rules. Hence they will not be subject to any fees as there are no fees for processors in South Australia. This will drive jobs from Victoria, and especially south-west Victoria, into South Australia. Similarly the costs in New South Wales of the same things are about one-quarter of the proposed costs here. What we need is a national system that provides equity across all areas.

Thirdly, the proposed fees for PrimeSafe do not reflect the risk but seem to reflect a perceived ability to pay various fishing components. For example, with shellfish and blue mussels, which may be perceived to be at the higher risk end of the seafood chain, you can process up to 50 tonnes and pay a fee of \$200 per year. But if you catch ocean fish you will pay \$800 for a 50-tonne licence, if you catch crayfish you will pay \$800 for 10 tonnes, and if you catch abalone you will pay \$800 for 8 tonnes. This is in reverse proportion to the risk and is perhaps based on a perceived ability to pay. These fees will be only part of the total cost, because you will have to pay for quality assurance programs and audits, which can cost \$125 to \$160 per hour.

Fourthly, currently there is no seafood industry person on the PrimeSafe board. The previous incumbent resigned some months ago and has not been replaced.

Fifthly, there has been no justification from PrimeSafe for the \$550 000 cost, which PrimeSafe argues will be used to administer this. It refuses to release any documents publicly to justify that cost.

There is no justification for why crayfishers who catch and sell live fish will be charged fees under PrimeSafe whereas farmers who sell livestock will not be charged. Exporters who export 1000 tonnes and sell 10 tonnes locally will be charged PrimeSafe fees on 1010 tonnes when they already pay Australian Quarantine and Inspection Service fees on 1000 tonnes. This system is unfair and needs to be delayed.

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

Blue Ribbon Foundation: Channel swim

Mr LANGUILLER (Derrimut) — I raise this matter for the attention of the Minister for Sport and

Recreation in another place. I am seeking action in examining ways of supporting the police officers who are going to do a relay crossing from England to France. I seek his support in terms of recognition and in terms of raising awareness in the Victorian community of the fine job they do.

I wish to acknowledge Paul Maguire, Ian Knight Graham Kent, Scott Dower, Simon Kettyle, Brooke Willis and Bill Gayther, who plan to become the first all-police team to complete the relay crossing from England to France then back to England. The team includes six police officers, five men and one woman, and a retired police academy instructor. Brooke Willis, at 23 years of age, is the only woman on the team. She is a triathlete who has been participating in triathlons since the age of 16 years. Another member of the team, Senior Constable Maguire, belongs to the force response unit and he completed a solo 17-hour crossing of the Channel in 2002.

They will swim close to 100 kilometres in 1½ hour legs in cold and often rough waters in July. Can I say that I have had the pleasure — often in fact — of swimming along with these police officers, who do their training in the bay. They go for a couple of hours, and I only do about 20 minutes, but it is my pleasure to swim along with them and see how much effort they put into it. They have been training for approximately 15 months. As members know, the waters of Port Phillip Bay are very cold. The temperature is now about 12.5 degrees, but it will get as low as 6 degrees in the next two or three weeks. The officers do a tremendous job and represent Australia very well.

They are completing the crossing to raise awareness of the Blue Ribbon Foundation, the charity set up in honour of the fallen police, such as police officers Steven Tynan and Damien Eyre who were killed in the line of duty in 1988 and Gary Silk and Rodney Miller, who died in 1998.

The training schedule has involved swimming in Port Phillip Bay for a long time, so I am asking the minister in another place, and I certainly bring this to the attention of all members, to acknowledge that they are doing a fine job and that they are raising funds for the Blue Ribbon Foundation. Their efforts will benefit in particular the Bendigo Hospital, a hospital which treated other police officers, some of whom died in the line of duty. I encourage every member in this Assembly and indeed those in another place to support these officers. And I repeat my request that the minister consider providing support for and acknowledgment of these fine police officers.

WorkCover: safety data

Mr WALSH (Swan Hill) — I seek action from the Minister for WorkCover. A source of huge annoyance and inconvenience for farmers relates to the accessing of material safety data sheets. Every farm business must keep on file material safety data sheets for every chemical substance that is used on the farm. They are often up to six pages long and refer to their composition, health effects, safety precautions et cetera. WorkCover inspectors can and do request to see them.

Under the hazardous substances regulations suppliers must make these sheets available to farmers for their use and for their records. A supplier is defined in the regulations as the manufacturer or importer, not the retailer. Therefore farmers often have difficulty in accessing material safety data sheets, particularly those for imported product. Information is available on the Internet, but many farmers still do not have reliable access to the Internet and attempts to download files often fail. It restricts the effectiveness of the hazardous substances regulations and increases growers' frustration, and it contributes nothing to the proper use of chemicals.

I ask the Minister for WorkCover to change the definition of a supplier in the hazardous substances regulations so that commercial sellers of farm chemicals are included but retailers like Safeway are excluded so they are not caught up in the legislation because they sell flyspray to households.

Schools: Seymour

Mr HARDMAN (Seymour) — I raise a matter of some urgency with the Minister for Education Services. The action I request is that the minister move as quickly as possible to address maintenance in schools in my electorate that were neglected during the seven dark years of the Kennett government. I was pleased to note that this year's budget includes \$60 million over the remainder of this year and the next financial year, showing the government's recognition of the needs for maintenance in schools.

I was also pleased to note that the key priorities for the expenditure of this money include maintenance of school toilets and asphaltting, which are key areas of concern in my electorate. The most urgent issues of school toilets has already been addressed with \$10 million funding for maintenance.

When I called the principal of Pyalong Primary School, Catherine Hoey, yesterday she was very pleased to hear of the \$118 000 grant to address the pressing needs of

the school's toilets. Catherine told me that the school's buildings and grounds committee met only last week and discussed ways in which they could deal with the issues arising from the state of their toilets. She told me that the growing school has no adult toilets, meaning staff, visiting adults and children have to use the same facilities. The timber structure leading into the toilets is broken, creating occupational health and safety issues, with one of the planks leading up to them also broken. There is no hot water in the toilets, which means that the cleaner has to carry buckets of hot water 50 metres to do her duties — a task which I am sure none of us would envy. I have no doubt that many people will feel relieved by this announcement.

I later called the principal of Dixons Creek Primary School, Sharon Walker, to ensure that her school community was aware of the \$100 000 grant to maintain its school toilets. Sharon told me of the school's concern with the current state of its toilets. One of the major issues is, again, that there are no adult toilets at the school and visitors to the school have to share the facilities with the children. Sharon told me that the toilets have cracks in the floor, creating hygiene issues, especially with the very young children visiting the school.

The toilets are also open to the elements and are very draughty as a result, making them very uncomfortable especially during the winter months. The toilets are also downhill from the school buildings and water run-off floods the toilets, causing more hygiene concerns. There is also no lighting, so when the school has night-time functions the toilets are inappropriate for visitors and the needs of the users.

I have also written to the minister this year about the surface of the Kinglake Primary School's netball court, which is very unsafe for use. The surface is cracked and uneven due to its age and the roots of trees causing problems. When I was in Kinglake for a constituent visit recently I was met by 15 parents at the school, who showed me the state of the surface, which they were concerned about. There are no facilities in nearby Kinglake, and they have to travel several kilometres to play netball in Middle Kinglake. I ask that this school be considered favourably when the \$50 million for further maintenance comes up for distribution later this year.

Plumbing: insurance

Mr BAILLIEU (Hawthorn) — I raise a matter with the Minister for Planning, and perhaps appropriately I am raising a matter in regard to the insurance of licensed plumbers, which is particularly relevant

following the remarks of the honourable member for Seymour! I ask the minister to review the compulsory insurance requirements of licensed plumbers, who are clearly not having a few problems in Seymour at least! In particular I invite the minister to address an open letter to the minister from the plumbers of Victoria that was published in *Plumbers Choice*, a newsletter that circulates among plumbers. That open letter points out to the minister that:

Plumbers in Victoria need clarification on a number of points in relation to the compulsory insurance they are required to take out in order to hold a plumbing licence.

Plumbers Choice has drawn attention to the fact that when a plumber retires, the insurance purchased by that plumber does not cover that plumber for resultant damage caused by a failure in work completed. The open letter invites the minister to address a range of specific questions that have been put to her:

1. Was it the intent of the legislation that a plumber would not be fully covered in retirement?
2. If and when a plumber changes insurance, does the legislation state that the plumber is covered for resultant damage on jobs completed under his/her previous insurer?
3. For what period of time is a plumber liable for any resultant damage? Is it until the certificate of compliance expires or beyond?
4. Is the minister aware that insurers now exclude liability for fire damage unless a plumber welds to Australian standards, bearing in mind that for the most part it is impossible to work within the standards on site? This leaves both the plumber and the consumer uninsured.

Finally, the open letter invites the minister to contemplate a review of compulsory insurance requirements and I invite her to do that. The *Plumbers Choice* newsletter has had difficulty corresponding with ministers in the past. I am raising this in the hope that the minister on this occasion will address those issues, which are serious issues for plumbers. Indeed, given what the member for Seymour has just advised the house, they are serious issues for all Victorians. I invite the minister to respond urgently.

Multiple sclerosis: Carnegie accommodation

Ms BARKER (Oakleigh) — I raise a matter for the Minister for Community Services. I ask the minister to take action to ensure adequate and ongoing funding for the establishment of and support for people in a home in Carnegie. These people have multiple sclerosis (MS) and I ask that action be taken to ensure these people can live in appropriate accommodation, not nursing homes. I raise this particularly in regard to a constituent of

mine, Sally, whom I had contact with in 2003, and not only with Sally but also with Alan Blackwood of the MS Society.

An honourable member — A good man!

Ms BARKER — Yes, a very good man. Sally contacted my office and asked if I would visit her where she was currently living. She has MS and has been located in a nursing home in Murrumbidgee since 2002. That nursing home is a very good nursing home, but at that time Sally was 44 years old. She is now a couple of years older, but she was certainly the youngest in that nursing home. The other residents were of an average age of 80, and it was just not an appropriate setting for Sally, who really did want to have normal home accommodation and be able to have her children visit her and undertake some of the activities which she could still do, but certainly not in the nursing home.

We worked through some of the issues with Sally and Alan Blackwood over a period of time. Alan contacted me earlier this year to say that a house had become available in Carnegie. We had to work with the department and the minister's office to ensure that some discussions around a package through the Support and Choice program, a new initiative, were brought forward and discussed urgently with Sally so that we could deal with that and then deal with the house.

A lot of Sally's needs and those of other people with MS are dealt with through funding by the Department of Health and Ageing, which is of course federal funding. I understand it has now agreed to provide some of that funding, and I am certainly aware of the support that the Victorian government will be offering Sally and the other two residents in this home. I think we need to ensure that our funding is adequate and ongoing. We also need to ensure that the federal government's funding in terms of Sally and the other people who live in this house is also adequate and ongoing. I ask the minister to take action to ensure Victoria's side of the bargain is fulfilled because Sally is a great lady and I want to see her housed appropriately.

Rail: Sandringham and Frankston lines

Mr MULDER (Polwarth) — I would like to raise with the Minister for Transport the issue of frequent cancellations of and constant delays to Melbourne suburban trains. As the *MX* newspaper says today on its front page, Melbourne's trains are off the rails. With the Australian government's AusLink initiative forecasting that Melbourne's traffic congestion will worsen faster

than Sydney's or Brisbane's over the next decade, the Minister for Transport needs to tell Victorians whether he can get our trains back on the rails. Yesterday morning on the Sandringham line three trains to Flinders Street were cancelled before 9 o'clock. Last night the 4.49 p.m. train to Mordialloc and the 5.53 p.m. train to Frankston were cancelled; and the 4.57 p.m., the 5.27 p.m., the 6.01 p.m. and the 6.24 p.m. trains to Sandringham were cancelled. This meant a 20-minute service, not the scheduled 10-minute service, on the Sandringham line during the evening peak.

At about 6.20 p.m. last night a tree fell on the tracks between Middle Brighton and Brighton Beach stations, making matters worse. I know the members for Caulfield, Brighton and Sandringham, as well as the Honourable Andrea Coote, a member for Monash Province in the other place, are most concerned about this. The member for Prahran should be, but he had his head in the sand.

Delays are also of great concern. Yesterday morning the 8.05 train from Sandringham to Flinders Street was 12 minutes late by the time it reached Richmond. Passengers were left behind at stations like Prahran and South Yarra. These sardine trains are occurring on the Sandringham and Frankston lines every day.

Today the 3.33 p.m. train from Parliament to Frankston was cancelled, just another example of the many frustrations facing commuters. A third of train cancellations are due to a shortage of drivers. It is the Minister for Transport's fault because he ran the now defunct M>Train for 16 months until 18 April when Connex took over. During that 16 months M>Train receivers and managers failed to train enough new drivers. The Minister for Transport needs to explain to the house when Connex's current shortage of 75 drivers will be rectified, and he needs to apologise for the constant delays and cancellations.

On top of the lack of drivers, there is a major problem with maintenance. What is the Minister for Transport doing to work with Connex and Alstom Transport's joint venture, Mainco, and Siemens Rail Systems to ensure that maintenance is kept up to date? The 30-year-old Hitachi trains were meant to disappear in 2005, but they will still be around until 2006. Is the minister able to guarantee that they will be withdrawn by that date?

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The member must seek an action, not ask a question.

Mr MULDER — Still going! I ask the Minister for Transport will he guarantee that his secret, closed deal with Connex will see these many problems overcome? I call on the Minister for Transport to tell commuters how he stuffed up so badly and when he is going to fix up the terrible mess he has created. Obviously this model on the front page of *MX*, Catherine Zeta Jones, with a smile on her face, did not get off one of his —

The DEPUTY SPEAKER — Order! The honourable member's time has expired.

Rail: Sunbury bridge

Ms DUNCAN (Macedon) — The issue I wish to raise is for the attention of the Minister for Transport. I ask him to do all he can to resolve the issues with Freight Australia regarding track access. Thanks to the Kennett government we now have a situation where, without the cooperation of Freight Australia, which is really Rail America, significant pieces of infrastructure investment cannot proceed. One such project is the duplication of the Macedon Street bridge in Sunbury. This bridge is critical to Sunbury, and the Bracks government committed \$4.1 million to its construction in 2002. The government wants to build this bridge, and the people of Sunbury certainly want this bridge built. This bridge needs to be built. The money is there; the will is there. What is not there is an agreement with Freight Australia.

Honourable members interjecting.

The DEPUTY SPEAKER — Order!

Ms DUNCAN — Members will recall that the Kennett government sold off our rail network to overseas interests with names like Freight Australia — nice Australian names so that we would be led to believe they were still in Australian hands and serving Australian interests, which of course is not the case.

Mr Mulder interjected.

The DEPUTY SPEAKER — Order! The member for Polwarth!

Ms DUNCAN — Under this sale of our assets Freight Australia was given a 45-year lease. This means that for the next 43 years no government can invest in rail infrastructure in this state without the cooperation of Rail America.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I caution both the member for Polwarth and the member for South-West Coast about persistent interjection.

Ms DUNCAN — Recently this situation has been further complicated by the proposed sale of Freight Australia to Pacific National, which is jointly owned by Toll and Patrick, subject to the approval of the Australian Competition and Consumer Commission and the consent of the director of public transport. What all this means to the people of Sunbury is that a bridge that should have been completed some 12 months ago has not been commenced.

The delays in this bridge construction and other bridgeworks in the Macedon electorate is further evidence of the failed privatisation of our rail network, flogged off by the Kennett government. These delays are extremely frustrating for the people of Sunbury, for me, for the government and for the minister. Usually the battle is to get projects funded. This project has had funds allocated. We are being frustrated by the lack of cooperation by multinational companies.

I ask the minister to do all in his power to bring about a resolution so that the people of Sunbury and others around the state can have this much-needed duplication work completed and the Bracks government can get on with the job

Mental health: Albury-Wodonga

Mr PLOWMAN (Benambra) — The issue I wish to raise for the attention of the Minister for Health relates to the cross-border mental health services between Albury and Wodonga. I ask the minister to investigate the circumstances surrounding the treatment and the subsequent death of Norma Rae Selkrig and whether the cross-border service provided by Nolan House at Albury Base Hospital is meeting the needs of people within our joint communities who suffer mental health problems.

Norma Rae Selkrig was 72. She lived in Lavington, New South Wales. She went to a doctor in Wodonga, who had her assessed at the Kerford Clinic at Wangaratta, Victoria. She had been treated at the clinic on a regular basis since February and had gone home. The family had great difficulties with her, and the last time she went home they had to ring the hospital because she was very disturbed and throwing herself around.

They rang an ambulance and she was taken to the Kerford Clinic. She was there for a week and a half, and the family went to see her on Sunday, by which

time she was in high dependence. The nurse told them the clinic could do no more for her and that she was to go back into the community. The Kerford Clinic rang the woman's daughter, who picked her up and took her home on Monday. The following Sunday, Norma took her own life with an overdose. Her doctor at the hospital in Wodonga said she had been very sick and had had her name down to be transferred to Nolan House in Albury, where there was a patient who could do a swap with her. But they did not do it. This is an extraordinarily sad outcome for a situation where a patient suffering mental illness was not able to be treated at the centre closest to where she lived.

I ask the minister to review the whole system of cross-border mental health services in the Albury-Wodonga area to see whether the single health services in Albury-Wodonga can provide a unified health service to people requiring mental health treatment. Clearly Norma Rae Selkrig should not have died. Clearly the service should have been adequate to look after her in a manner that could assist her family to overcome the situation she was in. None of her family believes she should have been sent home. I understand in these circumstances there will be a coroner's report, and I hope the minister is able to gain something from that in respect of the future treatment of mental health patients on the border.

Motor vehicles: imports

Mr SEITZ (Keilor) — I raise a matter for the attention of the Minister for Consumer Affairs in another place on behalf of my constituent Nevenka Zovin. In 2003 she purchased a Peugeot car from John Blair Motor Sales Pty Ltd. That is when the contract was written, and quite a large sum was paid for the vehicle, some \$36 000.

However, her enjoyment in having a good, compact, imported car has turned into a story of misery and sadness for her, because the vehicle has had numerous faults — so many in fact that it seems to have been in for repairs for more time than she has had the pleasure and joy of driving it. When she came to see me in my office it was clear to me that she was totally stressed and at her wits' end. She is greatly concerned that her warranty has nearly run out yet the vehicle is still having continuous problems.

In a letter to the managing director of John Blair Motor Sales of 67 Commercial Road, South Yarra, she said.

I am writing to you in regards to my recent purchase of the Peugeot 307 XSE. As much as I would like to be writing this letter to commend Peugeot on its service and product quality, it's unfortunate that on the contrary I'm reporting the

numerous issues I've encountered since my ownership of the vehicle began.

To begin with, the vehicle was in my opinion of an unrepresentable quality at pick-up.

The vehicle had faults with its blinkers, doors and catches. When its gearstick was put in reverse the car still remained in drive. Parts have been changed, and the vehicle has been back for repairs continuously. As I said, the woman is so stressed. I believe this company, or the franchisee here in Melbourne, has gone out of business. She is going to Bayford to have the repairs carried out. She is not complaining about the people who have been carrying out the repairs. It is really that the importing company in Sydney which is bringing the Peugeots in has not taken responsibility and had a proper recall of the vehicles to check why all these faults have occurred. That company is Sime Darby Automobiles of 1 Hill Road, Homebush Bay. That company is importing vehicles and has dealerships here. If vehicles are imported to this country, I would ask the minister to ensure that they are roadworthy and safe for people to drive.

Responses

Ms GARBUTT (Minister for Community Services) — I thank the member for Oakleigh for raising an issue with me which concerns one of her constituents, a 47-year-old woman who has multiple sclerosis and who is living in an aged care nursing home. This issue of young people living in nursing homes has been of considerable concern to me. It is one that I have been pursuing with my federal counterpart, Senator Kay Patterson, the commonwealth Minister for Family and Community Services.

In relation to the matter raised by the member for Oakleigh, the state government has had a significant offer on the table now for well over a year. The government has offered and committed \$200 000 in ongoing support packages to enable the three women the member referred to move out of the nursing home and into a community house in Carnegie, which has also been provided by the state government. We have made that offer: \$200 000 in individual support packages for these women, plus a community house for them to go to. I have to thank the member for Oakleigh for being very persistent in trying to get the commonwealth to the line and to match this funding or to come some way towards matching it with some commonwealth funding to help meet the medical and nursing needs of the residents.

The medical and nursing needs of the residents are clearly a commonwealth responsibility. Because these

people are in aged care nursing homes, which are commonwealth facilities, the commonwealth government obviously has a responsibility in this. I am pleased to note that when I raised the issue of young people in nursing homes with Senator Patterson she seemed open to thinking about this issue, and that is a big step forward, considering I could get absolutely nowhere with her predecessor, Senator Vanstone, who did not want to acknowledge any responsibility for this issue at all.

Nevertheless it is some comfort — cold comfort perhaps — that the commonwealth government has at last agreed to come a little way, although not far, to complement the state's contribution of a house plus \$200 000. The commonwealth government has now offered an extra \$50 000 to help meet the residents' nursing needs.

This would be a lot less than the federal government is already paying to meet these residents' nursing needs in an aged care home. It would already be paying a lot more than that, so it is saving money. But at least we have got the federal government moving on this issue for the first time. It is only a little bit of money, \$50 000, and unfortunately it is only for two years, so it is not a very generous offer. It has taken a lot of effort from me and from the member for Oakleigh, as well as a very strenuous campaign from the Young People in Nursing Homes lobby, to get this funding, but at least it means now that Sally and two others will get to live in a real home in the community with other women of her own age.

I challenge the commonwealth government to keep the ball rolling. The state government has proposed to undertake more of these collaborative sorts of projects with the commonwealth. We are prepared to move on this. I have made the offer to Senator Patterson and have pointed out that the commonwealth is already paying for the needs of these young people in nursing homes through the funding it provides for nursing homes. If the commonwealth government were more flexible and allowed that funding to move outside nursing homes, then the state government would be prepared to provide more appropriate accommodation, and then we would have more people like Sally moving out of nursing home into appropriate accommodation.

Mr CAMERON (Minister for Agriculture) — The honourable member for South-West Coast raised a matter concerning fishers, particularly in the south-west of the state. It related to legislation which was unanimously passed by this house last year which gave jurisdiction over the seafood industry to PrimeSafe.

The PrimeSafe board is a majority-industry-appointed board that covers a range of food industries. The honourable member raised a matter concerning a meeting that was recently held in the south-west as well as a range of implementation matters. Seafood Industry Victoria has also raised a number of implementation matters, and I am waiting, as SIV is waiting, for a response from PrimeSafe about that. I will also ask PrimeSafe to ensure that the honourable member for South-West Coast is advised in relation to those matters.

The DEPUTY SPEAKER — Order! The Minister for Agriculture will now respond to matters raised for the Minister for Sport and Recreation in another place by the member for Derrimut; for the Minister for WorkCover by the member for Swan Hill; for the Minister for Education Services by the member for Seymour; for the Minister for Planning by the member for Hawthorn; for the Minister for Transport by the members for Polwarth and Macedon; for the Minister for Health by the member for Benambra; and for the Minister for Consumer Affairs in another place by the member for Keilor.

Mr CAMERON — Deputy Speaker, the eight honourable members you have mentioned have raised matters for the attention of several ministers, and I will refer those matters to them.

The DEPUTY SPEAKER — Order! The house is now adjourned.

House adjourned 4.40 p.m.

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