PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

29 April 2003

(extract from Book 5)

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By authority of the Victorian Government Printer

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Mr P. L. WALSH

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TUESDAY, 29 APRIL 2003

Tuesday, 29 April 2003

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

CONDOLENCES

Leonard Stanley Reid

The SPEAKER — Order! Pursuant to the practice set out in the sessional orders, I advise the house of the death of Leonard Stanley Reid, member of the Legislative Assembly for the electoral district of Dandenong from 1958 to 1969 and Deputy Speaker and Chairman of Committees from 1967 to 1969. I ask members to rise in their places as a mark of respect to the memory of the deceased.

Honourable members stood in their places.

The SPEAKER — Order! I shall convey the message of sympathy from the house to the relatives of the late Leonard Stanley Reid.

QUESTIONS WITHOUT NOTICE

Scoresby freeway: tolls

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer him to his often-repeated promise during the last election campaign and over the last four years that he would not impose tolls on the Scoresby freeway, and I ask: when was he first given advice to impose tolls, and who provided that advice?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. I have made it very clear and will make it clear again to the house today that the government made a decision in early April to reverse its decision to oppose tolls on the Scoresby.

That decision was made in the light of events which were happening not only around bushfires and drought, which were known, but around the culmination of events which included the continual downturn in international markets and, of course, the continuing problem, which was made much more apparent with the removal of National Express from the public transport system, of cleaning up the mess that was left by the previous government.

Honourable members interjecting.

Mr Doyle — On a point of order, Speaker, on the question of relevance, the question was about when the advice was given, not when the decision was made.

The SPEAKER — Order! I do not uphold the point of order. The Premier was being relevant.

Mr BRACKS — So in order to repair the damage which was there in the public transport system and to make sure that we had a viable public transport system, we had to take the decision — I took the decision — to reverse our opposition to tolls. I took that, and I told the public about that, Speaker, and it was taken in the best long-term financial interests of this state.

Medicare: reform

Mr LONEY (Lara) — My question is to be Premier, and I ask: will he outline to the house how the federal government's recently announced changes to Medicare will affect the provision of health care in Victoria?

Mr BRACKS (Premier) — I thank the member for Lara for his question. We have had two recent announcements from the federal government concerning the health system in Australia, and they are two matters which impinge significantly on how we run and conduct the health system here in Victoria.

The first of those was the Australian health care agreement, for which the federal government announced its resourcing level over coming years to assist and support the states and territories in running the public health system. The second was the new Medicare bulk-billing arrangements, which were announced by the Prime Minister and the federal health minister over the last two days as well.

These two matters combine to conspire to make it very difficult for every state and territory government, including Victoria, to manage future growth and demand, particularly in our emergency departments, in our public health system.

I say from the very start that I believe we have one of the most successful health care systems anywhere in the world in our Medicare and national health insurance system. It is seen worldwide as one of the best health systems and one of the best funding models for a health system anywhere in the world.

It was therefore disappointing to learn yesterday that the Prime Minister and the federal health minister have moved away from a universal Medicare system to one which is there as a residual system to assist those people on low incomes with bulk-billing while not

offering that same support universally to all Australians. Because the new Medicare arrangements and bulk-billing will only apply to a certain group in the Australian community, it will mean we will be treating more patients in the emergency departments of our public hospital system in the future.

The Department of Human Services estimates that because of the decision of the commonwealth government, the Prime Minister and the federal Minister for Health to not allow bulk-billing arrangements to operate universally, the additional strain on our emergency departments could be as great as an extra 2100 people a day requiring treatment who would otherwise have received treatment from their general practitioners under bulk-billing.

There are two matters that are conspiring to make it very difficult for every state and territory to fund and operate a public hospital system. One means we will get more patients to treat, and the second means that under the Australian health care agreement we are not getting funding to keep pace with the growth in the system.

The third problem, and it is probably the biggest, is that one of the most successful health models in the world, the Medicare health insurance system, is effectively being changed from a universal system to a residual system, which the Prime Minister has long sought in his policy announcements in the past. That is a very, very poor long-term outcome for Australia.

Drought: government assistance

Mr RYAN (Leader of the National Party) — Will the Minister for Agriculture confirm that at a time when many country communities are in desperate need he is nevertheless abolishing the state drought, assistance program one week from today because the government has so poorly managed the state's finances that it is already out of money?

Mr CAMERON (Minister for Agriculture) — You would really have to wonder about the National Party when it comes to the issue of drought, because we know its record, which was to do absolutely nothing. In stark contrast it was Labor, the party of country Victoria, that put in a state drought scheme, the best in Australia, to provide interim farm support until the federal Liberal-National party government in Canberra got its act together.

The Leader of the National Party says the scheme is being abolished. I want to tell him what the seasons are: they are autumn, winter, spring and summer. Autumn is the period where one growing season is behind us and another one is to start. What you want to do is make sure the applications are put in. The Leader of the National Party says that somehow this is to do with money. When the government released the package last year it was for $27 million, but since then on four different occasions we have added the areas under which farmers can obtain assistance.

Mr Ryan interjected.

Mr CAMERON — No, no! We want all the applications to be put in so no-one is missing out. If you want it, you have got to get it in. We believe this assistance will come to over $50 million.

I am pleased to say that there has only been one party in country Victoria seeking federal assistance, and that is the Labor Party, the party of country Victoria. I am pleased to say that of recent weeks the federal Liberal-National party government has finally acknowledged that there is a drought in country Victoria, and it has declared about 60 per cent of the state to be in prima facie exceptional circumstances. Certainly, if I have read the press clippings correctly, the deputy president of the Victorian Farmers Federation, Bill Whitehead, has been out there encouraging people to apply, pointing out what a good program we have for country Victoria.

Mr Ryan interjected.

Mr CAMERON — It has not been cut out. If you want assistance, you apply and you get it. You get the lump sum and you get any ongoing federal support. Understand that!

Mr Ryan interjected.

Mr CAMERON — No, no! Look, you put your application in, you get assessed and you get it. No-one is missing out. Certainly there seems to be some complaint that there should not be one month's notice for getting applications in. I challenge the Liberal-National party to do the same: get out a notice saying that if you want full exceptional circumstances, write in and apply within the next month. You do it, you match us. The fact is that you are jealous and you are envious because it is only Labor that is prepared to put in a good package.

The SPEAKER — Order! The minister, through the Chair.

Schools: class sizes

Mr TREZISE (Geelong) — My question is to the Minister for Education. Will the minister please advise the house on how the Bracks government is meeting its targets to successfully reduce the average prep-to-grade 2 class size across Victoria?

Ms KOSKY (Minister for Education and Training) — I thank the member for his question. Yesterday I was privileged to join the Premier in announcing yet another target met by this government. When we came to office we made a commitment to reduce prep-to-grade 2 (P–2) class sizes to an average of 21. We made that commitment and said that we would achieve it within four years. We have achieved it well within time. Yesterday, along with the Premier, we were able — —

Honourable members interjecting.

The SPEAKER — Order! There are too many interjections. I ask members to be quiet so we can hear the minister.

Ms KOSKY — Yesterday we were able to announce fantastic news for Victorian students. Prep-to-grade 2 average class sizes have reduced from 24.3 under the previous government and when we came to office to 21 now. That is a 3.3 difference — terrific news. But it gets even better. The prep-to-grade 6 average has reduced from 25.4 under the previous government to 22.9 under us — fantastic news!

Just to give honourable members a sense of what this looks like, it is clear that we have not detrimentally impacted on other areas of primary class sizes in order to achieve our commitment. This chart shows what it looks like. It shows the Liberal hump, where prep-to-grade 2 class sizes and prep-to-grade 6 class sizes went up. Under us it has gone down; it stands for itself. That is Liberal hump, not Liberal rump.

The news gets even better. The grade 3 to grade 6 average class sizes reduced from 26.2 students under the previous government to 24.3 students this year. Prep-to-grade 2 individual classes over 25: under the previous government classes over 25 for the prep to grade 2 classes was 41.7 per cent. What are they under the Bracks government now? Prep to grade 2 classes over 25 are 3.5 per cent.

This is fantastic news because it is about improving educational outcomes for students, particularly in those critical years when young students are learning literacy and numeracy skills.

Mr Honeywood interjected.

Ms KOSKY — We have got the evidence. Now the quasi-education spokesperson from the other side, rather than the education spokesperson, is commenting, but we have improved the literacy and numeracy of our primary school students so we are benefiting from the results of the major investment we have made. We have put in $180 million for extra teachers — that is, $180 million to employ extra teachers — in order to honour this commitment and $32 million for extra classes. So we made the investment in order to deliver for those important prep to grade 2 classes without having a negative impact — in fact, we have had a positive impact — on the rest of the primary school class sizes.

It is worth mentioning some of the areas where it has made a huge difference. I am sure opposition members would be interested in this information. At Donburn Primary School in Doncaster the P–2 average has been reduced under this government from 26.3 to 19.8. At Ringwood Heights Primary School in Warrandyte this figure has been reduced from 26.3 under the previous government to 20.9 under the Labor government.

Honourable members interjecting.

The SPEAKER — Order! The minister, without the assistance of the government backbench.

Ms KOSKY — At Kew East Primary School the figures are 25.1 under the previous government and 20.4 under this government.

At Mont Albert Primary School it has been reduced from 26.6 to 20.9, and at Manningham Park Primary School it has been reduced from 25.7 to 20.7. The opposition will not have to put out a press release about this good news, because I can assure them the government will be doing that!

Under the Bracks government we have even seen the class size of the opposition reduce significantly. But what have they learnt?

Honourable members interjecting.

Mr Perton — On a point of order, Speaker, the minister is now debating the question, and she has now breached the rule on significance as well.

The SPEAKER — Order! I do not uphold the first point of order, but I ask the minister to conclude her answer.

Ms KOSKY — What this government would like to see is the much-promised education policies that were touted by the opposition leader. What is the opposition going to do to match our fantastic policies?

The SPEAKER — Order! The minister is debating the issue.

Ms KOSKY — This government has delivered on its commitment. It was told to get on with it. It has done that, and education is much better under the Bracks government.

Scoresby freeway: tolls

Mr DOYLE (Leader of the Opposition) — My question is directed to the Premier. I refer him to his previous answer and to his decision to impose tolls on the Scoresby freeway. I further refer him to the *Herald Sun* editorial of 15 April which states:

> Either it —

Labor —

> was negligent or it deliberately lied about prior knowledge of the transport mess.

I ask: which was it — negligence or a lie?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question, and I reiterate that the decision the government took was in the best, long-term interests of the state of Victoria. I want to mention some of the aspects of that decision which will also make it beneficial in the long term. Firstly, the toll that will be imposed on the Mitcham–Frankston freeway will not be on an existing road but on a new road. Secondly, the government will not be closing or narrowing roads, so people will have the choice of using existing roads or the freeway.

This decision will enable the project to be completed by 2008 without significant impact on the budget. This project is in the long-term interests of the Victorian public and will be recognised as such in the future.

The key question to ask on this matter is where the opposition stands. The Leader of the Opposition is effectively saying that he will not support this road being completed with a toll. It is important for the Leader of the Opposition to come clean on where he stands in the future.

Regional Infrastructure Development Fund: projects

Ms DUNCAN (Macedon) — My question is to the Minister for State and Regional Development. Can the minister inform the house on how the government's Regional Infrastructure Development Fund is revitalising country Victoria?

Mr BRUMBY (Minister for State and Regional Development) — I thank the member for Macedon for her question. Two weeks ago I had the honour of officially opening the new Royal Melbourne Institute of Technology complex at Hamilton — the flexible learning centre and the centre for rural and regional development. It is a sensational project for the area and represents a great partnership between the university, the state government through the Regional Infrastructure Development Fund and the Handbury family, who have contributed around $1 million to the project. Hundreds of people were at the opening. It is a project the community has wanted for many years, and it is a great example of the sort of infrastructure being provided across country Victoria under the Regional Infrastructure Development Fund program.

I am pleased to advise the house that the local member and a number of other members of Parliament were present — and all of them are great supporters of this initiative in Hamilton. To date over $130 million has been committed under the Regional Infrastructure Development Fund. The total value of RIDF projects across Victoria is in excess of $300 million. This shows what a sensational program it is in its reach to every part of the state.

Today I will release a report card on the Regional Infrastructure Development Fund, and as part of that report I will release this map, which shows that across Victoria every country council — —

The SPEAKER — Order! It is impossible to record the business of the house when members hold up documents.

Mr BRUMBY — Every country council, with the exception of Queenscliffe, has received funding under the Regional Infrastructure Development Fund program. More than 60 per cent of major projects are currently under way or are completed, and they cover 47 country municipalities: 15 major projects completed, 30 projects where construction has commenced, $130 million allocated, a $300 million total value of projects and $170 million in additional leverage.

In those parts of the state with dairy farming — and that is many parts of the state — we have now seen 210 cattle underpasses completed. It is a fantastic program. The member for Narracan — and it is hard to find him with all the members here — was the instigator of this program. In 1999 he was the one who went out and insisted that we needed a program like this. As the Premier knows, we listened and then we acted; now we are getting on with it. There have been 210 of them right across the state, and all members of Parliament can be grateful for the great initiative shown by the member for Narracan. There have been 74 total power upgrades provided across the state. There was some criticism of this program, but we have now seen 74 dairy farms upgraded.

Finally, I will mention a few other projects: the Warrnambool Flagstaff Hill Maritime Museum opened recently, and something like 30 jobs were created; the new communications technology centre in Bendigo — a fantastic initiative costing $3.2 million; the extension of the aerodrome at Shepparton; and the Port Fairy wastewater treatment plant.

It has been a sensational program and it will continue. At the last election the government promised a further $180 million over five years, and next year's budget will give effect to that commitment. This is a great initiative in growing the whole state. We have doubled overall capital funding to country Victoria, and this program will continue and will provide more job opportunities for Victorians.

Insurance: government assistance

Mr INGRAM (Gippsland East) — My question without notice is for the Premier and relates to the continual crisis that is facing Victoria with builders warranty, professional and medical indemnity, and public liability insurance. Will the Premier commit to providing immediate assistance to all those businesses and groups to allow them to receive access to affordable insurance?

Mr BRACKS (Premier) — I thank the member for Gippsland East for his question. He is correct in saying that there is a crisis in insurance right across the country, Victoria included. It is a crisis which this government has taken on in legislation that has come before this house, and it has introduced measures to assist and support particular business and industry sectors in getting coverage and insurance support.

I will refer to a couple of things and then go to the future. The government has already capped general insurance damages for personal injury. I believe that has been an important and necessary step in stopping those very large payouts which were happening. The government has also capped loss of earnings awards in conjunction with that arrangement. This month the government announced that it would be moving to provide certainty in professional indemnity insurance by introducing proportional liability for purely economic loss. I believe those measures will make a significant and necessary difference.

There are other issues which need to be dealt with. They go to areas such as the rights of people to have access to the courts — common-law rights — for negligence or other claims they wish to bring before the courts, compared with the rights of doctors and other professionals who offer medical and other services to have insurance cover.

These matters are being weighed up by our government. They are about people's rights to have access to the courts as well as to insurance cover. These matters are being considered and the government is discussing them with the Australian Medical Association. I am confident the government will come to a position soon which will extend to current and future matters and which will support those industries.

Police: government initiatives

Mr NARDELLA (Melton) — My question is to the Minister for Police and Emergency Services. Will the minister update the house on the government's progress in rebuilding Victoria Police and equipping it for policing in the 21st century?

Mr HAERMEYER (Minister for Police and Emergency Services) — I thank the honourable member for Melton for his question, and I certainly look forward to visiting his electorate in the very near future to open the marvellous new 24-hour Bacchus Marsh police station which has been completed.

This government came to office promising to build a new police force for a new century.

Mr Wells interjected.

Mr HAERMEYER — Yes, we are building a police station in Rowville — one that you did not want to build. All of a sudden the opposition has gone from saying 'We don't need it!' to 'Where is it?'.

An honourable member interjected.

Mr HAERMEYER — We don't need you, either!

The SPEAKER — Order! The minister will direct his comments through the Chair and ignore interjections.

Mr HAERMEYER — I will try my best! This government inherited a situation where the state's police force had the lowest morale in its history, where police numbers had been slashed by 800 and where police stations were being closed. This government promised 800 additional police and has delivered on that promise in full and ahead of time. Now we are committed to another 600 police and we will deliver that over the term of this government. Promised and delivered! Victoria now has the lowest attrition rate of any police force in the country. If that is not a good indication of high morale, I do not know what is.

The government also committed to providing the police with better facilities from which to work and in which to train. We have already completed the $8 million operational safety and tactics training facility out at the police academy. Again, that was promised and delivered.

As I indicated, the government also committed to building 16 new 24-hour police stations, but there are actually 135 being built, including 37 large 24-hour stations and 98 country police stations. The government is replacing police stations in country areas from Red Cliffs to Bendoc and from Apsley to Yackandandah. This government has the biggest police station building program in the history of this state. And seven of them will be opened in the next week. A total of $280 million is being spent on the construction of police facilities — a one-third turnover of all the police stations across Victoria.

We also committed to a new, combined water police and search and rescue facility which we opened recently. I noticed that the honourable member for Scoresby has said it was too far to get to where the boats are moored. The boats are moored a few yards from where the facility is. The honourable member for Scoresby did not raise this matter in relation to the old facility in St Kilda, where police had to drive a mile and a half to get to where the boats were moored. So again the government has promised and delivered. We promised new helicopters; we have delivered them. We promised protective equipment — metal detectors, ballistic vests — and we promised more search powers; again they were promised and have been delivered.

The outcome of this is that crime is going down and clearance rates are going up. If we look at morale in our police force, it is as high as it has ever been; we have the lowest attrition rate in Australia. This government is building a new police force for a new century. We are getting on with the job.

Scoresby freeway: tolls

Mr WELLS (Scoresby) — I refer the Premier to his previous answer in which he stated that 'there will be no downgrading of local roads'. Does the Premier now agree with his transport minister that local streets and roads will be turned into rat runs by the over 55 per cent of motorists who will try to avoid his Scoresby tollway?

Mr BRACKS (Premier) — I thank the member for Scoresby for his question. The member asked me to refer to the previous answer, and I will do that. I reiterate that what will happen on this Mitcham–Frankston freeway will be a choice — it will be a choice between a new road as a toll road or those existing roads which can also be used by motorists. So clearly there is a choice, and clearly that will relieve the pressure on existing roads. People will choose to go off existing roads, which will mean less traffic on them, and to go on to the toll road — if that is their choice. That is exactly what will happen. I reiterate that this is not an existing road; we will not be closing existing roads.

Planning: green wedges

Mr HERBERT (Eltham) — My question is to the Minister for Planning. Will the minister please advise the house how the Bracks government is leading the world in the protection of green belts to stop residential subdivision eating into land with tremendous environmental, social and economic importance to Victorians?

Ms DELAHUNTY (Minister for Planning) — I thank the member for Eltham for his question. The Bracks government said that it would legislate to protect the green wedges, and we are getting on with the job. No other city in the world has enshrined green wedge legislation, although many of them wish they had. Green wedge land has significant economic, social and environmental capacities. We have identified 12 green wedges spanning 17 municipalities. Members will recall — I know the honourable member for Warrandyte recalls his Liberal Party history — that the notion of green wedges was first articulated during the Bolte era, but certainly it was raised as a planning issue during the time of the Hamer government.

Mr Honeywood interjected.

Ms DELAHUNTY — It was not created, it was identified. We are creating it; that is the difference. We are legislating for it; you did not.

There has been a strong message from all Victorians through Melbourne 2030 consultations that they want this protection to stop further residential subdivision nibbling away at this sensitive green wedge land. We will protect significant environmental resources such as the wetlands in Carrum, of which the member for Carrum is a great supporter, and national parks like the Lysterfield Lake Park, which is of interest to the members for Narre Warren North and Ferntree Gully. We will protect water resources such as the Sugarloaf Reservoir and the Cardinia Reservoir. We will protect significant agricultural resources. It is said that more than $1 billion of agricultural potential each year exists around the Port Phillip region.

We will protect, through this legislation, significant economic resources such as, for example, Yarra Valley vineyards or indeed our curfew-free Melbourne Airport, which I know the member for Yuroke is a great supporter of and has worked so hard on.

We will manage growth at the fringes through five designated growth areas. This legislation and our designated growth areas — hold onto your hat, it is coming today — will give the public certainty as Melbourne grows.

The government is getting on with the job, but where is the opposition?

Mr Honeywood interjected.

Ms DELAHUNTY — The member for Warrandyte interjects. He said last year that this legislation would have the unanimous support of the parliamentary Liberal Party, but there has been absolute silence from the planning spokesperson, the member for Hawthorn.

The government has had calls from the planning institute, the Housing Industry Association and others for bipartisan support for Melbourne 2030 and particularly for this green wedge legislation. But we have had absolute silence from the Liberal Party, with the exception of those outside this place.

There has been a ringing endorsement for Melbourne 2030 and the green wedge legislation from — this is the real Liberal, I guess — Alan Hunt, who wrote in the *Age* today — —

Honourable members interjecting.

Ms DELAHUNTY — Oh, we are a divided opposition, aren't we?

The SPEAKER — Order! The Leader of the Opposition! The minister, to complete her answer through the Chair.

Ms DELAHUNTY — Alan Hunt, a former planning minister in the Bolte and Hamer governments, said that Melbourne 2030:

> … strengthens and extends the green wedges … This proposal is a welcome development that deserves support.

We know that the opposition is a policy-free zone; we know that there is a green wedge driven between the member for Warrandyte, who says he supports green wedges, and the member for Hawthorn, who sits on the fence.

The government is getting on with sustainable development; we are making the tough decisions; we are getting on with the job.

ROAD SAFETY (HEAVY VEHICLE SAFETY) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) introduced a bill to amend the Road Safety Act 1986 and the Transport Act 1983 and for other purposes.

Read first time.

VICTORIAN URBAN DEVELOPMENT AUTHORITY BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) introduced a bill to establish the Victorian Urban Development Authority to carry out urban development, develop the Docklands area and undertake declared projects, to provide for special powers in relation to declared projects, to repeal the Urban and Regional Land Corporation Act 1997, to amend the Docklands Authority Act 1991 and other acts and for other purposes.

Read first time.

CORRECTIONS (AMENDMENT) BILL

Introduction and first reading

Mr HAERMEYER (Minister for Corrections) introduced a bill to amend the Corrections Act 1986 and for other purposes.

Read first time.

ALBURY-WODONGA AGREEMENT (REPEAL) BILL

Introduction and first reading

Mr BRUMBY (State and Regional Development) introduced a bill to repeal the Albury-Wodonga Agreement Act 1973 and the Wodonga Area Land Acquisition Act 1973, to dissolve the Albury-Wodonga (Victoria) Corporation, to provide for the transfer of assets, contractual rights and obligations, and liabilities of that corporation to the Albury-Wodonga Development Corporation and for other purposes.

Read first time.

AUDIT (AMENDMENT) BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to amend the Audit Act 1994 with respect to the powers of the Auditor-General and indemnities for the Auditor-General and audit staff, to amend the Financial Management Act 1994 with respect to the tabling of financial reports and for other purposes.

Read first time.

ENERGY LEGISLATION (CONSUMER PROTECTION AND OTHER AMENDMENTS) BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to amend the Gas Industry Act 2001, the Electricity Industry Act 2000, the Essential Services Commission Act 2001, the National Electricity (Victoria) Act 1997, the Electricity Safety Act 1998 and the Co-operative Schemes (Administrative Actions) Act 2001 and for other purposes.

Read first time.

ROYAL AGRICULTURAL SHOWGROUNDS BILL

Introduction and first reading

Ms DELAHUNTY (Minister for Planning) introduced a bill to make provision relating to the use of land for the purposes of the Royal Melbourne Show and for other recreation, entertainment and amusement purposes, to amend the Royal Agricultural Showgrounds Act 1931 and the Racing Act 1958 and for other purposes.

Read first time.

PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

Introduction and first reading

Ms DELAHUNTY (Minister for Planning) introduced a bill to amend the Planning and Environment Act 1987 to provide increased planning protection for green wedge land in certain metropolitan fringe areas and for other purposes.

Read first time.

VICTIMS OF CRIME ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to make miscellaneous amendments to the Victims of Crime Assistance Act 1996 and for other purposes.

Read first time.

COURTS LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to amend the Constitution Act 1975 and the County Court Act 1958 with respect to the recognition for pension purposes of certain prior service of persons appointed as judges, to amend the Magistrates' Court Act 1989 and for other purposes.

Read first time.

CONFISCATION (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to make various amendments to the Confiscation Act 1997, to consequentially amend the Crimes Act 1958, the Drugs, Poisons and Controlled Substances Act 1981 and the Sentencing Act 1991 and for other purposes.

Read first time.

ESTATE AGENTS AND SALE OF LAND ACTS (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to amend the Estate Agents Act 1980 and the Sale of Land Act 1962 and for other purposes.

Read first time.

LIVESTOCK DISEASE CONTROL (AMENDMENT) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) introduced a bill to amend the Livestock Disease Control Act 1994 and the Plant Health and Plant Products Act 1995 and for other purposes.

Read first time.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 2

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 2 of 2003 on:

Catchment and Land Protection (Amendment) Bill
Child Employment Bill
Constitution (Parliamentary Reform) Bill
Constitution (Water Authorities) Bill
Dandenong Development Board Bill
Melbourne (Flinders Street Land) Bill
Port Services (Port of Melbourne Reform) Bill
Regional Infrastructure Development Fund (Amendment) Bill
Safe Drinking Water Bill
Shop Trading Reform (Essential Goods Amendment) Bill
Summary Offences (Offensive Behaviour) Bill
Transport (Miscellaneous Amendments) Bill
University Acts (Amendment) Bill
Water Legislation (Essential Services Commission and Other Amendments) Bill
Water (Victorian Water Trust Advisory Council) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Audit Act 1994 — Report of the Auditor-General on Parliamentary control and management of appropriations — Ordered to be printed

Commonwealth Games Arrangements Act 2001 — Orders pursuant to s. 18

Interpretation of Legislation Act 1984 — Notice under s. 32(4)(a)(iii) in relation to Amendment No. 12 of the Building Code of Australia 1996

Municipal Association of Victoria and Civic Mutual Plus — Report for the year 2001–02 (two papers)

Ombudsman Act 1973 — Report of the Ombudsman on the investigation of complaints against State Trustees Ltd — Ordered to be printed

Parliamentary Committees Act 1968:

Response of the Minister for Agriculture on action taken with respect to the recommendations made by the Environment and Natural Resources Committee's Report into the Management of the Fishing Charter Industry in Victoria

Response of the Premier on action taken with respect to the recommendations made by the Public Accounts and Estimates Committee's Report on the Review of the Victorian Public Service

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

Bass Coast Planning Scheme — No. C9

Casey Planning Scheme — Nos C32, C51, C61

Greater Dandenong Planning Scheme — Nos C30, C44

Greater Geelong Planning Scheme — No. C74

Macedon Ranges Planning Scheme — No. C22

Moonee Valley Planning Scheme — Nos C40, C42

Mount Alexander Planning Scheme — No. C18

Murrindindi Planning Scheme — No. C7

South Gippsland Planning Scheme — No. C13

Warrnambool Planning Scheme — No. C20

Whittlesea Planning Scheme — No. C42

Rural Finance Act 1988 — Directions by the Treasurer to the Rural Finance Corporation to administer Financial Assistance Schemes to the:

Eastern Mallee Region

Goulburn Irrigation Area

Statutory Rule under the *Goods Act 1958* — SR No. 28

Subordinate Legislation Act 1994 — Minister's exemption certificates in relation to Statutory Rule Nos 26, 28.

The following proclamations fixing operative dates were laid upon the Table by the Clerk pursuant to an Order of the House dated 26 February 2003:

Constitution (Parliamentary Reform) Act 2003 — Divisions 1, 3 and 4 of Part 2, Division 1 of Part 3 and Division 1 of Part 4 on 8 April 2003 *(Gazette S57*, 8 April 2003)

Wrongs and Other Acts (Public Liability Insurance Reform) Act 2002 — Part 5 on 1 May 2003 *(Gazette G16*, 17 April 2003).

ROYAL ASSENT

Message read advising royal assent to:

Parliamentary Committees and Parliamentary Salaries and Superannuation Acts (Amendment) Bill
Retail Leases Bill
Shop Trading Reform (Essential Goods Amendment) Bill
Small Business Commissioner Bill
Terrorism (Community Protection) Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Child Employment Bill
Dandenong Development Board Bill
Port Services (Port of Melbourne Reform) Bill
Regional Infrastructure Development Fund (Amendment) Bill
Safe Drinking Water Bill
Summary Offences (Offensive Behaviour) Bill
Transport (Miscellaneous Amendments) Bill
Water Legislation (Essential Services Commission and Other Amendments) Bill
Water (Victorian Water Trust Advisory Council) Bill

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order 6 (2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 1 May 2003:

Terrorism (Commonwealth Powers) Bill

Crimes (Property Damage and Computer Offences) Bill

Control of Weapons and Firearms Acts (Search Powers) Bill

Port Services (Port of Melbourne Reform) Bill

Country Fire Authority (Volunteer Protection and Community Safety) Bill

Murray-Darling Basin (Amendment) Bill

Transport (Miscellaneous Amendments) Bill

Melbourne (Flinders Street Land) Bill

Water Legislation (Essential Services Commission and Other Amendments) Bill.

This motion sets out the government program for this week. It details nine pieces of legislation, some of which were foreshadowed prior to the election. The Terrorism (Commonwealth Powers) Bill, the Crimes (Property Damage and Computer Offences) Bill and the Control of Weapons and Firearms Acts (Search Powers) Bill have already been dealt with, having been introduced in the Legislative Council before coming here.

In that context we believe the legislative program for this week is achievable. It offers a wide range of topics for members of the chamber to debate and it spreads the workload. It should be achievable by 4 00 p.m. on Thursday, if we are prepared to work at it.

Mr PERTON (Doncaster) — The opposition is prepared to accommodate this legislative program, but I note that in addition to the nine bills it is intended to complete notice of motion 1 in the name of the Minister for Planning, although through some oversight it has not been included in the business program. I also note that the government intends to proceed with its matter of public importance tomorrow.

While the minister is right that some of these bills have been dealt with in the last Parliament and have come back to this chamber for debate, there are two in particular that we believe will need some time. One is the Transport (Miscellaneous Amendments) Bill, which has some issues relating to the licensing of taxidrivers and which the opposition will propose some amendments to. I understand some discussions will take place between the shadow minister and the minister as to whether the amendments can be accommodated by the government. The Water Legislation (Essential Services Commission and Other Amendments) Bill is one that the Liberal and National parties both wish to debate. I hope the legislative program is ordered in a way that ensures those two bills are placed appropriately to allow debate to proceed.

The Terrorism (Commonwealth Powers) Bill and the Crimes (Property Damage and Computer Offences) Bill are subject to national agreements. They were debated in this house last year, and I understand that the shadow Attorney-General will do his best to ensure those bills are passed expeditiously so the house will have sufficient time to debate the other matters.

Mr MAUGHAN (Rodney) — The National Party will try to accommodate the government in passing this business program, but I want to record the fact that we are dealing with two vital pieces of legislation for people in northern Victoria and in the irrigation areas. The Murray-Darling Basin (Amendment) Bill and the Water Legislation (Essential Services Commission and Other Amendments) Bill are absolutely vital to the people of northern Victoria. If you look at the fact that we will spend perhaps 2 hours on notice of motion 1, as well the time taken up by the government's matter of public importance and second readings, you will see that we will have an absolute maximum of 13½ hours to debate nine bills. That is 90 minutes per bill.

I agree with the Leader of the House that three of the bills have already been debated in the other house and therefore should not take too much time. However, at least four other bills are important. The Port Services (Port of Melbourne Reform) Bill makes major changes to the way our commerce is conducted, given the shipping that comes in and out of the port of Melbourne. The Country Fire Authority (Volunteer Protection and Community Safety) Bill is very important in view of the disastrous fires we have just had and the protection this bill proposes to provide for Country Fire Authority volunteers.

The two bills I have talked about are absolutely vital to the future of not just the people I represent in northern Victoria but the people represented by my colleagues the members for Murray Valley, Swan Hill and Shepparton. Their electorates include irrigation areas, and irrigation is absolutely vital to the people of Victoria and the economy of the state. In northern Victoria it generates about $8 billion of economic activity, which is very important to the state — —

Mr Delahunty interjected.

Mr MAUGHAN — There is a lot of port activity too, as the honourable member for Lowan points out. The government is allowing a couple of hours at the very most on each of those important bills.

The Water Legislation (Essential Services Commission and Other Amendments) Bill has the capacity to significantly increase the cost of water. Given the very difficult circumstances that farmers are suffering in northern Victoria, this bill is of absolute importance to them. It also has the potential to remove water services committees, a mechanism that has worked very well by ensuring that irrigators have some ownership of the decisions that are made on their behalf by at least having some input into the decision making. This bill has the potential to and probably will remove some of those requirements, so it is a critical piece of legislation to the people of northern Victoria. The same is true of the Murray-Darling Basin (Amendment) Bill, which deals with the Living Murray, water for the Snowy River and so on. That is very critical. Do not take my word for it, listen to people like Richard Pratt and many others, who are talking about the absolute importance of examining the way we use water in the state.

This week's government business program will result in an average of 90 minutes debate per bill — not 90 seconds, but the way we are going we will get down to that — including these two vital bills which we could spend hours discussing.

The National Party will accommodate the government, but I record that these two very important pieces of legislation are being rushed through without sufficient consideration by this Parliament.

Motion agreed to.

MEMBERS STATEMENTS

Anzac Day: Frankston

Mr HARKNESS (Frankston) — It was an enormous pleasure on Anzac Day to attend the celebrations and service at Frankston. Over 500 people attended, including more than 200 present and past service personnel. Noteworthy is the fact that the flame of remembrance outside the Frankston Civic Centre was lit officially for the first time and remained alight for the commemoration.

A number of organisations marched in procession, including the Naval Association of Australia, the Returned and Services League no. 1 company, the RSL no. 2 company, the Vietnam Veterans Association, the Peninsula ex-servicewomen's sub-branch, the Frankston RSL pipe band, the Air Force Association, no. 418 cadets, no. 36 army cadets, the State Emergency Service and fire brigade, and the scouts. I would like to make special mention of the president of the RSL, Ron McClelland; the guest speaker, Lieutenant-Commander Mac Henstridge from the Royal Australian Navy; the chaplain, the Reverend Alan Fletcher; and the parade marshal, Mr Ron Benton. It was a terrific event and it was a great privilege to be able to lay a wreath. As the RSL chaplain, the Reverend Fletcher, said:

> Those who gave their all in distant lands and on distant seas will never be forgotten.

We will remember them. Lest we forget.

Essendon North Primary School: Schools of the Future program

Mr PERTON (Doncaster) — During the last government several schools were selected as navigator schools for their innovation and leadership. One of those schools I want to draw attention to is Essendon North Primary School which has continued its leadership role. Michael Giulieri, the principal of the school, and the school council have remained world leaders in the use of innovative teaching techniques and the use of technology in the classroom. What he and his staff and students have achieved is world leading. Every week there are visitors from overseas, interstate and within the state looking at the work they do. I want to pay particular tribute to the students. Sam Leech, along with his colleagues, proudly displayed all the work he and his class have done using the Apple i-Movie software. They are learning valuable skills in visual literacy that will equip them for leadership in the world of tomorrow.

It is not often that after a decade one can look at a program and say that the objectives you set in place — that is, innovation and leadership in education — have been achieved, but Essendon North Primary School, through the use of information technology, the most innovative techniques, exceptional leadership from the school principal and the school council, and the empowerment that was given to them by the Schools of the Future program, is a school that leads the country and a school that can stand proud internationally. It is a great community led by a great principal.

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

Bimbadeen Heights Primary School: community

Ms McTAGGART (Evelyn) — On Tuesday, 1 April I had the pleasure of attending Bimbadeen Heights Primary School. The grades 5 and 6 students are currently studying politics and recently had a tour of the Victorian Parliament. The following school councillors welcomed me to their school: Sam Heynemann, Nikita De Boer, Jacqueline Brook, Megan Linnie, Emily Piribauer and Rhys Plose.

We had two informal groups to discuss a day in the life of a politician. I was very impressed with the questions asked by the students. They certainly enjoyed their tour of Parliament and were particularly interested in the bells and the consequences if members were late. They were keen to know how I became involved in politics, the process of becoming a candidate, how I worked during the campaign, and how long I intended to do the job as the member for Evelyn.

I enjoyed meeting with a very interactive group of children who have been well informed about political process. I would like to thank the following teachers for coordinating these groups: Judy McConnell, Liz Bonnett, Sue Dickinson, Joan Wood, Hayley Coats and Malcolm Rosendale. I thank them for a lovely morning tea and the opportunity to meet with the principal, Heather Hopcroft, and other staff members. I have visited Bimbadeen many times and I look forward to a long and happy association with this school.

Public liability: premiums

Mr JASPER (Murray Valley) — I bring to the attention of the house the continuing concerns with the escalating public liability insurance premiums despite the government's legislation, which has been of little assistance, and the lack of any further positive action. Businesses are being burdened by higher premiums and many are just closing down. I highlight the North East Climbing Centre, which operates an indoor climbing and abseiling facility at the Wangaratta water tower. The facility has been operating since 1987, being established with a sport and recreation grant. It handles approximately 300 students from secondary schools across north-eastern Victoria as a service provider on a part-time, non-profit basis. The organisation has never had any accidents or claims, operating with the highest degree of safety for the participants.

However, public liability insurance annual premiums have risen from just under $2500 two years ago to almost $4000 last year — but importantly the renewal has not been accepted from 1 May this year. The Victorian Tourism Operators Association has offered renewal at $5000 plus a joining fee of $500. The result is that the operator is closing down because of the escalating costs of public liability insurance. The cost of this insurance is making the activities unviable. The operator is totally disillusioned with the Victorian government, in not being able to resolve the problem.

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

Bunyip by the Sea Festival, Drysdale

Ms NEVILLE (Bellarine) — Continuing on with the statement I made during the last sitting week, I would like to further elaborate on the success of this year's Bunyip by the Sea Festival, which I was delighted to open on 29 March. This festival is an annual fundraiser for the Drysdale Primary School and

the Clifton Springs Primary School. Each year it alternates between the two school sites and the money raised is shared between the two schools.

This year more than $20 000 was raised on the day and a further $10 000 was raised prior to the event. It is supported by the local community and local businesses who contribute money, goods and services. The local Clifton Springs milk bar raised over $2000 by contributing 10 cents for every milk product purchased. Students participated in a range of activities and performances and were a credit to the talents and skills developed at the local schools. Teachers, parents and students from both schools were involved in the preparations. I would particularly like to acknowledge Paula and Sarah Jenkins, Dianne Toe, Rebecca Smith, Robert Todd, Joanne Vincent, school principals and school councils, and Anne Brackely who once again oversaw the event.

The festival is a great example of people coming together selflessly, volunteering times, skills and talents to support their community. I look forward to next year's festival and many Bunyip festivals to come. Congratulations to all involved.

Scoresby freeway: tolls

Mr WELLS (Scoresby) — This statement condemns Premier Bracks for breaking his election promise of no tolls on the Mitcham–Frankston or Scoresby freeway. This promise was made over and over again prior to the last state election in the electorates of Scoresby, Ferntree Gully, Bayswater, Forest Hill, Frankston, Dandenong and, of course, Mitcham. Once again, the issue was: no tolls, no tolls, no tolls. We now find that this promise was a straight-out lie.

The Bracks Labor government was first elected on a platform of operating an open, transparent and accountable administration. However, nothing could be further from the truth when the mechanisms for funding the Scoresby freeway were deceptively hidden from voters at the November 2002 state election. To every single frustrated and angry user of the heavily congested and often grid-locked Springvale and Stud roads, the decision to impose tolls on the Mitcham–Frankston freeway is just another kick in the head by the Labor government that has historically treated the people of the outer east and south-east with contempt. Voters were totally deceived: they were lied to and simply conned by the Bracks Labor government. The Victorian community, particularly the voters of the east, outer east and south-east, will never again believe a single promise made by the Premier.

Anzac Day: Blackburn

Ms MARSHALL (Forest Hill) — It was with great pleasure that on Sunday, 20 April I participated in the Blackburn Returned and Services League (RSL) commemorative service. While we were blessed with a perfect day in terms of weather, it was nonetheless a sombre occasion remembering those who had so bravely given their lives so that we can enjoy the freedom we do. As a mark of respect to the fallen we walked slowly to the beautiful but eerie sound of a lone RSL member playing the bagpipes, flanked by four young cadets from the RSL, to a memorial site where wreaths were placed. With me was the Mayor of Whitehorse City Council, Cr Jessie McCallum, and the member for Mitcham, Mr Tony Robinson.

Traffic management by the local police ensured a trouble-free walk for the members, with many locals also stopping to pay their respects. We returned to the clubhouse for an afternoon's entertainment, with songs sung by the combined Uniting Church men's choir and food and refreshments provided by the ladies auxiliary.

The principal of Blackburn Primary School, Sue Henderson, enlightened us on how the school curriculum dealt with the difficult topic of war and its affect on young minds. This was followed by the schoolchildren reciting poems they had written from the perspective of a digger. Their presentation showed a depth of understanding of and compassion for the issues of conflict. We were all deeply touched by the service, and with our newest servicemen soon to return we were reminded of the need to involve ourselves as a community in supporting all Australians who represent us with such honour during these difficult times.

Holocaust: commemorations

Mrs SHARDEY (Caulfield) — This week the Jewish community has been commemorating Yom Hashoah, or the Holocaust. The commemorations I have attended have focused on the 60th anniversary of the Warsaw ghetto uprising, the first urban uprising in occupied Europe and the one that, among Jewish uprisings, lasted the longest. After some 300 000 people had been deported from the ghetto to extermination camps such as Treblinka, a Jewish fighting force was formed amongst the 60 000 who survived. The uprising began on 19 April 1943, the eve of the Passover, or Pesach, in response to what was to be the final deportation to the death camps and a gift to Hitler for his birthday.

However, when German forces entered the ghetto they did not find a living soul on the streets. The entire

population had gone into hiding and refused to comply with the orders of the Nazis. This was followed by three weeks of fierce resistance by the Jews of Warsaw, who had virtually no weapons, and the systematic burning of the ghetto by the Nazis. In the end the entire ghetto was in flames, and by 16 May the fighting was over.

While some 56 000 were captured by the Germans, others escaped. Among the survivors were those who, after the war, came to Australia. This week some of these brave people told their stories, and we have remembered those who did not survive this uprising and the Shoah.

Aleihem hashalom! [*May we all have peace!*]

Chelsea Lions Club: golf day

Ms LINDELL (Carrum) — I would like to acknowledge the fine work of the Chelsea Lions Club, which recently held its ninth annual charity golf day. I was pleased to join its members on a wet Sunday morning at the Eastern Sward Golf Club, where an enjoyable day was had by all. I acknowledge the fine work of the president, Mr Frank Sainsbury, along with Allan Paynter and Bob Cooper, in organising the day. A lovely lunch was provided by the ladies from the club, led by Lucy Paynter. It was a great day, which raised $2500.

The Chelsea Lions Club has used this money to buy breathing apparatus for the Carrum Country Fire Authority. I particularly acknowledge this effort of local clubs in banding together and supporting one another. I know the Carrum CFA will put this breathing apparatus to good use in protecting community assets. I congratulate the Chelsea Lions Club on organising an excellent day.

Tourism: north-east Victoria

Dr SYKES (Benalla) — Easter and Anzac Day long weekends saw thousands of visitors flock to north-east Victoria and join the locals in enjoying beautiful weather, fine wine, good food and great company. Events included the local premiere of the film *Ned Kelly* in Mansfield, with proceeds going to the restoration of the graves of the police killed by the Kellys. The Farmers Arms Hotel in Benalla raised over $13 000 in a Good Friday appeal auction.

The Molyullah Easter Fair was a great family day, with attendances up 20 per cent on last year. At Mansfield hundreds of people participated in the Race for Life to raise funds for cancer victims. And of course on Anzac Day ceremonies were held throughout the electorate. At Bright over 200 locals and visitors participated in the dawn service, and at Benalla over 500 people participated in the service which was held on the lovely shores of Lake Benalla.

Violet Town's local football hero, Gary Abley, played his 400th senior game, and at Benalla on Sunday over 150 people enjoyed a drought survival gathering — in steady rain. Nearby, hundreds of young horseriders competed in regional selection trials. Mount Beauty's Music Muster was a roaring success, and Bright's Autumn Festival commenced in perfect autumn weather.

It is truly heartening to witness people overcoming drought and fire and getting on with life, showing enormous personal strength and great community spirit.

Schools: class sizes

Mr MAXFIELD (Narracan) — I rise today to comment on the wonderful achievement of the Bracks government in reducing class sizes. In my electorate of Narracan we now have an average of about 19 students for the lower primary levels, which indicates a significant increase in teacher numbers. I pay tribute to those teachers who have returned to teaching and who are providing support in our schools. Many schools are receiving an improved level of education as a result of this Bracks government initiative.

Class sizes vary because of the way schools have allocated class numbers. Some have concentrated more on specialist teachers to provide additional student support, while others have gone for the lowest possible class size. Within that mixture schools have been able to deliver the education they deem best for their students, and this has provided a very good outcome.

Prior to Easter I had the pleasure of opening some classrooms at Warragul Primary School. The classrooms were constructed in a way which reflects the historic nature of that beautiful school, and credit goes to the school community for its work and its support in complementing the Bracks government contribution of $450 000 with its own contribution of $20 000.

Planning: Carnegie tabletop dancing venue

Mr BAILLIEU (Hawthorn) — Tabletop dancing may well have its place, but Koornang Road, Carnegie, is not one of them. For nearly a year, residents, ratepayers and traders in Carnegie have been fighting an application to locate a tabletop dancing venue in the heart of the Koornang Road shopping strip. The proposal involves a sexually explicit entertainment

venue in the middle of a suburban family shopping strip. It is located, above all things, over a family restaurant!

Thousands of locals registered their objections, and on behalf of the Liberal Party I expressed the view many times, including during the election campaign, that this was an inappropriate location.

Glen Eira City Council expressed its position by firmly rejecting the application. The application is now before the Victorian Civil and Administrative Tribunal, and still the Minister for Planning has not made her view known. Time is running out for the minister in many ways: VCAT is due to determine its position in the next two weeks and, to the concern of many, will be unguided in its approach.

I call on the minister to act now. She has the power; she cannot continue to avoid the issue. For the minister to dance around this one is simply unacceptable.

Anzac Day: Eltham and Montmorency

Mr HERBERT (Eltham) — On Anzac Day I had the privilege of laying wreaths at both the Montmorency and Eltham Returned and Services League (RSL) services. It was an honour to join the large number of local residents who went along to recognise the sacrifices and contributions our veterans have made to the ongoing security of our country. It was particularly good to see the large number of schoolchildren and other children who participated in the ceremony to remember the contributions of their parents or grandparents.

I would like to congratulate Montmorency RSL on its new cenotaph. I understand it was supplied by Banyule City Council. It is a very creative and picturesque design, which enhances the entrance of this great community facility.

I also thank the Montmorency RSL president, Bill McKenna, and the Eltham RSL president, John Haines, not only for the way they conducted the ceremonies, which were particularly good, but for their tremendous contributions and those of their organisations to the broader community. They contribute to local schools and a whole heap of worthwhile projects in their local areas. For me, the highlight of the day was the opportunity to throw the first two coins at the Montmorency RSL. Two-up is a great Anzac Day afternoon tradition; it is a lot of fun and a bonding experience for many diggers and their families.

Eastern and Scoresby freeways: tolls

Mr COOPER (Mornington) — On 8 April, during the debate in this house on the Southern and Eastern Integrated Transport Authority Bill, the member for Bayswater stated with absolutely no equivocation that there would be no tolls on the Eastern Freeway or the Scoresby freeway project, a project which the government has now confusingly renamed. It came as no surprise to opposition members of this house that only six days later the Premier made the member for Bayswater appear in the worst possible light by announcing that the government was going back on its firm election promise of last November by introducing tolls on both of those projects. That particular broken promise is but one of a lengthening list of broken promises by this untruthful and hypocritical government.

Those who were in the house on 8 April will recall the immortal words of the member for Bayswater when he said in regard to tolls:

> All I can say is: 'No tolls, no tolls and no tolls!'

The response now to those words is that if the member for Bayswater has any sense of integrity and decency he will resign, resign, resign.

Anzac Day: Yarra Junction

Ms LOBATO (Gembrook) — On Anzac Day I was delighted to be asked to speak at the Upper Yarra Returned and Services League (RSL) service held at the cenotaph at Yarra Junction.

The turnout was remarkable with hundreds of people participating in the service after watching the parade down the main street. It was attended by young and old, with many children and families taking the opportunity to remember those who died in war service for our country. For me it was an opportunity to share the remarkable story of my grandfather, Morris Coath, who served with the Royal Australian Air Force during World War II in Egypt, Libya, Algeria and Tunisia. Unlike most of his training companions, who perished, he returned home to Australia after his war service.

On Anzac Day the community spirit in my electorate was remarkable. After the service came the obligatory but pleasant necessity of sharing a cold beer at the local RSL club. This Upper Yarra club must surely have the most idyllic location of any RSL in Victoria, with views that cannot be bought, matched by a friendliness that is unsurpassed. I thank the members for allowing me to join them on what was a day of both merriment

and solemnity — in more ways than one for a Collingwood supporter like me!

I also enjoyed lunch and the country hospitality of the Warburton RSL in another remarkable location right on the banks of the river. In the tiny club I managed to eat and also wash the dishes!

Frankston: Pines former school site

Mr PERERA (Cranbourne) — I would like to record my appreciation of the Frankston Pines community for taking a proactive role in cleaning up the former Monterey school site on a regular basis until a committee of management has been established.

The first clean-up is this Sunday, 4 May, from 10.00 a.m. to 12 noon, with a sausage sizzle to follow. I thank Margaret McGrath, Sandra Johnson and Barbara Kuhl for organising this event. I would also like to thank David Gray, coordinator of open spaces at Frankston City Council, for agreeing to organise a skip to remove the rubbish.

My special thanks go to Sandra Johnson for undertaking the painful task of letterboxing Frankston Pines households to publicise the event. This former site of the Monterey Secondary College was sold to a developer by the previous Kennett government. The Bracks government compulsorily acquired the land; fenced it; removed all the remnants of the demolished building, and carried out environmental studies and the rest that was required at a cost of over $1.2 million. The Bracks government is offering this beautiful parkland free of charge to the Frankston council for it to take over the committee of management, with additional money to share the cost of the master plan.

I congratulate the Frankston Pines community for taking this proactive role until Frankston council makes the right decision to take over the management of the site.

Prahran: stormwater reuse

Mr LUPTON (Prahran) — I had the pleasure on Tuesday, 15 April, of attending the launch of the high-rise stormwater reuse project at the Office of Housing estate in King Street, Prahran. The stormwater is collected from the roof of the high-rise building, diverted, filtered and fed through an underground irrigation system to the trees, shrubs and garden beds on the estate.

The environmental benefits include a vegetation success rate of 97 per cent compared to a 40 per cent survival rate for non-irrigated vegetation. This also means significant savings on investment as less replanting is required. In addition to savings in water use charges at the estate it is expected that over 3000 litres of drinking water will be saved each week.

As over half of our pure drinking water is currently used for flushing toilets and watering gardens, it is important that we match the purity of water to appropriate uses.

These benefits are economic, environmental, social and aesthetic. In particular the residents of the estate appreciate the value and benefit of having a wonderful garden all year round. Many of the residents use the garden extensively and a significant number of them was present at the launch on 15 April. I look forward to working with the government to expand these and other important environmental measures in the area of Prahran and throughout Victoria.

Marysville and District Lions Club

Mr HARDMAN (Seymour) — I rise to congratulate the members of the Marysville and District Lions Club. On Friday, 25 April, the club celebrated its 30th year of active community service for the area.

The club plays a major role in the community. Its members take on a number of projects and stage a number of events to improve the area. Recently I had the pleasure of attending the opening of the Bill Lucas Bridge, a notable project. The bridge is named in memory of an active community member who was also a member of the club. The bridge was opened on Melbourne Cup Day last year.

The club's newsletter, the *Triangle*, is an outstanding and ongoing contribution to the community. It covers the three towns of Narbethong, Buxton and Marysville. The *Triangle* enables local businesses and community groups to publicise their activities and keeps local people informed of local events and items of interest. This activity, along with the many other community events, is carried out by only 15 enthusiastic members who make this beautiful area an even better place to live in and to visit.

On behalf of the community I take this opportunity to thank the members of the Marysville and District Lions Club for their service to the community and, indeed, the many other local Lions Club members who do so much work to help our communities prosper and thrive into the future.

Beryl Burrowes

Mr SEITZ (Keilor) — I place on record my public respect for and acknowledgment of Mrs Beryl Burrowes of St Albans who formed Westvale Walkers Club 10 years ago. Beryl is still a part of that club. The club's members engage in a very important activity and provide a centre through which people can engage in exercise, which is far more enjoyable as a group activity. Members of the club walk not only in their own district; they also take car trips to other areas and explore different countryside, new developments and parks.

It is tremendous that Beryl is still part of that program. She has always been a person who has taken action rather than sitting back and grizzling that somebody else should do something. My association with her goes back to when we wanted to have kindergartens established and to make it our local government's policy to assist in building kindergartens in the Keilor district. The first kindergarten was built when my son was ready to start kindergarten, which is some years ago. That is how far back our campaign goes in fundraising and community activities. Beryl is still active, even in retirement. She is a former president of Keilor Over 50s Club, having participated in that organisation in community development.

Northern Bullants Football Club

Mr LEIGHTON (Preston) — Last Wednesday I attend a business lunch hosted by the Northern Bullants, formerly a Preston-based club in the Victorian Football Association. I am pleased to say that the future of the club is looking very good compared to five years ago when the Victorian Football League wanted to exclude the club from the league.

The club has an enthusiastic and improving membership base and is strongly supported by Preston business and the City of Darebin. It is a real grassroots community football club. At the lunch high-calibre speakers included John Bertrand, who hopefully has given the club a few tips on his winning formula, and Denis Pagan, the coach of the Carlton Football Club.

Denis Pagan was present because Carlton and the Northern Bullants are in the process of merging. Discussions are going well and the two clubs are getting on very well. I believe the finalisation of that merger will bring benefits to both clubs. Carlton's support even extends to Denis Pagan inviting the Bullants coach, Mark Williams, to sit in the Carlton coaching box, which has to be of benefit to the Bullants.

The Northern Bullants have a strong commitment to junior football, including the Northern Knights. With Ray Shaw as coach of the under-18s, there is a lot of support and development of junior football. I believe the Northern Bullants are headed for a very good year, and I wish them well for season 2003.

Genetic engineering: freeze

Mr CRUTCHFIELD (South Barwon) — I wish to pass on to the responsible ministers, the Minister for Agriculture and the Minister for Health, a petition regarding genetic engineering which requests a five-year freeze. It was passed to me yesterday, but unfortunately did not meet the requirements of the Parliament so I could not table it. I will let Stephen Chenery of the South Barwon Greens and the other 250-odd people who have signed the petition know that it has been passed on to the responsible ministers.

MELBOURNE AIRPORT ENVIRONS STRATEGY PLAN

Ms DELAHUNTY (Minister for Planning) — I move:

> That, pursuant to section 46U of the Planning and Environment Act 1987, the Melbourne Airport Environs Strategy Plan 2003 be approved.

The Melbourne Airport Environs Strategy Plan is a land-use strategy prepared by government to provide a framework for planning controls and other initiatives to manage the various interests of both the Melbourne Airport and the significant airport environs. It is designed to provide and to bring certainty, consistency and probably clarity to a series of overlays and other planning controls which have been seen to be inconsistent and out of date.

The Melbourne Airport Environs Strategy Plan will result in a series of amendments and other actions by state government to facilitate the economic and competitive operation of Melbourne's international airport. The plan should facilitate the continued enhancement of the economic and competitive operation of this international airport while maintaining and ensuring the amenity of those who live in the surrounding neighbourhoods. The government's plan for managing the growth of Melbourne, Melbourne 2030, is very conscious of the role of Melbourne Airport. It is a major infrastructure facility which continues to operate very efficiently and it gives this state a competitive advantage because it is a curfew-free airport. This strategy plan is consistent with

the intent of Melbourne 2030 that the airport be protected.

Given the importance of Melbourne Airport to the state and the state's economy, the airport and the need to carefully manage land use in the vicinity has been recognised by specific provisions of the Planning and Environment Act 1987. The Labor Party when in opposition supported the introduction of this provision, and I recall speaking on it as a new member to this Parliament in 1998.

The strategy plan establishes principles and directions relating to land use in the vicinity. It helps us differentiate between the land use controls required for the use of an international airport such as Melbourne Airport and those required for smaller airports throughout Victoria. The strategy foreshadows a series of specific changes, some of which are in the relevant planning schemes of the various municipalities affected by this strategy. It sets out a program for change and lists areas for further investigation.

The major elements of the Melbourne Airport Environs Strategy Plan include provisions distinct to Melbourne Airport which will clarify and accurately identify affected properties we believe more accurately than in the current airport environs overlay (AEO).

The plan also provides continued support for the curfew-free status advantage of Melbourne Airport, to which I have already referred. It contains a requirement for more accurate overlay boundaries — which was discussed at length during this process — for affected areas and for those boundaries to be mapped. Again through this we are introducing clarity and consistency for all interests affected by the Melbourne Airport and its environs. This should result in an overall reduction in the proportion of properties to be included in the various overlays.

Another element essential to this strategy is the provision to formally establish the most current Australian noise exposure forecast (ANEF) as the appropriate measurement on which to base all planning overlay controls.

Further, it will support the production of a new overlay in the Victorian planning provisions — the Melbourne Airport environs overlay, hardly surprisingly — which provides appropriate land use, planning and building controls to protect noise-exposed properties in the general vicinity of Melbourne Airport. The strategy plan will commit the government to the preparation of a series of amendments to the planning schemes of those municipalities involved, including Brimbank, Hume, Moonee Valley and Melton. The controls will replace existing AEO controls for those properties affected by Melbourne Airport. The amendments will not apply controls to any new properties other than those currently affected by the AEO until the Melbourne Airport master plan process is complete.

Mr Baillieu — On a point of order, Acting Speaker, in good faith, this is the first time we have been through this process in this place. It would appear to me that the minister is reading a speech, which I do not begrudge her, but if a speech is being read should that speech be circulated to honourable members?

Ms DELAHUNTY — On the point of order, this process is a first, so there is no precedent. I am referring to detailed notes. This is a very detailed environment strategy, and I would prefer to be entirely accurate. As usual ministers are able to use very detailed notes when it comes to planning issues. That certainly is my preference, and I would understand that it is the preference of this Parliament that points are accurate.

Ms Beattie — On the point of order, Acting Speaker, the notes required for this particular regulation are indeed very detailed and technical. The minister has already referred to AEOs and ANEFs, and I would ask the indulgence of this house to allow the minister to read from those detailed notes because they are technical.

The ACTING SPEAKER (Ms Lindell) — Order! There is no point of order.

Mr Perton — Acting Speaker, on the point of order — —

The ACTING SPEAKER (Ms Lindell) — Order! On another point of order?

Mr Perton — On the same point of order, Acting Speaker. I am sorry, I was on my feet and you could not see me.

The ACTING SPEAKER (Ms Lindell) — Order! I am sorry, I have ruled on the point of order. There is no point of order.

Mr Perton — On a fresh point of order, Acting Speaker, in respect of the reading of speeches, as you are aware the circumstances in which a minister or a member can do that are very limited — that is, in a second-reading debate — and in respect of a motion that is certainly not in accordance with the standing orders or the practice I would ask you, having made your ruling in respect of the earlier point of order, to

refer the matter to the Speaker so that temporary chairs like you are not placed in a position of — —

Ms DELAHUNTY — How absolutely patronising!

Mr Perton — I am on my feet on a point of order. Would you sit down, please?

As I was saying before I was interrupted — —

The ACTING SPEAKER (Ms Lindell) — Order! The minister has already stated that she has detailed notes; as such, she has the call. There is no point of order.

Mr Perton — On a further point of order, Acting Speaker, we are in a Parliament in which there is the greatest imbalance between government and opposition members since 1992.

Ms Delahunty interjected.

Mr Perton — Of course it was; I am not stupid, Madam Minister! Abide by the standing orders and let me put this point to the Acting Speaker.

The minister clearly said that she was reading from detailed notes, not using detailed notes. I am not asking you, Acting Speaker, to reverse your ruling; I am asking you, given that this is the first time this sort of debate has taken place with a minister acknowledging that she is reading from notes in the same way that second-reading notes are read from, that you ultimately refer the matter to the Speaker for a ruling which can be used in future as these sorts of planning matters come before Parliament.

Ms DELAHUNTY — On the point of order, the member for Doncaster is trying to revisit the original point of order and so I would ask you, Acting Speaker, to rule him out of order. I did not say that I was referring to detailed notes in the same way as a minister refers to a speech when making a second-reading speech; that is not the case. I am referring to detailed notes. This is the first time we have had a strategy of this complexity and detail under the planning act that needs to be before the house. It is incumbent upon the minister to ensure that they are accurate. I am referring to detailed notes, and I will continue to refer to detailed notes if the house approves.

Ms Beattie — On the point of order, Acting Speaker, this is a very technical area. There are not many members in this house who would know what an ANEF is or an AEO, and I think the minister referring to those detailed notes is absolutely vital for the information of the members of this house. I ask that she be allowed to continue reading from those detailed notes.

Mr Perton — On the point order, there is heated agreement between the parties on the uniqueness of this; it is the first time this has been done. All I am asking, Acting Speaker — as the Speaker has indicated to me as the manager of opposition business — is that as we come across a new circumstance you refer the matter to the Speaker. I am happy to allow the minister to proceed now, but I would ask that ultimately we have a ruling on the matter.

The ACTING SPEAKER (Ms Lindell) — Order! I will take this matter on board, and I will refer it informally to the Speaker.

Ms DELAHUNTY — On a point of order on the question of time, Acting Speaker, we have clearly not stopped the clock, and the opposition has successfully obfuscated. We still do not know whether it is going to support this or not. Clearly we require more time.

Mr Perton — We are prepared — —

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster will await the call. The member for Doncaster, on a point of order.

Mr Perton — On the point of order, we would be more than happy if, at the end of her contribution, the minister sought an additional 5 minutes by leave. That would be no problem whatsoever. As indicated, it was on the uniqueness of the position that the member for Hawthorn raised the matter. We certainly do not wish to impinge upon the time allowed to the minister. If she wants another 5 or 8 minutes by leave after her allocated time has concluded, we will be happy to accommodate that.

Ms DELAHUNTY — Again I refer the house to the Melbourne Airport Environs Strategy Plan, from which my very detailed notes are drawn. I urge all members of Parliament, particularly those who have just spoken, to show as much interest in the detail of this very complex strategy as the members for Hawthorn and Doncaster have shown in trying to grandstand and to patronise various members of this house, including the Acting Speaker.

I was saying that the various elements of this very detailed plan include a commitment by the government to making a series of amendments which will affect the planning provisions of certain municipalities. They are Brimbank, Hume, Moonee Valley and Melton. These controls will replace the existing airport environs overlay (AEO) controls for those properties which are

affected by Melbourne Airport. The amendments will not apply controls — we need to make this quite clear, and this is why it is important to have the correct details in *Hansard* — to any new properties other than those currently affected by the AEO until the Melbourne Airport 2003 Master Plan process is complete. It is important to ensure that the land-holders who are affected by this process understand where it is going and their rights and responsibilities under it.

The final element of this strategy plan is the further investigation of procedures for notifying the public and property owners within 15 kilometres of the Melbourne Airport of aircraft noise and awareness issues, as they are described. We will be doing further investigation of that under this strategy plan.

What was the process that produced this strategy now before the house? It is an excellent example of consultative democracy. Maybe that is why some of the Luddites on the other side are more interested in semantic arguments about the detail and how it is delivered in this house than in the issues themselves.

The Melbourne Airport Environs Strategy Plan was developed in consultation with representatives of the local communities I have mentioned — Brimbank, Hume, Moonee Valley and Melton — and the Melbourne Airport operators, Australia Pacific Airports (Melbourne) Pty Ltd, known as APAM; and the federal Department of Transport and Regional Services was also involved. The steering committee was chaired expertly and with great dedication and knowledge by the then member for Tullamarine, now the member for Yuroke. I pay great tribute to the member for her leadership. Of course I also thank the representatives from the Department of Infrastructure and the Department of Sustainability and Environment.

After careful assessment and analysis the steering committee prepared a report to government on the proposed strategy which discussed both the issues of concern and the recommendations. That steering committee, led by the member for Yuroke, submitted its report at the end of 2002.

The committee has been very focused and very deliberate in its consideration of the key issues and of any proposed changes to planning controls in order to address the anomalies between the current controls, the airport environs area and the noise contours.

I have considered the comments, recommendations and detailed arguments of the steering committee. The formal position which the government has presented to Parliament today is detailed, as I said, in the Melbourne Airport Environs Strategy Plan 2003.

Let me take this opportunity to commend the members of the task force on their dedication to the detail. Certainly they are interested in hard work rather than just grandstanding. I thank particularly local government representatives Cr Gary Jungwirth, from Hume, Cr Trevor Sinclair, from Moonee Valley, Cr Charlie Watson, from Melton and Cr Charlie Apap, from Brimbank, and their officer representatives.

I also want to acknowledge the contribution of the community. I am sure the member for Yuroke will give further details on that, but without members of the community genuinely trusting this process I do not think they would have been as amenable to the recommendations made by the steering committee.

The government brings people into the tent: we have a discussion, we sort out the issues and then people sign up to an agreed process and an agreed outcome. I know it is novel for members of the Liberal Party. They would not understand democracy if it popped up in their porridge, but we understand it and we live it — and this is another example of it.

Mr Stensholt — There's a silver spoon in their porridge.

Ms DELAHUNTY — A silver spoon? A bag full of silver spoons!

I thank the staff and management of APAM for their contribution. No wonder Melbourne Airport is such a world leader. Chris Barlow and his staff are to be congratulated on the way they conducted these negotiations and, indeed, for their excellent operation of Melbourne International Airport.

This strategy is important, not just to these municipalities and to the airport itself but because of its role in the state's economy. This strategy, which I urge the Parliament to support and approve, is about the state's only international airport. Melbourne has a competitive advantage over Sydney, and we want to protect and maintain that competitive advantage while protecting the interests and the amenity of those who live in nearby neighbourhoods.

The strategy plan responds to the issues associated with the current planning scheme overlays and particularly the concerns that have been expressed by the landowners. To my mind it clarifies the boundaries to be applied with respect to rural properties — that is, the Australian noise exposure forecast contour — and the urban properties, particularly their title boundaries.

This strategy is of state significance. It is a portent of the green wedge legislation, which I will not comment on as it has just been introduced to the house. This is an excellent exercise in consultative democracy. I hope the opposition will spend much time considering the detail of this strategy, and that members opposite will speak both privately and publicly in support of the strategy instead of grandstanding and patronising — the people of Victoria showed at the last election and the one before it that they are tired of that. The Bracks government gets on with the job and stops the games the Kennett government played consistently. I urge the approval of this strategy by the Parliament.

An Honourable Member — Extension of time!

Mr BAILLIEU (Hawthorn) — I note the member's comment that the Minister for Planning should have an extension of time. She actually had 10 minutes to go, but that is fine.

Tullamarine airport is — —

Ms Beattie — Melbourne Airport.

Mr BAILLIEU — Melbourne Airport is a crucial asset for Victoria. This airport was put in place through the vision of the Bolte government many years ago. At the time it seemed that the airport was located in an area at some considerable distance from the heart of the city. It was a visionary statement to put the airport in that location in Tullamarine. Those who love their *Melway* will note that the airport is on the lowest numbered map — map 4 in the edition I have — which reflects the vision of the previous government in placing the airport at such a distance, and it has served its purpose well.

There has been enormous growth at the airport, particularly in recent years since privatisation. That growth is a tribute to the privatisation process that occurred. That growth has occurred in spite of the collapse of Ansett; in spite of the events of 11 September, which placed air travel in jeopardy around the world; and in spite of the rise of terrorism in recent years. That growth is a tribute to the airport and to the airline operators. I note that the Treasurer has acknowledged that growth in recent statements. I congratulate the owners of the airport on achieving that growth.

We have to recognise the airport as a precious asset. It is a precious asset because, as everybody acknowledges, we have a curfew-free airport — a rarity in Australia and in the world. It is a precious asset because of its proximity to the city and the infrastructure, and because of the links that it provides in travel and trade.

The motion seeks ratification of a new strategy for the planning scheme. This in itself is a rare process — in this place planning scheme amendments are usually dealt with by a disallowance mechanism and this is a ratification mechanism. The Minister for Planning referred to the green wedge legislation. A previous version of it was introduced under urgent conditions last year but has since lapsed; that is how urgent it was. That bill introduced a ratification process, and the minister suggested that that was unusual, but this ratification process is provided for under part 3C of the Planning and Environment Act, in particular section 46U. That provision was introduced by the Kennett government in 1998. The ratification process is one we should all value. It is important to understand the detail of the proceedings here and that is why the opposition raised the points it did earlier — this is the first time we have done this.

This motion comes at a time when not only have we had this strategy released but when the federal government has released a draft master plan and a draft environment strategy 2003 for the airport. In addition the Treasurer recently released the Melbourne Airport economic impact study, which is largely a collation of the material that makes up the master plan and environment strategy. I was fortunate enough to attend that release, and I agree with many of the things the Treasurer said at that time. His acknowledgment of the growth, assets and important attributes of Melbourne Airport is to be supported.

However, this process comes three and a half years into the Bracks government while this process began almost four years ago. As a consequence we need to examine that history a little. A focus group was established at the time the legislation was amended to include this ratification process for the Melbourne Airport strategy plan. That focus group was chaired by a former member for Tullamarine who is no longer in this place. On the passage of the legislative amendment that focus group converted to a committee which was chaired by the former member for Prahran. Carriage of that committee was then assumed by the then new member for Tullamarine, who is now the member for Yuroke. That has involved stakeholders, and I acknowledge the role played by those stakeholders, including land-holders, council officers, government department officers and Australia Pacific Airports (Melbourne) Pty Ltd, which operates the airport.

This process has been going for three and a half years, but it is interesting that the process stopped in

September of last year. The opposition has consulted as widely as it could on this strategy since its release, but the members of that committee found that all of a sudden last September all consultation stopped. They heard no more, and some suspected that maybe there was an election in the wind. As it turned out there was an election in the wind, and the government was clearly successful. However, those committee members received no further advice.

The Minister for Planning talked about the consultative process and the glory of democracy as exhibited by the Bracks government, but the members of the committee received no notice of the response to their committee and no notice of the strategy as released. In fact members of the committee received the documents only after they were sent to them by the opposition.

That is not to criticise the content of the strategy itself but after three and a half years we have to acknowledge — I will come to some particular matters in a moment — that in terms of a strategy for Melbourne Airport this is a case of all puff and no powder from the government. I say that because essentially the status quo is largely supported by this strategy and to the extent that there are controls, those controls are to be reduced. Interestingly those controls will be reduced on what will turn out to be a temporary basis. I want to work my way through those matters, but we need to acknowledge that this is not a dramatic change in anything that happens at Melbourne Airport, nor it is anything other than a demonstration of how the Bracks government can dilly dally and not get on with the job while spruiking about it.

The strategy itself is not a fat document compared to the vast documents released in the last two weeks. The strategy covers the seven areas the minister mentioned, and I want to briefly talk about them. The first point is the overlay boundaries. The steering committee report recommended that those overlay boundaries be based on what it called the ultimate-capacity Australian noise exposure forecast (ANEF). I want to stress the words 'ultimate capacity'. The committee was anticipating what is probably inevitable in the aviation industry in Victoria — that is, that there will be a change in the way airlines operate. In 1998, to the extent there are existing ANEF boundaries, the prospect was that the aviation industry would move to smaller and smaller planes and essentially the noise impact of those planes as they apply to airports would shrink. That was the assumed position in 1998, and therefore there was an anticipation that the impact of the arrival and departure of planes at Melbourne Airport would be less and as a consequence overlays might shrink to deal with it.

The committee suggested that the boundaries of those overlays be based on the ultimate-capacity Australian noise exposure forecasts (ANEFs). That is because in the future it is now clear that airliners will get bigger, not smaller. The noise impact of those larger airliners — and I am talking specifically of the A380, which is capable of carrying nearly 600 passengers — is, as I understand it, at least as much as that of a jumbo jet, and potentially more.

The government's position was to say, 'That may be so, but we are going to stick to the 1998 position'. Therefore we have the government acknowledging that rather than using the ultimate-capacity ANEFs it is settling on the most recently approved ANEFs, the 1998 version. It is, as the minister said, complex; but the reality is that there are contours provided under the ANEF system, an Australian standard. The measures used and frequently referred to are ANEFs 15, 20 and 25. Within the bounds of ANEF 20 planning controls are required, and the reality is that some in the community want the boundary controls to stretch to ANEF 15. As I understand it that is a quite separate argument that has been looked at by the committee and, for the time being, rejected.

Nevertheless, using the 1998 ANEFs gives a delineation of the boundaries of the 20 contour, which will now set the boundaries of the overlay, and hence the planning overlay for Melbourne Airport will shrink under this process.

I mention all of that because the reality is that at the very same time — three and a half years later — as this strategy has been released, under commonwealth legislation we have, as I said, a master plan draft and an environment strategy draft. Under that master plan the ultimate capacity is acknowledged and considered. Whilst this strategy which we have in front of us now — and I make it clear that we will not be opposing — —

Ms Beattie — At last we've got to the point.

Mr BAILLIEU — We will not be opposing it. The member for Yuroke sighs, but the point is that in the very near future we are going to find ourselves expanding those contours again. There is every chance that very soon the draft overlays, not the 1998 version, will have to expand again to accommodate ultimate capacity, as will shortly be approved. In a way the state government has avoided that issue, and that is why we are suggesting that we will not be opposing this. Perhaps if the government had been a little more forward looking we would be saying that we would be strongly supporting its position; but because we think

there is further to go we do not want to see any tension created between the state government and the federal government on this issue, given that the federal government is introducing a master plan at the very same time which contemplates a more forward-looking position.

The minister also referred to recommendations from the committee on the management of aircraft noise beyond the 20 contour, and we have no problem with the government's response to that. The committee wanted information provided to those living or working within 15 kilometres of Melbourne Airport, a somewhat arbitrary suggestion, and the government has chosen instead to disseminate information widely rather than on a 15-kilometre basis. So be it.

Point 3 is about overlay provisions, which really ties up with the overlay boundary issue I raised before. That raises the conflict between the 1998 capacity ANEF contours and what will be the 2003 or possibly 2004 contours.

Point 4 is about there being a separate overlay for Melbourne Airport. We have no problem with that in itself. It is not going to change anything material, but it will make it a more distinctive overlay. Perhaps in the same context as I mentioned before we can anticipate that if under this strategy plan the overlay shrinks, as it seems it would, it may have to be expanded again in the short term.

Point 5 of the committee's recommendations has to do with the treatment of construction within those overlay areas and suggests a deemed-to-comply arrangement. We certainly support that particular provision.

Point 6 changes the status of Melbourne Airport as the lessee from a referral authority under the legislation to a notifiable body. Given that, as we understand it, Melbourne Airport is comfortable with that, clearly it is a position that we are prepared to support. Again, that is not going to change anything in any material way.

The final point the committee dealt with was compensation, which is obviously a vexed question in all sorts of planning arenas. In this particular arena it is a question of whether compensation should be applied in any way in relation to noise attenuation measures. The committee never resolved that and suggested, perhaps rhetorically, that it be investigated further. God knows what time frame that might be, but I suspect the government does not intend to embrace compensation for noise attenuation measures in the near future. Instead the government's response is to suggest that the commonwealth's noise amelioration program — and I am quoting from the document — 'may be of interest'. I am sure it is of interest, but whether it actually amounts to anything is another question.

There is a further issue of whether compensation should be applied in relation to injurious loss of development rights. The committee did not support that position, and neither did the government. I can see there is good reason for that in terms of the government's wishing to contain its response. The reality is that Melbourne Airport at Tullamarine started its life in relative isolation as a lonely but important piece of infrastructure.

It now has a rapidly growing neighbourhood, and that brings with it pressures. It is important to have a strategy, to acknowledge the significance of the airport in terms of Victoria's economy, and it is important to protect the airport from the planning rigour that goes with any sort of development that is in close proximity to the airport environs; hence the proposition that there be an airport environs strategy is a good one. It was initiated by the previous government. Obviously the opposition supports that, and the government here is clearly acknowledging that it supports it. The member for Yuroke is nodding and acknowledging that, and I think this ratification — —

Ms Beattie — They couldn't make it work!

Mr BAILLIEU — They didn't have a lot of time, because the election intervened.

The reality is that this strategy does not achieve a great deal; it pretty much engenders the status quo. There will be some shrinking of the overlay in the short term, but that is going to be under pressure as the profile of the aviation industry changes. I can imagine that we will be back here in due course making further amendments. If that happens so be it, but let us not pretend that it is anything other than that.

I want to finish simply by saying again that I think this ratification process is a good one. It was introduced by the previous government for this purpose and for the purpose of the Upper Yarra Valley and Dandenong Ranges strategy, and where other strategies are in place I imagine it will continue to be a mechanism used by the Parliament and future governments. In saying that, we need to understand how the proceeding is going to work.

This is a complex document. I have no problem at all with the minister putting a paper on the table and reading it, so ensuring that we all get the details correct. In that process it would be useful for anyone speaking on the subject to have the benefit of the detail which the

minister is using to address the house. Far from grandstanding the opposition is simply trying to ensure that that process is set in a clear and distinctive manner for the future. As I said, we will not be opposing this strategy. We very much support the growth and development of Melbourne Airport and its legacy for the people of Victoria.

Mrs POWELL (Shepparton) — I am pleased to speak on this motion on behalf of the National Party and to say at the outset that the National Party will not be opposing the strategy plan. As has been said by the last two speakers, it is a fairly complex document. There are a lot of acronyms in there, so it does make it very difficult. It is pleasing to see that there is a list of abbreviations, so as you are reading through if you forget where you are with all of the A's, E's, I's, O's, U's and so forth, you can look back at the list and see what they mean.

As we heard, the decision to prepare this plan started back in 1999. There were a number of reasons to look at a strategy. Some of those reasons were to update and make sure that planing controls for the Melbourne Airport and more particularly the surrounds of the airport were up to date. It was also because of a number of changes in the operation of the airport and changes in regulations. One of the major changes, as has been said, was that Melbourne Airport was sold to a private operator in 1997, so of course there was a new set of rules and regulations that had to be complied with.

There were also numerous concerns in the communities with noise levels. I think we are very lucky that we do not have the same community concern about noise levels that we see in Sydney. That is one of our competitive advantages. The strategy also dealt with the issue of compensation. That is always a fairly vexed issue, whether you are dealing with land values or people's amenity, or the way they live their lives. That has been dealt with in the report as well.

One of the major benefits we are looking at with the Melbourne Airport Environs Strategy Plan is that there is a requirement under the commonwealth Airports Act that the master plan be updated every five years. I believe this will be incorporated in the plan and will help to make sure the master plan is up to date.

The strategy plan provides a framework of overlay controls for the management of the surrounds of Melbourne Airport. It hopefully will protect the amenity of those people who live around the airport. As we have heard from previous speakers, while Melbourne Airport is a great Victorian icon and piece of infrastructure, the people who live around it face some strong challenges. It is up to any government to make sure those people are protected, and the document in some way goes towards achieving that.

The Minister for Planning established a steering committee to prepare the strategy plan, which was chaired by the former member for Tullamarine, now the member for Yuroke. It contained a number of community members as well as representatives from the four municipalities that surround Melbourne Airport — Melton, Brimbank, Hume and Moonee Valley. It also contained representatives from the Melbourne Airport operator, Australia Pacific Airports (Melbourne) Pty Ltd; representatives from the commonwealth Department of Transport and Regional Services; and representatives from the Victorian Department of Infrastructure and the then Department of Innovation, Industry and Regional Development. The final report of the steering committee was submitted at the end of 2002.

The government said in the report that it supports the main thrust of the strategy. I noticed in going through some of the recommendations that not all were supported and some were deferred but that in the main the strategy was supported. It also considers as a key step addressing the interface between airport operations and land management around the airport. As has been said, Melbourne Airport is a significant piece of infrastructure. We have heard that after 11 September safety and security were tightened around the airport not just for the airport staff but for the travelling public. Because, as we have also heard, Melbourne Airport is a major international airport, we had to make sure that those working at the airport — and we should acknowledge that it is a huge employer — and the travelling public were protected and that regulations were in place to make sure the general community was safe.

The airport is a major tourist destination: people go there to leave Melbourne and to enter it. While we must make sure that the airport has all the benefits and that we support it, we cannot do that to the disadvantage of those who live around it. It is important that while we are making plans for the airport we make sure those who live around and near the airport are protected.

One of the major things for country Victoria is that Melbourne Airport is a major link to export markets around the world. It will also play a major role during the coming Commonwealth Games, and it is an icon, as has been said by a number of members. While we are not talking about Essendon Airport, and I know the plan does not deal with it, I point out that the National Party strongly supports Essendon Airport and wants it

retained as a working airport. The Minister for Planning said that Melbourne has a competitive advantage over Sydney, and I believe one of the reasons for that competitive advantage is the proximity of Essendon Airport to the city. We hope that continues and that the government continues to support Essendon as a working airport.

There have been changes around the airport over many years, which the strategy plan details. Although I will not go through all of them, I will briefly outline some of the issues that the plan highlights. It talks about the land use planning for Melbourne Airport environs that initially started in the 1980s. That led to the preparation of the Melbourne Airport Strategy, which was endorsed by all levels of government in December 1990. The MAS was used to bring certainty and consistency to airport planning for the benefit of the community, all levels of government and Melbourne Airport and its operators. This also led to the Melbourne Airport Land Use Study Committee, which made recommendations in June 1992 on the planning controls for the airport environs and looked at such things as the introduction of the Melbourne Airport environs overlays schedules 1 and 2. In December 1998 the Planning and Environment Act 1987 was amended to introduce provisions relating to the preparation of the Melbourne Airport Environs Strategy Plan which secured the control of the airport surrounds and to putting in place overlays and planning procedures for those councils that surround the airport. Those planning provisions will apply until this strategy is endorsed, which is appropriate.

Currently the planning controls for Melbourne Airport are contained in the planning schemes of the shires and cities that surround the airport — Melton, Brimbank, Hume and Moonee Valley. These are underpinned by state and local planning policy frameworks as well as the airport environs overlay. So any planning that is done by Melbourne Airport has to go through a number of strategic processes, and any changes are examined carefully before they become regulations. This strategy will make amendments to those planning schemes.

As a former councillor for the Shire of Shepparton, and with the Shepparton aerodrome being in my electorate, I note that the shire was the planning authority for the airport. I understand first hand the need for councils to have some direction when dealing with a piece of infrastructure as big as an airport. Some of those issues include developers wanting to develop around airports, the appropriateness of those developments and compensation, which I talked about earlier, where developers are told that they cannot develop under a flight path because of height clearance and other restrictions, for which they say they should be compensated.

We talked earlier about a number of issues and recommendations included in the plan. Because of time constraints I will only briefly go through them, because other speakers will probably outline them in greater detail. The committee looked at seven issues, the first of which concerns overlay boundaries and defines the boundaries of the Melbourne Airport environs overlay. We heard from the shadow planning minister that there will be changes to those as we look at different types of aircraft. The committee's recommendation dealt with airport noise, the impact on the community of that noise and the size of aircraft coming into the airport. The Australian noise exposure forecast (ANEF) is required under the commonwealth Airports Act 1996 to be reviewed every five years as part of the preparation of the airport master plan. That is what the plan is doing — reviewing whether the noise abatement areas are appropriate or whether they need to be tightened. The review needs to be in place by December 2003.

Recommendation 2 is about the management of aircraft noise. The report says that the reaction of individuals to noise is variable. There were some concerns about the flight tracks of the planes and the height at which they flew. In my area of Kialla we live under the flight path of the Shepparton airport. When I was a member of the council I heard from a number of people who did not like aircraft flying across, complaining about the noise, even though it was a small airport. We said to them that they had to be aware of which came first, the development or the airport. Often people move into an area and do not understand the level of inconvenience that may be caused by living in close proximity to an airport. We need to make sure that they understand that there may be noise levels that they are not aware of.

We enjoy living near the airport. Our son is a pilot and I think that is because of our close proximity to the airport. We used to see the planes coming in and leaving and we enjoyed watching them. As the report says, not everybody enjoys that; in fact some see it as an inconvenience.

There was some discussion about providing information on aircraft noise within a 15-kilometre radius of Melbourne. The committee will look at who is responsible for disseminating that information to the community and at who will be responsible for community consultation. That will obviously provide us with some information later.

The third issue concerned the airport environs overlay provision, which is about having planning controls to

limit the number of people residing in the area or who are likely to be subject to significant levels of aircraft noise. The government's response was that an amendment to the airport environs overlay would apply only to Melbourne Airport. It is important that it only applies to Melbourne Airport because that is more appropriate. The environs of other airports may be looked at in future reviews.

The fourth matter concerned the Melbourne Airport environs overlay. Some issues are unique to Melbourne Airport and, as has been said, more data might be needed about it than other airports. Certainly more planning controls and more security measures are needed at Melbourne Airport, which is an international airport, than perhaps at other airports. The government says it will introduce a Melbourne Airport environs overlay and make changes to the Victorian planning provisions.

The fifth issue concerned the provision of construction standards. This is an alternative to the full assessment of noise exposure. The responsible authority can issue a planning permit to certain construction areas and noise abatement measures can be put in place on those planning permits. Those that do not require planning permits will not have noise abatement measures applied to them. That gives some minimum standards for construction.

The sixth issue is about the referral authority. It removes the requirement to make the airport lessee the referral authority and replaces it with a mandatory notification requirement. That is important because due to the privatisation in 1997 of Melbourne Airport its management also looks at other things like commercial ventures. It may have a conflict of interest in some areas because it might make some decisions that give it a benefit in some commercial areas. Although the report stated there was no suggestion of any inappropriate action from the current lessee, in the past the core business of airports has always been about the roads and infrastructure such as water and sewerage at the airport, rather than decisions about commercial capital.

The last issue raised by the committee was compensation. The committee looked at compensation in three areas. There was a discussion about compensation for noise and the minister decided there would be further investigation at a national level, so the issue of noise has been put on the backburner and will be looked at separately.

Another area was the loss of amenity and property values. The government has decided that this is outside the scope of the Melbourne Airport strategy. That will be contentious because there are always issues when people live next to an airport — they talk about it devaluing their property or in on some cases adding value to their property. That will need to be looked at in greater detail and I understand that will be the case.

The third and final area of compensation was the loss of development rights through the imposition of planning controls. The government has said that is inappropriate. When I worked as a councillor and with the planning authority looking at the Shepparton airport, which is a smaller airport, we had to deal a lot with development areas and with developers who could not develop up to a certain area around the airport. The developers asked for compensation for that because they believed they had been disadvantaged. That is inappropriate and the government has said that that will not be looked at.

I hope that this plan will offer the protection, support and planning overlay outcomes that are hoped for. The National Party does not oppose this motion.

Ms BEATTIE (Yuroke) — I am pleased to speak on this motion. I am also pleased that both the opposition and the National Party are supporting it. After some churlishness in the house about the minister reading from a complex document, both the Liberal opposition and the National Party decided they would get on with the real debate and support the Melbourne Airport Environs Strategy Plan.

Indeed, it is a complex document and the issues are complex. It probably affects my electorate more than any other — all issues to do with the airport probably affect my electorate more than any other. The Melbourne Airport Environs Strategy Plan does not affect any other airport. However, I believe this process will be used around other airports to resolve disputes between airport operators and residents and local municipalities.

I want to let this house know about Melbourne Airport because often people go on a trip from Melbourne Airport and that is all they intend to do at the airport — with perhaps a little bit of duty-free shopping on the way out. I understand the member for Hawthorn likes to do that.

In my electorate Melbourne Airport, which is a 24-hour operation, provides jobs for people. It is curfew-free, unlike other airports — for example, Sydney airport has a curfew between 11.00 p.m. and 6.00 a.m. Melbourne Airport has a competitive advantage over other airports. It is an efficient airport and provides Victoria with about 6330 full-time jobs. We take some 1200 of those

jobs locally, so it is indeed important. The absence of a curfew at Melbourne Airport is estimated to contribute $1.07 billion to the national product, $127 million to the state product, and $45.5 million to the local value of production. Honourable members can see why I am interested in the airport and how it operates.

This strategy plan is a good plan. Our study objectives were to produce a framework to guide and assess development in the Melbourne Airport environs area, to protect the long-term operations of the airport, to assess issues and impacts on people and on development of land around the airport and on the airport and airport operations, and to establish a framework for planning on and around Melbourne Airport. This strategy will mean that Melbourne Airport will remain the leading airport in Australia and it will give it that international edge. It is the premier airport in the southern region.

The local community embraced the process that was used. Much mention has been made of the local municipalities and the departmental people, but I would like to pay particular tribute to the local residents who came along to meetings during the day. Going to meetings is part of my job and that of the local municipality, but these people gave up countless hours not only to attend meetings but also to help in the writing of the documentation and to study what needed to be researched to enable them to make choices.

I pay particular tribute to Harold Richards, a resident of Hume; Alan McKenzie, a resident of Sunbury and the local Victorian Farmers Federation president; Bill Mole; and Barbara Ford. I also pay particular tribute to the officers of the Hume City Council. Hume is the main municipality involved in this strategy, and I would particularly like to thank Cr Gary Jungwirth and the chief executive officer of Hume, Darrell Treloar, for their input.

I am not going to talk about the ANEFs and the AEOs and the Australian standards, because they have already been explained by other members and that will suffice. But this strategy is remarkable. It commenced, as the honourable member for Hawthorn said, under the previous member for Tullamarine and followed a committee chaired by the former member for Prahran. The fact is that they could not bring the parties to the table. In some cases they created divisions between the parties by saying, before the committee sat, 'I support this position' or 'I support that position'. They were actually obstructing the process of reaching a resolution. The fact is that the previous government could not deliver this strategy, but the Bracks government has. It achieved this result by a process of consultation with the local community, local municipalities and the private operator of the airport, APAM. I thank the members of APAM for the countless hours they spent with local people briefing them on relevant issues.

It is a remarkable document, and the process was a good one. The honourable member for Hawthorn pointed out that we used the 1998 data, but none of us has a crystal ball. We could have totally noiseless aircraft, but because the technology is so expensive nobody could afford to fly in them.

Another important aspect of the strategy was keeping small aircraft operators away from Melbourne Airport. I am not going to touch on the question of Essendon Airport, but it highlights the need for the state to look at airport operations as a whole and not in isolation. I am licensed to fly small aircraft, and I would hate to be coming along the runway at Melbourne Airport and find a jumbo jet close to my tail, I can tell you!

It is a great notice of motion, and these regulations will stand the test of time. They will be reviewed, and that is at it should be, because airports and aircraft are not going to remain the same forever.

Compensation is a vexed question. For example, who should pay it? Should it be the commonwealth government, because it sold the airport to the private operators? I am asking rhetorical questions. Should it be the private operators, or the local municipality? As I said, it is a vexed question. It was not the government that agreed to put this question aside, it was the stakeholders, the people at the table. Even the local residents said, 'We cannot resolve this issue, we will put it aside for another day'. That is what they agreed to do in order to get this into Parliament.

I understand that I am the last speaker, so I commend this motion to the house.

Motion agreed to.

LEGAL PRACTICE (VALIDATIONS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Legal Practice Act 1996 established the current regulatory system for lawyers in Victoria. The system is co-regulatory, involving both professional and independent bodies. All of the bodies operate independently from government. The two professional bodies are recognised professional associations under

the act, each known as an 'RPA'. The Victorian Lawyers RPA Limited (also known as the 'law institute') is involved in the regulation of solicitors, and the Victorian Bar Inc. (known as 'the bar') is involved in the regulation of barristers. There are also a range of other independent regulatory bodies, including the Legal Practice Board, the Legal Ombudsman and the Legal Profession Tribunal.

The Legal Practice Act provides for each RPA to delegate certain functions and powers to officers, employees or members of committees. The delegation must be made in writing, and notice of the delegation must be made to the Legal Practice Board as soon as practicable after making it.

Late last year the Court of Appeal handed down a decision in the case of *'B' a solicitor and 'G' a solicitor v. Victorian Lawyers RPA Limited and Legal Profession Tribunal*. The Court of Appeal held that the process used by the law institute to delegate powers under the Legal Practice Act did not satisfy the requirements of the act that the delegation must be made in writing and therefore was not effective. The law institute had purported to delegate its powers by making a resolution and later recording a minute of the resolution.

The defective delegation process was used by the law institute from the date of the commencement of the Legal Practice Act (on 1 January 1997) until 3 June 2002, when specific instruments of delegation were made. The same process was used in relation to all delegated functions, including functions in relation to practising certificates, disputes and discipline, clients' money and trust accounts, and receiverships. In addition, the law institute failed to make notifications to the Legal Practice Board about the delegations as required under the Legal Practice Act, or to make notifications as soon as practicable.

Similar defects existed in the process of delegation and the notification of a delegation made by the bar.

Finally, a number of additional delegations problems have come to light since the Court of Appeal handed down its decision:

firstly, both the law institute and the bar purported to make delegations under the Legal Practice Act in December 1996, before the act had commenced and at which time neither body had the power to do so;

secondly, there is no power under the Legal Practice Act enabling the RPAs to delegate powers in relation to functions performed under certain transitional provisions of the act;

thirdly, the law institute purported to delegate powers under the Legal Practice Act in relation to regulating the handling of clients' money and inspecting trust accounts, and in relation to ensuring unqualified people are not able to engage in legal practice, at times when the act did not permit delegation of those functions and powers;

fourthly, officers or employees of the law institute took actions under a range of provisions in the Legal Practice Act without the relevant power or function having been delegated to them; and

fifthly, officers or employees of both the law institute and the bar purported to exercise powers to issue practising certificates when no applicable delegation had been made.

The Legal Practice (Validations) Bill will rectify each of the problems identified, by:

ensuring that the process of delegation and notification is validated retrospectively as required;

deeming delegations purported to have been made before the commencement of the Legal Practice Act to have been made on 1 January 1997 (which is the date on which the act commenced), and to be effective;

ensuring that powers and functions under certain transitional provisions can be delegated, and that actions taken under those transitional provisions are validated;

ensuring that delegations purported to have been made, and actions taken by or on behalf of the law institute, in relation to clients' money and trust accounts and in relation to unqualified practice are not invalid only because there was no power to delegate those functions;

ensuring that certain other actions taken by officers and employees of the law institute are not invalid only because those functions and powers had not been delegated to the officers and employees; and

ensuring that practising certificates are not invalid only because they were issued by an officer or employee to whom that power had not been delegated.

The rights of the parties in the proceedings before the Court of Appeal known as *'B' a solicitor and 'G' a solicitor v. Victorian Lawyers RPA Ltd and Legal Profession Tribunal* will not be affected by the bill.

The bill will ensure that defects in the process of delegation will not be sufficient to found challenges to past decisions and orders made by the Legal Profession Tribunal (for example, about a legal practitioner's misconduct). In addition, legal practitioners will not be able to avoid having to pay fines or costs orders on that basis.

If delegations made and actions taken by the RPAs were not validated in this way, lawyers who have been found to be guilty of misconduct and whose practising certificate has been suspended or cancelled could resume practising as a lawyer. Failing to validate the delegations retrospectively could also mean that actions taken by the Legal Ombudsman may be in doubt in relation to matters dealt with by an RPA, where an unlawful delegation places the RPA's own actions in doubt.

Therefore, the impact of the Court of Appeal decision, and the additional issues identified subsequently, is wide ranging. In the absence of amending legislation it is likely to have a profound effect on the operation of the regulatory system for lawyers. Importantly, the impact of the decision is contrary to one of the main purposes of the Legal Practice Act, which is to improve the regulation of legal practice in Victoria. The bill will rectify the position and will ensure that this purpose of the Legal Practice Act is supported. Most importantly, it will ensure that critical consumer protections are maintained.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until next day.

TERRORISM (COMMONWEALTH POWERS) BILL

Second reading

Debate resumed from 25 March; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — Although the bill deals with the significant matter of terrorism and enforcement of the law in Australia it is in essence a relatively simple one. It is certainly supported by the opposition. It effectively cures a potential constitutional issue. It is template legislation that has been passed by every state with the exception of Victoria, and it brings Victoria into line with every other state. That Victoria has taken so long to pass this bill is a direct consequence of last year's state election.

As I said, it is a matter that is relatively easy. The bill confers constitutional power on the commonwealth Parliament to adopt or refer the powers in relation to the specified divisions of part 5(3) of the commonwealth criminal code relating to matters of terrorism. However, the underlying substratum of the bill is a matter of enormous weight and significance to people in Victoria and the rest of the country. We have all been touched by the events in New York, Bali and the war in Iraq and by the profound public debate that all those events have led to; and also by the involvement of some 10 Australians, who I am reminded by the Honourable Philip Davis in another place were victims of the bombing in New York. We are all in this place aware of the significant role the Parliament of Victoria played in the public grieving that resulted from the Bali bombing, with flowers being placed spontaneously on the steps by the people of Victoria, who used their Parliament as a place where they could represent their feelings, concerns, expressions of interest and love for the victims who suffered this appalling tragedy and their families.

We were all touched by that event. The memorial garden on the south side of this building is a testament to every member in this place, to the parliamentary staff and to Victoria's commitment to those people who suffered that tragedy. Recent events in Iraq drive home this significant problem.

While we have not had to bear the brunt of any major terrorist attack inside this country, as Thomas Jefferson said, 'The price of freedom is eternal vigilance'. This bill goes a long way to ensuring the commonwealth as representative of all the states and people of Australia has that capacity to enforce the law vigorously in regard to the appalling crimes that we have seen unfold in the world. Hopefully it will be a law that remains largely unused, but it is certainly important to consider at this time. As I said, this template legislation refers matters and clarifies any constitutional impediment the commonwealth may have in relation to the provisions of its criminal code.

I will deal briefly with the issue of referral. The referral is made under section 51 of the commonwealth constitution, which enables a state Parliament to specifically refer powers to the commonwealth. Importantly, in July last year the commonwealth, using its own powers, passed the model legislation which is set out in part 5.3 of the commonwealth criminal code. It was the subject of a national agreement which had been entered into earlier. It was agreed that in order to ensure the commonwealth had no gap in its constitutional power there would be a reference by every state Parliament to the commonwealth,

effectively giving it the power to implement the national agreement set out in part 5.3 of the commonwealth criminal code, which is of course schedule 1 of this act.

As I said, this is template legislation. Every state Parliament has passed similar laws and now Victoria will be brought into line with that national agreement to empower the commonwealth. Essentially, at this stage no-one can identify any particular constitutional gap the commonwealth may have, but the bill clarifies and protects the patchwork of powers as the government has set out in the explanatory memorandum of constitutional powers.

As I said also, one of the appalling things that could occur if there were a constitutional gap would be that somebody prosecuted for one of the offences under the commonwealth criminal code was actually acquitted of the crime or indeed the proceedings did not advance any further because of a constitutional impediment to either the investigation or the prosecution of those offenders. That would be the last thing that anybody in this house would want to occur and accordingly the genesis of this referral is on that basis.

I will speak very briefly about the provisions. Part 5.3 of the commonwealth criminal code talks about an offence created by a person engaging in a terrorist act or in the preparation or planning of a terrorist act. An offence is also committed in providing or receiving training in relation to a terrorist act or possessing things that may be associated with a terrorist act. There are other offences such as directing any activities of a terrorist organisation, membership of a terrorist organisation, recruiting for a terrorist organisation and getting funds for such an organisation. These are all major offences, and I think there would be unanimity in this Parliament that this needs to be a strong and powerful law with no gaps in it.

The law needs to send a strong message that in the administration of justice and the ability to investigate these matters the commonwealth has full power on behalf of all of us to investigate and prosecute these matters appropriately. The ability to determine what is a terrorist organisation has been the subject of comments of members of the Scrutiny of Acts and Regulations Committee. As a member of that committee I am duty bound to raise such concerns, which relate to the ability of the federal Attorney-General essentially to proclaim a particular organisation to be a terrorist organisation. It is done on a reasonable belief and also after investigation and looking at whether a particular organisation may have been declared by the United Nations to be a terrorist organisation.

The committee found there has to be a strong balance between the legislative aspects of the federal Parliament in respect of a criminal offence. Usually and properly you would expect a potential criminal offence to always be the subject of parliamentary scrutiny, whereas there is potential here by an essentially administrative act by the federal Attorney-General declaring an organisation to be a terrorist organisation to somewhat get around normal scrutiny by Parliament. As the Scrutiny of Acts and Regulations Committee has said, there are ample provisions for scrutiny by the Senate's scrutiny committee and I am sure it would be a matter of some public notoriety if such a declaration were made. Accordingly, on balance the overwhelming sentiment is that having this power in the hands of the federal Attorney-General is appropriate.

In conclusion, as I said the opposition supports this bill. It supports the notion of the commonwealth having this power. It supports the agreement that the states and the commonwealth entered into last year. If for whatever reason Victoria wants to withdraw from this agreement on the basis of a proclamation it can do so and invoke the constitutional reference of power. Most importantly, subject to the agreement which has been adopted into the commonwealth criminal code, to change the provisions of the commonwealth code in relation to part 5.3 requires four states — the majority — to agree before an amendment could be made.

As I said, there is provision for Victoria in whatever unforeseen circumstances to withdraw. Amendments require national agreement. It is an important issue, and the opposition supports this bill and certainly wishes it a speedy passage.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on the Terrorism (Commonwealth Powers) Bill. I say 'pleasure' with some measure of reservation in the sense that this is truly a bill born of the times in which we live. Who in this Parliament would have thought, even going back a couple of years, that we would be discussing these issues in the way we do now? The events of 11 September 2001 and the tragedy in Bali on 12 October 2002 have served as extraordinary reminders that we live in the proverbial global village and that these issues of terrorism, which once upon a time were foreign to us altogether and then more recently seemed so far away, have in more recent times been brought home to us as being a reality of the world in which we live — and so we are debating this bill.

In the last few weeks we have seen an extraordinary sequence of events unfold in Iraq. They have resulted in the removal of one of the world's great homicidal

megalomaniacs, and it is pleasing indeed to see that steps are now being taken to institute a system whereby Iraqis can live under a democratic process which will permit them to enjoy the sorts of freedoms we Australians tend to take for granted.

Last Friday we had Anzac Day, which again is a healthy reminder of the issues that are important to us and that we should reflect upon, not only from the perspective of life at large and the way we enjoy it but also from the perspective of the bill before the house.

Last Friday I had the singular privilege of participating in the Anzac Day ceremonies in Melbourne. I was at the Shrine of Remembrance for the dawn service. I stood out on the front steps in the company of the Governor; the Premier; the Leader of the Opposition; Major-General David McLachlan, who was undertaking his first-time role as the president of the Returned and Services League in Victoria; and other dignitaries who were there at the time.

More particularly I was in the presence of about 20 000 people young and old from all aspects of our communities right across Victoria who had gathered to pay homage to the Anzac spirit in an environment where the events in Iraq and the events in Bali and of 11 September in New York were very much in the minds of those present. One of the others in attendance was Mr Ted Kenna, VC, with his son, Rob, and grandson, William. This extraordinary man won the Victoria Cross in New Guinea, and I cannot help but think of what he would say if he had the opportunity of being here and participating in the debate on this legislation pertaining to terrorism.

This extraordinary man really is the quintessential example of the way Australians like to picture themselves in the sense of the Anzac spirit. He is a man of immense humility, and when you reflect upon the amazing acts of bravery in which he was engaged in New Guinea and which resulted in his being awarded the VC it was, as I said at the time, a great honour to meet him in the first instance and to have conversation with him throughout the day.

Part of the privilege of being there last Friday was to stand on those steps, to gaze out over that extraordinary crowd, to look all the way back down St Kilda Road and then along Swanston Street at the lights of the city as the dawn broke, and to be able to see the faces before me with more definition and to reflect in unison with that crowd upon the events which collectively brought us there that day. I say again it was a singular privilege to participate in that service.

This bill deals with the antithesis of the Anzac spirit. It deals with those who seek to take part in the terrorist activities that have given rise to the modern day threat which we as a nation are having to endure, along with many others around the world. It is why I say on behalf of the National Party that we strongly support the content of this legislation, albeit some years ago it would not have been before the house and would not have been debated in the manner in which we now are debating it.

This is template legislation. It is the outcome of discussions which have occurred at a national level between the national government and the leaders of the respective jurisdictions. Effectively, out of perhaps an excess of caution, we are ensuring that there is no means whereby anyone who is charged pursuant to the terms of the commonwealth criminal code is able to slip through the net for the want of any capacity in the federal government through that code to charge whomever that person might be. Through this bill we as a state are referring across to the commonwealth a number of powers which in the first instance rest with us. As I understand it Victoria is the last state to pass this legislation. Once the bill is passed here and proclaimed throughout the parliamentary system then the commonwealth criminal code, and more particularly part 5.3 of that code, will be re-enacted to ensure that nothing is left to chance and that everybody can be satisfied that the code holds firm in the event of charges being laid.

The code itself is exhaustive in the sense of the charges which can be laid with regard to the issue of terrorism. I will quickly reflect upon division 101, which talks specifically about terrorism. Division 101.1 defines terrorist acts, which are in turn referred to within the definitions provisions of the code in division 100.1. Then there is a wide description of the sorts of conduct which will constitute different forms of terrorism and terrorist acts, and these include providing or receiving training connected with terrorist acts, possessing things connected with terrorist acts, collecting or making documents likely to facilitate terrorist acts and other acts that are done in preparation for or planning terrorist acts. Another provision within division 102 deals with terrorist organisations, and again that is broad in its compass and will serve to ensure that any such individual or organisation which has the bent to be involved in this style of activity will be captured by the terms of this legislative provision.

No double jeopardy is involved here. The legislation contemplates that if it is feasible for an individual or organisation to be charged under the terms of the state legislation as being able to be charged under the code

then the respective jurisdictions will make decisions between themselves and have discussions which will result in one or the other laying the charge so that a situation where that process could be duplicated will not arise.

Importantly Victoria has the power under the terms of the bill to withdraw the referral which is contained within the legislation. In that sense therefore we have a safety valve. If things are not going according to what Victoria requires and anticipates from this process then it as a state has the capacity to withdraw the referral of the powers that are contemplated under the terms of this bill.

As I said, this is legislation born of the world in which we now live. We in the National Party, while regretting the necessity of its having to be debated at all, nevertheless support the bill and wish it a speedy passage.

Mr MILDENHALL (Footscray) — The government welcomes the support for this legislation across the chamber, which it had when it was debated recently in the upper house. It is, as other members have said, a product of our time. We live in times that have been characterised by some extraordinary scenes in our city: the covering of the steps of Parliament in flowers, the creation of memorials and the upgrading of security systems that we have all been subjected to. These extend from upgrading security around this institution to more subtle upgrades, such as the placement of barriers at the base of the West Gate Bridge, which some of my constituents thought had something to do with work on the park under the bridge. However, inquiries have revealed that it is part of a cross-portfolio and cross-public institutional upgrade of security systems.

The Terrorism (Commonwealth Powers) Bill has been born of a series of agreements that came from the Australian leaders summit on terrorism in April 2003. In relation to the initial commonwealth legislation in July 2002, the government certainly committed itself to legislation of this type to enhance Victoria's domestic security and counter-terrorism. Part 3 of Labor's plan for enhancing community safety was announced in the latter part of last year in the lead-up to the election.

As other members have said, Victoria will be the final state to enact this referral of powers to the commonwealth. It will mean a topping up of the necessary federal powers to provide a seamless net of provisions as a key part of the antiterrorism strategy. In a more practical sense, it will reduce the likelihood that someone who is prosecuted for a terrorist act will be able to get off on, or have a defence based upon, some sort of technical inability of the relevant federal or state jurisdiction to hear the prosecution.

I can recall, certainly not in my lifetime but during one of the famous episodes in Australian history, the debate about the wisdom of the federal government trying to criminalise membership of particular organisations. Yet this is precisely what these powers will enable the federal government to do. It is a symptom of the times we live in. While the nation was split in half in the early 1950s over the issue of the membership of communist organisations, there is in these times widespread agreement — and, if you like, political unanimity — that the federal government ought to have the ability to proscribe particular terrorist organisations and to make the membership of those organisations an offence punishable by 10 years in jail. This is a clear indicator of the impact that recent acts of terrorism — 11 September and the Bali bombings — have had not only on international communities but on our domestic community.

I was going to say that there are some interesting provisions in this commonwealth code, but I will refer instead to an issue that has been raised by the Scrutiny of Acts and Regulations Committee and by the member for Kew in his contribution — that is, whether the provisions relating to the identification and declaration of a terrorist organisation are fair and reasonable and impose any hardship or loss of rights on individuals.

The federal code provides that an organisation can be named as a terrorist organisation by the Governor-General on the recommendation of the commonwealth Attorney-General. The Attorney-General can only recommend the making of such a regulation where the United Nations Security Council has made a decision about terrorism and identified the organisation in that decision and where the Attorney-General is satisfied that that organisation is engaged in the preparation for, planning for and assistance and fostering of acts of terrorism. That is laid out in new division 102, terrorist organisations, subdivision A, definitions, of the commonwealth Criminal Code Act. There are some protections there.

As the Leader of the National Party said, if at subsequent leaders summits misgivings are raised and a review of the legislation with a view to possibly amending these provisions is desired, there is provision for national agreements to that effect. It is reasonable legislation although, as I said, in the context of Australian legislation one would have thought it unusual for legislation to reach this point.

A series of provisions in the commonwealth code define a series of terrorism offences. A number relate to assisting terrorist organisations, including providing or receiving training, receiving or giving funds or supporting organisations in other ways. The code also contains a current list of terrorist organisations, some of which are well known to us in the public sense. The al-Qaeda Islamic Army and Jemaah Islamiyah are names that two years ago not many people would have known but they are now etched into common memory and our national psyche. Some of the others are not so well known and I hope they do not become known.

It is a pleasure to be part of an integrated and determined national effort to create a seamless net of legislation and a seamless patchwork of powers and provisions that will strengthen our national capacity to deal with this modern curse and menace. We hope there will be less reason for these powers to be used in the future but part of dealing with this modern curse is to be forewarned and forearmed. This legislation will assist in that effort.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

CRIMES (PROPERTY DAMAGE AND COMPUTER OFFENCES) BILL

Second reading

Debate resumed from 25 March; motion of Mr HULLS (Attorney-General).

Opposition amendments circulated by Mr McINTOSH (Kew) pursuant to sessional orders.

National Party amendments circulated by Mr RYAN (Leader of the National Party) pursuant to sessional orders.

Mr McINTOSH (Kew) — At the outset I would like to say that the opposition supports this legislation with the two amendments I will come to in due course. Essentially they deal with the crime of intentionally or recklessly causing bushfires.

Although it is not template legislation this legislation arose out of a national agreement. One of the things that came out of that was the fact that not every state has exactly the same provisions. The amendments the opposition will move relate to increasing from 15 years to 20 years the maximum penalty for intentionally or recklessly causing a bushfire. One can see in the current environment the devastating consequence a bushfire has for a community. It is not necessarily related to property or life, as this offence is, but according to what the Premier said today, a bushfire can lead to tolling on the Scoresby freeway. We heard the Premier say today that that is a downhill effect of the drought and bushfires. Whether you accept that or not, it seems to be a consequence. A sentencing court should have the option of imposing a penalty that is commensurate with community standards.

This bill arose out of a national agreement reached at a meeting of the Standing Committee of Attorneys-General which considered a model criminal code report in 2001. Essentially the agreement was that the states might like to increase, ramp up or improve their legislation in respect of a variety of offences. The states agreed to try to work together to bring their legislation on a number of different offences up to agreed standards.

The offences set out in the bill include recklessly or intentionally causing a bushfire. The legislation also contains a variety of new computer offences. The removal of these offences from the Summary Offences Act is a reflection of the importance and significance of computers in our world and the dominating effect they have on all of us. To leave these offences in the Summary Offences Act when the consequences can be so profound and far reaching would be anachronistic. Accordingly it was decided that there needed to be a substantial improvement in the computer offences provisions and that they should be put into the principal criminal code in Victoria, the Crimes Act.

The third range of offences is sabotage relating to public facilities. It is important to note that while they are described as public facilities the provisions incorporate both publicly owned and privately owned public facilities. There are also provisions relating to the Bail Act: intentional arson causing death will be removed from the schedule of the Bail Act to make it a show-cause offence. I will get to that in a moment.

I turn first to the bushfire offences. The opposition takes the view that while 15 years is a significant penalty — a level 4 imprisonment term — it is appropriate, as a reflection of the community's concern about this issue, that where someone recklessly or intentionally commits this offence a full range of sentencing options be available to a sentencing judge. If the recent bushfires were begun by such a person in such an environment, 15 years may be a tad on the lower side and a full range of sentencing options should be provided. It is not a mandatory sentence; it is a maximum penalty. A judge would have full discretion as to what level of penalty was imposed. Accordingly,

the opposition will move that the bill be amended by changing it from a level 4 offence to a level 3 offence and replacing 15 years with 20 years as the maximum sentence.

Clause 4 inserts new section 201A, which goes to the mental element, if you like, of the offence. The concern of the opposition — and the Leader of the National Party will move an amendment that will reflect that concern — is that new section 201A(2), which deals with the mental element, may be terribly limiting, particularly where it mentions:

> … circumstances in which a person is not to be taken to be reckless as to the spread of a fire include the following —
>
> (a) the person caused the fire in the course of carrying out a fire prevention, fire suppression or other land management activity; and
>
> (b) at the time the activity was carried out —
>
> (i) there was in force a provision made by or under an Act or by a Code of Practice under an Act —

and that the fire prevention activities were being carried out in relation to that matter.

At a briefing we were informed by the government representatives — and this matter was raised specifically — that the common-rule laws in relation to recklessness will apply. However, I am concerned that is not clear from a reading of this legislation that the common law will be actually or expressly applied. It is important to put on the record the government's intention to specifically preserve the common-law rules in relation to recklessness and determining the mental element of an offence under this legislation; and most importantly, as I said, the opposition would support the National Party amendments that may very well clarify this matter.

The circumstance where it may exist is one in which there is no code and in the face of a violent bushfire someone performs an activity in good faith and for all the right reasons that actually exacerbates the problem — for example, back-burning that goes substantially wrong. Under this bill such an act in those circumstances could not in any way be deemed to be offending. These matters should be preserved. I will let the Leader of the National Party deal with them in some detail and just indicate here that the opposition will support the National Party amendments in this regard.

That is not to say that the offence of intentionally or recklessly causing a bushfire is a matter of mere semantics or one that is not significant. We treat the matter very seriously. It can and should be treated seriously, and we say that the penalty is somewhat on the light side and should be increased to a maximum of 20 years imprisonment in all the circumstances.

The next range of offences are computer offences and relate to recognising the situation in the modern world where computers have such a dominant place. I see the Minister for Education Services, who is at the table, has a computer with her and is no doubt looking up some significant information that is going to improve democracy as we speak. The computer is becoming very commonplace. Indeed even someone like me, who was at school when students were taught with the slide rule, is capable of at least sending an email and searching the Internet for interesting material. Computers have an important role to play in a range of different human endeavours such as payroll management, security matters and the operation of traffic signals, and tampering or interfering with a computer's database can have far-reaching effects. To be limited to the provisions set out in the Summary Offences Act is no longer appropriate, so a substantial revamp of the relevant criminal laws relating to computer offences under the national code or agreement is needed.

In brief, offences related to the unauthorised modification of data held in a computer range from things like payrolls right through to traffic management. The consequences of changing, altering, interfering with or modifying such data can be profound.

Another offence concerns the unauthorised impairment of electronic communications, which again are part of the ordinary world, not only the world of commerce. This offence reflects the importance of computers in the modern world and dramatically improves the law relating to those matters.

Another new subsection makes it an offence for a person to possess or control data with the intention of committing a serious computer offence, reflecting the fact that it is not just the activity that may be offensive but the possibility of it actually occurring. As for any other form of intentional offence, this provision is aimed at certain types of activities that can be anticipated from the type of material involved. As is the case when a thief goes out without any sort of explanation with materials or tools that would otherwise be used in an armed robbery, this legislation facilitates the detection of a crime and the prosecution of the criminal by providing that someone armed with material such as data in circumstances that could possibly lead to the committing of a serious offence can be detained before any other harmful matters arise.

The bill also makes producing, supplying or obtaining data with the intention of committing an offence a computer offence.

A couple of summary offences which are lesser offences are unauthorised access to or modification of restricted data held in a computer, and the unauthorised impairment of the reliability or security or operation of that data is a summary offence in relation to this bill. As I said, the legislation goes a long way to improving the laws of the state in relation to those offences.

I move on to the offence of sabotage, which is set out in clause 6. One of the matters which I raise as a concern and which the government may like to take on board refers to the definition of the term 'public facility', which is a government facility including premises used by government employees in connection with official duties; a public infrastructure facility, including facilities providing or distributing water, sewerage, energy, fuel, communication or other services to or for the benefit of the public; a public information system; a public transport facility, including a conveyance used to transport people or goods; and a public place, including premises, land or water open to the public.

I would have thought facilities of some consequence to the government which should have been expressly set out would be bridges, freeways or major roads. Of course interference to any significant bridge, whether it be a bridge across the Murray River or the West Gate Bridge, could have a profound impact on a local community. While you could argue that it is a government facility, it is of concern that this matter has not been addressed in this legislation, and while the bill is between houses the government should look at whether the definition of a public facility in clause 6 should be amended to include such major infrastructure as bridges, roads and freeways that could have a significant impact if interfered with in relation to the offence of sabotage. I raise that matter with the government at this point.

Sabotage includes not just the physical harming of such facilities but the committing of computer offences, reflecting the significance of matters that are intended to cause some major disruption in their use or major economic loss. As I said, that is a matter of some consequence and this will improve the law in Victoria. Also on the issue of sabotage, looking at what happens before an offence is committed the consequence of which would be devastating gives the opportunity for an investigation and prosecution at an earlier stage — that is, when there is a threat to commit sabotage.

Finally I turn to the Bail Act. The bill moves the offence of intentional arson causing death under section 197A of the Crimes Act into the Bail Act provisions that relate to having to show cause. Normally an accused person has the right to be bailed to appear in relation to a particular offence, which is commensurate with the community standard that you are innocent until proven guilty, but with a number of crimes such as serious drug offences or murder where there are serious penalties — in the case of drug offences 25 years imprisonment and in the case of murder life imprisonment — the inference that can be drawn is that the consequences of escaping, not attending or not answering your bail are nowhere near as significant as being convicted of such an offence and accordingly the accused is required to show cause why bail should be granted. These amendments are a reflection that an offence which carries a penalty up to 25 years is a serious offence and there is a real risk that an accused person may not answer their bail and thereby put the community to profound cost in pursuing them.

As I said, the opposition supports the bill and supports the notion of a national agreement and a review of all state laws. Although this is not template legislation it is a form that was considered acceptable after a review of the state laws to improve laws in relation to these significant matters. As a result the opposition supports the bill with the exception that there should be an amendment to the provisions relating to intentionally or recklessly causing a bushfire to increase the penalty from 15 to 20 years.

Mr RYAN (Leader of the National Party) — The National Party supports the bill with a very important qualification concerning the terms of the amendment I will move. I will return to that in a moment. This legislation has been produced as a result of a meeting of attorneys-general in December 2002. A model bushfire offence was developed out of that meeting, and the relevant component of the legislation is it. There was then a leaders summit on terrorism in April 2002 and out of that arose model computer offences, and the relevant component of the legislation deals with those offences. The bill before us is a compendium that arose out of the meeting held by the attorneys-general in the one instance and through the leaders summit in the other instance, and the National Party supports what it contains.

I want to briefly deal with the provisions relating to computers, which the second-reading speech outlines very well. The bill will create seven new offences. The first offence will prohibit a person from causing an unauthorised computer function; the second offence

will be directed at persons causing any unauthorised modification of data in a computer; the third offence will prohibit causing an unauthorised impairment of electronic communications to or from a computer; and the fourth offence will prohibit the processing or controlling of data with the intention of committing or facilitating the commission of a serious computer offence by the person or another person.

The fifth offence will prohibit the producing, supplying or obtaining of data with the intention of committing or facilitating the commission of a serious computer offence; the sixth offence will prohibit the causing of unauthorised access to or modification of restricted data held in a computer; and finally, there is a provision that will prohibit the causing of any unauthorised impairment of the reliability, security or operation of any data held on a computer disk, credit card or other device used to store data by electronic means.

These offences are of the new age, and the old offences that exist now in the summary offences legislation are completely inappropriate in today's and tomorrow's world. When the offences that now exist were drawn up and incorporated in legislation the mechanisms that we now use on a commonplace basis had not been invented so we have had to move with the times and have these offences incorporated in this legislation to address those important issues.

Critically the bill includes a provision for offences regarding sabotage. Again the National Party strongly supports these provisions. This is another example of legislation made of our times. Because you do have people entering upon activities that cause major disruptions to government functions or to the use of services by the public, or through which major economic loss may be incurred by people or organisations, the people who conduct those offences, or more particularly threaten to do so, will be dealt with very severely under the terms of this bill. In the first instance the offence of sabotage will attract 25 years imprisonment and the offence of threatening sabotage is punishable by the term of 15 years imprisonment. We think the punitive action and periods of imprisonment that will occur in the event of those offences being established are appropriate in all the circumstances.

The other component of the bill concerns bushfires, and in that regard I want to express some concerns in so far as the issue has drawn from the National Party the need for the amendment that has been circulated in the chamber. To put this into context, over these past months the bushfires have been uppermost in the minds of all Victorians and we have seen some of the most severe conditions that the state has experienced in living memory. Legislation in the nature of that now before us tends to come up for debate as a result of those very nasty experiences, and as I said, we support the legislation.

The government has been slow to react to the bushfire issues. The recovery program it has developed is palpably deficient and is the subject of much commentary around country Victoria. The government established an inquiry but it is not an independent inquiry, with due respect to the Essential Services Commission. It will be interesting to see whether the government cooperates with the inquiry set up by the federal government. That will be a parliamentary inquiry, and although it will have all the powers to subpoena witnesses and the like, we hope those issues do not arise and that the state government cooperates with that federal process. Of course in so doing it will be participating in a process which it had the capacity to undertake in its own right in Victoria. We will have to see how those issues play out.

The particular point I want to raise is with regard to clause 4. This issue was initially raised in our party room by the member for Benalla. It was also developed by the Honourable Bill Baxter, a member for North Eastern Province in another place, during the course of the debate in the Legislative Council. Unfortunately the government ignored the point made by Mr Baxter so we have found it necessary to move this amendment. We hope the government considers the issues now with the seriousness they deserve. Furthermore, we hope the government will see fit to adopt the amendment before the house.

Clause 4 seeks to introduce a new section 201A into the Crimes Act — that will be the offence of intentionally or recklessly causing a bushfire. Subsection (1) refers to a person who intentionally or recklessly causes a fire and is reckless as to the spread of the fire. That person is guilty of an offence which can attract a maximum of 15 years imprisonment. Subsection (2) provides for a person not to be taken as being reckless in certain circumstances, and it goes on to set out those circumstances.

The drafting of this bill is important in the context of this discussion because effectively there has been a reversal of the onus of proof. A person will be deemed to be reckless unless that person can bring himself — I will use 'himself' for the purposes of the discussion — within the exemptions that apply under subsection (2). It is in that context that we believe the amendment we are now moving is particularly important, because as appears in the explanatory memorandum, subsection (2) provides that:

> A person will not be taken to be reckless as to the spread of fire where the person —
>
> > caused the fire in the course of carrying out a fire prevention, fire suppression or other land management activity; and —

I emphasise the word 'and' —

> > carried out that activity in accordance with a provision made by or under an act or by a code of practice approved under an act that applied to that activity; and
> >
> > believed that his or her conduct in carrying out that activity was justified having regard to all of the circumstances.

The National Party's concern about this is that circumstances may well arise whereby, for example, a farmer faced with a fire which is imminent, or about to arrive on his property, determines in his own mind, for reasons he believes to be absolutely genuine and appropriate, that he has to undertake a back-burn. He commences that back-burn in circumstances where he does not have the time to be going off and getting a permit because the fire has descended on him. As we have seen in recent weeks and months, there are plenty of instances where the fire arrives over the ridge and a farmer is faced with having to make decisions there and then. There is simply not the opportunity to go off and get a permit.

On the other hand there is also not necessarily the opportunity to conduct a back-burn pursuant to a code of practice approved under an act. Accordingly, in these extreme circumstances the farmer could find himself being deemed reckless under the terms of this bill, because as they are drawn the provisions deem recklessness to apply unless exemptions have been satisfied. It may well be that if the farmer has not got a permit or is not acting under a code of practice, then he has not satisfied the requirements which would put that exemption into place. He will not therefore have been able to satisfy this reverse onus of proof which rests on him.

I cannot accept that the government intended that this would happen. It is not sufficient, given the drafting of the bill, that new subsection (2) starts with a preamble that speaks of the fact that for the purposes of the offence:

> … circumstances in which a person is not to be taken to be reckless as to the spread of the fire include —

I emphasise the word 'include' —

> the following —

and the provision goes on to describe the issues causing us concern — having a permit and conducting himself according to an appropriate code of practice. We think there are very genuine circumstances that a farmer or a landowner generally may find himself in where he is faced with the prospect of not being able to demonstrate that he has not been reckless. So it is that we will move to insert a new subsection (4) in clause 4. The proposed amendment reads:

> Sub-section (2) is not to be construed as limiting or qualifying the circumstances in which a person is not to be taken to be reckless as to the spread of a fire for the purposes of sub-section (1)(b).

If that amendment is incorporated, that would enable a person charged under this provision to argue factors apart from simply the notion of the permit and the code of practice. The farmer would be able to argue the case of demonstrating that in that situation circumstances arose where that individual believed it was necessary for that back-burn to be undertaken and therefore did what he did in an environment where he considered it absolutely essential that he commence the back-burn. This would all happen in circumstances where the fire of the back-burn got away and there was damage to the property and he was otherwise faced with the fact of being charged with the offence contemplated by this legislation.

The case for this amendment is made out by matters which have more recently arisen in correspondence which my colleague the Honourable Peter Hall, a member for Gippsland Province in another place, has received. A letter dated 23 April from the Minister for Environment responds to an issue raised in the other place on 27 February. During that adjournment debate Mr Hall raised the very matter that we are now discussing. The minister has written to say that:

> In a fire suppression situation, incident controllers can exercise their statutory powers under section 30(6) of the Country Fire Authority Act 1958, for the purposes of preventing a fire occurring, effecting suppression or restricting a fire spreading, or of protecting life or property. The officer in charge may take any measures which in the circumstances are reasonable and appear necessary or expedient to him/her to achieve the fire protection purposes.

I pause to make a couple of points. Firstly, I do not believe there is a section 30(6) in the Country Fire Authority Act, so I am not sure what the minister is referring to when he says what he says. When you look at section 30(1) of the act you see that it contains language of the nature of that relied upon by the minister as being within the ambit of the statutory powers of an incident controller — or, as is referred to

in this new section, the chief officer. But let us take it as incident controller for the purpose of the discussion.

Secondly, if it is good enough for those powers to be vested in an incident controller, then in a fire suppression situation surely the owner of a property that is under imminent threat should be able to go through those processes, safe in the knowledge that as long as he has a genuine belief in the necessity of that activity he can do it in a way that protects and preserves not only his property but other property.

We say this letter argues the case even more for the amendment which will be moved in the course of this debate. The letter goes on to say:

> There is no requirement under the relevant legislation to obtain the landowners permission to carry out these measures on their land in relation to suppressing a fire.

To paraphrase, the rest of the letter emphasises the fact that under the act those who are in control of fighting the fire from the authority's perspective are able to do anything they deem necessary with or without the consent or even the knowledge of the landowner for the purpose of achieving the required result of suppressing the fire, including back-burning.

Finally, the letter goes on to talk about the government not having any statutory obligation to pay damages resulting from wildfire or fire suppression works. I point out again how silly it is — if you read this legislation literally — that the owner of a property is not going to be in a position to make a decision in the genuine belief that it is necessary that a back-burn be undertaken to protect his and other properties as he deems appropriate. There will be plenty of opportunity for the court to test the veracity of the defence and to have a look at all the prevailing circumstances and decide whether the honesty provisions referred to in proposed subsection (3) are applicable. It is not as if by accepting this amendment the legislation would be weakened; rather it would provide an opportunity for the case to be argued in circumstances where it is not at all difficult to envisage the situation I am outlining. The National Party urges the government to adopt the amendment I have circulated for the purposes of this debate.

I turn now to more general issues. The Department of Sustainability and Environment (DSE) is apparently faced with cuts in the budget to be delivered on 6 May. We again echo our concern about that and what it will mean for fire prevention activities, let alone fire suppression, in time to come. It is a case of 'Watch this space': we will just have to wait to see what the government does. But I know this issue is causing great concern to country Victorians, particularly those caught up in the recent tragedies across the state.

Finally, I draw attention to the amendments which deal with the Bail Act. The serious charges which are contemplated in the amendments are to be shifted to the show-cause provisions of the legislation. The National Party supports this, because if people are being charged with offences which are of the significance that the proposed section contemplates, then we think it only fair and reasonable that the rule which usually applies — prima facie allowing a person who has been charged and who is being held in custody to successfully apply for bail — ought not apply here. We therefore support the amendments which mean that the 'show cause' provisions of the Bail Act are to apply to those serious offences which are set out in this bill.

I therefore urge the government to favourably consider the amendment I have moved here today. In the long term the irony is that we all have a mutual aim. We all want to bring about a position where people who are truly reckless in the way they conduct themselves and therefore aid and abet the terrible outcomes we have seen in Victoria over the past weeks and months are able to be dealt with appropriately.

The members of this chamber have a mutual aim in wanting to achieve this result. What the National Party is concerned about is that unless this amendment is adopted there is the potential for unforeseen outcomes, which could be eradicated by the government adopting it. I am sure it would bring a great deal of comfort to country Victorians, who are consistently faced with the threat of bushfire.

Mr LUPTON (Prahran) — It is with great pleasure that I rise to support the Crimes (Property Damage and Computer Offences) Bill. This bill deals with three key issues involving new offences ranging across the important topics of bushfires, computers and sabotage, as well as making an important amendment to the Bail Act.

The principles underlying this legislation demonstrate that the government is concerned about providing a modern and effective criminal justice system. It is part of the government's commitment to provide a safe community, including safe streets, homes and workplaces for all Victorians. The legislation is a result of an agreement between the commonwealth and the states and territories following a number of meetings, including the Standing Committee of Attorneys-General and the leaders summit agreement on terrorism and multijurisdictional crime. The genesis of this legislation goes some way towards indicating the

importance and seriousness of the issues it deals with. In particular, those matters dealt with by the leaders summit on terrorism and multijurisdictional crime indicate the serious and formidable nature of the terrorist threat that we unfortunately live under in the modern era.

I want to deal with the issues of bushfires, computers, sabotage and the Bail Act separately before dealing briefly with some of the matters raised by the Leader of the National Party and the member for Kew.

On bushfires I commence by saying that the legislation is intended to close a gap in offences relating to causing bushfires in Victoria. In particular the bill creates a new offence of intentionally or recklessly causing a fire or recklessly spreading a fire to vegetation on property belonging to another. In the context of the serious drought we have faced in recent years and the bushfires we have experienced in recent months this type of legislation is unfortunately at the forefront of our notice and is patently necessary.

The seriousness of the offences created and the issues dealt with are indicated by the maximum penalty imposed under this legislation of 15 years imprisonment. That 15-year maximum is intended to create parity with offences of a similar kind — in particular arson, which currently carries a 15-year maximum. The government regards it as important that offences of a similar or like nature carry similar penalties. It is for that reason that the government intends to set a 15-year maximum, showing the significance and seriousness of the issue. But it does not support the amendment moved by the opposition, because it would be unfortunate to have different maximum penalties for similar offences.

Where property is damaged — and property includes vegetation and the like by way of crops — it is regarded as damage to property and an offender would ordinarily be charged with arson. It would be completely inappropriate for there to be the technical distinction between the nature of the offence and the nature of the penalty that would result if this legislation carried a maximum penalty of 20 rather than 15 years.

As far as the computer offences are concerned the legislation brings the law into the 21st century and provides an appropriate platform for future development in the law relating to computers. Computer crime, as it has stood for some years in Victoria, has been covered by the Summary Offences Act, and it is clearly an outdated piece of legislation. It merely prohibits gaining access to or entering a computer system without lawful authority and does not in any way deal with the wide and ever-growing range of possibilities open to people in the area of computer crime.

The bill will create offences related to unauthorised access, modification or impairment with intention to commit a serious offence; unauthorised modification of data with the intention of causing impairment; unauthorised impairment of electronic communication; possession of data with intent to commit a computer offence; producing, supplying or obtaining data with the intent to commit a computer offence; unauthorised access to or modification of restricted data; and unauthorised impairment of data held on a computer disk or credit card. Those types of offences indicate the nature of the developments that have occurred in computer crime in recent years and will give authorities appropriate powers and sanctions to deal with the ever-developing area of computer crime.

I note that the legislation does not attempt to define the word ‘computer’. It has been noted by the committees that have looked into and have developed the legislation that previous attempts to define the term ‘computer’ have not stood the test of time. The preferred approach adopted by the government is to allow the term ‘computer’ to be given its ordinary meaning and to leave that meaning to be interpreted by the courts from time to time. That approach will allow for proper and appropriate measures to be dealt with by the courts as time unfolds.

Sabotage is the other issue which is of major importance in the legislation. The bill details the offences created and sets a maximum imprisonment term of 25 years for sabotage and 15 years for threatening sabotage. This indicates the significance the government places on these issues. They are very serious crimes and have to be dealt with accordingly.

The amendment to the Bail Act brings arson causing death within the show cause definitions in the Bail Act and gives parity with other serious offences.

I will briefly deal with the matters raised by the Leader of the National Party in relation to the circulated amendments. In the opinion of the government the proposed amendments are not necessary in these circumstances. The clause dealing with recklessly spreading fire is an inclusive definition; there is no reverse onus in these circumstances and the amendment is simply not necessary. I refer the house to the explanatory memorandum accompanying the bill, which makes it clear that the common-law standard for recklessness will continue to apply in all the circumstances other than the one detailed in the clause.

The clause the Leader of the National Party is concerned about provides an exculpatory example. It is an inclusive example only, and it means that anyone covered by that particular clause will not be guilty of an offence. It does not affect the circumstances not included in that clause. It is for that reason that the government does not support the amendment; it is not necessary.

The government has introduced appropriate and sensible legislation. It will provide for sound and appropriate sentences for the very serious criminal offences that this community unfortunately now faces and will continue to face into the future. It also gives the law enforcement authorities appropriate powers. I am happy to support the bill.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

CONTROL OF WEAPONS AND FIREARMS ACTS (SEARCH POWERS) BILL

Second reading

Debate resumed from 25 March; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Mr WELLS (Scoresby) — It gives me a great deal of pleasure to speak on the Control of Weapons and Firearms Acts (Search Powers) Bill 2003. The background to this bill is that in October last year the government finally acted on calls by the Victoria Police, the Police Association of course, and the Liberal Party that something had to be done to cut the number of people carrying dangerous weapons within the community, especially knives and other items which could be used in assaults, robberies and other violent crimes. But due to the Labor government's inability to organise itself, this bill unfortunately lapsed because of the 30 November election.

The increased fears for and anger about community safety were due to a number of attacks, but I think the genesis of this piece of legislation was the knife attacks in Chapel Street, South Yarra, on 8 July 2002, which I will come back to later. Weapons-related offences have increased dramatically over the last few years. The crime statistics from the Victoria Police for 2001–02 reveal that the use of weapons in the commission of assaults has increased by 37.8 per cent in 2001–02, with the knives category up 33.1 per cent and firearms used as assault weapons up by 46 per cent.

You only have to look at the crime figures to see that since the Bracks government came to power in 1999 crimes against the person have increased by 16.8 per cent. The initiatives in this bill are designed to complement the government's recently launched weapons community education program and of course to equip the Victoria Police with 420 metal detectors for use in every police station across the state.

The purpose of this bill is to provide the Victoria Police with enhanced powers and other measures to search for and detect dangerous weapons. To achieve this the government is going to lower the belief threshold required by police members to justify a lawful search without a warrant for weapons and firearms that are controlled and prohibited under the Control of Weapons Act 1990 or the Firearms Act 1996, and the Liberal Party fully supports this point.

The belief threshold for undertaking a search without a warrant will change from reasonable grounds for belief to reasonable grounds for suspicion. A legal interpretation of 'reasonable grounds for suspicion' is recognised by the courts as having lower evidentiary criteria. This use of reasonable grounds for suspicion will bring the threshold test in Victoria into line with the tests in many of the other states and the United Kingdom, but it will also bring it into line with the test for searches under the Drugs, Poisons and Controlled Substances Act 1981. This bill will bring a level of consistency — in the same way police already search for drugs, for example.

The bill has a number of counterbalancing measures that are designed to minimise the abuse of this power by police. One of those, for example, is that before searching a person the policeman or policewoman has to give their name, rank and the name of the police station to which they belong. I will come back to that in a minute, because it has some practical difficulties, but we will work through them.

The bill also enables the making of regulations for search procedures and record keeping, and it will provide police with the power to demand the production of a firearm licence or an approval to carry a prohibited weapon where there is a reasonable suspicion that an offence has been or is about to be committed. Police will be provided with the power to demand the production of any article suspected of being a prohibited or controlled weapon or firearm. This is designed to maximise the safety of police officers and prevent them from having to carry out more intrusive searches.

Other provisions of the bill give Department of Sustainability and Environment officers the same search powers and the same search threshold criteria as police. That will be very important in, for example, the fishing and abalone industry. The bill creates a new offence of hindering or obstructing Department of Sustainability and Environment officers in their search powers.

The bill also allows police searches for weapons at non-government schools. Prior to this bill the police could search in a government school but did not have the power to search in a non-government school, so this bill brings in that consistency once more.

The Labor government is still grappling with the increase of violent crime in the community. Its 1999 election policy under the heading 'Community safety' and the subheading 'Knives and dangerous weapons' states:

> Since 1993–94 offences committed with a weapon have increased by nearly 50 per cent, offences committed with a knife have increased by a massive 59 per cent.

That is a totally unacceptable increase in six years, and we agree that it is unacceptable. The policy then goes on to state what the Labor government will do:

> Labor recognises that the proliferation of knives and other dangerous weapons must be addressed. Labor will develop innovative strategies to address this problem including:
>
> > banning the sale and display of knives and other weapons that have no legitimate occupational, ceremonial or sporting occupation;
> >
> > banning the sale of knives to under-18-year-olds;
> >
> > tough new restrictions on the marketing of knives and weapons in a way that encourages violent behaviour or in any way suggests a violent application;
> >
> > a limited period of amnesty on knives and other illegal weapons; and
> >
> > sufficient flexibility to provide exceptions for bona fide collectors, antique dealers, hunters, fishermen, and legitimate supervised youth organisations like scouts, guides, et cetera.

We in the Liberal Party agree with all of those measures set out by Labor in its 1999 law and order policy, but we are still waiting on the results of what this government said it was going to do to curb the use of knives in the community. It has failed.

The crime statistics are a very sore point with the Bracks Labor government, because they show how it has failed to curb violent crime in our community. Weapons used in assaults in 2001–02 according to the Victoria Police provisional crime statistics show that bottle and glass assaults are up 48.4 per cent; assaults with firearms are up 46 per cent; assaults with a bat or bar are up 36.7 per cent; and assaults with knives are up 33.1 per cent. So although the government set out its plan to tackle the scourge of the use of knives in our community the end result shows an increase of 33.1 per cent over the last 12 months.

When you put that next to other violent crimes that have occurred in the community under the Bracks Labor government you have to wonder where its priorities are. Homicide is up 32.9 per cent over the last three years, rape is up 8.5 per cent, robbery is up 10.5 per cent, assaults are up 26.8 per cent, abduction is up 14.4 per cent, arson is up 30.9 per cent and aggravated burglary is up 29.6 per cent. If we add arson and aggravated burglary to the violent crime category, violent crime is up 24.7 per cent. Although the opposition supports this legislation, the general community has the right to ask from a wider point of view when there will be results in curbing the use of knives and violence in the general community.

As I mentioned, the genesis for this legislation was an awful incident that happened in Chapel Street, South Yarra, on or around about 8 July last year. I will refer to some of the press releases at the time. On Monday, 8 July 2002, the AAP Newswire service under the headline 'Man stabbed to death in South Yarra' states:

> A man was stabbed to death during an altercation in inner Melbourne early this morning.
>
> Homicide detectives closed off Chapel Street in South Yarra between Toorak Road and the north end of Church Street bridge while investigations are under way.
>
> …
>
> Investigators believe an altercation left a man suffering mortal wounds …
>
> The dead man is yet to be identified.

I refer to an AAP news article a little later in the day:

> Detective Senior Sergeant Jeff Maher says the man was attacked with something similar to a machete, a sword or a meat cleaver about 3.15 a.m. …
>
> He says the death followed an altercation that began at licensed premises in Daly Street and continued along Chapel Street to Alexandra Avenue, where the man died.
>
> He told ABC radio a number of males and motor vehicles were involved.
>
> About six men are in police custody, helping with inquiries.

Later on the same day, 8 July, an AAP Newswire article headline again states 'Vic: one dead, two feared drowned after nightclub fight'.

I cannot imagine the amount of fear these men would have experienced when they were being chased by men with either machetes or knives and jumped into the Yarra River to try and save themselves. The news article states:

> A fight in a suburban Melbourne nightclub has led to one man being hacked to death while another two men may have drowned in the Yarra River. The fight happened almost exactly a year after another man was fatally stabbed in a nightclub in the same South Yarra street.
>
> Police say the unidentified man killed overnight suffered horrendous injuries from a meat clever, sword or machete.

This was a brutal crime and something had to be done, but I guess it is a little ironic that although the incident happened on 8 July 2002 we are only just now seeing this piece of legislation come through.

I will now talk about what sort of weapons will be banned or controlled under this piece of legislation. As I said, the bill will decrease the threshold as to how a policeman or policewoman goes about searching for prohibited or controlled weapons so it is important to note what sort of weapons will be included in it and through regulation — weapons the police will be searching for to make sure that we have a safer community. Prohibited weapons are weapons that are considered totally inappropriate for general possession or use because they are exclusively offensive in nature. The Control of Weapons Regulations 2000 set out those weapons that are classified as prohibited weapons. These weapons include flick knives, daggers, knuckle-dusters and blow guns. Such weapons cannot be imported. A person may have access to a prohibited weapon only if he or she has obtained an approval from the Chief Commissioner of Police or falls within exemption made by the Governor in Council.

Prohibited weapons are different from controlled weapons. Controlled weapons are weapons that are designed for use for legitimate purposes but which need to be regulated because of the danger they pose if misused. The Control of Weapons Regulations 2000 set out those weapons that are classified as controlled weapons. In addition the category of controlled weapons includes all knives that are not prescribed as prohibited weapons. A person may possess, carry and use a controlled weapon provided he or she has a lawful excuse. A lawful excuse includes legitimate recreational, sporting, collecting or employment activities but does not include self-defence.

Obviously if a farmer was walking down the main street of Bairnsdale carrying a Swiss army knife you would expect that he had a legitimate purpose because he would obviously be using that for his employment — farming. However, if you had a different person walking down that same street carrying a samurai sword you would say that was either a controlled or a prohibited weapon. The rules are clear. The police have the discretion to make that call, which is fair and reasonable and part of their operational duties.

One of the real problems we non-lawyers have is how to define — —

Ms Allan — It is a positive.

Mr WELLS — That is right. One of the positives for we non-lawyers is how to explain to the general public the need for the change between having reasonable grounds for belief and having reasonable grounds for suspicion, because how would we determine which would have the lower threshold if it came before a court?

Sitting suspended 6.29 p.m. until 8.03 p.m.

Mr WELLS — Before the dinner break I was talking about the Control of Weapons and Firearms Acts (Search Powers) Bill, but more importantly about the definition of grounds for belief as compared to reasonable grounds for suspicion. The opposition sought legal advice, and we were very happy to receive that from the Victorian Bar Council. This is what it said about the difference between reasonable grounds for belief and reasonable grounds for suspicion:

> The distinction between 'reasonable grounds for belief' and 'reasonable grounds for suspicion' was made clear by the High Court of Australia in *George v. Rockett and Another* (1990) 93 ALR 483. That case concerned the validity of a warrant to search property, and the duty of a justice to be satisfied of certain matters before issuing such a warrant. The relevant legislation required that a justice be satisfied that there are reasonable grounds for believing that a specified thing will afford evidence as to the commission of an offence, and that there are reasonable grounds for suspecting that the specified thing exists and is in any house, place etc. The court held that, for there to be reasonable grounds for a state of mind — including suspicion or belief — there must exist facts which are sufficient to induce that state of mind in a reasonable person. The court said that a 'suspicion' that something exists is more than a mere idle wondering whether it exists or not; it is a positive feeling of actual apprehension or mistrust amounting to a slight opinion, but without sufficient evidence. A 'belief' is an inclination of the mind towards assenting to, rather than rejecting, a proposition and the grounds which can induce that inclination of the mind may, depending on the circumstances, leave something to surmise or conjecture. The difference between the two states of mind is this: 'suspicion' is a state of conjecture or surmise where proof is lacking, whereas 'belief' is a state of clear inclination towards the existence of the subject matter based upon the existence of some evidence short of actual proof.

I am sure that all the police out there on the streets would read that ruling and have a clear understanding of reasonable grounds for belief and reasonable grounds for suspicion. But, as we said, the Liberal opposition does support this aspect of the bill. By lowering the threshold it does give police greater powers to search.

As I mentioned in my earlier contribution, this legislation brings the search for weapons into line with the search for drugs. It was pointed out in this letter from the Victorian Bar Council that under the Drugs, Poisons and Controlled Substances Act 1981:

> … a police officer may search a person for drugs based upon reasonable grounds for suspicion that a person is in possession of drugs. However, the existence of a lower threshold test under one piece of legislation does not automatically justify the introduction of the same test in different legislation. Search of persons without warrant based upon either reasonable grounds for belief or suspicion must be regarded as exceptional. In this context, it is relevant to point out that the arrest of a person by a police officer or member of the public can only be justified if the arresting officer or member of the public has reasonable grounds for believing that an offence is being committed …

Another aspect of this legislation is that this power will be used in areas of high incidence — that is, the police do not pick a particular area just because of the demographics or background of the people living there but go to areas of high incidence of violent crime. I suspect that after what happened in Chapel Street when those people were chased and two ended up drowning in the Yarra River that at that time Chapel Street would have been an area of high incidence of crime.

The Police Association raised a very important point. It understands the need for this bill and supports it. However, it does point out in a letter that:

> … a mandatory requirement for a police member to inform the person being searched of his or her name, rank and place of duty in all cases, regardless of whether or not the information is requested, is unnecessary.

It does have a point: police members are already under an obligation to reveal their identity upon request and all police officers in uniform are required to wear identifying name tags. The Police Association also believes that:

> … requiring a member, if not in uniform, to provide evidence that he or she is a police member is also unnecessary in terms of a specific legislative clause for the reasons already provided. It is clear that police members are required to produce evidence of their identity when out of uniform.

That is commonsense.

I guess that, for example, if a police member goes up to a particular person in the central business district suspecting that the person is carrying a prohibited weapon, the police member may not in every case be able to give his or her name and identification before grabbing and searching that person. So we will watch with interest how this is put into practice.

Noel McNamara, from the Crime Victims Support Association, has said that victims of crime are obviously in favour of this legislation: they want a less violent community than we already have.

I notice that the bill requires the Chief Commissioner of Police to report to the responsible minister on searches without warrants. That is a good balancing condition to put on the police force but I am disappointed that, although it is reported to the minister it is not reported to Parliament — you would think that would make more sense.

With those few words, the opposition supports the bill and wishes it a speedy passage.

Dr SYKES (Benalla) — I would like to continue the discussion on the Control of Weapons and Firearms Acts (Search Powers) Bill. The National Party supports this bill, because it makes it easier for a member of the police force to search for weapons without a warrant, because it provides safeguards against the abuse of this increased power and because it requires reporting, which enables the success of the strategy to be monitored.

The increase in powers is necessary because of the increase in weapons-related offences. As we have been told, there has been an increase in offences involving weapons from 14 per cent to 20 per cent over the past six years. It is interesting to consider the cost of assaults, some of which involves weapons. According to an Australian Institute of Criminology *Trends and Issues in Crime and Criminal Justice* paper which was published in April this year, assaults on average cost about $1800, and the total cost to Australia in 2001 was $1.4 billion. It is clearly appropriate to be attempting to address this issue.

In speaking on this subject I have had some experience of legislation and firearms in my career in veterinary science. Based on that experience I offer two comments. The first is about some guidance given to me by a senior departmental fellow about 30 years ago. He made it quite clear that you cannot legislate for cooperation, that legislation alone will not solve the problems we are attempting to address. What we require, in conjunction with legislation, is a change in attitude. That means addressing the social issues that underpin the causes of assaults involving weapons. It

also means looking at things like increasing people's self-esteem and their respect for themselves and others in the community, including the police. There is a need to provide role models for people and increase the appreciation of family and community values. With that in mind, it is appropriate that there be a concurrent community education program to help address this aspect of the issue.

The second point that I would like to make is that responsible firearm ownership should not be compromised by efforts to combat illegal possession and misuse. I had some experience with this in the Northern Territory back in the 1980s, when we were eradicating tuberculosis. Regrettably that involved the destruction of hundreds of thousands of animals, a lot of it by shooting from helicopters using antipersonnel weapons. During the time I was in charge of that program, and I believe throughout the program as a whole, there were no incidents of those weapons being misused by the officers doing that work. I think that reflected the professionalism of the staff of the organisation using the weapons. That was supported by training and by the recertification of those people on an annual basis. Concurrently there was a tightening of the possession requirements as community attitudes changed, and we unfortunately ran into some situations with the criminal misuse of firearms.

I also make the comment that the complementary legislation in the Parliament — the Firearms (Trafficking and Handgun Control) Bill — attempts to address some of these issues of responsible firearm ownership and management. I am pleased to note that some practical amendments that were pushed by the National Party on behalf of responsible shooters and hunters have been taken on board by the government and will be incorporated into that legislation. As I said, that is a process that goes hand in glove with this legislation.

I refer to the specific aspects of the bill. The police need the increase in powers, but with that comes the expectation of ongoing training and an assurance that the appropriate culture will ensure the proper use of those powers, in addition to the legal requirement for police officers to advise those being searched of their name, rank and place of duty, and in the case of plain-clothes police, to provide evidence of their membership of the police force.

The second specific issue I would like to comment on is consistency. Clearly, enabling searching on non-government and government school premises is logical and appropriate. Providing Department of Sustainability and Environment (DSE) staff with the same powers is similarly appropriate. However, I will make some comments based on experiences in the recent fires, where in a couple of instances logic seemed to go out the door.

One related to the apparent insistence by DSE staff on banning the carrying of firearms in national parks, even when there was a need to humanely destroy animals that had been severely burned and were going to die as a result of their injuries. That was an example of the illogical application of legislation and of not being practical and recognising that some flexibility in the use of firearms would have prevented serious animal suffering. Equally I have been told of another instance of the application of legislation, and that relates to a claim by hunters that they are being persecuted over the use of torches that can be determined to be spotlights by particularly meticulous officers.

The point I am trying to highlight is that while we need the legislation and the powers, we also expect that they will be used appropriately, reflecting an attitude and culture among those who have the powers that ensures there is no abuse.

The reporting requirement is again appropriate. The reporting should be timely, relevant and focused on activities and, importantly, report outcomes. As a result of that reporting there should be an analysis, a monitoring and a review of the results of the strategy against defined and predetermined performance criteria. That reporting requirement should be seen as a tool that enables further progress in combating assault with weapons.

I believe that allowing a searched person to have access to a copy of the report provides the desired protection for that person's civil liberties. In relation to other weapons, what constitutes a weapon is limited only by the imagination and ingenuity of the user. I believe the legislation adequately covers that with the three categories of 'prohibited weapons', 'controlled weapons' and 'dangerous articles'. I also support the use of metal detectors, which is a commonsense application of high technology. It is a non-invasive and effective technique, and it is logical.

As is so often the case, it is the regulations that can make or break legislation. The devil can be in the detail, and I therefore request that there be ongoing and extensive consultation with affected groups to ensure a balanced and rational outcome.

In conclusion, the National Party supports the legislation. We support ongoing consultation during the development and implementation of the regulations.

We also support reviewing the annual reports and assessing the effectiveness of the strategy.

Mr MILDENHALL (Footscray) — This is one of those Groundhog Day debates. A bill in almost similar form was passed in October last year. This bill has also been passed by another place — on both occasions with the support of the opposition parties — and now we are about to do it again.

Mr Mulder interjected.

Mr MILDENHALL — I think we have got an exhibit in the chamber!

Mr Mulder interjected.

The ACTING SPEAKER (Mr Kotsiras) — Order! The member, on his own.

Mr MILDENHALL — In fact, so close is it to Groundhog Day that we had the same speech from the Liberal Party that we heard last year, the difference being that last year Liberal Party members were running out the law and order campaign, ramping up the fear campaign in the community to try to demonstrate, totally unsuccessfully, that the community was in far greater danger at the time than it had been before. The common ground that the government had with the opposition was that the community was looking for and expected a firm response to the Chapel Street incident and was also looking for a systematic response to the progressively greater number of assaults that had been occurring over many years with a greater proportion occurring with the use of a weapon. This legislation, the Control of Weapons and Firearms Acts (Search Powers) Bill, was designed to address that issue.

The major thing that went wrong with the opposition's plan at that stage was that while it was trumpeting an increased crime rate the data revealed that the crime rate in Victoria was in fact falling for the first time in many years as a direct result of the substantial increase in resources and effort in crime prevention and in crime detection and prosecution that the Bracks government has been responsible for.

The bill sets out to do a number of things, and the key one is to lower the standard of conviction required by a police member and, as we mentioned before, by a Department of Sustainability and Environment (DSE) officer under section 153A of the Firearms Act 1996 to justify a search without warrant in a public place for a prohibited and controlled weapon or dangerous article or firearm from reasonable grounds for belief to reasonable grounds for suspicion. Many opposition speakers have had a bit of trouble with that concept, because being suspicious that something is going on and believing that something is going on are similar, and members opposite cannot distinguish between them. From my way of thinking — and I think it helps to not be a lawyer in these situations — if I believe something is going on there is far greater substance in my conviction than merely having a degree of suspicion.

I acknowledge that the member for Scoresby has gone to some lengths to provide a word for word description from the High Court of Australia case of *George v. Rockett and Another* of 1990 to set out the grounds for describing belief as a higher standard of conviction than suspicion. I think it was the member for Richmond who in a contribution of October last year set out the simple statement from that case in which it was held that suspicion was a state of conjecture or surmise where proof is lacking whereas belief is based on the existence of some evidence but short of actual proof. That is a fairly direct statement, that one expression is based on the existence of some evidence but short of actual proof, and the other expression conveys only conjecture or surmise. They are clearly different concepts, and that difference is creating this lower threshold and giving police greater power to act in certain circumstances.

The bill also sets out to introduce a power for police to demand the production of an article detected during a search and seeks to elevate a number of safeguards currently contained in the police operating procedures manual to the status of an act or regulation to counterbalance the lowering of the search threshold. That is an important protection for the community. The community expects the police to enjoy a substantial increase in powers so there needs to be some degree of protection for the community in instances where some might argue that there could be an abuse of those powers.

Those protections include the safeguards in the police operating procedures, the requirement for the production of annual reports to the minister on the exercise of the powers and the detailed requirement on a police member to inform persons to be searched of his or her name, rank and place of duty in all cases regardless of whether or not the information is requested. There is a series of such provisions.

The bill also sets out to amend the standard of conviction required for an officer to demand the production of a firearms licence to equate with the new search threshold and introduces a power for police to demand the production of an approval to possess a prohibited weapon under the Weapons Act. It expands

the application of the search provisions in the Weapons Act to non-government schools to match the powers available for police to search in government schools. That is not to suggest that there is any greater likelihood of weapons being concealed or used in non-government schools.

During the debates I have referred to mention has been made of the anomaly in the existing legislation. The bill complements a comprehensive package of measures introduced by the Bracks government to tackle this phenomenon of increasing prevalence of the carriage and use of weapons, including the weapons community education program that was conducted principally last year and the provision of 420 new handheld metal detectors to police stations and police officers. The new metal detectors have two distinct advantages: as no physical contact is made with the person being searched the search is less invasive than the initial pat search or full search which can produce a protest from potential suspects; and the use of a metal detector is obviously safer for the police officer conducting the search.

This is part of a comprehensive package. The legislation is supported across the board. It includes an amendment drafted as a result of the debate last year when it was suggested by the former member for Bass, Susan Davies. Dangerous articles adapted for use as a weapon have been included in the definition and are caught up in the act. This comprehensive legislation enjoys the support of all members of this house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until later this day.

PORT SERVICES (PORT OF MELBOURNE REFORM) BILL

Second reading

Debate resumed from 9 April; motion of Mr BATCHELOR (Minister for Transport).

Mr MULDER (Polwarth) — I rise to contribute to the debate on the Port Services (Port of Melbourne Reform) Bill. The bill will implement the government's response to Professor Bill Russell's report entitled *The Next Wave of Port Reform in Victoria* so far as it effects the port of Melbourne. The opposition does not oppose the legislation but throughout the debate I will raise concerns relating to the implementation of the legislation and the role of the authority.

The opposition consulted widely on the bill. I acknowledge the tremendous input of the Honourable Ron Bowden in another place who took control of this bill for the opposition under difficult circumstances and in the last few weeks put in enormous work in the consultation that took place. The opposition had discussions with Patrick Shipping, the Boating Industry Association, Toll Holdings, the port of Geelong, the Australian Shippers Association, P & O and Linfox. We also contacted the Victorian Transport Association and the *Spirit of Tasmania*. Those two organisations did not see fit to contribute or reply to the opposition and we can only assume they did not have concerns regarding the legislation.

Overall, there seems to be support for creating a single authority, the Port of Melbourne Corporation. The opposition recognises that this will streamline the port's operation and should expedite decision making and allow for a whole-of-business approach to the port's operation and for land-side and waterside management decisions to be made parallel with one another with one lot of decision-makers. Anybody who has been involved in a business where you have several bodies with decision-making roles or want to flex their muscle in relation to decisions that have been made understands that it is difficult to take on board the different politics of different organisations in being able to facilitate and expedite decisions.

The ports have been through considerable reform. The previous government embarked on a reform process within the ports. The two corporations have been tested as separate entities and that has proved to have some difficulties. As I said, we understand that port reform is an ongoing process and the fact that the government is prepared to follow on with the previous reform of ports implemented by the Liberal Party when in government indicates that at least it is prepared to listen and watch what it takes to be a reformist government. The Labor government is not good at leading, but it has indicated, at least on this occasion, that it is prepared to follow on with the work carried out by the previous Liberal government.

I refer to some issues raised by some of the organisations. The Boating Industry Association had concerns about diminished access to government to discuss issues of concern to them. The association raised issues such as transit speeds in the Yarra River and port area approaches. The association was also concerned that the new structure would minimise the government's direct responsibility and therefore any political accountability. All I can say to the boating association is that given the position it is in, working on a harbour and near the water, if in the past it has had any form of communication, attachment or direct access to government, it is one of the lucky and few

organisations across the state that is in that position. Whether I move through my electorate or throughout Victoria I find that the government has developed a bunker mentality in dealing with organisations or groups who may be asking for assistance or direction, but the government will not take that on board.

In my electorate there is no greater example of that than with what has happened with the pier at Lorne. Commercial fishermen operating from the pier, who have had businesses running for many years that have relied heavily on assistance and access to government have put up with a crane being broken down for well over a month. The fishermen with boats on the pier cannot fish. One boat was out at sea with all its gear but could not fish. In relation to access to government I can understand the association's concerns because the government has treated the people of Lorne who operate from the pier with utter contempt and arrogance. I do not think that in my period as a member of Parliament I have seen such a terrible act carried out by the minister or his department regarding not being prepared to talk to people. I understand the concerns of the Boating Industry Association in not having proper access to government and it stepping back from the decision-making process, but given its record I do not think the association should worry too much because the government's decision-making process and ability to get on with the job have diminished very quickly.

It is also amazing, as I said, that several ministers have visited that electorate over issues to do with the Geelong pier, but they did not have the courtesy to call in and discuss them with the people whose livelihoods are at risk.

Toll Holdings and the Port of Geelong Authority naturally have concerns about decisions that may have a detrimental effect on the port of Geelong. They do not know whether their concerns and the future of the port will be well served by a corporation that has significant commercial muscle. They are concerned that the corporation could play with the proposed tolls on vessels to the disadvantage of the port. When there is one entity which may have a home advantage — I see the member for South Barwon has just wandered into the chamber, and I am sure he will be fighting on behalf of the port of Geelong — it is able to levy tolls on ships, docking tolls and channel tolls. The corporation may also have a bit of a me-first attitude in relation to disadvantaging the port of Geelong, because through toll or charge arrangements it is easy for it to direct particular businesses away from one port and into another.

A further concern for Geelong is the fact that channels, for which the new corporation will be responsible, will only be declared by an order in council, thereby enabling the government to delay declaring channels affecting the port of Geelong. That could in its own right have competitive implications, which is of concern to people in Geelong and to the businesses that use the port of Geelong.

Certainly the farmers in my electorate are concerned. Throughout the harvesting months I went down to the port of Geelong with them and stood there among the rows and rows of grain trucks. They would be enormously affected if that port, through the new corporation, became expensive, because all those costs and charges end up on the front doorstep of the end producer, which is always the farmer. I hope and trust that the members who represent Geelong will be in there punching and fighting — they certainly should be — to ensure that this legislation does not disadvantage the Geelong port.

The Australian Shipowners Association is concerned that much of the traffic going into the port of Melbourne is domestic trade via small ships, with limited international trade. It is concerned that the cost burden of any improvements to the port will be borne by smaller shipowners, who will not necessarily derive any great benefit. P & O also has expressed similar concerns.

This is always an issue, particularly with governments that are flooded with ministers and members who do not have commercial or business backgrounds. Such governments make decisions, or have input into or direct decisions made by corporations, or whatever, without realising and understanding the full ramifications, particularly for smaller businesses and operators. We voice the concerns of the smaller shipowners about domestic trade. We hope they will not be hit hard by the corporatisation of the port and the setting up of the new authority, given the implications for their operations.

There always seems to be an attitude, whether it comes from corporations or statutory authorities, that someone can pay. They do not have the same mentality as commercial businesses, in that private enterprise is always trying to wind back costs to become more competitive. There seems to be an attitude that someone at the end will pay. They take the attitude that they are in charge, that they will make decisions about costs and charges and that somewhere down the line someone will pick it up.

Victorians have to be aware of the state's location when considering what to do with our port, how our port is viewed in relation to its competitiveness and whether people will decide to ship through the port of Melbourne. We have to realise that we sit at the bottom end of this great country and that a lot of the cargo ends up taking an extra trip, or an extra few hundred kilometres, to get through the port of Melbourne.

Over the three to four years we have had a Labor government in this state we have handed over our competitive advantage time and again. Again today we have seen an issue with motor car registration. Someone said it is okay because it is only $17 a household, but it adds up to $60 million a year that disappears out of the pockets of Victorians. Once again those costs are always borne by businesses somewhere along the way.

The results of our continuing to work through a process of making ourselves uncompetitive and of the corporation heading down the path of saying it believes the people utilising the port of Melbourne can continue to wear any cost burdens it may impose, are never seen on day one. Everyone says, 'We have made a decision, it has hit the press and nothing has happened'. It is always a year or two out, when people are starting to wind up their businesses, that they start to look at the costs and charges that are imposed at different calls. They look at the call drop-offs around Australia, and they look at the port of Melbourne and say, 'Costs and charges are a little out of control there. There are other mechanisms and opportunities open to us. We will make the decision to pull out and pull out now' — and then suddenly people start to scramble for new business.

The issue should never be one of how much more you can charge; it should be about how much less you should be prepared to take. I note the Minister for Increasing Motor Car Registration has just entered the house.

Mr Pandazopoulos interjected.

Mr MULDER — Yes, I have. We have consulted Linfox on the matter. It is concerned that fair and reasonable access to waterfront infrastructure and cargo assembly areas continue for multiple cargo operators. If any major charges are envisaged for multiple cargo operators, one would hope that in terms of its business plan and its strategies for future development in and around the port, the corporation would certainly consult widely with the existing users to ensure all the concerns about access matters are addressed fully and that those decisions are not just made, as they seem to be made by the Bracks Labor government, after which it is hoped that somewhere down the line someone will pick up the costs of those types of decisions.

While the report by Professor Russell's committee may have been described as neutral, the fact is that it was loaded with bureaucrats from the departments of Premier and Cabinet, Treasury and Finance, and Infrastructure. The fact that the committee analysed and reported on the 1995 reforms explains why there was no real focus on their benefits, particularly in relation to costs and the people using the port.

There were some great outcomes in cost reductions. As I said, I imagine that at this point the users of the port — the organisations and the shipping companies — would be starting to feel somewhat uneasy, given the last two or three weeks of the Bracks Labor government, including its obvious inability to handle finances and to control spending, and the fact that it seems to have the attitude that irrespective of what decisions it makes, someone out there will pay and everyone has the money to do it.

The objectives of the new corporation are much broader than those of the Melbourne Port Corporation. They include managing and developing the port in an economically, socially and environmentally sustainable manner, ensuring the port is effectively integrated with other systems or infrastructure in facilitating the sustainable growth of trade. We have some concerns about that. I guess all honourable members would be aware of the industrial relations problems created at the port over the years and the very damaging impact they had particularly on rural Victoria, regional Victoria and Victoria's manufacturers, who were looking to export produce and stock that were left on the wharves to rot while successive Labor governments failed to reel in the power of the unions.

We are very concerned that this legislation, which, with the establishment of this new authority, once again gives minority groups, and unions in particular — although I do not know that we should call them a minority group in talking about the Bracks Labor government, because they seem to be the tail that wags the dog — the potential to increase their power. We are concerned about the impact that will have on our wharves.

It is interesting to note an article in the *Herald Sun* — tolls seem to be the flavour of the month — headed '$20 000 toll tipped for the bay ships'. I ask the question, 'Why not?'. Cargo ships could face a $20 000 Frankston–Mitcham freeway-style toll to dock in Melbourne under the newly beefed-up port corporation.

Once again, and I will enforce this issue, if the corporation believes, as does the Bracks Labor government, that business has never-ending money resources and very deep pockets, it needs to think again. We are in a very competitive environment.

Margins are low, margins are tight, and if you are going to start this type of activity — even though we have had assurances from a spokesperson from the minister's office that this is not set up as a funding model, it is set up to simply streamline and corporatise the port — one could say, 'Hang on a minute, we were also told that the Mitcham–Frankston freeway was not set up as a funding model'. However, as well as losing practically every dollar that was handed on to it at the change of government, this government has collected another $2 billion over and above 1999 revenue figures, which makes something in the order of $4 billion and that seems to have disappeared down one great hole as well. No-one knows where the money has gone. To me it is to be expected that comments would be made in relation to the potential for tolls for the use of the channels, tolls for docking at the port and tolls for anything else you could imagine using a toll for with this tolling Bracks government.

As I said, we have assurances; the spokesperson said that the legislation was not a funding model. I am always suspicious of the fact that when you have a tough issue and you put it to a minister, he sends out a spokesperson. I have never seen a government so keen on spokespersons as the Bracks government. If it is a good-news story you will see them marching up to the camera bleating and howling but as soon as there is a tough decision or a tough issue they always send out a spokesperson. Then of course it gets back to the issue of saying, 'I did not say that, it was a spokesperson and they did not understand the issue when the question was put to them'. You can run but you cannot hide, and what we have discovered in the last two to three weeks with this Labor government is that little or nothing has changed since those shocking years of the Cain-Kirner era. In fact if you have a look at a time frame of three to four years out from the start of each government's term the similarities are quite frightening.

An issue has been raised in relation to the chief executive officer of Shipping Australia, Mr Llew Russell, who said that shipowners were also concerned about possible tolls. He said shipowners already paid about $30 000 in port fees, including $10 000 for using existing channels. He feared that fees could double and make Melbourne an uncompetitive port. The issue I have been addressing throughout my contribution is that there does not seem to be an understanding of competitive industry or an understanding of tight margins. There does not seem to be an understanding by the Bracks government that perhaps we are going to cost ourselves out of business. But I guess if you have spent everything you have, if you are stony broke and you have to find other ways and means of raising income, then perhaps tolling the port could be an answer.

But what about all of those other smaller boat owners — and I am talking about the smaller runabouts and fishing boats — who have not envisaged the fact that they could end up with a tolling operation as they leave smaller jetties or use facilities throughout the bay? Who would know how far this government might go in trying to put its hands as deeply as it can into the pockets of Victorians to cover up for the shocking situation it has created in Victoria. It is quite unbelievable to hear the comments from what I call the everyday people such as, 'Don't tell me they have done it again'; that is what they are all saying, 'In four years they have done it again'.

It is quite extraordinary to hear those comments, and I am talking about the people you mix with at the footy on a Saturday or have a beer with at the pub on a Friday night. They are not all what I would consider to be the traditional type of Liberal voters; they are just everyday, ordinary people who survive on $400 or $500 a week and who count every dollar that is handed out. That is what they saying, 'Don't tell me they have done it again'. Well, they have done it again.

One of the problems in relation to the corporation is its virtually unrestricted commercial powers. The newspaper article also refers to the fact that corporatisation and combining the infrastructure and channel responsibilities give the corporation the ability to impose costs on port users to cover massive expected future port and channel investments. Someone is going to have to pay for it. One option is for it to be paid for by borrowings through the corporation if the government decides to move down a process of port development — and borrowings are never looked upon in this day and age as something to be afraid of.

I can remember when I operated a business having an overdraft of 19.5 per cent, and when you went over your limit you copped another 3 per cent on top of that. People were quite fearful when they spoke of borrowings. But because we have what is considered at the moment a reasonably friendly borrowing environment, borrowing heaps of money and operating on commercial rates of 6, 7 or 8 per cent is an issue we can handle at this point. However, as we know, borrowing rates have a habit of changing and catching people up in the process, and someone finally has to

pay. Again we have a potential problem in the government's attitude to borrowing, with Labor's history of financial mismanagement and the corporation operating maybe at arm's length but also under some form of control by the Bracks government.

I will conclude with those few comments, except to say there has been overwhelming support for certain aspects of the bill but the issue is always in the implementation. The issue is always in who ends up running the corporation, which minister is directing the traffic, how much money we need to make from the port, how much money do we think we can screw out of the people who are going to use, and whether we really have the long-term interests of Victoria at heart or whether we want to protect the reputation of a Treasurer who is on his way to emulating the feats of a previous Labor Treasurer in financial mismanagement — Rob Jolly, who was hopeless in every respect. In fact, I think he has shrunk.

An honourable member interjected.

Mr MULDER — Well, they are not walking tall at the moment, and it is no wonder!

On those closing notes, I wish the bill a speedy passage.

Mr WALSH (Swan Hill) — As we all know, the purpose of the bill is to amend the Port Services Act 1995 to constitute a new port corporation — that is, a new body to be known as the Port of Melbourne Corporation. This new corporation will succeed the Melbourne Port Corporation which will be abolished by the legislation.

Melbourne port is a vital link to our export industries. In the second-reading speech the minister states that the ports:

> … play a crucial role not only in the economy of this state but also nationally. For instance, each year they handle in the order of 28 per cent of Australia's overall trade and 37 per cent of this country's container trade.

So the Melbourne port is a vital link between production and export markets particularly for country Victoria where something like 70 per cent of what is produced is exported out of the state. The food processing and agriculture sector is one of the largest employment sectors of this state. The jobs and investment that have been created, particularly in the regions in the last decade, are well documented. We hear a lot about the car industry in Victoria but the number of jobs created in the car industry pales into insignificance when compared with the number of jobs created in the food processing sector.

No doubt most members have driven across the West Gate Bridge at some stage. As you drive across the bridge you can look off to the Melbourne port and see a hive of activity and a very industrious port with a lot of shipping.

An analysis of the port, and the container port in particular, would show that the dairy industry is the single largest user of the Melbourne container port. The dairy industry sends a huge volume and value, particularly of processed dairy products, out of the Melbourne port.

We need to remember that the Melbourne port has not always been the most efficient in the world. We should remember the decades of high costs, the strikes and the destruction to turnaround times for products coming into the port and ships going out. Plenty of people can remember the long queues of trucks with drivers trying to get their timeslots to unload containers at the Melbourne port container terminal and the accepted practice of giving $50 and $100 backhanders to get a spot in the queue so that they could unload their trucks. A lot of ships did not want to come to Australia, in particular to the port of Melbourne, because they could easily be locked up there with demarcation disputes and strikes and lose money for the owners. They would be held up in the port of Melbourne and would not be able to get their containers back onto the routes for overseas markets.

We can probably all remember the port battles of the mid-1990s and the power that the Maritime Union of Australia (MUA) wielded around the port of Melbourne. We can remember the featherbedding that went on for its members to entrench themselves in some very low productivity jobs that cost a lot of money. No doubt it was spoken about in this house at the time but I commend the National Farmers Federation and particularly its president, Don McGauchie, for the meritorious work done in reforming the Melbourne container port. The establishment of P & C Stevedores has left us a huge legacy: a very efficient port.

We can very easily forget the pressure the people who fought to get those reforms were placed under — the intimidation, the violence and the death threats, and the fact that a lot of the people involved had to put their families into hiding because of the threats that were made not only against them but also against their families.

We can all remember the featherbedding of jobs that went on. When there was a tea break a bus took people back to the tea canteen; but not only was there a bus

driver, they usually employed someone to open the door, someone to sweep the bus and a cleaner in the canteen room whose only job was to clean the canteen after the tea break. These were jobs created for the people in the MUA so they would not be retrenched.

Inefficiencies were built into the system all the time. We had one of the lowest crane lift rates in the world. Compared to the port of Singapore, we were an absolute disgrace. I remember seeing the television news when two former premiers from this house were linking arms with a former prime minister of Australia and actually fighting to entrench the inefficiencies of the Melbourne port. It was a disgrace!

The outcomes of that dispute were that the crane lift rates in the port were doubled and we had a significant cost reduction per container for our export industries, which helped us to be more world competitive and to create more jobs in the food and agriculture sector and so create employment. It helped set the scene for the huge economic growth we have seen in this state.

The previous Kennett government had a target of $12 billion worth of exports out of this state by 2010. It was a very good target and a very good project and one of the things that the current government picked up on when it came into office. The Melbourne port is the key to that whole chain of job creation in the $12 billion worth of exports. It is our gateway to the world. It is very important that we keep a highly competitive Melbourne port.

Clause 5 states that the objectives of the Melbourne Port Corporation are:

> (a) to manage and develop the port of Melbourne in an economically, socially and environmentally sustainable manner.

We need to make sure there is a particular emphasis on the economic development of the port so that we can keep a competitive port.

As I have said, it is the gateway to the world for our exports. We need to make sure that we keep it there. The National Party has had some issues with proposed section 13, and particularly the functions of the Port of Melbourne Corporation (PMC). Paragraph (d) of subclause (1) refers to one of the functions of the port as being:

> to manage, or enable and control the management by others of, the whole or any part of the port of Melbourne.

Paragraph (e) of the same subclause refers to another function of the Port of Melbourne Corporation as being:

> to provide, or enable and control the provision by others of, services for the operation of the port of Melbourne.

The National Party has had considerable concerns that, depending on how the PMC is run, it could lead to some inefficiencies in the market. I thank the minister for his written response which has clarified that, which I will read into *Hansard*. His letter reads:

> Legal advice provided to my department confirms that the functions as drafted are appropriate and do not provide the new Port of Melbourne Corporation (PMC) with unduly broad or sweeping powers. Specifically:
>
> > The use of the word 'control' is intended to ensure that the PMC retains and is seen to retain ultimate accountability for the way the port of Melbourne is managed and to ensure that where the PMC is arranging for the provision of service(s) by a third party, it retains appropriate accountability for the quality and other attributes of that service.
> >
> > The use of the term 'control' does not equate to increased power allowing the PMC to interfere in the management or operations of businesses within the port. The extent of the PMC's involvement in the management or operations of such businesses will depend on the rights and obligations of PMC and businesses as laid down in relevant contracts, leases and the like. The statutory powers of the PMC are set out in proposed section 14 and are very similar to the powers already possessed by the Port of Melbourne Corporation.

Further on the letter states:

> > In addition, the PMC will be required to operate under the 'general direction and control of the minister' as operationalised through processes for the appointment of the board of directors, annual approval of the corporate plan and specific direction-making powers.
>
> This advice has been checked with the chief parliamentary counsel, who confirms that the bill could not be interpreted to provide the new PMC with the ability to control the management of businesses within the port. In his view, very clear language and explicit provisions would be required to have that effect.

That letter has alleviated our fears that we could end up with an inefficient port. Paragraph (f) of proposed section 13(1) refers to promoting and marketing the port of Melbourne. This is a very important part of the functions of the port. If anyone has read any of the business magazines or watched television, they would have seen that the port of Brisbane and the port of Botany Bay are both out there advertising for business, both with very competitive shipping rates. We need to make sure we keep the port of Melbourne efficient so it can actually attract business. It means a lot for Victoria by way of jobs and business.

Proposed section 13(2)(g) lists another PMC function as being:

> to facilitate the integration of infrastructure and logistic systems in the port of Melbourne with relevant systems outside the port.

This is an interesting paragraph. The current government has shelved the idea of standardising and upgrading the railway lines of Victoria. I would have thought that a key part of the success of the port of Melbourne would involve making sure we had an efficient transport structure around Victoria so we could get containers to the Melbourne port as cheaply and as efficiently as possible.

If you take as an example the mineral sands industry developments in north-west Victoria and the effect of shelving the standardisation and upgrade of the rail tracks, you can see that Victoria runs a very real risk of its mineral sands business being poached to the South Australian ports. The opening of the Alice Springs–Darwin railway line means that if an extension of that line is put through from Mildura to link up with Broken Hill, there is a real risk that that business could end up going out through Darwin. The port of Melbourne could miss out on all that business if money is not spent on upgrading and standardising our rail tracks.

Proposed section 13(2)(e) states that the Port of Melbourne Corporation must carry out its functions under subsection (1) in a manner that:

> has regard for the persons living or working in the immediate neighbourhood of the port of Melbourne.

I can see that in future we are going to have some very serious planning issues at the port of Melbourne. Those of us who live and work in rural Victoria are well aware of issues to do with the urban-rural interchange and the right to farm, as we call it. We are particularly aware that the intensive animal farming industries are being forced out of parts of rural Victoria. The broiler chicken industry for one is not wanted on the Mornington Peninsula, and the local council is doing everything it can to get rid of it. If you drive down to the port of Melbourne you can see high-rise developments around it. One wonders if we are going to end up with a right-to-ports issue in the future. It is a future issue which the PMC needs to look at seriously.

Mr Cameron — That's part of the Melbourne Club, isn't it — the right to ports?

Mr WALSH — I don't go there, mate! Are you a member, are you?

We could very easily see a situation, with the residential development around the port, where people start to complain about the noise at night and about not being able to sleep. We could find the port of Melbourne working only in business hours. There are some serious planning issues that need to be looked at in future so we do not end up with the port being at a disadvantage because of the residential development that is going on around it. We do not want the port of Melbourne, like the chicken industry, to be squeezed out of Melbourne. Today the Victorian Urban Development Authority Bill was second-read, so it will be interesting to hear what is said in that debate about protecting the right of the port of Melbourne to go about its business.

The other issue the National Party has some concern with is in clause 15, which inserts a new part 12. Proposed section 164 states:

> (1) A person who was an employee of the old corporation immediately before the commencement day is deemed to be an employee of the new corporation.
>
> (2) A transferred employee is to be regarded as —
>
> (a) being employed in his or her new position with effect on and from the commencement day; and
>
> (b) having the same terms and conditions as those that applied to the person in relation to his or her employment with the old corporation immediately before the commencement day.

I find this rather strange. It defies logic and good business sense.

> If you look at any mergers in private enterprise, they are always driven by efficiencies in cost reductions. So to have two authorities coming together and enshrining all the old jobs does not make sense to me. There should be a target of cost reduction and efficiency in the whole system to make sure that the new Port of Melbourne Corporation — —

Honourable members interjecting.

Mr WALSH — Sack them? Patrick's does a good job!

Honourable members interjecting.

Mr WALSH — Where are they now?

We must ensure that the new Port of Melbourne Corporation and the Victorian Channels Authority, if those two businesses are put together, create some efficiencies. We need to actually create a business that is going to help reduce the cost of doing business in the Melbourne port. As I have said previously, it is our gateway to the world for exports, and we need to make sure that everything is kept as efficient as possible.

Part 3 of the bill transfers the functions of the Victorian Channels Authority to the Port of Melbourne

Corporation. There have been some concerns raised by the Geelong port about making sure that when it shares the channel with the new Port of Melbourne Corporation it will get a fair deal. The Geelong port is also vital to country Victoria, as it is the main port for bulk grain exports and it is where the fertilisers used in Victoria and southern New South Wales come in. So we need to make sure that the Geelong port is not disadvantaged in this new port corporation.

This issue was raised in our bill briefing, and I thank the minister for his response. Under proposals for management of the Geelong channels, including access and pricing, the minister said:

> It is the government's intent under the bill that operators and users of the port of Geelong will not be unfairly disadvantaged relative to the operators and users of the port of Melbourne.
>
> …
>
> Initially the VCA will continue to exist and will continue to manage the Geelong channels.
>
> Under the bill, VCA and PMC will be subject to the same pricing determination issued by the ESC —

the Essential Services Commission —

> which remains current until mid-2005. This will ensure no unfair discrimination on the basis of pricing.
>
> Both VCA and PMC will also be subject to a formal access regime, administered and enforced by the ESC, which will ensure that no disadvantage is suffered by Geelong users in terms of physical or operational access, particularly in respect of the 'shared channels' at the entrance to Port Phillip Bay.

I thank the minister for that assurance that the Geelong port will not be disadvantaged in setting up the new Port of Melbourne Corporation.

In summing up, I re-emphasise that the Melbourne port is a vital cog in the flow of exports and imports out of and into Victoria. It faces severe competition from the port of Brisbane, the port of Botany Bay and the Darwin railway line, as that comes on stream. We need to make sure that the Melbourne port stays competitive. I thank the minister for his written assurances on the issues that we raised. The National Party does not oppose this bill.

Mr CARLI (Brunswick) — I am pleased to rise in support of the Port Services (Port of Melbourne Reform) Bill and also pleased that the National Party and the opposition Liberal Party are not opposing this bill.

It is a very important bill. The port of Melbourne reform bill is about increasing the efficiency of the port, particularly productivity and investment within the port. It is a response to a number of reforms introduced over two decades in the port of Melbourne. It is also in response to deficiencies in the reform introduced by the previous government. There were a number of problems. It was interesting that in his speech the member for Polwarth identified the fact that the creation of two entities — the Victorian Channels Authority and the Melbourne Port Corporation — not only did not have the support of the industry but also did not work.

It did not work for a number of reasons. Primarily it was because these two organisations were given very narrow charters. The Victorian Channels Authority was given a charter to essentially manage the channels as if they were roads and to ensure that there was access to these channels. The Melbourne Port Corporation's charter largely reduced it to becoming a landlord for the land-based activities of the port. Essentially there was no strategic entity within the port of Melbourne, no organisation capable of strategically ensuring that the necessary investment, particularly public investment, was made. The falling off of public investments in that period was incredibly significant and created enormous problems with the private providers, who were unsure about the future of the port.

Following the change of government the then Minister for Ports arranged for an independent inquiry under Professor Bill Russell to review the reforms of the port and to look at how to ensure a dynamic environment for all ports, particularly the port of Melbourne. The inquiry came up with a number of findings, a principal one being that the port of Melbourne, which is the biggest container port in the country, was largely in competition with the ports of Brisbane, Botany Bay, Adelaide, Fremantle and possibly even Darwin, although I am not quite sure that that will occur. Melbourne was not in competition with Portland, Hastings and Geelong, as was the mythology under the previous government. If we are to compete with those interstate ports we have to ensure that the waterside functions are optimised.

I take the point made by the member for Swan Hill that there are a number of issues to do with the portside operation, but we must have a body that is able to be strategic to provide a competitive and sustainable port for Melbourne. The intention was to create this new body not only to merge the two organisations — I accept that splitting the two in the first place was a mistake — but also to ensure also that the new organisation would have the necessary charter with the appropriate vision and the capacity to ensure that the

necessary investments in channels, waterside and landfill infrastructure were actually made.

At the moment the port of Melbourne is growing at an astronomical rate, particularly on the container side. Last year there was an 11 per cent increase in container traffic through the port. That is a large figure, so efficiency is needed, not just in labour but also in the entire infrastructure, and currently that efficiency is not there. There are a number of problems associated with the port of Melbourne to do with rail movements, truck movements and the depth in the channels. It is therefore clear that we need an organisation with the necessary vision to ensure that we get the changes and the efficiencies to make a sustainable port that is able to meet the needs of Victoria.

A question that has to be asked is why we are getting this large growth in container traffic. Basically we are also getting it in other areas of cargo, and it is very much a product of globalisation — of the global economy and our integration into that. To be able to efficiently work within that economy we have to have a very efficient port, but more importantly we have to have an efficient chain of transport and freight logistics, which is central to the purpose of this bill.

I am very pleased that previous speakers have acknowledged the importance of this new corporation. Industry supports it very strongly, and no doubt the community supports it because ultimately it is about the prosperity of this state.

I note that the member for Polwarth had some concerns about Geelong. It needs to be emphasised in this house that the government's intention is to allocate management of the Geelong channels, and that the entrance to the bay and the initial channel will be shared in such a way that it will not be detrimental to the port of Geelong. There is no intention to allow this new corporation into that area where the channels are shared, to enable operators and users of the port of Melbourne to have any sort of priority or to cause any detriment to the users of the port of Geelong.

The Geelong channels will remain with the Victorian Channels Authority, and in the future there will be a successor to that organisation. There are a number of possible models for the way those channels will be managed, but again this is a very important issue, and it has been thoroughly discussed with port users and operators in the port of Geelong. They do not want a situation where the port of Melbourne is able to exert any undue influence through its ability to utilise those channels or to price it out by again gaining some sort of control over the channels. The access to the channels is very important, as is the management of the channels, and it is certainly the intention of this government that the users in Geelong will in no way be disadvantaged compared to the users of the port of Melbourne.

It is important to note that the issue of port reform in the port of Melbourne is not about featherbedding — it is not about giving unions further power or about creating huge monolithic bureaucracies. Both bureaucracies are being streamlined. The member for Swan Hill is concerned that there are not enough efficiencies, that not enough jobs have been lost. Jobs have been lost from those organisations, as they have been lost right through the port of Melbourne — there have been dramatic reductions right through the port. Clearly there is no intention to return to any featherbedding or any situation where useless jobs are created in the port of Melbourne.

Melbourne is the principal container port in Australia and is clearly in competition with other ports; it is a major container port in world terms, and it is clearly in everyone's interest to ensure that it is an efficient and competitive port. That includes the trade union movement — the Maritime Union of Australia, the workers — as well as the management, because they too will depend on our ability to trade and to efficiently move goods. The issues in the port of Melbourne at the moment are not labour issues but infrastructure issues. There are major infrastructure shortfalls at the moment. The reforms of the mid-90s made by the former government resulted in a period when there were no major investments, particularly public investments. We are now going to have to play catch up.

The new authority will have to determine the principal areas of investment and ensure there is an investment cycle that will precipitate further private investment, increase the efficiency of the port, increase the efficiency of our economy and increase the prosperity of Victorians.

Debate adjourned on motion of Ms ASHER (Brighton).

Debate adjourned until later this day.

COUNTRY FIRE AUTHORITY (VOLUNTEER PROTECTION AND COMMUNITY SAFETY) BILL

Second reading

Debate resumed from 19 March; motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Mr WELLS (Scoresby) — It gives me great pleasure as the shadow Minister for Police and Emergency Services to contribute to the debate on the Country Fire Authority (Volunteer Protection and Community Safety) Bill.

At the outset I am pleased to say that the opposition will be supporting this bill in recognition of the outstanding contribution that the volunteers of the Country Fire Authority (CFA) provide to the community, especially in view of the devastating fires they have just been through right across Victoria and the amount of hard work and effort that they put into protecting lives and property.

This bill is consistent with Liberal Party policy and is in line with our strong support for volunteerism within the community. I thank the Minister for Police and Emergency Services for always providing excellent briefings — and a special thanks to Rob McDonald, his chief of staff, and the Department of Justice officers, in particular Gordan Ivancic, for their assistance.

Mr Cameron interjected.

Mr WELLS — The Minister for Agriculture interjects, but the Minister for Police and Emergency Services has been very consistent, providing us with good advice and good information, and it has always been unrestricted, which we appreciate.

It is interesting to note that this bill is almost identical to a policy document the Liberal Party floated probably 12 or 18 months ago. When I took over the job of shadow Minister for Police and Emergency Services I received advice on who to trust and who not to trust. This obviously happened with the police, the State Emergency Service (SES) and — in particular — with the Country Fire Authority (CFA). I was warned not to trust certain people and to trust other people.

It is interesting to note that almost identical information to that which I discussed with a particular person in the CFA hierarchy found its way straight back to the Labor Party. This bill appears to have been developed out of a conversation I had with that senior person, whom, I have to say in hindsight, I was warned not to trust. As it turned out, the advice proved to be dead right. I hear there are rumblings within the Australian Labor Party to the effect that it is not happy with this person's performance.

On behalf of the opposition I again thank the volunteers for the work they did fighting the fires in the north-east. In particular I thank the member for Benambra, the shadow Minister for Environment, for his outstanding contribution to assisting the CFA and SES in the north-east. He was working incredibly long days, seven days a week, making sure the communication lines were open. He was straight onto any issues the volunteers or the SES raised. He did a phenomenal job and was a real inspiration to other members of Parliament as to how a local member should work.

We are also grateful for the personal sacrifices that many individuals and their families made to assist their fellow Victorians. This will never be forgotten. A special thanks to the many employers who released their CFA volunteers during that time. The volunteers keep their jobs, and if it were not for the generosity of many of these employers the CFA would have very serious problems manning the trucks every time there is a fire, as we saw in areas such as the north-east.

One of the issues this bill covers is the need to bring in protection for CFA volunteers. When they go out to fight a fire they must be confident within themselves that they have the full protection of the law and the CFA and that if they are working in good faith they will be protected. If we did not have this piece of legislation coming in, there would be very serious concerns about attracting volunteers into the CFA.

I note that over recent years the number of CFA volunteers has fallen from 62 000 to 57 000. That concerns us greatly. It is also a concern that in many rural areas CFA volunteers are ageing and they are not getting the younger people in. I refer to a *Herald Sun* article of 2 February 2003:

> One senior volunteer, who did not want to be named, said, 'An enormous number of volunteers are in their late 40s, 50s and 60s.
>
> 'When these guys call it quits, as they will in the next few years, I don't know what will happen.
>
> 'I would say they make up about two-thirds of the volunteers'.

The government needs to implement a program; it needs to attract younger people into the CFA, especially in those rural areas.

It was interesting also to note some of the news articles in the media around the north-east and the central region about the enormous amount of effort the volunteers put in on the front line. It is just heart warming that so many volunteers are prepared to give up their pay packets day after day in order to contribute to the local community. It is really a very special way of life for us here in Victoria.

As I mentioned, there is a real need for this bill, and following the fires we must now doubly ensure that

CFA volunteers and employees have adequate rights regarding injury and loss. These 59 000 CFA volunteers and staff must be able to perform their firefighting duties without the threat of personal legal liability hanging over their heads. We are living in a more litigious society, and CFA volunteers and paid employees must be indemnified against civil liability while carrying out their normal duties in good faith. CFA members, and in particular the volunteers, should not be exposed to civil liability damages or claims for minor negligent acts or inadvertent omissions. In addition, appropriate compensation for volunteers, their families and dependants is critical to the continuing success of the organisation.

If such measures were not introduced, the CFA would find it increasingly difficult to recruit volunteers and to retain existing experienced volunteers, and the future viability of the organisation would thereby be threatened and Victoria's firefighting abilities would be substantially reduced.

I was recently at a CFA dinner where it was suggested that if the CFA were a fully paid operational unit it would cost the state just a fraction under half a billion dollars a year to operate. Of course that is almost unaffordable. Also, in country Victoria and the remote rural areas the system simply would not work because obviously you could not have firefighting teams in every small town — they would congregate at a larger town — so the response times for fires in isolated areas would be blown out. We rely heavily on the CFA volunteers.

The opposition consulted widely with the Victorian Urban Fire Brigades Association, the Victorian Rural Fire Brigades Association, many people within the CFA and other stakeholders right across the CFA ranks. It is my understanding that the provisions in the bill are largely based on requests of the CFA and its volunteers. That is one of the many reasons the opposition will be supporting this piece of legislation. The provisions are designed to ensure that the volunteer firefighters and paid members of the authority are protected from all civil liability damages relating to their duties when they have acted in good faith. Whenever I have visited a CFA brigade in any part of the state concern has been expressed that some very clever lawyer out there would try to sue a volunteer individually even if he believed he was acting in good faith. That is why this legislation is so important.

The example the Minister for Police and Emergency Services gave is a good one — that is, that of a firefighter accidentally leaving a gate open and a farmer losing livestock. Under the old system technically that person could have been sued for negligence; under this system the farmer still has the right to sue, but he can sue only the CFA, not the individual CFA volunteer.

The experience of the Linton fires and other incidents where there has been injury, death or destruction of personal property brought the issue of appropriate and adequate compensation to the fore. There is a perception among CFA volunteers that the existing compensation and legal protection provisions leave them far too open to unacceptable risks.

The bill has six main points. First, as I mentioned, it improves the civil liability immunity protection of both CFA volunteers and paid members of the authority. Second, the bill improves and clarifies entitlements to compensation for injury and loss. Third, it improves community standards in periods of high fire danger. Fourth, it provides for special recognition of brigade awards.

Fifth, the bill allows for electronic communication of the declaration of a total fire ban and legal recognition of such declaration. That is commonsense. What was happening was that in a court case the magistrate may have required the original copy of the total fire ban declaration, but that was totally impractical if there were a number of cases on the one day. This bill allows that declaration to be electronically communicated, which makes sense. Sixth, the bill allows charitable organisations to be granted exemption permits to use cooking equipment on days of total fire ban. Previously private operators were able to get exemptions to have a sausage sizzle, for example, but charities like those running school fetes could not do that. This legislation clarifies that point.

Substituted section 92 improves the immunity provisions. It provides that operational members of the CFA — that is, paid members and all volunteers, including auxiliary workers, which is an important point because they do most of the backup work for the CFA volunteers — will not be personally liable for carrying out their normal duties by the exercise of a power or the discharge of duties under the act or the regulations when performed in good faith. Good faith has a usual meaning of an act performed or an omission done without negligent intent or wilful default. Any liability that arises from CFA members carrying out their normal duties in good faith is transferred to the authority which would generally rely on its public liability insurance to meet any civil damages claim. I repeat the example of the volunteer inadvertently leaving a gate open — the farmer can still sue but he must sue the authority and it is up to the authority to defend that case.

Section 110 of the Country Fire Authority Act will be amended to ensure that all CFA members, including provisional members who have applied for membership, are entitled to compensation in the event of death, personal injury and/or damage to or loss of personal property. That was unclear prior to this bill because provisional members who had signed up but not received full membership entitlements were not entitled to compensation. There was a cloud over that point and the bill clarifies it. The range of family members or dependants of a CFA member eligible for compensation in the event of a death is extended to domestic partners, which is consistent with many other pieces of legislation already passed by the state Parliament.

Section 64 of the Country Fire Authority Act is amended to allow the CFA to determine the maximum amount of compensation payable to volunteers for loss of clothing, vehicles or personal equipment. The CFA has indicated that this amount will be increased from the existing $600 to $1000 and a greater amount could be payable at the discretion of the authority.

In regard to the community safety provisions, it is proposed that a number of activities that are perceived by the CFA to be of high fire risk will require greater regulation in periods of high fire danger. In Victoria this is generally recognised as being between November and March. Proposed section 39E will be inserted to allow for the making of regulations to prescribe high fire-risk activities and to provide for the prohibition or strict control of these prescribed activities. High-risk activities nominated to date include the use of agricultural and industrial equipment; welding, cutting or grinding tools; gas flame-offs; hot air ballooning; and the use of fireworks. The proposed regulations will be subject to consultation with stakeholders. The opposition is happy with that commitment from the minister.

Section 38A of the principal act will be amended to clarify the exact meaning of a 'properly constructed fireplace' for the purpose of defining the lighting of a lawful fire without a permit. Section 40 will be amended to allow for a declaration to be communicated electronically. It is further amended to allow community charity organisations to be granted exemption permits to use cooking equipment where there is a flame present.

Proposed section 99B will be inserted to provide the CFA with the power to present special recognition awards to brigades for outstanding community service. Prior to this bill, awards were given to individuals but not to brigades as a whole.

A number of issues were raised about this bill during the opposition's consultation across the state. The first I would like to address is what farming activities will be prescribed as being high fire risk. A number of stakeholders the opposition consulted were concerned that this part of the legislation was not clear and that it would be written in regulations. The regulations are not available at the moment. We have written to the people who raised these concerns with us informing them that they will be consulted under an assurance by the minister and we will be following that through. Most pointed to farming activities and the use of agricultural or industrial equipment. We ask the Minister for Police and Emergency Services and his department to provide further assurances that there will be adequate consultation with the farmers federation, the CFA and the urban and rural brigades.

The second point raised with the opposition is what happens to farmers or other individuals who supply their own tankers or equipment and whether they will be compensated if the tanker or equipment is destroyed. If a person is engaged as a casual firefighter to fight on property or premises other than that which is owned by or resided on by that person, under section 64(1)(b) of the Country Fire Authority Act the owner of a vehicle, equipment or property that is destroyed or damaged is entitled to reasonable compensation as determined by the CFA.

The bit that caused some confusion — the member for Benambra raised it with me — is this point: if a person who is not a CFA member as defined in the act is injured in performing firefighting duties on a fire ground prior to the arrival of CFA personnel, is that person deemed to be a volunteer for compensation purposes? It is an interesting point because there was a contradiction in the advice we received at the original and a follow-up briefing we had from members of the minister's office.

Following the Linton tragedy the then CFA chief officer issued a directive that the use of casual firefighters without appropriate minimum skills training was no longer appropriate. I can see the point from a legal view. It is an issue on which the CFA needs to protect itself. The directive went on to say that section 46 of the CFA regulations recognised only two categories of members — seniors and juniors. However, the contradiction in the act is that under section 62 of the Country Fire Authority Act 1958 casual firefighters can still be utilised by brigade captains as a measure of last resort. This is an important point. It is a contradiction, but we can understand why it exists.

The chief officer's standing orders say that you should not bring onto a fire ground people who do not have minimum skills. However, the act says clearly in section 62 that casual firefighters can still be utilised by brigade captains as a measure of last resort. On the one hand you have the chief officer's standing orders saying you cannot do it, and on the other you have the legislation saying you can do it as a matter of last resort.

I have to say that this proposal is acceptable, because I cannot see any other way of doing it. If you have five men or women on a fire ground and the fire picks up or the wind changes and you need additional help, and people are walking past who are local farmers but not members of the CFA, it would make sense if they could assist in rolling out the hose or doing some other small task. If they are injured they should have the right to compensation if they are on the fire ground under the direction of the incident controller or the brigade captain.

The next point of concern is whether CFA volunteers are fully covered for compensation if undertaking fire duties interstate. Section 92B(2) of the CFA act states that compensation is payable under regulations made by section 110(1)(g) to members of brigades where they have been engaged in a place 'outside of country Victoria'. The bill defines what 'outside of country Victoria' means.

Members of the Liberal Party are very supportive of this bill. As someone mentioned the other day, it is ironic that it seems to be very similar to the position the Liberal Party held some 12 or 18 months ago. CFA volunteers do an enormous amount of work right across the state, and we believe every single one of these people is a hero — although many of them would say they are not. We rely on them very heavily, as was displayed just recently in the north-east. My thanks to them, and I wish this bill a speedy passage.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on the Country Fire Authority (Volunteer Protection and Community Safety) Bill, which is important legislation.

I pick up on the point at which the shadow minister concluded, where on behalf of the Liberal Party he expressed his thanks for and his admiration of the many volunteers and the people who supported them while they were in the field, including their employers, who allowed them to go and fight the fires. That includes the many other members of the emergency services and the like who contributed to the magnificent effort jointly mounted across the state in fighting the recent fires this summer. This applied principally in north-east Victoria and in East Gippsland; but there were other locations too, such as at Willung, just south of where I live in Sale, where there was a very nasty fire. It was only about 8000 hectares — and I say 'only' given the extent of the major bushfires that subsequently erupted. There was also a very serious fire event in north-west Victoria, and there were bad fires in other places as well.

Collectively extraordinary efforts taking many forms were mounted by the many people who contributed to the defence of our communities and our property across Victoria. To all of them we in the community are indebted forever. This legislation, therefore, is important in its own right and, more particularly, in the context of these recent events, and the National Party supports it.

I wish to raise a number of issues regarding the bill, which has a number of purposes. With all due respect to whoever drafted it, I do not think clause 1, which contains the purposes of the bill, does the legislation justice. I invite the government to have another look at the purpose provisions while the bill is between houses. In fact, despite the rather generalist commentary within the provisions as they now stand, what this bill does is much more than is literally described there.

The bill provides immunity from civil action for CFA volunteers, extended compensation for volunteers who are injured or additional benefits for their dependents in the event of their death, additional compensation to volunteers in the event of the loss or damage to personal apparel and equipment, and immunity from civil action for those third parties who are engaged by or under the direction of the CFA for the purposes of fighting fires. It also enacts a range of other initiatives pertaining to individuals and groups which are affected by the current CFA legislation. So it does a number of things which are very important in the context of the operation of this superb authority.

The principal elements of the bill are the immunity provisions and the provisions that relate to compensation. The immunity provisions are worthy of particular examination. Clause 10 inserts new section 92 under the heading 'Immunity provision'. This new section will substitute sections 92 and 92A of the Country Fire Authority Act 1958. The immunity will now be broader in its content in response to the concern that has often been expressed by CFA volunteers about being personally exposed to the prospect of civil litigation. The bill provides an immunity from civil litigation for persons who are defined within the bill as CFA personnel in any shape or form, as long as they are conducting their activities

in good faith in the exercise of a power or the discharge of a duty under the legislation, or in the reasonable belief that the act or the omission in which they were involved was done in exercising a power or discharging a duty under the act or its regulations.

So the immunity offered under the terms of the bill is pretty far reaching. That is reflective of some legislation which the National Party introduced into the other place and which was second-read on 12 June of last year by my colleague the Honourable Peter Hall.

The legislation we introduced in the other place was termed the Volunteer Protection Bill 2002. In that bill we intended what should ultimately be the aim of the government, an aim to which there is passing reference in the second-reading speech — to properly provide this form of immunity to all volunteers irrelevant of the manner in which they volunteer their services across the state. In the course of the legislation which we introduced in the other place last year we set out appropriate definitions and provisions for immunity which we invite the government to again consider.

It is important that the Country Fire Authority volunteers be the beneficiaries of what is now proposed in the bill, but we believe there are many other aspects of volunteerism that also should be represented in the same way. That extends, of course, to State Emergency Service officers and to the vast range of other people who provide volunteer services not just with emergency services but across the board. We invite the government to consider that legislation which we introduced because the National Party strongly believes that volunteers as a class of people doing the magnificent work they do across Victoria should be entitled to the immunity which is provided in this bill to the CFA volunteers and as is represented by new sections 92 and 92A of the Country Fire Authority Act set out in clause 10.

Clause 11 contains a provision that is similar in effect but different in form. It is directed to what I would term third parties who are otherwise conducting their efforts in fighting fires or attending to duties under the terms of the act but are doing so under the direction or request of personnel from the CFA. This provision is intended to accommodate the members of the Department of Sustainability and Environment and various other organisations set out in the second-reading speech that are inevitably involved in company with the CFA in the fighting of fires. Again it is sensible that the immunity be provided to this extended group which goes beyond the CFA's own ranks, and we strongly support that principle. I say again that the National Party would like to see that immunity extended to volunteers at large.

Importantly the legislation preserves the right of an aggrieved person or party to pursue an action against the CFA per se. If they feel that gate has been left open and left open in circumstances where it can be regarded as negligent, although an action cannot be launched against the individual who forgot to close the gate or did not close it for whatever reason, nevertheless the aggrieved party who subsequently suffers loss can institute proceedings against the CFA. We believe it is important that right be preserved.

We think the immunity provisions are appropriate. It is good that they apply to CFA volunteers. It is good that they apply to those many people who work with the CFA under the circumstances where there is a joint effort in fighting fires. It is a good thing that the definitions involved are broad in their scope and that the immunity applies across the body of personnel engaged in this important pursuit. It is important that the government consider volunteerism in the generic sense and that the immunity provided in this bill be extended, and I invite the government once again to consider the legislation introduced by the National Party in the other place last year.

I turn to the provisions regarding compensation. With due respect to whoever it was who drafted the second-reading speech, I think it is deficient in that it does not clearly explain the import of this legislation. For example, as I read the second-reading speech the word 'injury' does not appear; but in considering clause 13, which makes amendments to section 110 of the Country Fire Authority Act, there is provision for compensation being made not just for death, which is the focus of the commentary in the second-reading speech, but also in relation to personal injury, which is a significant factor. For some reason the second-reading speech does not mention it as such.

The issue raised by the shadow minister as to the extent of the coverage available is interesting. On my reading of new paragraph (g) of section 110(1), which is inserted by clause 13, I would have thought that the provision does not apply to the person who comes onto the fire line in the manner that the shadow minister described — the individual who is seconded or is going past the fire or happens to be there at the time and by whatever means is engaged for the purpose of contributing to the fighting of the fire. That is so because any such individual cannot be regarded as a volunteer officer or a member of a brigade or as having, although not formally, enrolled as a member of a brigade or applied for membership and who is performing duties of a member of the brigade — you may get away with the latter part — who is doing

things that are normally undertaken by members of a brigade.

The volunteer walking past who is seconded to the fire is not going to be an individual who can be classed as having enrolled in a brigade or having applied for membership. I think there must be some doubt as to the application of this provision in the wider manner that the shadow minister raised. I endorse the view that this is an issue that should be considered by the government.

The additional amendment that appears in clause 9, which deals with the abolition of the expression 'prescribed allowance' in section 64 (2), comes under the general heading of compensation of casual firefighters and volunteer auxiliary workers. So it is in a different class of compensation than that described in section 110, which for its part is a regulation-making provision that allows regulations to be passed that create compensation schemes. As opposed to that generalist definition this section 64 provision appears within this narrow scope of compensation payable to casual firefighters and volunteer auxiliary workers.

The prescribed allowance has been abolished and the intention is that there will be the capacity within the authority to make regulatory definitions of broader benefits for the classes of materials that are described, those benefits being over and above those that now apply. The talk is rather of equipment, clothing and matters of that nature, but within a narrow scope, unless it is that the more generalist provisions referred to in the second-reading speech apply. I put the qualification in because the second-reading speech talks about the capacity of the minister in exceptional circumstances to allow for a larger payment to be made. On its face the clause itself does not make that same provision.

There are other provisions in the bill which are in the scheme of things of lesser significance but nevertheless do bear consideration. There is a provision for charitable organisations that will now be permitted to seek exemptions from total fire bans, particularly if they are engaged in fundraising activities. They have not been able to do that until now. There is a provision in relation to the regulatory definitions of high fire-risk activities that will be precluded in a declared fire danger period. There are examples of that in the second-reading speech, but we need to see what the government actually does in relation to that.

An honourable member interjected.

Mr RYAN — I am pleased to hear the assurance that there will be extensive consultation. There are queries as to whether farming and industry will be impacted by these provisions. Within clause 4 there is a definition of a properly constructed fireplace. There is an important provision of special recognition awards in favour of CFA brigades nominated for that particular distinction, and there are minor amendments of a mechanical nature. Taken in its totality the National Party believes the legislation is very worthy. I reiterate the comments regarding the capacity of the government to extend the immunity to volunteers generally, but on behalf of the National Party I wish this bill a speedy passage.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The ACTING SPEAKER (Ms Barker) — Order! The time has now arrived under sessional orders for the business of the house to be interrupted. The question is that the house do now adjourn.

Sandringham: boat harbour

Mr THOMPSON (Sandringham) — I wish to raise a matter for the attention of the Minister for Environment concerning the Sandringham harbour and the importance of the development of a suitable arrangement which would enable the harbour to be further dredged. It is noteworthy that at present there are a number of bay users in the Sandringham area, and in fact across Victoria. They include the elderly members of the Sandringham Anglers Club and the youthful users of the Victorian Guide-Scout Sailing Centre. Both organisations have to manhandle their vessels across the mudflats of the Sandringham harbour to access reasonable water. Increasingly they have had to do this over the last decade.

The wider precinct is well understood by the department following the successful renourishment of the Hampton beach under the former coalition government and also going back to the 1950s with the development of the seawall that enabled the Sandringham harbour to be developed as a safe haven for sailing vessels. That area is now one of the pre-eminent marina areas in Victoria. However, the Bayside Foreshore Recreational Council, in particular Mr Jack Eggleton and Mr Jim Brighthope, is particularly concerned about a lack of action and a lack of response on the part of the government. The principal problem is the excessive silting of the Sandringham harbour, as I earlier alluded to.

Apparently the present sticking points are: firstly, the refusal of Parks Victoria and/or the Department of

Sustainability and Environment to take responsibility for returning the harbour to its original state; and secondly, the question of where to put the dredged sand. A role is also being played by the Bayside council in its development of a management plan for the area. I understand the government requires a management plan to be developed before decisions are taken.

I ask the minister to convene a meeting, either on site or through the agency of his department, with the Bayside council, the Bayside Foreshore Recreational Council and the key stakeholders affected by the siltation of the harbour — being the Victorian Guide-Scout Sailing Centre and the Sandringham Anglers Club — so that an effective arrangement and plan can be developed which will resolve this situation. That area of Port Phillip Bay is one of the great sporting precincts and is important for the amenity of users and for the benefit of a wide variety of people. I point out that the guide-scout sailing centre is used by people from all over Victoria; young guides and scouts who come to the area to learn the art of sailing. The Sandringham Anglers Club has the — —

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

Children: Senate inquiry

Ms NEVILLE (Bellarine) — I raise a matter for the attention of the Minister for Community Services. I ask her to take action to provide support for former wards of state in Victoria. Recently the Senate announced an inquiry into the treatment of children who had been in care in both government and non-government institutions and an inquiry into fostering practices. The Senate has referred this matter to the Senate Standing Committee on Community Affairs, which is due to report in December this year. The terms of reference of the committee are fairly broad and provide an opportunity for many Victorians who have grown up in the care of the state or in non-government institutions to make submissions to the inquiry.

It is difficult to estimate the number of children who grew up in Victoria in the care of the state or in non-government organisations. Children were often placed voluntarily in these institutions by families who were unable to provide for them and placements lasted anything from a few weeks to a few years. Happily most of these institutions in Victoria closed in the 1970s, with the final closures in the 1990s under the previous Labor government.

In the last three decades there have been significant changes in the way we care for children who are unable for whatever reason to live with their families. Nowadays the system attempts to keep children with their birth families, and only as a last resort are children placed with relatives or other carers.

While Victoria has a strong foster care and permanent care program that provides alternative family placements, it is important to provide opportunities to reflect on past practices. Agencies such as the Care Leavers of Australia Network (CLAN) and the Victorian Adoption Network for Information and Self Help (VANISH) already provide valuable support to former wards and to Victorians who are affected by adoption. However, we must make sure these services continue and are strengthened and that former state wards can access counselling and support services. It is also important that these former state wards have a voice and an opportunity to reflect on their past experiences and the practices that were employed, as well as the way they have been able to deal or not deal with those issues.

I ask the minister what action she will take in order to provide support to people who grew up in institutions in Victoria, including whether there is capacity to provide some assistance for former state wards to have their voice and to participate freely in the current Senate inquiry.

Country Fire Authority: Wangaratta brigade

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Police and Emergency Services. I refer to representations I received from the Wangaratta Urban Fire Brigade late last year in relation to major repairs it needed to undertake to its vintage 1939 Dodge Pumper fire truck. The truck has been retained around Wangaratta and is used on many occasions for a range of activities, including Christmas functions and to assist kindergartens and other organisations. It has even been used on occasions for funerals of particular people and those who have been involved with the Country Fire Authority. The brigade sought my assistance in making representations to the minister seeking some funding support because the estimated cost of upgrading the truck was about $10 000.

I wrote to the minister late last year on this issue. The brigade provided the information in relation to the truck and indicated the major mechanical repairs required. It believes the truck is important to the community of Wangaratta and indeed to the Country Fire Authority, as only three or four of these trucks remain in Victoria. The minister had not responded to me earlier this year, and I wrote again to him on the basis that I believed it should be considered and, more importantly, that many

of the firemen of the Wangaratta Urban Fire Brigade were involved in assisting with fire suppression activities during the recent fires in north-eastern Victoria. In fact it was suggested that about 150 firefighters from around the Wangaratta area were utilised in assisting with the enormous fires we experienced.

It is important that the minister consider some form of contribution towards the repairs to this truck, as they are beyond the financial capacity of the Wangaratta Urban Fire Brigade. It would be a fine gesture on behalf of the government and a recognition of the important part played by the Country Fire Authority and especially the members of the Wangaratta Urban Fire Brigade.

I seek cooperation from the minister in reviewing the issue. I am disappointed that to date he has not responded to me positively. I seek an acknowledgment from him and consideration of providing funding support to the Wangaratta Urban Fire Brigade in repairing this 1939 Dodge Pumper fire truck.

Housing: Williamstown Road site

Mr MILDENHALL (Footscray) — I raise a matter for the attention of the Minister for Housing in another place. It concerns a social housing project on a site in Williamstown Road affectionately known to the locals as the sinking village site. It became known as that after a housing development constructed there in the early 1970s started sinking into some fairly unstable ground following a heavy downpour in 1973, and the rate of subsidence and the visual spectacle it provided became a bit of a tourist attraction for a while as the units sank into the mud. Since then it has been quite useful in providing parking spaces for the Yarraville football ground.

However, over the last couple of years the Maribyrnong City Council has developed a proposal in conjunction with the Wintringham housing group for some social housing along the western boundary beside the reception centre that adjoins this property. Following extensive community consultation the community and the council are now looking for some movement on this proposal and for funding through the social housing innovations project.

This is a potentially exciting partnership. It is more expensive than most, given that the site adjoins the infamous arsenic site and is subject to significant contamination so there are clean-up costs involved in the specific design for the sensitive social housing we are looking for.

I ask that the minister review the current status of the application and involve herself in the discussions and negotiations with Maribyrnong City Council with a view to achieving a conclusion. Significant concessions have been made by the council, including the donation of land and participation in various aspects, and I am sure with goodwill from all parties a successful announcement could be made soon.

Plumbing Industry Commission: dispute

Mr BAILLIEU (Hawthorn) — I also raise a matter for the Minister for Planning. It concerns the relationship between the Plumbing Industry Commission and plumbers in general.

It arises from the findings of the Victorian Civil and Administrative Tribunal (VCAT) in the case of *Poole v. Plumbing Industry Commission*. The Plumbing Industry Commission issued a rectification order against Mr Poole as is its wont and authority. Mr Poole disputed that order and took the issue to VCAT. Considering the duress that is associated with taking a matter to VCAT and the cost and the time involved, it is not something that plumbers take lightly or do often. VCAT found in favour of the plumber and in the process was highly critical of the Plumbing Industry Commission.

I ask the minister to respond to the findings of VCAT, and in particular to the finding that there is essentially an unequal balance of power between plumbers and the commission in the matter of disputes and the findings that the Plumbing Industry Commission acted inappropriately in issuing a rectification order and prosecuting its case through VCAT. Those findings can best be summed up by a quote from a VCAT member, Mr Walsh, who said of the Plumbing Industry Commission:

> It failed to act reasonably in serving the notice. It was cavalier in the sense that it appears to have been more designed to get the respondent —

being the Plumbing Industry Commission —

> out of a fix than to require the applicant (plumber) to remedy a clear breach of his obligations under the law. Further, there was a significant lack of parity of power between the applicant and the respondent and the financial disadvantage which the applicant has suffered in challenging an exercise of power by the respondent and succeeding should be redressed.

Clearly those findings by VCAT warrant the minister's action, and I know the broader plumbing industry is looking forward to that response.

Workcover: occupational health and safety

Mr STENSHOLT (Burwood) — Tonight I ask the Minister for Workcover to take action on safety and health in workplaces and in particular to support the families of workers who have died in the workplace or of workers who have suffered severe injuries.

I raise this issue of workplace safety because yesterday was the 8th International Commemoration Day for Dead and Injured Workers. It was also the World Day for Safety and Health at Work. All of us in Parliament, along with all employers and workers, wish to remember all the workers who have been tragically killed at work and extend our sympathy and heartfelt support to their families, their workmates and their friends. We should make sure they remain in our memories and that their contribution to Victoria and Australia is never forgotten.

The many workers who have died are just ordinary people like ourselves. Here in Victoria we lost 37 workers in 1998, 39 in 1999, 30 in 2000, and 34 in 2001 and 2002, and we have lost 11 so far this year. We need to ensure that they have not died in vain by redoubling our efforts to make our workplaces safe and healthy.

World wide some 2 million men and women die each year as a result of workplace accidents or work-related diseases. In Victoria we see many people dying in unfortunate accidents. For example, this year we have had five farm-related deaths, including a three-year-old. A worker was crushed after being dragged into the high-speed rollers of a paper-drying machine. A jockey was killed in a race and two firefighters lost their lives as well.

Last year, there were 10 fatalities on farming properties, 6 on construction sites and 8 in the transport field. One worker was overcome by fumes, another fell from a ladder, one was killed by fireworks and yet another was killed by a falling tree. These were all people with families and friends, and they were part of local communities. The loss of their lives is deeply felt by families, friends and workmates. We need to do more to improve workplace health and safety and to help the families who have suffered the loss of one of their members due to a tragedy in the workplace. I urge the minister to make the health and safety of workers the highest priority.

Clayton Primary School: health and safety complaint

Mr PERTON (Doncaster) — I wish to relate the impassioned concerns of Ms Anne Marie Murray of Clayton, a concerned parent whose daughter is an asthma sufferer.

The DEPUTY SPEAKER — Order! Which minister?

Mr PERTON — The Minister for Education Services. For some period of time Clayton Primary School was reduced to a construction site. During the works Ms Murray alleged in writing and in person that there were health and safety problems. Subsequent to one of her complaints the school was inspected and found to be wanting in respect to Worksafe requirements. To add insult to injury Ms Murray was forced to discover the outcomes of the inspections she had caused using a freedom of information request at a cost of $20. So-called voluntary compliance was achieved at that time, but not before this parent had gone to the extreme lengths of reporting the school and having it independently inspected on safety grounds.

The works dragged on through last year and inexplicably into this. The dismissive manner in which Ms Murray's concerns were repeatedly left unaddressed in the hope that in time she would just go away has left a very bitter taste in her mouth and since mid last year Ms Murray has been in correspondence with the Liberal Party shadow ministry as well as anyone else in a position of authority, asking that they take her concerns about safety at the school during the refurbishment seriously.

A set of school council minutes underscores the legitimacy of Ms Murray's concerns that there was a potential breach of care. It indicates that complaints about a considerable amount of noise and dust generated during this time would not be met by the school with 'any other solution than holding our breath until the work is complete'. This is not what a concerned parent with an asthma-prone child deserves or expects from a school.

In her own words Ms Murray describes herself as having voted Labor all her life. Owing to her total dissatisfaction and disillusionment with the lack of responsiveness from the Minister for Education Services, Jacinta Allan, Ms Murray has complained and complained vigorously. She has written to Ms Allan directly and to Ms Allan via her colleague Hong Lim and via Lynne Kosky. Letters have been sent by Ms Murray and by the shadow minister for education,

Phil Honeywood. Five months have gone by without this minister being able to properly respond to Ms Murray. I quote from a letter by Ms Murray dated 17 April:

> I am writing to you regarding your correspondence ESM334 to the Hon. Phil Honeywood, MP, whose letter was dated 10 December 2002. Unfortunately there was no date on yours.
>
> Having sat on it for several days I write now, in disgust, a reply.
>
> …
>
> At no time was there any official consultation from your office directed to myself, even though I wrote numerous letters of complaint as protocol required.
>
> I sought assistance from [the] … schools … mediation service, sponsored by the office of the Attorney-General, only to be refused a meeting by both the principal and the regional office.
>
> It was only after numerous phone calls to Lynne Kosky's office on 22 January 2003 that I received two phone calls …

Time is short. Ms Murray's child is now in the Catholic system, and I ask the minister to live up to the obligations of her office and instate a proper system for actioning and addressing issues.

The DEPUTY SPEAKER — Order! Before calling the member for Mount Waverley, I remind the member for Doncaster and other members of the house to use the correct forms of address when referring to other members of Parliament.

Mount Waverley Secondary College: rebuilding

Ms MORAND (Mount Waverley) — I would like to raise a matter for the attention of the Minister for Education and Training and ask her to take action to ensure that the Mount Waverley Secondary College is rebuilt as quickly as possible.

Many members will be aware that the senior campus of the school suffered a devastating fire on the eve of the new school term in January this year. The senior school campus suffered the loss of 25 classrooms. This included the loss of 5 science rooms, 6 computer labs, the middle school office and all its contents, the locker bays and 1200 student lockers.

The principal of the secondary college, Glenn Proctor, has done a magnificent job in ensuring that the disruption to the students caused by this terrible fire has been minimised. He and his assistant principals and the teaching staff have done a wonderful job and have worked incredibly hard to support each other and the students to make sure the students could continue their studies.

In the school newsletter following the fire the principal noted the sadness and shock caused by the destruction of the school buildings and said that 'the important thing to remember is that our greatest resource is the knowledge and expertise of the teaching staff and the resilience of the students themselves'.

The Minister for Education and Training visited the school on the morning of the fire and immediately reassured the principal and the school community that the government, through the Department of Education and Training, would work closely with the school on finding temporary solutions for housing the students and would assist in every way possible to get the school back on its feet as quickly as possible.

The year 9 to 12 students were relocated to Deakin University for a month until the end of February. I take this opportunity to acknowledge the wonderful support that Deakin University, and in particular the new vice-chancellor, Sally Walker, gave the students. I am informed they greatly enjoyed this experience and that it was mutually beneficial. In a short period of time during the first term the school has been transformed with the location of some 20 portables to the school grounds to house the classes destroyed by fire.

Mount Waverley Secondary College is one of the biggest and most successful schools in the state. It has 1800 students across two campuses, including 1200 students at the fire-affected campus. I ask that the minister and the Department of Education and Training continue to work closely with the school and its community to ensure that the school is rebuilt as quickly as possible.

Fishing: Clifton Beach

Mr PLOWMAN (Benambra) — The issue I wish to raise tonight is for the attention of the Minister for Environment. It relates to the future use by anglers of the Clifton Beach area. Clifton Beach is on the lovely south-western coast of Victoria, on the boundary of the Twelve Apostles Marine National Park. Unfortunately, as the park boundary is now designated it falls within the park. As things stand this area will not be permissible for fishing in after a certain date, yet it is one of the most popular areas for beach fishing. It takes a lot of getting into, and I went in with my colleague the member for Western Province in the other place to have a look at the area and to meet with fishermen there.

I would like to quote from a letter of 4 February from the acting manager of national parks and conservation policy, Ray Supple:

> … the ECC recommendation for the Twelve Apostles Marine National Park and subsequent negotiations between the government and the opposition involved an understanding that Clifton Beach would be excluded from the park to allow recreational fishing to continue at that location.

On the basis of this letter I would like to ask the minister to give an assurance to the house that that will take effect. There are many fishermen in the area that look at Clifton Beach as the most enjoyable area to fish from along the coastline outside the proposed national park boundary, and initially that is where it was supposed to be. There has been a mistake, and clearly this letter, which comes from the acting manager of national parks and conservation policy, indicates that there is an error and that it should be corrected. I ask the minister to ensure that it is corrected and that the fishermen who enjoy this area are able to continue to do so after the closing date, which otherwise would be 1 April 2004.

In the remaining seconds I would have to say that the area is in the electorate of my colleague the member for Polwarth. He too has been pushing hard for this area to be excluded from the marine national park. As I said, it is an error, and I believe it should be corrected. I ask the minister to do so.

Hurstbridge Primary School: rebuilding

Ms GREEN (Yan Yean) — I seek action from the Minister for Education Services in regard to giving assistance to Hurstbridge Primary School, which suffered a tragic fire on 1 January this year. There have been a number of unfortunate school fires in this state. At this stage the fire at the primary school is considered to have been accidental, but never has a school been totally destroyed in the manner that Hurstbridge Primary School was. This fire totally destroyed the permanent buildings of this wonderful school — 17 classrooms along with amenity and administration buildings, as well as the school's records of its long history.

It was a massive effort for the school community to actually pull itself back up and to ensure that students were able to attend school on the first day of term this year by relocating the school temporarily to the site of the former Hurstbridge High School. The school community and the broader Hurstbridge community have rallied to assist the school's relocation to its temporary site, but they still need additional help along the way. The community performed herculean efforts in ensuring students were able to begin on that day. In under four weeks the temporary site was transformed from a dust bowl into a beautiful green site.

On the Australia Day weekend over 100 community members toiled in 44-degree heat to ensure that students had a great start to the school year and were not adversely affected. I acknowledge the professionalism of the principal, Marg Uren, the school's staff and many parents, including Cathy Park, Carolyn Allen, Glen Pike, Trevor Jeffrey and many others.

I also acknowledge the countless local businesses and community groups that raised funds, in particular the Hurstbridge brigade of the Country Fire Authority. Despite attending the fires in the north-east of the state, the brigade also spent time raising funds for the primary school. It raised many thousands of dollars.

The school community is still in great need in ensuring it can rebuild its school. I seek the support of the minister in doing whatever she can to reward this wonderful community and to ensure that its members can get back on their feet at the site of their choosing and can continue to provide the great education that is provided in that community. I commend them for their work, and I hope the minister is able to help.

Responses

Ms GARBUTT (Minister for Community Services) — The member for Bellarine raised with me the issue of former wards of the state who might need ongoing assistance and suggested some funding to provide that. As the member pointed out, there were many former wards of state. Many children were separated from their families and placed in large institutions, large children's homes. Thankfully we have ceased that practice; we do not operate that way these days.

In past times many people were placed in orphanages. They lost touch with their families. Often they lost touch with siblings, sometimes even when they were in the same homes. Many of them had difficult experiences which have left them with ongoing issues that need attention and which they need some assistance with. We do not know how many people were affected in this way, but we do know they have a real and ongoing need for assistance and support.

I am pleased to be able to advise the member and the house that the government will contribute $86 000 to fund various strategies to help former wards to manage and cope with the impact of growing up in these

institutions. The money will be allocated to agencies that provide specialist support to people who grew up in care. It will include counselling and the provision of information, including searching for personal information about them and trying to track other family members, and other general forms of support. Two organisations will be funded through this initiative. The Victorian Adoption Network for Information and Self Help already provides quite a lot of support to Victorians who have been affected by adoption and to former wards. VANISH will receive $76 000 to arrange provision of specialist counselling for former wards.

The second initiative is to train volunteer former wards to act as facilitators for support groups. Recently I met with people from the Care Leavers of Australia Network (CLAN). They put to me the ongoing needs they were trying to meet voluntarily for former wards who were approaching them. CLAN will receive $10 000 to provide information advice and general support to former wards of state in Victoria who now live interstate. The funding will go to assist that particular group, which is a national group.

As part of these initiatives the Adoption Information Service will change its name to the Adoption Family Records Service, because it now provides not just adoption services but also services for former wards who want to search out the records to follow up and find family members they may have lost touch with, as I mentioned before.

I am pleased that the member for Bellarine was able to raise this issue with me. It is about providing a number of initiatives that will go a long way towards assisting former wards.

Mr HULLS (Attorney-General) — I thank the honourable member for Burwood for his interest in workplace health and safety. Having safe, healthy and productive workplaces is the highest priority for the Bracks government.

Yesterday we took the time to especially acknowledge workers who have died tragically as a result of workplace incidents. The Bracks government is absolutely and passionately committed to preventing work-related ill health, injuries and deaths. Today I was pleased to announce that we will build on our efforts and continue to show support for the families of those who have tragically died as a result of work. Over the next three years some $85 000 will be provided to the Uniting Church Urban Ministry Network for additional support for families that are suffering as a result of a tragic workplace death.

In our first term of government we made the prevention of injuries to workers the key focus of our attention. It is a sad fact that around 30 workers die each year in the workplace. I am sure everyone would agree that the number of workplace fatalities is unacceptable. One workplace death is one too many. The effects of these tragic deaths are devastating for family, friends and the community, and as a community we must continue to do more to prevent them.

As I said, in our first term we made prevention of injuries to workers our key focus and restored common-law rights for seriously injured workers. In our second term we will continue to steadily improve the occupational health and safety regime in this state. We will strive for fewer injuries, better health for Victorian workers and continuing improvements in occupational health and safety practices across Victorian workplaces; and of course, we will continue with a strongly managed Workcover scheme, with fair and competitive premiums for employers.

As a result of the government's priorities the Victorian Workcover Authority (VWA) has employed around 80 more inspectors, resulting in about 50 000 annual work site visits last year. The latest figures show a significant increase in occupational health and safety prosecutions, which demonstrates how serious the Bracks government is about protecting the health and safety of Victorian workers. The honourable member will be interested to know that from January to December 2002 a total of 240 prosecutions were completed, which can be compared to 1999, when only 105 were completed. Forty prosecutions have already been completed this year.

In our second term we will focus on a review of the occupational health and safety legislation, which we committed to during the last election campaign. We will continue making improvements that help workers return to work. We will provide incentives and penalties to promote workplace safety, and we will also implement reforms through a VWA premium review to strengthen incentives for businesses to perform better while simplifying the system and providing greater choice for employers.

As I said, as a government we are passionately committed to workplace health and safety. That has been evidenced already this year by the launch of the new asbestos regulations and the launch of a campaign to prevent bullying in the workplace. We have also implemented a number of other initiatives, including the promotion of farm safety and the promotion of safety in the construction industry and other dangerous

industries, so the passion we have shown in the past for workplace health and safety will continue.

Ms KOSKY (Minister for Education and Training) — The member for Mount Waverley raised with me a matter relating to the reinstatement of works at Mount Waverley Secondary College, given that on the day of the fire, 28 January, I visited the school, which at the time was devastated. Significant damage occurred at that school due to the fires.

The school community — indeed, the whole community — rallied quickly to ensure that the education of the Mount Waverley Secondary College students was not affected. The school arranged for its 1200 middle and senior students to be temporarily located at the Deakin University Burwood campus until late February 2003, which is an indication of how the whole community worked together. Deakin University is to be congratulated on assisting very promptly to ensure that the students were housed and could continue their studies immediately.

It was necessary for the middle and senior level students to return to the fire-affected campus in late February, as Deakin required the use of its facilities. But the school has continued to work on the redevelopment of that site, and I understand it is expected that a schematic design will be completed in mid-May.

As a government — I certainly did at the time — we committed to reinstating the school's facilities as quickly as possible. We understand the importance of having permanent facilities on that site. We understand the urgency, particularly given that it was such an extensive fire and an extensive part of the school was damaged. We will be responding as quickly as we possibly can as a government to ensure that the facilities are reinstated and that the students, although their education is not currently being interfered with because they are being housed in other premises and other classrooms, will be able to return to permanent facilities as quickly as possible.

The DEPUTY SPEAKER — Order! The Minister for Manufacturing and Export, responding to matters raised by the honourable member for Sandringham for the Minister for Transport; the honourable member for Murray Valley, for the Minister for Police and Emergency Services; the honourable member for Footscray, for the Minister for Housing in another place; the honourable member for Hawthorn, for the Minister for Planning; the honourable member for Doncaster, for the Minister for Education Services; the honourable member for Benambra, for the Minister for Environment; and the honourable member for Yan Yean, for the Minister for Education Services.

Mr HOLDING (Minister for Manufacturing and Export) — I shall refer those matters raised by the respective members to the relevant ministers, and they will respond directly to the members.

Mr Thompson — On a point of order, Deputy Speaker, on a minor point of clarification, the matter I raised was for the Minister for Environment, not the Minister for Transport.

The DEPUTY SPEAKER — Order! My apologies to the honourable member for Sandringham.

The house stands adjourned.

House adjourned 10.42 p.m.