

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE ASSEMBLY**

**FIFTY-FIFTH PARLIAMENT**

**FIRST SESSION**

**4 May 2004**

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**Tuesday, 4 May 2004**

**The SPEAKER (Hon. Judy Maddigan) took the chair at 2.05 p.m. and read the prayer.**

**QUESTIONS WITHOUT NOTICE**

**Judiciary: remuneration**

**Mr McINTOSH (Kew)** — My question is to the Attorney-General. I refer the Attorney-General to his statement in this house on 18 October 2001 that the law applying to judicial remuneration:

... will re-establish the constitutional relationship between the judiciary and the Parliament on issues of judicial salaries and allowances ... It removes the current inappropriate relationship with the executive arm of government.

If the Attorney-General truly believes these principles, why did cabinet politically interfere in the decision of the Judicial Remuneration Tribunal?

**Mr HULLS (Attorney-General)** — What a joke! When this mob were in government they sacked judges — they actually sacked judges — and they undermined the independence of the Director of Public Prosecutions. The shadow Attorney-General certainly was not in government at the time, so he cannot be held to blame. But he was at the bar at the time, and I do not remember him writing any letters to the papers saying what a disgrace it was that the Kennett government was sacking judges. What a disgraceful question! As I said last week — —

**Mr Honeywood** — On a point of order, Speaker, on the issue of relevance, the Attorney-General has been speaking at some length now about a previous matter, and he has not yet addressed government policy. I ask you to bring him to order.

**Mr Batchelor** — On the point of order, Speaker, the Attorney-General was asked a question about judicial remuneration. He is clearly answering the question. The fact that the opposition might not like the answer does not mean that he is not entitled to answer the question in the fashion he determines.

**The SPEAKER** — Order! I believe it is reasonable for the Attorney-General to make some opening comments, but I think he has now concluded those, and I ask him to address his response to the question.

**Mr HULLS** — In stark contrast to the Kennett government, we are actually building a very strong justice system, with new and improved courts. We are rightly proud of our judicial system, of which judges

are an integral part. Indeed the government made it quite clear that the Judicial Remuneration Tribunal made a determination, but the government also has the ability under the legislation to bring a motion in Parliament to disallow the tribunal's determination. From what I recall, when we brought in that legislation it was supported by the opposition.

Can I say that that disallowance motion will be brought on. Can I also say that I am currently receiving advice on ways to best establish a nexus, phased in over time, with federal judicial salaries as a matter of priority. That has been relayed to the heads of each of the jurisdictions, and they are working through this issue with the government. We will certainly ensure that Victorian judges are remunerated appropriately for the important work that they perform.

I would have thought that was a very cheeky question, given that it came from that side of the house, particularly when one takes into account that when they were in government they did not understand the notion of judicial independence and actually went about sacking judges and using this house to vilify individual magistrates.

**Concessions: Fairer for All initiative**

**Ms MUNT (Mordialloc)** — My question is to the Premier. Can the Premier advise the house about the government's Fairer for All initiative and outline how this reform of concession arrangements will benefit Victorians?

**The SPEAKER** — Order! Before calling the Premier I advise the house in relation to the budget bills that will be brought in this afternoon that, while members can speak generally about the budget, they cannot refer specifically to the actual provisions or amounts in the budget.

**Mr BRACKS (Premier)** — Thank you, Speaker, for that clarification. I thank the member for Mordialloc for her question as well. The changes to concessions announced by our government are the biggest reform in the last 20 years. Our government took up the responsibility of targeting concessions where they were most needed, where families and individuals were in dire need of some adjustment and assistance to make ends meet.

I refer in particular to the fact that a significant number of concessions had not changed at all over the last 20 years — for example, municipal rates, which had a ceiling on them, had not changed with the cost of living increases, had not been adjusted upwards in any

individual financial year and had no indexation. I refer also to water rates, which had a similar arrangement. The education maintenance allowance has been static and stable and has not increased over a period of time. These areas affected low-income families in Victoria, and our government has undertaken to increase those allowance and to benchmark them with the cost of living in the future.

I am pleased that our government is preparing to make one-off increases to some of these concessions and benefits, but I am even more pleased that we will be indexing cost of living increases for certain areas, including the education maintenance allowance, water rates and general municipal rates. I will pick out one in particular: the education maintenance allowance. The proposal by our government is to increase the allowance by some 60 per cent — the biggest one-off increase since the allowance was set some years ago. Primary students will get an increase of \$73, which is quite significant, and secondary students will get an increase of \$146. It is the same with water rates and stamp duties.

In relation to public transport, we had a situation in Victoria whereby only 43 per cent of health care card holders had access to public transport concessions — they will now be extended to every health care card holder in the state. As well, there will be dental support for families. Overall, without going into the details of the money and resources, this is a necessary reform to support families who are struggling by directing concessions to where they are most needed: for those families which are trying to make ends meet.

#### **Hazardous waste: containment sites**

**Mr RYAN** (Leader of The Nationals) — My question is to the Premier. Is the Premier undertaking a review of why Crown land was not properly considered in the process used to establish a short list for toxic waste dumps?

**Mr BRACKS** (Premier) — In response to one of the delegations that saw me there has been an examination of some of the material that was presented by the Pittong group and some of the material that went towards underpinning the decisions the government made on the selection of sites. I undertook to get a reply to that organisation — I think the time line was three weeks. It is probably about a week ago now since I gave that undertaking. We are doing a narrow examination of the very good material that was presented to us, and I am very happy to undertake that work.

#### **Exports: government initiatives**

**Mr SEITZ** (Keilor) — My question is directed to the Minister for Manufacturing and Export. Can the minister advise the house about existing opportunities for Victorian exporters and the impact of recent government initiatives on this sector?

**Mr HOLDING** (Minister for Manufacturing and Export) — I thank the member for Keilor for his question. Like all members of the government, the member for Keilor is a strong supporter of exporters and of Victorian companies doing more to grow their export share.

The government committed itself at the last election to doubling the number of Victorian companies exporting by 2010 and also to growing the volume of Victorian exports to \$30 billion over the same period. We understand that these are ambitious targets, and we want to make sure that we do everything we can to promote an export culture in Victoria, that we do everything we can to grow the number of Victorian companies exporting and that we do everything we can to increase export activity across all sectors of the Victorian economy, regardless of whether they involve small and medium-sized businesses or our biggest exporters and regardless of whether they are companies in the metropolitan area or companies operating in regional and rural Victoria, where one in four jobs is dependent on exports.

I was very pleased to be able to join with the Premier two weeks ago in launching our Opening Doors to Export plan. It is a very ambitious strategy that underpins the government's commitment to achieving the two goals it has set itself by 2010. The plan includes initiatives such as the creation of a Victorian export forum, through which some of our most successful exporters will provide top level advice to government. It will also help the government understand the characteristics of some of our most successful exporting firms.

The government has also announced the creation of export networks. These networks will support companies on a regional or geographic basis or across different industry sectors. They will make sure that we are providing information to companies not yet exporting about the sorts of opportunities that exist and the sorts of things they could be doing to grow their export efforts.

The government is also expanding initiatives such as the VicExport web site and the Export Communications network, which supports Victorian companies by

providing the latest information about export activities and the conditions that our exporters face in overseas markets. We have also expanded the reach of the First Step Exporter program, which was previously a program that focused on manufacturing companies. This will now be available to all industry sectors. We will also be introducing for the first time a program known as the Next Step Exporter program. This program will provide support for companies to promote sustainable exporting activities once they have made that first foray into international markets.

The government is also supporting other initiatives across the whole of government, because exporting is not just an activity that relates to our agricultural producers, to our manufacturing base or to our services sector. There are initiatives, for example, in the education area. I know that the Minister for Education and Training has been working very hard on growing our share of the international education market, and we have \$5.8 million of initiatives going forward to promote our exports in education.

We also have initiatives to support our food exports as part of our Next Generation food strategy. I am very pleased to announce that the government has announced the creation of trade councillors for three emerging markets — the first in north Asia, the second in India, and of course the third in the — —

**Mr Smith** interjected.

**The SPEAKER** — Order! The member for Bass will cease interjecting in that manner. The minister, to continue.

**Mr HOLDING** — We have also announced the creation of a trade councillor for the Middle East. I am very pleased to inform honourable members that Charles Jamieson, a former director of Austrade for seven years, has been appointed to that post. Charles, who in the past has been based in Dubai, Bahrain and Jeddah in Saudi Arabia, is an eminently qualified person to fulfil this role. As well as speaking English he speaks Swedish, French and Arabic. He will do a fantastic job, and we are very pleased about that. I am pleased to inform honourable members that this company is doing a — —

**Mr Plowman** — On a point of order, Speaker, standing order 58 requires the minister to be succinct in his answer. The minister has been going for 5 minutes. I ask you to ask the minister to conclude his answer.

**The SPEAKER** — Order! I uphold the point of order, and I ask the minister to conclude his answer.

**Mr HOLDING** — Members on both sides of the chamber can be very confident that this government is doing everything it can to support Victorian exporters, to make sure that more Victorian companies export and to make sure that we grow both the volume of our exports, and the number of Victorian companies exporting in the years ahead.

### **Rail: regional links**

**Dr NAPHTHINE** (South-West Coast) — My question without notice is to the Minister for Transport. I refer to the announcement in the 2001 state budget of funding for standardisation of rail freight lines, particularly the line linking Mildura with Portland. I ask — given that three years has passed and not 1 metre of this Mildura line has been converted to standard gauge — when will this project actually start and finish?

**Mr BATCHELOR** (Minister for Transport) — Everyone in Parliament would understand that it was the previous Liberal Party, of which the member for South-West Coast was a leading member, that flogged off Victoria's country rail network.

*Honourable members interjecting.*

**Mr BATCHELOR** — The member is nodding in agreement, Speaker. Guilty! You are guilty of selling it off!

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order, and I ask the Minister for Transport to address his comments through the Chair.

**Mr BATCHELOR** — Thank you, Speaker. I am sure you can remember as well that the Liberal and National parties sold off our country rail infrastructure to Freight Australia, which covered the tracks and other key elements of our rail infrastructure for some 45 years — and that lease lasts until the year 2044. This incoming government was faced with the contractual reality that the rail infrastructure was controlled not by the government but by Freight Australia.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order, and I ask the Leader of the Opposition to use parliamentary language in the house.

**Mr BATCHELOR** — Accordingly there were a number of rail projects which this government wanted to proceed with for which we have not been able to

conclude arrangements with Freight Australia. There is nothing new with this imbroglio. There are rail projects and there are freight and logistic projects that this government is unable to proceed with because of that changed set of circumstances. If the previous Liberal and National party government had not sold off control of this important asset, this government would have been able to move much closer.

The Speaker would be aware that there is talk of commercial change taking place in the rail infrastructure industry, and it may well be that as a result of that commercial change there would be some movement; but we will await the outcome of those commercial negotiations.

### **Melbourne convention centre: project**

**Ms CAMPBELL** (Pascoe Vale) — My question is to the Minister for Tourism. Can the minister advise the house on how the recently announced convention centre will enhance Victoria's economy and role as a primary conference provider.

**Mr PANDAZOPOULOS** (Minister for Tourism) — I thank the member for her question about a most significant new infrastructure project for Victoria that will position us well in the future. It will help to grow our economy by about \$200 million and will generate about 2500 additional jobs that will be ongoing every year.

Melbourne already has a great reputation abroad. We have a great brand, and we know that we are the sporting capital of the world. We are one of the few cities in the world that holds major sporting events at the one location.

But there is also another great brand that we are developing in Victoria, and that is about Victoria being the thinking capital of Australia. We already have a second-to-none, world-class education system in Victoria, and that is proven by the fact that Victoria has a greater share of overseas students than any other state — way beyond our population share. We have the highest demand for tertiary education places, highlighting Victoria's education, thinking and innovation strengths.

We are also the leading manufacturing and logistics state and we are the biotechnology and research centre of Australia. We are well on the way to developing that brand of the thinking capital of Australia, and that is why a new convention centre is so important.

It is about linking up the world's thinkers and bringing them to our doorstep, about giving great access to all

our researchers, all our biotechnology and other people in the science industry and all our legal people and finance experts and linking up with the rest of world here on our doorstep.

That provides a great benefit to Victoria. It helps us sell the things this government has been investing in — innovation, research, design and a strong manufacturing economy — and it is also a huge tourism boost, with tourism and business investment working hand in hand together. We believe the world's most livable city, Melbourne, is the perfect location for Australia's biggest convention centre.

When we think about our competitive opportunity we need to think about where we are building this. It will be next to the current exhibition centre on Southbank, completing the Southbank vision, while also being so close to all the infrastructure — having the great hotels, shopping and entertainment in close proximity.

People who have travelled to convention centres around the world know how far many of them are out of the central business district. Victoria is the place to be for conferences, but we have been slipping in recent times because we have the oldest and the smallest convention centre.

It is interesting that last week opposition members said that we had stolen their idea, that it had taken too long and that it would be in the wrong place. We believe it is planned for the perfect place. The opposition has no vision. I would like to read from its 1999 election policy statement. It said that it would 'facilitate' the construction of a large meeting facility at the convention centre within the next 10 years. Not funded — facilitated! We come into government and find it has no dollars. The former government said it will facilitate something in 10 years time!

**Mr Plowman** — On a point of order, Speaker, I believe the minister is now debating the question, and I ask you to bring him back to the question.

**The SPEAKER** — Order! I understand the question was about how the recently announced convention centre will enhance Victoria's economy and its role as a primary conference provider. I ask the minister to answer that question.

**Mr PANDAZOPOULOS** — We have funded something that was not funded in the past. It will open by 2008, which was not so at all under the plans of the previous government, and it will be built right next to the current exhibition facility, because that provides the biggest economic return.

I would not mind tabling that 1999 election policy commitment from the Liberal Party, and I would love to table the 2002 one, but I cannot, because I cannot find a commitment!

**The SPEAKER** — Order! The minister has been speaking for some time now. I ask him to conclude his answer.

**Mr PANDAZOPOULOS** — In conclusion, we believe this is very important not only for the economy of Victoria — an extra \$200 million to gross state product every year — but also because it means an extra 2500 ongoing jobs.

Conference attendees from overseas are the highest spending tourists, at \$3390 per person. Therefore this is not only about hotels but also about regional Victoria, wineries, restaurants, cafes, taxis, shopping — all those great strengths that Victoria has — and we are very pleased that the government has been able to proceed with this project.

It will open in 2008, and it will be a great boon for Victoria. We are the sporting capital of Australia and also the thinking capital of Australia.

### **Water: Werribee recycling project**

**Mr PLOWMAN** (Benambra) — My question is to the Minister for Water. I refer the minister to the proposal of Dick Pratt and Frank Costa to spend \$3 million to test water recycling technology for the Werribee market gardens, and I ask: why after 14 months of indecision has the government scuttled this very important project?

**Mr THWAITES** (Minister for Water) — I thank the shadow Minister for Water for his question. It was interesting that at the weekend the shadow Minister for Water criticised the Bracks government for being so worried about keeping water in public hands, as though somehow this was a bad thing — and as though this government should not keep water in public hands. We know the position of the opposition: it wants to privatise water. It wanted to do it in government, and it wants to do it now.

I am very pleased to advise the shadow minister that this government is proceeding with the biggest recycling project in Melbourne's history at Werribee. It is under way now, it is self-funded and it is going to lead to more than 6000 megalitres of water being recycled and going to the farmers in Werribee. The reason we are doing it is that those farmers did not have enough water during the summer period and they were overusing the ground water. We reached an agreement with more than 100 of

those farmers to make this major project the biggest recycling project in Melbourne's history. The result of this very large project means that the previous proposal by Mr Pratt and Mr Costa is not necessary. It was a demonstration project to show farmers that recycling was a good thing. We now have farmers signed up to recycle more than 6000 megalitres.

Regional Development Victoria is working with the Pratt organisation and the Costa organisation on other positive proposals that will act as demonstration projects that our farmers can learn from and utilise, and it will continue to do so into the future.

### **Disability services: community access**

**Ms GREEN** (Yan Yean) — My question is to the Minister for Community Services, and I ask: can the minister advise the house of any initiatives that the Bracks government is implementing to improve community access for people with disabilities?

**Ms GARBUTT** (Minister for Community Services) — I thank the member for Yan Yean for her question and for her ongoing interest in the wellbeing of people with disabilities. This government recognises that creating a better life for people with disabilities is about more than just providing services. It is about changing community attitudes to people with disabilities and encouraging people with disabilities to participate in their communities. That is the key focus of the state disability plan, and I am happy to advise the house that we are not just talking about it and planning for it but actually doing it.

I want to talk about the Companion Card, which is a scheme we have now implemented. It allows a person with a disability who requires a companion in order to attend an event or a particular venue to get into that event or venue without two entrance fees having to be paid. They get in for the price of one. This is the first time in Australia that this sort of scheme has been implemented. I am very happy to advise the house that over 100 affiliates have now joined up to the Companion Card.

Melbourne is Australia's major events and sporting capital, and now people with disabilities will be able to participate along with the rest of the community. Some of the organisations and events that have joined up include the Australian Football League, the grand prix, Hoyts and Village cinemas, the Melbourne Comedy Festival and Tennis Australia, along with 20 local councils right throughout the state. Nearly 5000 people with disabilities have obtained a Companion Card. They are now out there participating in the life of the

state and in their communities because of this important initiative.

Other initiatives include the metro and rural access schemes, where people work with local government and with local communities to encourage people with disabilities to access their local communities in a very real way. That is also under way.

Another key component of getting a more accessible community is to give people with disabilities a real voice, to allow them to advocate for themselves and to have services and organisations that will advocate on their behalf. The government has recently allocated over half a million dollars of new money in recurrent funding to disability advocacy organisations. Some of these are organisations that were closed down under the previous government. They closed down and shut up shop under the Kennett government. They had their money taken away absolutely and totally so that their voices would be silenced. We are giving them back their voices. You will be hearing more from people with disabilities, because we have funded advocacy services. We have delivered a 48 per cent boost to disability services over the time of this government. It is a record we are proud of, and we are about to build on it.

#### **Melbourne convention centre: feasibility study**

**Ms ASHER** (Brighton) — My question is to the Minister for Major Projects. I refer to the minister's claims, and indeed to those of the Minister for Tourism, in the Parliament that the government has chosen the right site for the 5000-seat convention centre and that the government's feasibility studies prove his point. Why has the government blocked the opposition's access to the government's feasibility study under freedom of information?

**Mr BATCHELOR** (Minister for Major Projects) — The question from the member for Brighton attempts to forget the history of the previous government, which denied freedom of information throughout its period of government. The Bracks government makes information available. We are prepared to uphold the spirit and the letter of the Freedom of Information Act.

There is no doubt that the site for the new convention centre is the right location. The previous government's plan was to put it in a park — in Batman Park down on the Yarra — where it would have overshadowed the Yarra and taken away parklands from the people of Melbourne. Our proposal is to co-locate the new convention centre with the Melbourne Exhibition Centre to enhance the operations of both facilities. The

new convention centre will be a fantastic addition to the economic structure of Melbourne. It will provide thousands of jobs for people during its construction phase, but more importantly it will provide thousands of jobs for people during its operational phase.

The documents are available, but the government is entering a Partnerships Victoria process to determine who will construct and operate this facility. Once we are through that process all things will become clear to the member.

#### **Teachers: industrial settlement**

**Mr JENKINS** (Morwell) — My question is to the Minister for Education and Training. Can the minister advise the house about the recent negotiations on wages and conditions between the state government and the Australian Education Union and the impact they will have on the provision of teaching services?

**Ms KOSKY** (Minister for Education and Training) — I thank the member for Morwell for his question and for his interest in education. As everyone in this house knows and members of the public know, education is the key priority of the Bracks government. Last week's settlement of an enterprise bargaining agreement (EBA) is further evidence of that commitment to education. It is worth noting that since 1999 the Bracks government has employed more than 5000 teachers and staff in our schools, including the announcement last week of an extra 250 teachers. It is a very good record, a record of which I am very proud. The Bracks government has invested over \$3.7 billion in education and training. Maybe that figure will go up after later events today.

I am also pleased to say that through this wage agreement we have further invested in education, particularly in our students. This EBA negotiated between my department and the Australian Education Union provides for a deal giving four 3 per cent wage increases over four financial years starting in this financial year. It is a deal which is completely in accord with our government's public sector wages policy. We have absolutely stuck to our commitment to the government's wages policy and I am pleased that we have been able to maintain that through this agreement.

It delivers a fair and reasonable outcome for teachers, it is economically sustainable and allows us to move forward in terms of further investments in education and in students. It provides for improved service delivery in relation to performance of staff and the streamlining of promotional processes and very much delivers on the attraction and retention of teachers

within our schools, both at the graduate level and at the senior leading teacher level. It recognises our young and enthusiastic teachers but also keeps our experienced teachers in the classroom where we want them to be. This is a very good deal for teachers and government, but most importantly it is a good deal for students. As the opposition leader — —

**Mr Perton** interjected.

**The SPEAKER** — Order! I have spoken to the member for Doncaster before about his continual loud interjections while the Minister for Education and Training is speaking. I ask him to desist.

**Ms KOSKY** — I will make a few comments about some of the commentary relating to the EBA. The *Age* editorial headed ‘A better deal for Victoria’s classes’ says:

These arrangements have sought to reverse the austerity experienced by the education sector during the Kennett years when 8000 teachers left government schools.

It goes on to state:

It rightly recognises the importance of properly rewarding the women and men whose job it is to impart knowledge.

A further article includes comments from Mary Bluett from the AEU:

It’s never everything that you want.

But it goes on to say:

... I think it represents an excellent package for what we wanted from the start, and that is a package that would attract and retain teachers in the government school system.

The article further states:

The president of the Victorian Association of State Secondary Principals, Andrew Blair, said the package was unsurprising, delivering a modest pay rise without widespread changes.

So he is very supportive of this package. And the opposition leader described it as a commonsense solution, and I agree with him that it is a commonsense solution and one which we are pleased to have negotiated. But there was a comment from someone who is still located firmly in the 1960s, and that is the member for Doncaster. He said:

‘This reminds me of the 1960s Peggy Lee song: *Is That All There Is?*’.

So we have an opposition leader — —

**Mr Plowman** — On a point of order, Speaker, I believe the minister is now debating the question and I ask you to — —

*Honourable members interjecting.*

**The SPEAKER** — Order! I cannot hear for the member for Doncaster. I ask him and other members to come to order.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to show courtesy to members when they are on their feet. I ask the house to be quiet while the member for Benambra raises his point of order.

**Mr Plowman** — Speaker, I repeat: I believe the minister is now debating the question, and I ask you to bring her back to the question.

**The SPEAKER** — Order! The question to the minister was to report on the impact of negotiations on the provision of teaching services, and I ask her to return to answering that question.

**Ms KOSKY** — There is disagreement within the opposition ranks about this deal, but it is a deal that I and the government are very pleased to have delivered. We are proud that this government values education and teachers — —

**Mr Smith** interjected.

**The SPEAKER** — Order! The member for Bass!

**Mr Smith** interjected.

**The SPEAKER** — Order! The member for Bass is sorely testing the patience of the Speaker! I ask him to be quiet.

**Ms KOSKY** — Most importantly, it delivers for students. The member for Doncaster asks, ‘Is that all there is?’. It is a much better commonsense approach than their commonsense approach, which was to close schools and sack teachers.

## AUSTRALIAN BROADCASTING CORPORATION: VICTORIAN SPORT

**The SPEAKER** — Order! The house will recall that on 1 April it required me to write to the Australian Broadcasting Corporation in relation to sports reporting on ABC television in Victoria. I have received two responses from the ABC, both emanating from Sydney, which I shall now read to the house. The first, dated

7 April, is from the chairman of the ABC, Donald McDonald:

Thank you for your letter of 1 April 2004 regarding the ABC's changes to its presentation of television sports news.

I note the points you make. The new sports news format is designed to complement local coverage of sports news in each state and territory and actually allows more room in individual state bulletins for stories of major local interest. The concise report by Peter Wilkins aims to capture the major national and international sports news of the day, enabling our sports reporters around the country to focus less on meeting the needs of the national network and more on local stories. Their stories go to air around the Peter Wilkins report and even interstate, depending on the news agenda of the day.

The ABC recognises the importance of sport in the daily lives of Victorians, and the new format will not lead to a reduction in the reporting of Victorian state-based sports news by the local team. Now that you have had the opportunity to view the segment over a number of weeks, you would have observed that sports stories of particular interest to Victorians are still well covered.

This change was made by the news and current affairs division for editorial reasons to ensure a consistent quality in a format more relevant to the evolving requirements of the 7 p.m. news. ABC management constantly assesses all its programming — on radio, television and online — to ensure that we are providing our audience with the types of services they require and at times that are the most suitable. The process of program evaluation also pays careful attention to what our audiences tell us directly, whether supportive or critical. Your comments have been noted and will play a part in this process.

I received a further response from the managing director of the ABC, Russell Balding, dated 23 April:

I wish to bring to your attention a grievous error in the resolution passed by the Victorian Legislative Assembly in relation to the ABC's decision to enhance its television news sports presentation.

Contrary to the assertions in the resolution, ABC management has not downgraded Victorian content by introducing a national sports segment. The ABC's sports reporters in Victoria continue to pursue and report on local stories which are relevant to the local community. It continues to be within the discretion of the Victorian state editor to determine which of these local stories will be put to air. The Peter Wilkins report is in addition to these local stories.

I look forward to your advice when this erroneous claim in the Legislative Assembly resolution has been corrected on the public record.

As I said, both these responses came from Sydney — of course!

## TRANSPORT LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

### *Introduction and first reading*

**Mr BATCHELOR (Minister for Transport) introduced a bill to amend the Marine Act 1988, the Melbourne City Link Act 1995, the Public Transport Competition Act 1995, the Rail Corporations Act 1996, the Road Safety Act 1986, the Road Safety (Drug Driving) Act 2003, the Road Transport (Dangerous Goods) Act 1995, the Sentencing Act 1991 and the Transport Act 1983 and make consequential amendments to the Magistrates' Court Act 1989 and for other purposes.**

**Read first time.**

## TREASURY AND FINANCE LEGISLATION (AMENDMENT) BILL

### *Introduction and first reading*

**Mr HULLS (Attorney-General) introduced a bill to amend the Accident Compensation Act 1985, the Accident Compensation (WorkCover Insurance) Act 1993, the Emergency Services Superannuation Act 1986, the Government Superannuation Act 1999, the Professional Standards Act 2003, the State Employees Retirement Benefits Act 1979, the State Superannuation Act 1988, the Superannuation (Portability) Act 1989, the Transport Superannuation Act 1988 and the Victorian Managed Insurance Authority Act 1996 and for other purposes.**

**Read first time.**

## FINANCIAL MANAGEMENT (AMENDMENT) BILL

### *Introduction and first reading*

**Mr BRUMBY (Treasurer) introduced a bill to amend the Financial Management Act 1994 with respect to government financial reporting and for other purposes.**

**Read first time.**

**SURVEYING BILL***Introduction and first reading*

**Ms DELAHUNTY (Minister for Planning)** introduced a bill to provide for the management of cadastral surveying, to repeal the Surveyors Act 1978 and for other purposes.

**Read first time.**

**ARCHITECTS (AMENDMENT) BILL***Introduction and first reading*

**Ms DELAHUNTY (Minister for Planning)** introduced a bill to amend the Architects Act 1991, the Building Act 1993 and the Domestic Building Contracts Act 1995 and for other purposes.

**Read first time.**

**APPEAL COSTS AND PENALTY INTEREST RATES ACTS (AMENDMENT) BILL***Introduction and first reading*

**Mr HULLS (Attorney-General)** introduced a bill to amend the Appeal Costs Act 1998 and the Penalty Interest Rates Act 1983 and for other purposes.

**Read first time.**

**DEATH NOTIFICATION LEGISLATION (AMENDMENT) BILL***Introduction and first reading*

**Mr HULLS (Attorney-General)** introduced a bill to amend the Coroners Act 1985 to create a category of reviewable death to allow investigation of multiple child deaths, to amend the Births, Deaths and Marriages Registration Act 1996, the Health Act 1958, the Children and Young Persons Act 1989 and the Human Services (Complex Needs) Act 2003 and for other purposes.

**Read first time.**

**RACING AND GAMING ACTS (AMENDMENT) BILL***Introduction and first reading*

**Mr PANDAZOPOULOS (Minister for Gaming)** introduced a bill to amend the Racing Act 1958, the Lotteries, Gaming and Betting Act 1966, the Gambling Regulation Act 2003, the Confiscation Act 1997, the ANZAC Day Act 1958 and for other purposes.

**Read first time.**

**PETITIONS**

**Following petitions presented to house:**

**Point Cook Road: upgrade**

To the Legislative Assembly of Victoria:

The petition of members of the Point Cook Residents Association in conjunction with residents and business proprietors in the Laverton/Point Cook corridor draws to the attention of the house the following:

Point Cook Road is a single carriageway two-lane arterial road carrying over 26 000 vehicles per day (has increased by 52 per cent in the past three years and will continue to increase due to the rapid development in the area);

from 1998 to 2002 there were 23 casualty accidents on Point Cook Road, Triholme Avenue and Aviation Road;

the access from Point Cook Road to the West Gate Freeway (Melbourne bound) is inadequate, and unsafe for both vehicular traffic and pedestrians; and

the VicRoads Laverton/Point Cook: Road and Public Transport Network Study report that was scheduled to be released in February 2003 has still not yet been released.

Prayer

The petitioners therefore respectfully request that the Legislative Assembly of Victoria ensure that funding be allocated as a matter of urgency in the 2004–05 state budget to:

immediately install full signalisation at the junction of Point Cook Road and Central Avenue;

immediately install traffic signals at the Forsyth Road/Princes Freeway Melbourne-bound ramp;

upgrade Point Cook Road so that it is safe for use by local traffic; and

commence the Palmers Road extension and interchange.

We further call for the immediate release of the recommendations of the VicRoads Laverton/Point Cook Road and Public Transport Network Study.

**By Ms KOSKY (Altona) (8001 signatures)**

**Warley Hospital, Cowes: funding**

To the Legislative Assembly of Victoria:

The petition of certain residents of Victoria draws to the attention of the house the threatened closure of the accident and emergency department of the not-for-profit Warley Hospital on Phillip Island. Such a closure would place the safety and lives of Phillip Island residents and tourists at grave risk. Phillip Island residents and tourists reject the assertion by Premier Bracks that it 'is not the responsibility of state government' and further register their disapproval of the Premier Bracks's dismissal of Warley Hospital as merely a private hospital.

The petitioners wish to inform the house that Warley Hospital was established with community funds and is supported by public donations and subscriptions. The petitioners believe the health and safety of residents of Phillip Island and tourists is the responsibility of the state government.

Prayer

The petitioners therefore request that the state government meet its health funding obligations for Warley Hospital and promptly assist in the proper funding of its accident and emergency department, to prevent its threatened closure.

**By Mr SMITH (Bass) (120 signatures)**

**Planning: rural zones**

To the Legislative Assembly of Victoria:

The petition of certain citizens of the state of Victoria draws to the attention of the house that the government's proposed new rural planning zones are inadequate and should be rejected.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria urges the government to withdraw and redraft the new rural planning zones and introduce a planning system that:

- (i) strikes a fairer balance between the need to preserve prime agricultural land and acknowledgment of the rights of landowners;
- (ii) does not impinge on a landowner's rights to retire with dignity;
- (iii) encourages young people to take up farming; and
- (iv) gives local government flexibility in the determination of subdivisions and use of rural land.

**By Dr SYKES (Benalla) (60 signatures)**

**Swords: regulation**

To the Legislative Assembly of Victoria:

The petition of citizens of the state of Victoria draws to the attention of the house that the government's proposed new restrictions on sword ownership are unfair to legitimate sword owners, will not prevent the criminal misuse of swords, and should therefore be abandoned or significantly revised.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria urges the government to withdraw or redraft the new prohibited weapons legislation to:

- (i) allow private citizens to own swords free from onerous regulations that restrict ownership, display and storage; and to
- (ii) enforce harsh penalties for any criminal use of swords.

**By Dr SYKES (Benalla) (688 signatures)**

**Gaming: machines**

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

The humble petition of the undersigned citizens of the state of Victoria sheweth our concern for the negative impacts of the electronic gaming machine (pokie) industry on the Victorian community and the need for further government action to minimise the harm caused by the industry.

Your petitioners therefore pray that the Victorian government introduce a comprehensive package of measures to minimise the harm caused by electronic gaming machines, including:

reduce the number of electronic gaming machines in Victoria to 15 000;

place a restriction on all remaining electronic gaming machines so that the maximum that anyone can lose is \$50 per hour;

remove ATMs from gaming venues;

require all winnings over \$250 in gaming venues to be paid entirely by cheque; and

introduce a truly independent gambling regulation body.

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

**By Mr HUDSON (Bentleigh) (531 signatures)**

**Bairnsdale Regional Health Service: funding**

To the Legislative Assembly of Victoria:

The petition of the residents of East Gippsland draws to the attention of the house the recent cuts to specialist services at Bairnsdale hospital. The petitioners therefore request that the Legislative Assembly of Victoria calls on the Victorian government to provide adequate WIES funding to Bairnsdale Regional Health Service to ensure that these surgical services are reinstated and remain at Bairnsdale hospital.

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

**By Mr INGRAM (Gippsland East) (419 signatures)**

### **Central Health Interpreter Service: funding**

To the Legislative Assembly of Victoria.

The petition of members of the Victorian community draws to the attention of the house the importance of level 3 NAATI health specialists, interpreters and translators being available on a continuing basis within health settings.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria urge the health minister and the government to reverse the decision to close the Central Health Interpreter Service and that the existing Central Health Interpreter Service, which has been operating for over 20 years, be maintained.

**By Mr THOMPSON (Sandringham) (73 signatures)**

### **Emergency services: Warrnambool helicopter**

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

The humble petition of the citizens of Portland and district sheweth the desire to bring to the attention of the honourable members the issue of the lack of a multifunction emergency helicopter rescue service based in Warrnambool to provide emergency coverage throughout all of western Victoria. Western Victoria remains the only area of the state not covered by an emergency helicopter service. Our desired helicopter service would include air ambulance, firefighting capabilities, day and night search and rescue facilities and would be available for onshore, coastal and offshore operations. We seek a speedy establishment of such a helicopter service to cover all of western Victoria.

Your petitioners therefore pray that this matter be raised with the state government, requesting that the government address this appalling situation.

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

**By Dr NAPHTHINE (South-West Coast) (109 signatures)**

### **Dogs: foxhounds and crossbreeds**

To the Legislative Assembly of Victoria:

The petition of this citizen of the state of Victoria draws to the attention of the house that the government's new restrictions on the use of scent-trailing foxhounds and their crossbreeds are unfair to the legitimate owners of these canines, and will not prevent the criminal misuse of a public resource, and should therefore be abandoned or significantly revised.

Prayer

This petitioner therefore requests, nay begs, that the Legislative Assembly of Victoria urges the government to withdraw the current regulation relating to foxhounds and

their crossbreeds. And to introduce a grandfather or sunset clause to allow its citizens to use their foxhounds and crossbreeds that are currently registered with approved organisations until the year 2015.

**By Mr HONEYWOOD (Warrandyte) (1 signature)**

### **Planning: rural zones**

To the Legislative Assembly of Victoria:

The petition of residents of Victoria, land-holders in the environmental rural zone in the City of Manningham and other local municipalities draws to the attention of the house our strong objections to the proposed rural conservation zone (RCZ) with which the Minister for Planning, Honourable Mary Delahunty, aims to replace the existing environmental rural zone (ERZ). Our objections are listed as follows:

Very few of the lots affected by the change in the City of Manningham comply with the 40-hectare minimum lot size requirement; therefore the proposed planning controls simply have no justification.

Land-holders would need to have the flexibility afforded to them under the current ERZ to carry out extensions to their home, rebuild after a major fire, allow a second dwelling to accommodate family members in need of support or develop vacant land for residential purposes.

New restrictions under the proposed RCZ will detrimentally affect the value of our land-holdings as many uses are no longer permissible, making the land undesirable to potential purchasers in the future.

Vacant lots or lots that are unable to be inhabited because of the lack of flexibility in terms of housing will result in the decline of sustainable land management. This of course will have an adverse effect on the environment that we are all so keen to protect.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria do not approve the rural conservation zone to replace the existing environmental rural zone in the metropolitan planning scheme for the above-listed reasons.

**By Mr HONEYWOOD (Warrandyte) (267 signatures)**

**Ordered that petition presented by honourable member for Gippsland East be considered next day on motion of Mr INGRAM (Gippsland East).**

**Ordered that petitions presented by honourable member for Warrandyte be considered next day on motion of Mr HONEYWOOD (Warrandyte).**

**Ordered that petition presented by honourable member for Altona be considered next day on motion of Ms KOSKY (Altona).**

**Ordered that petitions presented by honourable member for Benalla be considered next day on motion of Dr SYKES (Benalla).**

**Ordered that petition presented by honourable member for South-West Coast be considered next day on motion of Dr NAPTHINE (South-West Coast).**

**SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

***Alert Digest No. 4***

**Ms D'AMBROSIO (Mill Park) presented *Alert Digest No. 4* of 2004 on:**

- Alpine Resorts (Management) (Amendment) Bill**
- Births, Deaths and Marriages Registration (Amendment) Bill**
- Courts Legislation (Funds in Court) Bill**
- Courts Legislation (Judicial Appointments) Bill**
- Energy Legislation (Regulatory Reform) Bill**
- Justice Legislation (Sexual Offences and Bail) Bill**
- Primary Industries Legislation (Miscellaneous Amendments) Bill**
- Private Security Bill**
- Road Management Bill**
- Victorian Qualifications Authority (National Registration) Bill**

**together with appendices.**

**Tabled.**

**Ordered to be printed.**

**DOCUMENTS**

**Tabled by Clerk:**

- Adult Multicultural Education Services — Report for the year 2003
- Bendigo Regional Institute of TAFE — Report for the year 2003
- Box Hill Institute of TAFE — Report for the year 2003
- Central Gippsland Institute of TAFE — Report for the year 2003
- Centre for Adult Education — Report for the year 2003
- Chisholm Institute of TAFE — Report for the year 2003
- Driver Education Centre of Australia Limited — Report for the year 2003

East Gippsland Institute of TAFE — Report for the year 2003

*Financial Management Act 1994:*

Budget Paper No 2 — 2004–05 Strategy and Outlook

Budget Paper No 3 — 2004–05 Service Delivery

Budget Paper No 4 — 2004–05 Statement of Finances incorporating the Quarterly Financial Report No 3

*Financial Management Act 1994* — Reports from the Minister for Health that she had received the 2003 annual reports of the:

Lilydale Memorial Park and Cemetery

Preston Cemetery Trust

Wyndham Cemeteries Trust

Geelong Cemeteries Trust — Report for the year 2003

Gordon Institute of TAFE — Report for the year 2003

Goulburn Ovens Institute of TAFE — Report for the year 2003

Holmesglen Institute of TAFE — Report for the year 2003

Kangan Batman Institute of TAFE — Report for the year 2003

Civic Mutual Plus and Municipal Officers Fidelity Guarantee Fund — Report for the year 2002–03

Northern Melbourne Institute of TAFE — Report for the year 2003

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

Ballarat Planning Scheme — No C69

Banyule Planning Scheme — No C43

Baw Baw Planning Scheme — No C27

Campaspe Planning Scheme — No C28

Casey Planning Scheme — No C69

Darebin Planning Scheme — No C60

Greater Bendigo Planning Scheme — No C55

Macedon Ranges Planning Scheme — Nos C14, C32

Port Phillip Planning Scheme — No C44

Swan Hill Planning Scheme — No C16

Warmambool Planning Scheme — No C29

Wodonga Planning Scheme — No C26

Yarra Planning Scheme — No C70

Yarra Ranges Planning Scheme — No C37

South West Institute of TAFE — Report for the year 2003

Statutory Rules under the following Acts:

Local Government Act 1989 — SR No 30

Subordinate Legislation Act 1994 — SR No 31

*Victorian Civil and Administrative Tribunal Act 1998* — SR No 29

*Subordinate Legislation Act 1994:*

Minister's exception certificate in relation to Statutory Rule No 29

Minister's exemption certificate in relation to Statutory Rule No 30

Sunraysia Institute of TAFE — Report for the year 2003

Victoria Law Foundation — Report for the year 2002–03

William Angliss Institute of TAFE — Report for the year 2003

Wodonga Institute of TAFE — Report for the year 2003 (two documents).

## ROYAL ASSENT

**Message read advising royal assent on 27 April 2004 to:**

**Gas Industry (Residual Provisions) (Amendment) Bill**

**Land Tax (Amendment) Bill**

**Public Prosecutions (Amendment) Bill**

**Unclaimed Moneys (Amendment) Bill**

**Wrongs (Remarriage Discount) Bill.**

## APPROPRIATION (2004/2005) BILL

**Message read recommending appropriation and transmitting estimates of revenue and expenditure for 2004–05.**

**Estimates ordered to be tabled.**

*Introduction and first reading*

**Mr BRUMBY (Treasurer), pursuant to standing order 87, introduced a bill for the appropriation of certain sums out of the consolidated fund in respect of the financial year 2004–05 and for other purposes.**

**Read first time.**

*Second reading*

**Mr BRUMBY (Treasurer) — I move:**

That this bill be now read a second time.

### Introduction

Today's budget delivers real benefits for all Victorians — wherever they live and whatever they do,

from the suburbs of Melbourne to our regional cities, towns and communities.

The 2004–05 budget provides additional support for families and children. It puts more money directly into the pockets of Victorians. And it delivers major investment in schools, hospitals and the services Victorians value, need and use in their daily lives.

This budget is built on strong economic and financial performance — and on the Bracks government's leadership in setting a framework for economic, investment and jobs growth across the state.

The results of our economic and financial leadership are clear.

Strong and consistent economic growth.

Victoria's unemployment rate below the national rate for the past 46 months.

Building approvals worth more than \$1 billion for 32 consecutive months, with approvals in regional areas at their highest level on record.

Per capita business investment above the national average.

And a strong surplus in 2004–05, and the following three years.

Once again — as in our previous four budgets — the Bracks government is reinvesting the proceeds of this strong economic and financial performance to generate new opportunities, higher standards of living and a better quality of life for all Victorians.

Today, as we deliver our fifth budget, there are almost 5000 more teachers and staff in our schools and 21 new schools across the state.

Our hospitals have 4000 more nurses working in them and are treating 35 000 more Victorians each year.

We have funded 1400 more police and 81 new police stations.

Across Victoria, investment in vital economic, social and environmental infrastructure is the highest in the state's history — \$2.9 billion in 2004–05 and nearly \$10 billion over the next four years.

In just under five years, the Bracks government's leadership has changed the face of Victoria — rebuilding our health and education systems, revitalising our regions, generating new opportunities and creating a better, fairer Victoria.

### **A strong, growing and diverse economy**

The Victorian economy of today is diverse, dynamic and competitive.

Over the five years to 2002–03, the Victorian economy grew an average 3.9 per cent per year — above the national average of 3.6 per cent — with growth expected to remain a strong 3.25 per cent in 2003–04 and 2004–05.

This strong result has been achieved despite the impact of the drought and the global slowdown of recent years — proof of the depth and diversity of the state's economy.

Per capita business investment in Victoria also remains above the national average — reflecting business confidence in the government's efforts to create a more competitive and more attractive business environment.

For nearly five years, the Bracks government has delivered an ambitious economic agenda and invested responsibly to secure Victoria's future. Now, there are some new challenges on the horizon.

The strong Australian dollar is putting additional pressure on a range of industry sectors, but particularly on Victoria's manufacturers and exporters.

Upward pressure on interest rates has increased business costs — and further increases will restrain growth in consumer spending, housing and business investment.

We are seeing signs of the long-expected slowing in the housing market, with Victorian private dwelling approvals easing and housing finance approvals trending downwards in recent months.

The global economy is also more competitive than ever before, with Victoria experiencing increasing export competition from low-cost countries.

### ***Victoria — Leading the Way***

Two weeks ago the government released its April economic statement — *Victoria — Leading the Way* — to ensure Victoria has the capacity to meet these challenges, tackle them successfully, and emerge an even stronger, more competitive and more innovative economy.

*Victoria — Leading the Way* sets out 19 substantial actions to reduce the cost of doing business, boost jobs, build world's best infrastructure, attract investment and drive exports growth.

The government will improve rail and shipping access to the port of Melbourne — improvements that are critical to maintaining Melbourne's position as Australia's leading freight hub and to moving goods from regional Victoria to domestic and international markets.

We will provide additional funding for detailed feasibility and design studies for the deepening of the shipping channels in Port Phillip Bay.

We will also develop fully detailed designs to improve rail links to and within the port, with the aim of increasing the amount of freight carried by rail, reducing road congestion around the port and boosting the efficiency of Victoria's freight sector.

To continue to build a more competitive business environment, the government will deliver substantial land tax relief and reduce the average WorkCover premium rate by 10 per cent.

In total, *Leading the Way* cuts the cost of doing business in Victoria by a massive \$1.9 billion over the next five years.

We will build a new 5000-seat Melbourne convention centre to make Victoria a destination of choice in the global conference market.

We will cut red tape in development approvals and improve the efficiency of the state's planning system.

We will provide additional support for Victorian exporters, establish a new Melbourne Centre for Financial Studies and explore export, growth and investment opportunities for Victoria's rapidly expanding financial services sector.

We will also commence a new strategy to secure Victoria's position as a leading exporter of education services and attract more international students to the state.

In addition to these measures announced in *Leading the Way*, today's budget also provides a further \$35 million to further consolidate Victoria's position as Australia's major events capital.

Speaker, the 2004–05 budget commits funding towards the actions set out in *Victoria — Leading the Way* while continuing the government's commitment to improve services, grow the whole state and deliver real benefits for Victorian families — all within a framework of sound financial management.

### Sound financial management

A surplus of \$545 million is projected for 2004–05, with surpluses averaging \$571 million over the following three years.

Debt remains at prudent levels, and general government net financial liabilities (excluding the Growing Victoria infrastructure reserve) are forecast to fall from 6.8 per cent of GSP at June 2004 to 6.5 per cent in June 2008.

Last December, both Standard and Poor's and Moody's Investors Service once again affirmed Victoria's long-term AAA credit rating — reflecting ongoing international recognition of the government's responsible financial management.

Speaker, over five budgets the Bracks government has fulfilled its promise to the people of Victoria to manage the state's finances wisely and prudently — and to deliver a strong and secure financial footing for Victoria's future.

### A government of reform

The Bracks government is also leading the way as a government of genuine reform.

Last year, we delivered the most significant electoral and parliamentary reform in this state's history — introducing fixed four-year terms and making the Victorian upper house more representative of the views of Victorians.

We are delivering the biggest reform of Victoria's tax system in decades — cutting and reforming taxes to drive investment and jobs.

From 1 July 2004 stamp duty on mortgages will be abolished and over the next five years a further \$1 billion worth of cuts to land tax will be delivered.

We are also undertaking the most significant reform of state government concessions in many years.

We have led Australia in most areas of competition policy and regulation reform — and this budget delivers funding for a Victorian Competition and Efficiency Commission to consider new ways of making it easier to do business in Victoria.

We have created the world's first system of marine national parks and will shortly release the *Securing Our Water Future* white paper. The white paper will ensure the efficient allocation of water amongst users and the environment and support sustainable economic growth, particularly in regional Victoria.

We have also fundamentally changed the way government operates in this state.

Victoria is now a world leader in modernising government and using information and communications technology to improve the delivery of government services.

We are implementing a new funding model to drive productivity growth and improve policy outcomes across government departments.

And we are introducing new hospital funding arrangements to create a secure financial and governance base for Victoria's hospital system.

Many of these reforms may not be the traditional actions people expect from a Labor government — but they are the actions that are driving economic, employment and investment growth across this state.

They are the actions that are improving the quality of government services — and they are the actions that will deliver real and lasting improvements in the quality of life of all Victorians.

### Delivering for provincial Victoria

Speaker, since coming to office the Bracks government has also demonstrated that it is possible to grow the whole state and turn around rural and regional decline — leading the rest of Australia in regional development policy.

Provincial Victoria is enjoying strong employment growth, and many regional centres are now experiencing population growth above the national and Melbourne average.

New investment worth more than \$3 billion has been attracted to our regions, and more than 7000 new jobs have been created.

The 2004–05 budget provides a further \$1 billion boost in funding for provincial Victoria.

We will spend \$53 million building, replacing and upgrading schools in regional areas — and provide \$2.5 million to retrain 150 regional teachers in subjects where it is difficult to fill vacancies, such as mathematics, science and languages.

We will deliver major new investment in regional health facilities, including:

\$11 million towards a new cancer treatment centre at the Latrobe Regional Hospital in Traralgon;

\$18 million to expand radiotherapy services at Geelong Hospital and \$50 million to continue the redevelopment of the Grace McKellar Centre in Geelong;

\$17 million to redevelop emergency department facilities at Maryborough Hospital and acute facilities at Echuca; and

\$30 million for new aged care units in Seymour, Yarrawonga and Colac.

Over the last five years the government has invested substantial funds in building a world-class, efficient transport system across the state, linking Victoria's regions with each other, Melbourne and international markets.

The 2004–05 budget continues this investment with a new \$73 million rural roads package.

In addition, the budget provides \$186 million for the construction of the Geelong Western bypass. Victoria rightly recognises that this is a road of national importance which will drive significant economic and social benefits for Geelong, Victoria and the whole of Australia. We will continue to pressure the federal government to provide its fair share of funding for this vital bypass and give Victoria a fair deal in road funding.

The government continues to provide support for regional business and industry, including:

a new regional business Investor Ready program to assist regional businesses and communities attract new investment;

additional funding for the Next Generation food strategy to build an innovative, competitive food industry and support our agricultural industries;

new funding for research and development to assist in the economic growth of the brown coal industry; and

an additional \$5.7 million to extend the successful Make it Happen in Provincial Victoria campaign to attract investment, jobs and people to regional areas. The second phase of the campaign will include a new provincial economic partnerships initiative to assist local councils drive new regional economic and investment opportunities.

The budget also provides \$10 million over the next four years for the Office of Rural Communities to continue to work with regional communities to create new

economic opportunities and strengthen services and infrastructure.

Speaker, the devastating impact of bushfires was felt across regional Victoria in 2003 — and the fact that more lives and property were not lost is a tribute to the men and women of our emergency services.

The Esplin report into last year's bushfires found that while Victoria's firefighting agencies performed admirably, more could be done to improve bushfire prevention and response. The government has accepted the recommendations of the Esplin report and will fund a major new \$168 million bushfires package.

We will implement a new year-round emergency service program, with additional fire mitigation teams provided to every region across the state, creating 180 jobs.

We will step up the state's burning program to reduce fire risk in future years.

And we will replace 190 CFA firefighting tankers, upgrade fire roads and tracks, build five new fire stations and upgrade six existing stations.

### **Delivering real benefits for families**

Speaker, over our four previous budgets, the Bracks government has delivered record investment in the services needed and valued by Victorian families.

This year is no exception.

The 2004–05 budget delivers real benefits to Victorian families — it is a budget that puts families first.

The government will fund a new \$197 million Caring for Children package to boost children's health services and protect vulnerable children.

We will provide an additional \$25 million over four years to continue to improve Victoria's child protection system, including new approaches to prevent child abuse.

All Victorians should appreciate the extraordinary contribution made by the state's foster carers in providing safe and supportive homes for children who are unable to live with their own families. The budget supports this contribution with \$21 million over four years to help foster carers meet expenses.

The government will boost funding to the Royal Children's Hospital, provide \$4.1 million over four years for a new statewide paediatric cancer service and

invest \$4.2 million to expand paediatric intensive care facilities.

We will introduce a program to test newborn babies for hearing impairment, with funding of \$6.8 million over the next four years enabling more than 16 000 Victorian babies to be tested.

We will provide \$10 million over four years to work with indigenous communities to reduce family violence and ensure the safety and wellbeing of Aboriginal children.

The 2004–05 budget also provides \$34 million for a major new children’s dental health initiative. School dental services will be extended to 77 000 Victorian kindergarten children and an additional 75 000 primary students will receive regular dental checks and treatment.

Further funding will also be provided to give Victorian families greater access to free dental and health services, including:

\$8 million over four years for an extra 100 GPs in community health centres to improve access to bulk-billed medical services; and

\$58 million over four years to reduce dental waiting lists and provide free dental treatment to an additional 130 000 Victorians.

The government recognises that families with a disabled child or family member require additional support. The budget delivers an additional \$27 million over four years in services for people with a disability and their families.

This funding will create 650 new respite opportunities for carers and help an extra 950 families and carers manage complex behaviour among children with a disability.

### **Making housing more affordable**

Speaker, Victoria’s strong economy and population growth have produced a strong housing market with increasing property values. While this has been good news for many Victorians, it has also left others struggling to find affordable housing. To assist these families — and to boost housing affordability — today’s budget provides funding for a range of measures to assist Victorian home buyers.

Effective from 1 May, the government will provide a new cash grant of \$5000 to Victorians buying their first home.

The first home bonus will operate until the end of June 2005 and will be paid in addition to the government’s \$7000 first home owners grant.

The new cash grant will be payable for purchases up to \$500 000 — giving around 26 000 Victorians a substantial helping hand to buy their first home.

In addition, from 1 July this year, stamp duty on mortgages will be abolished at a cost to revenue of \$158 million in 2004–05. Around 100 000 Victorian home buyers each year will benefit from the abolition of mortgage duty, with savings of around \$1200 on a median-priced home.

No other state has abolished this tax.

The government has also recognised the special circumstances of pensioners and health care cardholders in a strong property market.

From 1 May 2004, the government will significantly expand the range of eligibility for exemption from stamp duty. The threshold for a full exemption from stamp duty for concession cardholders will increase from \$150 000 to \$250 000, with a partial exemption available up to \$350 000.

As a result of these changes, a pensioner purchasing a home worth \$250 000 on or after 1 May 2004 will save \$10 660 in stamp duty.

Speaker, over the forward estimates period, these three measures will benefit Victorian home buyers to the tune of more than \$600 million.

In this budget, we provide a further \$50 million boost to expand access to housing for families on low incomes. This is on top of the government’s investment of \$495 million since coming to office to upgrade existing public housing stock and create 5800 new housing units.

### **Concessions reform package**

Victorian families and people on low incomes will also benefit from yet another major reform delivered in this budget: the reform of state government concessions.

Currently, the Victorian government provides more than \$940 million a year in benefits to Victorians holding pensioner concession cards or health care cards issued by the commonwealth government.

The current concessions program in Victoria is not well targeted, with the poorest Victorians often receiving the least dollar amount of concessions and significant

numbers of Victorians on low incomes missing out on benefits altogether.

The government's reform package redirects concessions on motor vehicle registration and boosts overall funding by \$123 million to deliver more than \$400 million in revised concessions over four years.

From 1 July 2004, pensioner, health card and veterans affairs gold cardholders will receive a 50 per cent concession on their motor vehicle registration.

Despite this change, compulsory motor vehicle charges for concession cardholders in Victoria will remain the lowest in Australia.

The parents of nearly 200 000 children will receive more assistance with school expenses, with a near 60 per cent increase in the education maintenance allowance from \$127 to \$200 for primary students and from \$254 to \$400 for secondary students.

For the very first time, working families on low incomes will receive a discount of around 50 per cent on public transport fares through the extension of the public transport concession to an additional 230 000 health care cardholders.

The government will also cut the annual fee for the tertiary student public transport concession card to the same amount as the secondary school concession card fee — benefiting around 39 000 Victorian tertiary students and their families.

Around 398 000 pensioners will benefit from an increase in the local government rates concession — a significant and long overdue increase that will assist pensioners meet their rates bills and remain in their homes.

The government will also annually index the education maintenance allowance and concessions for water and council rates, ensuring these important benefits retain their real value over time.

This major reform and redirection of Victorian concessions will ensure benefits are better targeted towards those Victorians most in need of support and assistance — particularly families on low incomes with dependent children.

Families are also beneficiaries of the Bracks government's ongoing substantial investment in education, health and community safety.

### **Valuing and investing in lifelong education**

Speaker, the Bracks government recognises that education is the key to Victoria's future prosperity and to meeting the goals and aspirations of Victorians.

That is why education remains our no. 1 priority.

This budget continues the rebuilding of Victoria's education system that we began four and half years ago.

Every Victorian with a child in school will have seen and felt the results of our investment — in extra teachers and staff, in new and upgraded schools, in better school equipment and in reductions in class sizes.

In November 2003 the government released its blueprint for government schools, which outlines future directions to achieve excellence in teaching and continuously improve school and student performance.

The 2004–05 budget commits a further \$486 million to support the blueprint and meet the government's goals in education.

We will provide an additional 250 teachers in government schools at a cost of \$62 million over four years.

We will continue our major building program in education, building seven new schools, replacing another two schools and rebuilding two schools damaged by fire.

We will upgrade a further 65 schools across the state, provide an additional \$60 million for school maintenance programs and allocate \$50 million for 600 new relocatable classrooms.

We will allocate \$30 million for new specialist facilities in secondary schools in areas such as science and technology, arts, design, music and languages.

The budget also provides \$90 million over four years to increase access to vocational education and training, reflecting the government's commitment to creating a range of pathways to encourage young Victorians to remain in education and training.

The government also wants to develop closer links between schools and their local communities and will create a new \$30 million Community Facilities Fund to build facilities that can be shared by schools, clubs and community groups.

These investments will deliver real results in the quality of education offered by each and every Victorian government school — and reinforce the government's

commitment to giving each and every young Victorian a world-class education.

### **High-quality, accessible health and community services**

Few things are more important to Victorians than having access to first-class health care when and where they need it.

The government continues to make strong progress towards rebuilding Victoria's health system, treating more patients, halving hospital bypass incidents, upgrading run-down facilities and reducing elective surgery waiting lists.

In this budget the government will inject a further \$1.6 billion into the state's health system over the next four years to meet ever-increasing demand and put Victorian hospitals on a strong, secure and sustainable footing.

We will continue the largest capital upgrade program in the history of Victoria's health system — building a new elective surgery centre at the Alfred hospital, continuing the redevelopment of Dandenong Hospital and the Royal Melbourne Hospital, and purchasing land and commencing planning for the development of new super clinics in the growing suburbs of Craigieburn, Melton and Lilydale.

The budget also provides \$64 million to replace and upgrade biomedical equipment and infrastructure in hospitals and aged care facilities across Victoria.

In total, this budget provides an additional \$2 billion in recurrent and capital funding for Victoria's health system — the largest ever amount over a four-year period.

We will invest a further \$47 million in services for people with a disability — including a new Disability Housing Trust — and provide \$129 million to relocate residents from Kew Residential Services to new community houses.

To enhance community participation by older Victorians, we will also provide \$5 million for a new positive ageing strategy.

### **Safe streets, homes and workplaces**

Speaker, the government is also committed to maintaining Victoria's position as the safest state in Australia.

The budget commits \$112 million over the next four years for the operational resources needed by

Victoria Police to implement their five-year plan, meet their target of a 5 per cent drop in the crime rate and make our communities even safer.

The Bracks government takes great pride in the fact that in 2003 Victoria recorded its lowest road toll on record — thanks to initiatives such as the accident black spot program, reductions in the urban speed limit and programs aimed at reducing driver fatigue, drink-driving and speeding.

This is not just a statistical exercise. Behind the road toll figures lie stories of family loss and tragedy, of people suffering lifelong disabilities and of enormous personal and financial hardship.

The government wants to reduce deaths and serious injuries on our roads even further — and the 2004–05 budget provides an additional \$130 million from the Transport Accident Commission for a new two-year road safety infrastructure program.

Alongside the new rural roads package, the government will also provide \$164 million for an outer metropolitan arterial road program to upgrade major roads.

This program represents a substantial boost to road funding and will benefit families and businesses in Melbourne's outer suburbs and growth corridors.

### **Building strong and sustainable communities**

The 2004–05 budget continues the Bracks government's commitment to building strong and sustainable communities across the state with new investment in water projects, arts venues and libraries.

The government will provide \$68 million to the Victorian Water Trust to upgrade irrigation systems and improve water supplies and sewerage treatment in rural towns.

We will also deliver a substantial \$45 million boost in support for Victorian arts and cultural venues and to secure the future of the Melbourne International Arts Festival.

We will allocate \$8.5 million to assist local councils in outer metropolitan suburbs and rural areas improve public library services.

The budget increases funding for the Victorian Multicultural Commission's community grants program and includes a significant package of support for indigenous Victorians, including a \$13 million expansion in the Victorian Aboriginal justice agreement

and \$3.8 million to assist indigenous business owners and managers through the Koori Business Network.

The government continues to plan and provide for the Melbourne 2006 Commonwealth Games and is contributing \$9.6 million towards the construction of a National Ice Sports Centre in Melbourne to support figure skating, ice hockey, speed skating and curling — and enable Victoria to attract international ice sports events.

### Appropriation bill

Speaker, the Appropriation (2004/2005) Bill provides authority to enable government departments to meet their agreed service delivery responsibilities in 2004–05.

The bill supports a financial management system that recognises the full cost of service delivery in Victoria and is based on an accrual framework.

Schedule 1 of the bill contains estimates for 2004–05 and provides a comparison with the 2003–04 figures. In line with established practices, the estimates included in schedule 1 are provided on a net appropriation basis.

These estimates do not include certain receipts that are credited to departments pursuant to section 29 of the Financial Management Act 1994.

The budget has once again been examined by the Auditor-General as required by the standards of financial reporting and transparency established by the Bracks government in 2000.

### Conclusion

Speaker, the 2004–05 budget continues to change the face of Victoria — building on the leadership of the Bracks government in driving a dynamic, diverse and competitive Victorian economy capable of weathering the challenges that lie ahead.

The budget delivers the major new actions contained in the government's April economic statement *Victoria — Leading the Way*, maintains record levels of investment in infrastructure and reaffirms the government's commitment to building world-class education and health systems in Victoria.

This budget reinforces the Bracks government's commitment to ensuring that strong economic growth is translated into real benefits for all Victorians.

It recognises that an investment in Victorian families is an investment in Victoria's future — and delivers substantial additional investment to make sure

Victorian children receive the education, health care and support they need to become engaged and active citizens of the future.

The 2004–05 budget leads the way by putting families first and delivering real benefits for all Victorians.

Speaker, the Bracks government goes forward in our fifth budget as we began in our first budget — demonstrating the strong leadership required to drive growth across the state, create the nation's most competitive and attractive business environment and make Victoria the best place in the world to live, work and raise a family.

I commend the bill to the house.

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

**Debate adjourned until Thursday, 6 May.**

## HANSARD RECORD

**Mr Ryan** — On a point of order Speaker, I take this point of order at this time out of respect for the budgetary process, and it relates to the content of *Hansard* for Thursday, 22 April. At page 13 of the *Daily Hansard* there appear to be entries regarding the vote which was taken on that day, in circumstances where, as I recall, the Government Whip did not quite get it right in the sense of the ayes and the noes.

In the course of that discussion there appears at page 13 the record of the vote having been taken from the honourable member for Rodney on behalf of The Nationals. *Hansard* records the vote by the member for Rodney as being seven noes, whereas in fact it should read seven ayes, and that is self-evident from the vote as is outlined on page 14. I ask that you examine the *Hansard* record with a view to *Hansard* being amended accordingly.

**The SPEAKER** — Order! I thank the member for the point of order. The honourable member for Rodney did raise this point with me at lunchtime. The division list does support the Leader of The Nationals. I have asked the Editor of Debates to report to me, and I will then report back to the house.

**Dr Napthine** — On a further point of order, Speaker, again I apologise to you and to the house for not raising it at the earliest opportunity, but in deference to question time and to the budget it was not appropriate. It similarly relates to an issue of the recording of the votes. I am referring to the weekly

*Hansard* on page 745 — so it is not just a case of the *Daily Hansard* — and I reinforce the point made by the Leader of The Nationals, which is the existence of a clear error.

The point of order I raise is with regard to the recording of the votes with respect to the government. It records in *Hansard* the Clerk saying: ‘The Government Whip?’ and the member for Ivanhoe says, ‘Fifty-seven yes’. There is no other recording of any other determination from the government. There is a comment from yourself, Speaker, to the effect that the Government Whip immediately adjusted his vote; you say, ‘... and I take his vote as a no’. Indeed the votes, as counted on page 746, indicate that government members are certainly included in the tally of the noes. However, the *Hansard* record fails to show any indication from the Government Whip that there is any change to that vote, and again I suggest to you, Speaker, that a change to the record is necessary to reflect what is in the actual count, and the comments that you made. I take this opportunity to make the further point that I think this highlights a folly of the party-vote system.

**The SPEAKER** — Order! The matter you raised also came to the attention of the Clerk and myself when we were discussing this matter with the honourable member for Rodney. It is an error in the report in *Hansard* — it has nothing to do with the party vote at all.

**APPROPRIATION (PARLIAMENT  
2004/2005) BILL**

**Message read recommending appropriation and transmitting estimates of revenue and expenditure for 2004–05.**

**Estimates ordered to be tabled.**

*Introduction and first reading*

**Mr BRACKS (Premier), pursuant to standing order 87, introduced a bill for the appropriation of certain sums out of the consolidated fund for the Parliament in respect of the financial year 2004–05 and for other purposes.**

*Second reading*

**Mr BRACKS (Premier)** — I move:

That this bill be now read a second time.

The bill provides appropriation authority for payments from the consolidated fund to the Parliament in respect of the 2004–05 financial year including ongoing

liabilities incurred by the Parliament such as employee entitlements that may be realised in the future.

Honourable members will be aware that other funds are appropriated for parliamentary purposes by way of special appropriations contained in other legislation. In addition, unapplied appropriations under the Appropriation (Parliament 2003/2004) Act 2003 have been estimated and included in the budget papers. Prior to 30 June actual unapplied appropriation will be finalised and the 2004–05 appropriations adjusted by the approved carryover amounts pursuant to the provisions of section 32 of the Financial Management Act 1994.

In line with the wishes of the presiding officers, appropriations in the bill are made to the departments of the Parliament.

The total appropriation authority sought in this bill is \$73.9 million (clause 3 of the bill) for Parliament in respect of the 2004–05 financial year.

I commend the bill to the house.

**Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).**

**Debate adjourned until Thursday, 6 May.**

**BUSINESS OF THE HOUSE**

**Program**

**Mr BATCHELOR (Minister for Transport)** — I desire to move:

That, pursuant to standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 6 May 2004:

- Alpine Resorts (Management) (Amendment) Bill
- Commonwealth Games Arrangements (Further Amendment) Bill
- Crimes (Assumed Identities) Bill
- Crimes (Controlled Operations) Bill
- Energy Legislation (Regulatory Reform) Bill
- Justice Legislation (Sexual Offences and Bail) Bill
- Primary Industries Legislation (Miscellaneous Amendments) Bill
- Surveillance Devices (Amendment) Bill
- Victorian Qualifications Authority (National Registration) Bill.

These nine bills constitute the government business program for this week. With the presentation of the budget today and the anticipated response from the opposition and The Nationals on Thursday, I have indicated to the whips for the various parties and through this resolution to members that it might be necessary to go past 10.00 p.m. for a short time in order to facilitate the opportunity for people to speak. If it is necessary or desired after the responses on the budget, we could come back to these bills on Thursday.

This is important legislation. A number of the bills have been on the notice paper for over a month now, and others have more recently gone onto the notice paper. I understand briefings have been provided, and in those circumstances the government believes, notwithstanding the number, that it is an achievable target for this parliamentary week.

**Mr PLOWMAN** (Benambra) — I rise to oppose this motion. It is the first time I have done that since I have had the role of manager of opposition business. The reason I oppose the government program is that it is clearly unachievable. To have reasonable debate on nine bills at the same time as the major debate of the year — the debate on the budget gives the opposition the opportunity to make a judgment on the performance and fiscal management of the government and on its future management — is obviously not achievable and the motion is totally unacceptable to the opposition parties.

We are into the month of May, and it is quite extraordinary that there have only been three sitting weeks. Five bills were debated in the first week, of which three were guillotined; in the second week five bills came in and two were guillotined; in the third week eight bills were debated and five were guillotined — in other words, more than 50 per cent of the bills that have come before the house so far in this term of three sitting weeks have been guillotined.

This week there are nine bills on the business program. We want more than lead speakers on all of those bills; we want all of them to be properly debated. Unless we sit really late we will not get the opportunity to properly debate all of them. In the second sitting week the government had a sitting day of nearly 17 hours. This goes against its policy of family-friendly hours. This program would indicate that we have no opportunity except to do exactly the same this sitting week. The Leader of the House and I agreed to give all Thursday to the major debate of the budget because that provides a fair opportunity for the opposition parties to debate the most significant bill in the parliamentary year.

However, it would appear we are not going to get that justifiable opportunity for fair debate.

The other issue is that eight additional bills have been introduced. That means eight second readings. Speaker, you and I both know that that will probably happen after the close of the business program on Thursday. Again it may well mean that we have to sit late on Thursday night to accommodate that. I understand the Leader of the House is prepared to sit late in order to accommodate that, but I think it is a contradiction in terms. If the government is genuine about its family-friendly hours, to include nine bills in the budget week is totally unacceptable.

Three justice bills have been included. There has been a lot of contention about those three bills. It could well have been far better for the business program for those three justice bills to have been held off. I say again that had the leader of government business looked at deferring those three bills to a further sitting week, we could have had a program of five bills that we could have done justice to, together with the budget before the house. I ask the government to reconsider its position; the opposition certainly opposes the government business program.

**Mr RYAN** (Leader of The Nationals) — The Nationals also have grave concerns about the content of the government's business program, and I echo the sentiments that have been put to the house by the manager of opposition business. In particular our concern relates to the three items of legislation which are numbered 1, 2 and 3 on the notice paper — namely, the Crimes (Assumed Identities) Bill, the Crimes (Controlled Operations) Bill and the Surveillance Devices (Amendment) Bill. In relation to those items of legislation the position is that on 8 April the Police Association wrote to the government with a series of amendments which the association placed before the government as being appropriate in relation to the Surveillance Devices (Amendment) Bill. That letter, which I believe was made available to all parliamentarians, also flagged that the association was very concerned about this debate proceeding unless and until those various aspects of the proposed amendments were dealt with. In addition I now have correspondence from the association dated yesterday, 3 May, where the association has indicated to me in writing that it has concerns with regard to the Surveillance Devices (Amendment) Bill, and also that it has the intention to make detailed submissions to the government regarding the Crimes (Assumed Identities) Bill and the Crimes (Controlled Operations) Bill.

As today has evolved I have been contacted through the Attorney-General's department — and I am very grateful for the fact of that contact having been made — and I have also had conversations again with representatives of the Police Association. I understand that the position at the moment is that there has been discussion between the government and the association with a view to resolving the association's concerns with regard to each of the three bills.

The position that we are now placed in, as I further understand it, is that the government has agreed with the association that should it be that the amendments which the government now intends to move in relation to the Surveillance Devices (Amendment) Bill and the Crimes (Controlled Operations) Bill are insufficient for the association's purposes and — or indeed or — should it be that in addition to all of that the association wishes to have amendments made to the Crimes (Assumed Identities) Bill, then the government will undertake to commit to those amendments occurring on the basis of that presumably eventuating while these pieces of legislation are between houses. That to me is a very unsatisfactory state of affairs.

It seems to me to be entirely inappropriate that these three items of crucial legislation, which I think will enjoy the general support of all members of the house — certainly The Nationals support the tenor of each of these items of legislation — are being debated at a point in time when the specifics of the final form of the legislation are not before the house and in a situation where we are faced with the practical reality that between houses there may well be further amendments introduced as a result of the ongoing discussions between the Police Association and the government of the day.

There is another aspect of this which is of additional concern — that is, that the association represents the actual practitioners in the field. These are the officers who are at the forefront of having to ensure that these items of legislation are actually given effect. I say that with the very greatest of respect for the hierarchy of the police force. This is commentary on behalf of the membership at large, and most particularly those who are accommodating the need to give effect to these items of legislation. It is those people and those voices who are concerned that the three bills now before the house may well not be sufficiently conclusive in their content as to satisfy those officers who are faced with the prospect of having to enforce those bills.

In those circumstances it seems to me to be appropriate that those three bills at least could be removed from the government's business program. That would leave us

with six bills for the week. It would mean that in the course of this coming week there could be further discussions between the government and the Police Association, and that next week — and we are sitting again next week — we can bring those three bills into the house in a completed form, all stakeholders having been properly consulted, and in what I believe to be a much better and cleaner way in which to pursue this business.

**Mr LANGDON** (Ivanhoe) — I cannot comment on the three crime bills, but I am sure the Attorney-General will do that. I did not quite hear all the facts and figures that the member for Benambra stated to the house, but I will take what he said at face value. The numbers and the percentages may well be correct, but I would like to advise the house that I, as the Government Whip, have bent over backwards, as did the Leader of the House, to accommodate all speakers from the National Party, the Liberal Party and the two Independents. I cannot recall during the three weeks that we have already sat having any dispute about wanting to continue the time for speeches. We have jumped around a few bills left, right and centre, so to speak, but we have certainly gone back to the bills that the opposition, the National Party and the Independents have wanted to go back to. We have limited our speakers to 2 to 5 minutes on many occasions to allow the opposition and National Party members to speak.

On the issue of the budget debate, when the opposition responds to the budget is purely up to its members. I believe opposition members have chosen Thursday morning to respond — and again that was their choice. They could have done it now — immediately — tomorrow, or, as they have been known to do, they could have waited for two weeks to respond, which is an exceptionally long time. But in the past when we have been in government the response to that budget has always been up to the opposition followed by the National Party, and then the rest follow suit. Again, that could have been done immediately or tomorrow, but opposition members have chosen Thursday morning.

The timing of the budget and the response has been purely up to the opposition. As I said, through the whole period of times, and I am sure during the budget debate, we will accommodate every opposition member to speak. Last year I believe 16 out of 17 members spoke, if my memory serves me correctly. The member for Malvern did not speak on that budget. I cannot quite recall, but I believe all the National Party members spoke and the two Independents spoke.

The government will go as far as it can to accommodate the opposition, the National Party and the Independents

to speak on the bills this week. It is a busy schedule, but we have had busy schedules before and we have always been able to accommodate everybody who has wanted to speak on the bills. I am sure we will do as much as we can on that level again. The budget response is purely up to opposition members. They have chosen Thursday morning for that to occur. I am sure the Attorney-General will explain why the three crime bills which were read a second time on 1 April — quite a considerable time ago — should be debated this week. The adjournment period for those bills would have been set for two weeks, and it has been three weeks longer than that. The government business program has always been somewhat accommodating to the opposition, the National Party and the Independents. No doubt we will do the same thing. It is a reasonable government business program of nine bills, and we will no doubt see it through.

**Mr McIntosh (Kew)** — I join with the member for Benambra to oppose the government business program in relation to these nine bills. Primarily these nine bills come in at a time when most of Victoria's attention will be on the budget. Of course the member for Ivanhoe has indicated that it is an appropriate time to adjourn debate for two days to give opposition members enough time to garner the contents of that document and to commence their contributions on the budget response on Thursday.

Of course the response will be open-ended and detailed by the member for Box Hill. No doubt it will take some time, as one would expect the response from the shadow Treasurer to be. We are then required to drive through an agenda that deals with nine bills, particularly when it appears that three of those bills are the subject of substantial concern not only by the police but also by other organisations that have expressed unease about their inability to consult with the government on relevant matters. The Attorney-General is sort of fluffing it aside, but let me just detail those concerns.

The government has received two letters from the privacy commissioner in relation to two of the crime bills with which it is going to deal today. Those letters raise genuine concerns about these bills, and those matters should be addressed and should be dealt with. They are matters on which the Scrutiny of Acts and Regulations Committee has reported today.

We also have members of the Scrutiny of Acts and Regulations Committee raising concerns about those bills and asking for further advice from the Attorney-General, particularly with regard to something as simple as the compensation provisions that occur in the Crimes (Controlled Operations) Bill in relation to

police activities. It is important to note why those provisions do not appear in the Wildlife Act and the Fisheries Act that this bill will amend as well.

Indeed the police themselves complained in a letter I received in early April that the government had not consulted them. I echo the remarks of the Leader of the National Party in indicating that everybody in this place supports the general tenor of the three crime bills. It is not an issue about supporting what the government is doing as part of the national regime, it is about getting it right. It is rather a clumsy way of going about it, given what has been agreed to between the Police Association and the government, that we pass these bills and then come back and make a series of amendments, hoping that it will be right then.

The government, in response to some requests from the police, is making amendments to two of the bills today. Of course the opposition only received notification of those amendments just before lunch. Yes, the government provided the opposition with a briefing in relation to those matters at 1 o'clock, but that was just before we came into the house for question time. The most important thing is that these are very serious matters. They deal with permission for police to go out on undercover operations, to assume false identities and to deal with controlled operations — that is, to carry out illegal activity — in the garnering of evidence. They are significant matters.

We support the general tenor of the bills, but we have to get these right. The other thing is: why the undue haste about all of this? The government is saying, 'We are having an open-ended proclamation date to ensure the commonwealth gets its regulations right in relation to the Australian Crime Commission. Until that occurs the proclamation will not be made'. All these bills require further consultation between the commonwealth and the state, between the police and the government and between the privacy commissioner and the government, along with many other bodies — let alone with the opposition so we can air our concerns about this aspect of the matter. As I said, the general tenor is supported; there just seems to be undue haste in expecting us to get those three bills through today.

It is a matter of profound concern that in budget week we are dealing with a complex legislative program — complex not because they are not being supported but because we should be getting these things right rather than throwing caution to the wind and banging these things through, hoping to get them right at some later stage, taking the time of the house no doubt to deal with further amendments and even further amendments after that. It does not seem to be appropriate, and therefore

the opposition opposes the government business program. It is too long in a budget week, and it is unnecessary.

**Mr HULLS** (Attorney-General) — I say at the outset I find it extraordinary that the opposition cries crocodile tears in this place about house amendments. I recall the seven dark years of the Kennett regime. When I was shadow Attorney-General I was never consulted about amendments by the former Attorney-General in any meaningful way. In fact what happened was that you would walk into this place and amendments would just be plonked in front of you. They were as thick as the bill itself, let alone being as thick as the former Attorney-General.

The fact is that we have made it clear that we wish to move some fairly minor amendments to two aspects of the terrorism package. We have given a thorough briefing to the opposition on those matters, and yet it still comes in here crying crocodile tears. On this side of the house we are actually opposed to terrorism. We would have thought that the opposition would be supporting us. That is what these bills are about. The opposition has had them since 1 April. If you understand the nature of these bills, you realise that they are part of a national package. In fact, at a leaders summit in 2002 it was agreed that there would be a package of anti-terrorism bills.

The shadow Attorney-General now comes in here saying, 'There has to be further consultation with the commonwealth'. At the last meeting of the Standing Committee of Attorneys-General Victoria was actually congratulated for taking a lead and for preparing these terrorism bills so other states could follow. We have been urged to get them into our house so other states can follow and we could therefore have a national package of anti-terrorism legislation. So on this side of the house we are opposed to terrorism.

I am alerted to the concerns of the shadow Attorney-General, and I am alarmed by them, because as I say, they are just nonsensical. This is all about template legislation. We are not prepared to be soft on crime, and we are not prepared to be soft on terrorism. That is why it is important that we give police extra powers to fight terrorism and to give them the powers that they need. There has been extensive consultation with the police in relation to these matters, and this consultation has taken place over some two years. The Police Association, in our consultations with it, raised some issues in relation to the legislation, and it has raised issues as recently as during the bill's second reading. The commonwealth has also introduced legislation which goes outside some of the model

aspects that were agreed to at the leaders summit. So we have made it clear, after consultation with the Police Association and with the police generally, that we are prepared to move a number of house amendments to the legislation, and the opposition has been briefed on those.

We will have a look at the commonwealth legislation — absolutely we will — but we want to get this legislation into the house now and we want to get it passed now, because we believe it is a catalyst for a national approach. Other states are waiting for us to have it passed. It ill behoves the shadow Attorney-General and the opposition to be opposing the legislation moving through this house swiftly. We believe it is important that this national approach to terrorism be adopted right around the country. Victoria has already been congratulated for taking the lead. It is important that this legislation be passed.

I will conclude by saying that, unlike the opposition when it was in government, we are always prepared to listen to the police and we are also always prepared to listen to the Police Association in relation to any legislation that affects its members and, obviously, the Victorian public.

We believe this legislation should not be delayed. It is important legislation that is part of a national response to terrorism. As I said, the model laws were developed by the national joint working group on terrorism, and we believe it is absolutely crucial that this legislation be passed as soon as possible.

**The ACTING SPEAKER (Mr Savage)** — Order! As there have been six speakers, I will put the question.

#### House divided on motion:

*Ayes, 58*

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beard, Ms	Lim, Mr
Beattie, Ms	Lindell, Mr
Brumby, Mr	Lobato, Ms
Buchanan, Ms	Lockwood, Mr
Cameron, Mr	Lupton, Mr
Campbell, Ms	McTaggart, Ms
Carli, Mr	Marshall, Ms
Crutchfield, Mr	Maxfield, Mr
D'Ambrosio, Ms	Merlino, Mr
Delahunty, Ms	Mildenhall, Mr
Donnellan, Mr	Morand, Ms
Duncan, Ms	Munt, Ms
Eckstein, Ms	Nardella, Mr
Garbutt, Ms	Neville, Ms
Gillett, Ms	Overington, Ms
Green, Ms	Pandazopoulos, Mr

Haermeyer, Mr	Perera, Mr
Hardman, Mr	Pike, Ms
Harkness, Mr	Robinson, Mr
Helper, Mr	Seitz, Mr
Holding, Mr	Stensholt, Mr
Howard, Mr	Thwaites, Mr
Hudson, Mr	Trezise, Mr
Hulls, Mr	Wilson, Mr
Jenkins, Mr	Wynne, Mr

*Noes, 24*

Asher, Ms	Naphine, Dr
Baillieu, Mr	Perton, Mr
Clark, Mr	Plowman, Mr
Cooper, Mr	Powell, Mrs
Delahunty, Mr	Ryan, Mr
Dixon, Mr	Savage, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Ingram, Mr	Sykes, Dr
Jasper, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Mulder, Mr	Wells, Mr

**Motion agreed to.**

**MEMBERS STATEMENTS****Melbourne: Flinders Street art display**

**Mr LUPTON** (Prahran) — The piece of propaganda masquerading as art in a Flinders Street window is highly offensive to Jewish people and in fact all people of decency. I am offended by it. It is a politically biased statement posing as art. It presents one side of a very complex and tragic story. It is divisive, biased and inflammatory.

The work was funded by a grant of \$8000 from Melbourne City Council. I understand the terms of the funding arrangement were that matters of political or cultural sensitivity were to be submitted to the council prior to being exhibited. No sensible person could imagine this would not be sensitive or controversial. I understand the process for approval was not followed in this case.

I have spoken to City of Melbourne councillors, including the Lord Mayor, and made my views clearly known. This exhibit should be removed immediately, an apology should be made and the funding should be repaid. If the work was not submitted to the council, there would appear to have been a breach of the funding agreement. The council should act immediately to rectify that breach by seeking repayment of the grant and doing everything in its power to have the exhibit removed.

I made mention of the cancer of anti-Semitism in this house only two weeks ago following the annual Holocaust commemoration. This kind of performance gives solace to anti-Semites, whether intended or not. It is divisive and has the potential to cause great damage to our multicultural community.

**Melbourne: Flinders Street art display**

**Mrs SHARDEY** (Caulfield) — The Jewish community of Melbourne has just finished a time of commemoration of the Holocaust and the thousands of young Israeli soldiers who have died defending Israel as an independent democratic state and the homeland of the Jewish people as mandated by the United Nations. These commemorations focused on the need to oppose anti-Semitism, racism in all its forms and terrorism, and they promoted racial tolerance, particularly as we know it here in Australia.

I and many members of my electorate of Caulfield, particularly members of the Jewish community, were therefore shocked and dismayed to learn of the so-called art work being displayed in Flinders Street and paid for by Melbourne City Council which depicted the state of Israel as the killer of Palestinians, made false claims and effectively denied Israel's right to exist.

At a time when the world is endeavouring to meet the challenge of terrorism based on hatred and division, this sort of display is not only unwelcome but an affront to decent and tolerant people, who are the majority in our state of Victoria. We therefore call upon the City of Melbourne, which may have unwittingly paid for this anti-Semitic and divisive work, to have it removed immediately in order to cease causing offence within our community.

The Leader of the Opposition and the major Jewish community organisations are to be commended for writing to the Lord Mayor to this effect, and it is to be hoped that he will take the necessary action with all haste.

**Nathan Deakes**

**Mr LONEY** (Lara) — I wish to congratulate Geelong athlete, Nathan Deakes, on his sensational performance in the world cup in Germany. Competing in the 20-kilometre walk event after an injury-interrupted preparation, Deakes took out the bronze medal and is now firmly on track for the Olympic 20-kilometre and 50-kilometre events in Athens.

**Mr Thompson** — What is his sport?

**Mr LONEY** — Since it was a walking race, he is probably a walker!

Deakes showed that he is one of the world's finest race walkers and is back to the form that saw him take out the double at the Manchester Commonwealth Games. Deakes has staged a courageous comeback since serious leg injuries — in fact a broken leg — some time ago savagely interrupted his preparation for Athens. It is great to see that he has won his race against time to be fit for the Olympics.

The people of Geelong are firmly behind Nathan in his attempt to take out the golden double in Athens, and he is certainly in the sort of form that could see him do that. I am sure that along with the best wishes of the people of Geelong, all the people of Victoria will be wishing Nathan the best in his attempt to capture the Olympic golden double after those very serious injuries.

### **Country Fire Authority: Leongatha memorial service**

**Mr RYAN** (Leader of The Nationals) — Last Sunday, 2 May 2004, I had the great honour and privilege of attending the Country Fire Authority memorial service for firefighters at the Leongatha Memorial Hall. This occasion was to mark the passing of the 61 men who have died in the time of their service for the CFA, surely one of Victoria's most venerable and wonderful institutions. In the course of proceedings on Sunday there were contributions from a number of speakers, not the least of whom was Mr Kerry Murphy, in his role as group officer of one of the CFA brigades.

An issue was raised with me at the conclusion of the proceedings in the course of discussion with Russell Edgell, who is the captain of the Leongatha brigade. Mr Edgell, who has served the brigade with distinction, put to me a proposition which is worth government consideration. He believes there ought to be erected in Melbourne a memorial to the CFA firefighters who have lost their lives in the service of this great organisation. It is true that a memorial has been erected at Fiskville, near Ballan, where the training occurs, but Russell Edgell believes something ought to be done in Melbourne to reflect the contribution by those wonderful CFA members. This is something the government should actively consider.

### **His Excellency Mr Prabhat Prakash Shukla**

**Ms MORAND** (Mount Waverley) — On Friday night I was very pleased to represent the Minister for Multicultural Affairs at a dinner to welcome the new Indian High Commissioner to Australia.

The new high commissioner, His Excellency Mr Prabhat Prakash Shukla, has only been in Australia for a month, and this was his first visit to Melbourne. Mr Shukla is a very experienced and distinguished diplomat, having served in many locations, including London, Brussels and most recently Singapore.

Mr Shukla was the guest of honour at a dinner hosted by the Australia India Chamber of Commerce and was welcomed by the vice-president, Mr Vijay Susaria, and the president, Mr Harish Rao. An address was also given by the president of the Federation of Indian Associations of Victoria, Dr Virendra Berera. The function was held at the fine Indian restaurant the Tandoori Junction, in Glen Waverley in my electorate.

As many members will know, India has been a significant source of migrants to Australia and Victoria. It was reported in the *Age* of 29 April that India is now Victoria's second largest source of new migrants, and that occurred in a year when Victoria's growth rate from overseas migration exceeded that of New South Wales for the first time.

The statistics reported in the *Age* were sourced from the 2002–03 Australian Bureau of Statistics data. In 2002 the highest number of arrivals to Victoria was from New Zealand, with 2242 arrivals, followed by 2068 arrivals from India. Third was the United Kingdom, followed by China and Malaysia. Quite clearly the Indian community is a significant and growing part of Victoria's multicultural community.

### **Country Fire Authority: trucks**

**Mr WELLS** (Scoresby) — This statement condemns the Minister for Police and Emergency Services. The minister has been caught out in another classic Haermeyer con. The minister boasted of an additional \$39 million for new fire trucks for the Country Fire Authority (CFA), but this is nothing more than a sham. It is another example of the minister not being able to get it right or only telling half the truth.

In a blatant attempt to con Victorians into thinking that the Bracks Government was digging deep to provide up to 190 new fire trucks the Minister for Police and Emergency Services said:

... this massive injection of funds for new trucks is another crucial step in ensuring we continue to have one of the finest firefighting services in the world.

But he did not explain to Victorians that three-quarters of this massive injection of funds was not coming from the Bracks government coffers but was coming directly from the pockets of country Victorians. Of the \$39 million the minister is taking credit for, \$30 million will be raised from the fire services levy — which is to rise by between 12 per cent and 18 per cent — on the insurance bill of residents living in the area serviced by the CFA. This funding boost is nothing more than a sham. This is the fifth year in a row that the fire services levy has increased. The CFA is funded 77.5 per cent by insurance and other companies and 22.5 per cent by the government.

Country Victorians will pay for this so-called funding boost in their insurance bills. The Bracks government is only coughing up \$9 million for the new trucks — the same amount it was obligated to pay under the current funding arrangement anyway.

### Road safety: speed limits

**Mr TREZISE** (Geelong) — I take this brief opportunity to commend the Bracks government and in this instance the Minister for Police and Emergency Services on their efforts in reducing the carnage on our roads due to their unfailing commitment to stricter speed enforcement in this state. As a result of this enforcement, last year Victoria had its lowest road toll on record and Victorian drivers, including drivers in my electorate of Geelong, are understanding the message that speed kills. As reported in the *Geelong Advertiser* yesterday under the headline ‘Statistics show we’ve slowed down’, there has been a significant decrease in the number of motorists being caught by speed cameras. Speeding fines in the Geelong region in the last quarter of 2003 dropped by more than 32 per cent on 2002, and that involves about 6000 drivers. Geelong traffic manager, Sergeant Bob Dunse, attributed this drop in speeding motorists to improved driver attitudes and the 50-kilometre-an-hour limit. I can assure this house that across the nation Victoria is leading the way in road fatality reduction due, amongst other things, to stricter speed enforcement.

Compared to all other states Victoria now has the lowest road toll per 100 000 people. This has come about only since 2002. Prior to that in some years Victoria had the highest toll across Australia. In noting this outstanding achievement the federal government Australian Transport Safety Bureau said recently:

The downturn in the road toll in Victoria began in 2002 and coincided with the introduction of stricter speed enforcement measures.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member’s time has expired.

### Devilbend Reservoir: parkland

**Mr COOPER** (Mornington) — The Devilbend Reservoir site on the Mornington Peninsula has the potential to become a world-class public park as well as a major flora and fauna reserve, but that prospect is under threat because the Bracks government has plans to sell off a large part of the site for residential development. The future of this important area has attracted widespread interest, not only from a great many Mornington Peninsula residents but also from a large number of people further afield. All these people are aghast at the move by the government to sell and subdivide a part of this site, and they were not taken in by the delay in proceedings that was put in place once the government realised how much anger its plans had caused.

The government needs to understand that it must provide Melbourne Water with the money it needs to create a public park out of the entire area. To not provide that money would amount to the government’s forcing Melbourne Water to sell off a huge piece of the site to raise funds to develop what would be left as a park. Such a result would be not only a tragedy for Devilbend but also a body blow to the tattered environmental credentials of the Bracks government.

What the community wants is a first-class public park of which all Victorians can be proud. What the community definitely does not want is the Third World result that will be achieved if the plans of the Bracks government are allowed to proceed.

### Rail: East Gippsland line

**Mr JENKINS** (Morwell) — On Sunday I was very fortunate to have the experience of travelling by train from the Latrobe Valley to Bairnsdale — an experience that I have not been able to have for the past 10 years after the decision by the previous government to close that train line. After 10 years of hard work the people of Gippsland, East Gippsland and right across Victoria, with the support of this government — this Premier and the Minister for Transport — were able to again ride a passenger train from Melbourne all the way through to Gippsland. This event was covered right throughout Gippsland and across Victoria and the nation because it was important. It is important that the people of Gippsland have been able to get their train services

back. In particular, the people of East Gippsland, who have been working for 10 years to undo the damage done by the Kennett government in taking away their train, have been able to do what all Victorians can now do, which is to work with a government that cares about regional Victoria and is prepared to invest in services for regional Victorians.

I would like to congratulate not only the people of East Gippsland but also people right across Gippsland, the Minister for Transport and his staff, and all those who have been involved in restoring the country rail service to East Gippsland — that is, to Bairnsdale and particularly to Stratford. The community of Stratford is not often mentioned, but its members have done a wonderful job. They are a wonderful community, and now we have a wonderful train service.

### **Water: Katunga management plan**

**Mr JASPER** (Murray Valley) — I wish to bring to the attention of the house and in particular the Minister for Water major concerns that have been expressed to me by landowners in the western end of my electorate of Murray Valley about the allocation of water through the Katunga ground water management plan. Over 130 landowners have supplemented the supply of irrigation water on their properties from bores from the Katunga deep lead.

However, it was evident some years ago that the allocations had overcommitted the deep lead, which led to an investigation by a consultative committee to determine the sustainability and equitable management of the water resource. The plan established a number of areas of water allocation which thus determined by formula the allocations to individual farmers. Whilst Goulburn-Murray Water conducted forums to explain the management plan that had been approved by the minister and whilst an appeals process for irrigators was established, many were extremely dissatisfied with the allocations under the formula.

It is now clear that there are discrepancies in the method of determining water allocations from the deep lead, with many farmers receiving less than one-third of their original allocation and with little or no increase following appeals. In response the minister has confirmed that the plan in its present form will be reviewed in two years. Whilst it is recognised by all involved that action had to be taken to reduce the allocations from the deep lead, the formula is inequitable. The minister must take action to review this plan immediately and so make sure that court action by landowners will not commence.

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

### **Cranbourne: tourism round table**

**Mr PERERA** (Cranbourne) — I wish to record the success of the tourism round table recently held in my electorate at which tourism opportunities for the area were discussed. The participants discussed the many events and attractions which the Cranbourne area has to offer and the ways in which these can best be marketed to the benefit of the region. They include the Cranbourne Car and Bike Show and community festival, held recently on 27 March; the Tricode Race Day, held on 21 March; and the Royal Botanic Gardens, Cranbourne, where construction of the Australian garden is under way.

Other events which were discussed include the planned annual film and music festival, to be held at the Cranbourne Racecourse or in another appropriate venue in Cranbourne. Those who attended the meeting included the Minister for Tourism; the member for Narre Warren South; Cr Brian Oates, then the mayor of the City of Casey; Peter Keage, of Tourism Victoria; Nicholas Hunt, of the Country Victoria Tourism Council; David Urquhart Jones, a local composer; Chris Russell, of the Royal Botanic Gardens, Cranbourne; Sue Trembath, of Gippsland Galleries; Dale Maggs, of the Motorcycle Riders Association of Australia; Stephen Iorio, Scott Targett and Nick Swan, of Volcano Events; Lindsay King, of the Casey tourism association; Don Round, of the Cranbourne Shire District Historical Society; Peter Scollo, of the Cranbourne Chamber of Commerce and Industry; and Reverend Paul Creasey, of the Cranbourne Regional Uniting Church and organiser of the Cranbourne Car and Bike Show.

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

### **Budget: government performance**

**Mr SMITH** (Bass) — Here we are again — budget day, the day when the Treasurer brings out the smoke and the mirrors and tries to tell us, the people of Victoria, what a great job he is doing. What a joke! Here we are, the highest taxed pinko state in Australia. The 2002–03 figures show that we are paying \$1847 per man, woman and child here in the state of Victoria. The papers over the weekend said there would be stamp duty relief. What they did not say was that the Bracks government has increased the stamp duty take from \$1 billion in 1998–99 to \$2.3 billion last year. Yet the

Treasurer says he is doing us all favour. Give us a bit of a break, Treasurer!

What about the pensioners now having to pay \$80 for car registrations, as well as the consumer price index increases — in other words, the boating licence increases, the fishing licence increases and the hundreds and thousands of other increases that are all coming in by automatic adjustment? We did not hear the Treasurer mention any of those things in his much-vaunted public display in the economic statement that came out last week. What about the promises that he made to us with regard to hospital waiting lists? They have just not happened. There has been an 85 per cent increase in the number of patients waiting 12 hours or more for a hospital bed.

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

### **Rapid Precast Panels: WorkSafe award**

**Ms OVERINGTON** (Ballarat West) — Last Wednesday I had the pleasure of accompanying the Minister for WorkCover to Rapid Precast Panels, which last year received the WorkSafe award for best solution for sprain and strain injuries. This small business in Delacombe in my electorate of Ballarat West is the brainchild of Mr David di Cesare, who over a period of 30 years has developed a unique system and process by which concrete panels can be produced in a vertical position. This is done by using a casting machine and a special concrete mix. Traditionally the concrete panels used in the building industry are cast flat on the ground and, once set, are raised and transported to the construction site and lifted into position. This method involves many hazardous manual-handling tasks, and using the equipment produces high levels of noise and dust levels. There is also a chance of the panels fracturing while they are being lifted up.

The system provided by Rapid Precast Panels eliminates many of these hazards, including most of the manual-handling risks associated with the manufacturing of the concrete panels. Mr di Cesare told us that winning the WorkSafe award was the highlight of his working career and created a lot of interest in his product, including visits by industry associates and requests to talk at conferences.

As well as supplying panels to construct entire houses and buildings, it also supplies, among other things, panels for retaining walls. I am pleased that it has recently supplied panels for retaining walls for the Ballarat Group Self Build, which is a fantastic state government program.

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

### **Brighton: mobile phone tower**

**Ms ASHER** (Brighton) — I wish to convey my opposition to a proposal to put a mobile phone tower on the Brighton public golf course in Brighton East. The East Brighton Residents for Appropriate Telecommunication Facilities oppose the site. I support the residents, as the facility is inappropriate.

The key reasons for its being opposed are the proximity of the facility to homes, which is a legitimate concern; the range of inconsistencies and omissions in the planning assessment which was forwarded to the council — for example, there are claims that the homes are further away than they actually are; the fact that it is an inappropriate use of the golf course; the real fear among the residents of a possible future expansion of the facility, and I share residents' concerns in that area; and the possible breaches of the Code of Practice for Telecommunications Facilities in Victoria of March 1999, in particular the requirement to minimise visual impact, because at the moment the proposal does not minimise the visual impact of the tower, and the requirement for the co-location of facilities, because while this is a co-location, it is a new facility.

I urge the proponents to withdraw the proposal. I will not support it being on the Brighton golf course.

### **Rotary: Mordialloc women's health seminar**

**Ms MUNT** (Mordialloc) — Today I rise to congratulate the Rotary Club of Mordialloc, in particular its president, Kaye Gordon, and the Jean Hailes Foundation for taking the initiative in organising and presenting a women's midlife health seminar entitled 'Women powering through midlife'. I will be opening the seminar shortly, and I am very much looking forward to participating in and learning from it. As a midlife woman myself, this seminar topic has relevance to my own life and, more importantly, to many women in my electorate.

It is my understanding that several hundred participants will be attending to hear keynote addresses by Dr Elizabeth Farrell, Dr Amanda Deeks, a representative from the Bentleigh Bayside community health centre, and Ms Sandra Villella. This seminar will involve the collaboration of community groups and will aid women in seeking clarification on the variety of options available to them to maintain their wellbeing during midlife.

This week is also Heart Week in Australia, and this seminar has been registered with the National Heart Foundation in order to contribute to the efforts across Australia this week to reduce heart disease.

I commend these groups in my community for their work in supporting the women in my electorate, and I wish them all the best for a very informative and innovative information seminar.

### **Preston market: ethnic diversity**

**Mr LEIGHTON** (Preston) — I was disappointed to listen to a tape of talkback callers on 3AW on Anzac Day criticising the Preston market on racist grounds. One caller named Graham was a real disgrace in trying to justify his racist attitude to immigration with comments such as, ‘Have you been to the Preston market recently? You would think you were in some sort of oriental bazaar’. Another caller named Jane said, ‘You would be absolutely killed by the looks. You are not welcome when shopping there because you are not one of them’. Jane was talking absolute nonsense. As a regular shopper at the market and as a person of European background I find the Preston market to be a wonderful, welcoming, friendly and vibrant place to shop.

The diversity of shoppers and retailers reflects the diversity of the Preston community. Christians, Muslims, Buddhists, Hindus, persons of no religious faith, Anglos and European settlers both old and new gather in a celebration of diversity and old-fashioned commerce and enjoy the quality of merchandise — often at very good prices, I might add. During the Preston Easter business festival I did a stint of cooking at the market with Elizabeth Chong. A great time was had by all, including a multicultural audience of several hundred shoppers. It was heartening to note that a large number of the callers to 3AW on Anzac Day phoned in to express their support for a multicultural Preston market.

### **Healesville High School: funding**

**Mr HARDMAN** (Seymour) — I rise to thank the Minister for Education and Training and congratulate the Healesville High School community, which has been granted \$3 million in funding for a stage 1 school upgrade project. During the 2002 election campaign the Healesville High School community was pleased to be promised \$600 000 for a project to improve the school. However, after further investigation by the Department of Education and Training and representations by the high school community, ably led by its principal, Pat Leng, the government agreed that the facilities at the

high school were so run-down that a full master plan to redevelop the school was required, and this has been completed.

The first stage of the Healesville High School upgrade, announced today, will see a \$3 million investment that will include new science and technology facilities. The current facilities are outmoded, and this will provide modern learning facilities for students and teachers. The principal, Pat Leng, has told me that the high school community is very excited about the announcement today. Over the last four years a three-stage development of the Healesville Primary School took place, providing primary students with fantastic new facilities in the area. The Healesville Primary School community will also be pleased to learn today that the Bracks government has provided \$5500 for the first round of the School Yard Blitz program grants, which will enable it to further improve its outdoor facilities for students.

I am very proud of the Bracks government’s ongoing commitment to provide world-class facilities for our students and teachers as well as its investment in more teachers and lower class sizes, which are leading to measurable improvements in literacy, numeracy and school retention rates. I commend all involved.

### **Rotary: Maribyrnong River project**

**Mr MILDENHALL** (Footscray) — This morning I had the great pleasure of joining the Speaker and representatives from 14 Rotary clubs, municipalities and government agencies for the launch of a visionary project for the centenary of Rotary in 2005 called ‘A river for everyone’. The aim of the project is to improve signage and provide family fun and health activities along 25 kilometres of the magnificent Maribyrnong River, from Brimbank Park to the Docklands. It includes 120 distance-marking bollards, 30 intersection bollards, 10 car park bollards and 15 comprehensive information bollards.

I would like to congratulate the Rotary clubs of Brimbank Central, Essendon, Essendon North, Flemington, Footscray, West Footscray, Maribyrnong, Highpoint, Keilor, Keilor East, Melbourne North, Moonee Valley, Sunshine, Tullamarine and Yarraville for this outstanding example of community leadership. I am sure my colleagues and I who represent the communities along the river will stand by to assist these Rotary clubs as they seek to achieve coordination among the range of government agencies and municipalities to ensure that this project can proceed and that the current fragmented signage along the area is replaced.

### **Mitcham Primary School: funding**

**Mr ROBINSON** (Mitcham) — I congratulate this afternoon the Mitcham Primary School community and in particular the principal, Ian Sloane, and school council president, Su Seng Hoh, for their continuing untiring efforts to upgrade the historic Mitcham Primary School, which is home to almost 300 children, and, of course, their families have a great interest in how it goes. The efforts of these people have been handsomely rewarded through repeated government funding, which has culminated today in an announcement of \$385 000 for the final stage 3 building component.

I want to pay respect today to a member for Koonung Province in another place, Helen Buckingham, who has not been so well, as we all know. Her lobbying and the lobbying of others over the past few months has obviously assisted greatly. The grant that has been announced today follows earlier grants. Within weeks of the Bracks government being elected in 1999, \$250 000 was made available, followed by a further \$1 million in 2001–02. The Mitcham Primary School is the oldest school in Mitcham. It goes back to 1929. At the time of the Mitcham by-election it was in a very sad state of disrepair. Plaster was falling from the ceiling and parts of the old building had been roped off. The Bracks government maintains a high commitment to public education, and the Mitcham Primary School is a shining example.

### **Frankston: government initiatives**

**Mr HARKNESS** (Frankston) — Over the past few years Frankston's importance as a transport and community hub has been recognised by the Bracks government, leading it to plough millions of dollars into our roads to help unlock the city's potential. Although roads do not generate much excitement, well-designed and properly maintained roads are critical to transport efficiency, community safety and economic robustness.

Frankston is flying ahead. Anyone driving through our city recently will have seen some of the exciting road projects we have on the go. Our roads are becoming safer and easier to use, and tourism and economic benefits are flowing through to our business and residential communities. Safety is no. 1 when it comes to our roads and the Frankston community has made great strides in reducing the city's road roll from double figures in 2001 to four in 2003. The government is working closely with the community in its pursuit of a zero road fatality city.

Amongst these projects are the widening of the Moorooduc Highway, a state-of-the-art puffin pedestrian crossing outside the Frankston Hospital, the beautification of Wells Street, and the duplication of Cranbourne Road. The additional \$130 million for a new two-year road safety infrastructure program announced by the Treasurer is further evidence of the Bracks government's commitment to road safety.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member's time has expired. The time for making statements has now ended.

## **COMMONWEALTH GAMES ARRANGEMENTS (FURTHER AMENDMENT) BILL**

### *Second reading*

#### **Debate resumed from 4 March; motion of Mr THWAITES (Minister for Environment).**

**Mr THOMPSON** (Sandringham) — The Commonwealth Games Arrangements (Further Amendment) Bill is the third tranche of amendments to the Commonwealth Games Arrangements Act 2001. It should be stated at the outset that the Liberal Party strongly supports the Commonwealth Games being held in Victoria and it should be noted for the parliamentary record that the holding of the games in 2006 is as a result of the vision and hard work of the former coalition government between 1992 and 1999.

The bill itself allows the commercial use of the terms gold, silver and bronze without the authorisation of the corporation. This particular amendment responds to concerns raised by the opposition when the previous amendments were first introduced in September 2003. It further prohibits the broadcasting or recording of Commonwealth Games events without authorisation from the corporation and allows for the seizure and forfeiture of broadcasting equipment as well as fines of up to 2400 penalty units. It prohibits aerial advertising in sight of a Commonwealth Games venue or event in March 2006 without authorisation from the corporation and allows for fines of up to 2400 penalty units. It further creates the offence of obstructing or hindering the conduct of a Commonwealth Games event or participants, officials, volunteers and contractors, and allows for fines of up to 60 penalty units.

The opposition, through the agency principally of the Liberal spokesperson for the Commonwealth Games in the other place, Mr Gordon Rich-Phillips, has had consultations with the Chief Commissioner of Police,

the Australian Broadcasting Corporation, the Seven Network, the Ten Network, the Nine Network, the *Herald Sun*, the *Age*, the Australian Special Broadcasting Service and aerial advertising operators. It is principally as a result of the excellent consultation process undertaken by the Liberal member for Eumemmerring Province in the other place that a number of weaknesses in the present arrangements and consultation by the government have become apparent. I will come back to that particular issue later on.

The bill is aimed at protecting the value of arrangements under the international television rights agreement between the corporation and the Nine Network and the value of sponsorship arrangements with existing and future sponsors. The bill, although modelled on the Olympic Arrangements Act 2000 in New South Wales, introduces restrictions on filming, photographing, broadcasting and recording for profit or gain relating to any Commonwealth Games event. The bill also prohibits aerial advertising, such as skywriting or banner towing in sight of a Commonwealth Games venue in the month of March 2006 without an authorisation from the corporation. The prohibition applies irrespective of whether an event is taking place.

This would effectively have the result of prohibiting aerial advertising anywhere within a 50-kilometre radius of metropolitan Melbourne, noting that aerial advertising or skywriting is visible, if not readable, 50 kilometres from the point from which it is written. It might be noted too that 50 per cent of aerial advertising is of a non-commercial nature, whereby birthday greetings, proposals or messages of goodwill might otherwise be conveyed.

It should be pointed out that these greetings themselves would still be prohibited under the bill. There is a considerable concern among the small number of aerial advertisers in Victoria that the bill will put them out of business for the month of March 2006 without any recourse to compensation for any lost revenue. The Commonwealth Games Corporation has provided written advice to the Liberal Party indicating it will offer general exemptions against the requirements of the legislation.

I would like to run through some general aspects in relation to the games, which will be one of the great sporting events seen in Melbourne over the next 50 years. There is a great vision for the games that it will be a landmark in Melbourne's history that will provide long-term benefits for not only Victoria but Australia. There are some 680 days to go before the games, and it is noteworthy that at the time the 2006 games will be held it will be 50 years since the

goodwill games, or the Friendly Games, were held in Melbourne and hailed as one of the great landmark Olympic Games to that point in time. There will be some 72 nations competing, which involves one-third of the world's population.

It will be the fourth time that the games have been hosted in Australia, following on from Sydney in 1938, Perth in 1962 and Brisbane in 1982.

At the Melbourne games of 2006 it is expected that there will be some 4500 athletes competing. There will be 1500 team officials and some 1200 technical experts. Maybe the Australian Football League might be able to get a few good technical experts to help with its goal umpiring. There will be some 5000 suppliers; 3100 media, and, most importantly for Melbourne, there will be some 15 000 volunteers. Not many people realise that the spirit of volunteering is sometimes distinctive of a small number of countries in the world. Australia is one of the countries in the world where there has been a great tradition and spirit of volunteerism. Victoria has approximately 4.7 million people in its population base who speak one or more of 170 different languages. That takes into account the fact that one in four Victorians were born overseas. We stand as the multicultural capital of the world.

It is very important in the development of the marketing of the games that the organisers take note not only of our commonwealth heritage, but also that they involve members of communities who have been more recent arrivals to Australia, so that they can share every facet of the games: in the build-up; in the different relay events that will be an adjunct to the games; and also as spectators. It is also important that the multicultural media in Victoria are fully briefed along the way so that all Victorians — including those who have recently arrived from countries such as Ethiopia, Somalia, Eritrea and the Sudan, or the Kurdish people who have come from the Middle East — have the opportunity to engage actively in the games.

The Commonwealth Games will be held between 15 and 26 March 2006, and they will include 16 sports across 24 disciplines. They will involve 31 competition venues and 30 different training venues. The games will be viewed around the world as they are being held in the streets of Melbourne. As I understand it, the actual course for the marathon, one of the great events of the Commonwealth Games, has not yet been determined, but that represents a marvellous opportunity for Melburnians to line the course of the event. Many Australians will recall watching Robert de Castella in Brisbane in 1982. Not only will there be a chance for spectators to line the streets, but there will also be an

opportunity for an international television audience to view the range of events through the international broadcast.

As I indicated earlier, over 72 nations will be represented; including some nations that have asked to join the Commonwealth Games as an event and have been allowed into that general sporting group so that they can participate. There will be representatives from the six main regions — Europe, Oceania, the Americas, the Caribbean, Asia and Africa. In terms of general marketing, which is important for the branding of Melbourne to the international community, the key markets include the United Kingdom, Singapore, Canada, Australia, Malaysia, South Africa, New Zealand and, most importantly, India.

An announcement has already been made that the 2010 Commonwealth Games are going to be held in Delhi. There will be great interest in a country that has over a billion people and that is very well represented in Australia through its consular envoys. Dr Martand Joshi and his wife Zofia will be taking a very keen interest in the games, he being a former consul general in Melbourne. Dr Rao, who currently occupies that senior consular post in Victoria, will be taking a very keen interest in these matters, as well as the members of the Indian diaspora who reside in Australia, many of whom will count themselves as Australian citizens.

There is a growing strength in the games since the first Commonwealth Games took place in Hamilton, Canada, in 1930, through to those held in Manchester in 2002. Manchester developed greatly as a result of the games being held in that city. The games generated significant urban renewal that underpinned the arrangements for the London bid for the 2012 Olympic Games. It was the largest sporting event ever staged in the United Kingdom, possibly only just surpassing the 1948 Invincibles tour to England by the Australian cricket team when that particular side was undefeated.

I would like to reiterate the importance of volunteers who are key contributors to the running of the games. They will number some 15 000, and over 500 full-time staff will also be engaged in working on the event. Melbourne has some magnificent sporting venues and has hosted some great events. Events which Victoria has hosted in the past include the Formula One Grand Prix, the Australian Open tennis championships, the Melbourne Cup, Australian Football League finals for over 100 years, and test cricket. The venues also include the Melbourne Cricket Ground (MCG), which will have a capacity to hold 100 000 people for the games; and Melbourne Park, a great precinct for

Melbourne, which has the capacity to hold some 15 000 people.

In looking ahead to the future of the Melbourne Park precinct I would like to comment on a proposal that has been put forward by a person by the name of Patrick Devine. He is a pharmacist who has been a leading swimmer, and also a keen Royal Life Saving Society participant. His original proposal was to divert Swan Street traffic in order to develop a sporting village between what is now controversially called the former Olympic Park stadium and the Olympic Park training area, now to be used by the Collingwood Football Club and which Eddie McGuire wants to rename the Lexus Bob Rose Stadium. That particular area is dissected by Swan Street, and provides some break in the confluence of that overall area.

I will be interested to see whether in the decades ahead there will be the prospect of undergrounding or diverting the traffic at that particular point. It would further consolidate that area as one which stands as one of the greatest sporting precincts in the world, with the MCG, the Rod Laver Arena, the velodrome and other facilities. The multipurpose venue that is the velodrome has the capacity to hold 5000 to 10 000 people; Rod Laver Arena has the capacity for some 15 000 people, and the MCG has the capacity for some 100 000 people. These are outstanding sporting precincts. The Melbourne Exhibition Centre will also be used, and that venue has the capacity to hold some 7500 people for the gymnastics; 3000 for the weight-lifting, and some 2000 people for the badminton.

Then there is the Melbourne Sports and Aquatic Centre. It will be interesting to note whether the Save Albert Park group will be able to convert their tent site down in the Albert Park precinct into an information booth just to provide some constructive assistance to the people of Melbourne and visitors to the area.

Melbourne, according to the Commonwealth Games literature, is the most livable city in the world, and it has an outstanding heritage of great sporting events. We are the multicultural capital of the world. There is also great scope for multicultural Victoria to be briefed actively on the games. I was having a discussion recently with Fury Bortolotto, the president of the Veneto Club. Community leaders in multicultural Victoria would benefit greatly from briefings on the games and would be able to convey the information back to their communities. A great presentation is being used to market the Commonwealth Games to international sponsors, and the more widely that presentation is made available to people throughout

Melbourne, the more interest it will inspire in the event and the clearer understanding Victorians will have of the profile of the games and their opportunities to contribute.

There are significant tourism objectives to be achieved by encouraging intrastate and international travellers to Melbourne and Victoria before, during and after the Commonwealth Games and in raising awareness of Melbourne and Victoria as a great tourist destination.

Another important event that is part of the process is the Queen's baton relay, which was first run before the 1958 Empire Games in Cardiff. There will be international and Australian legs, and the runners will carry the opening message for the games from the Queen. The baton relay will start one year before the games and will provide a great opportunity for community engagement and participation.

In addition to those events there will also be the opening and closing ceremonies at the MCG and by the Yarra River parkland. There is a proposal for further infrastructure development in the form of a footbridge between the western end of the Melbourne Cricket Ground and Birrarung Marr, which will provide an unbroken conduit for pedestrian traffic between Southbank and the MCG and will be a great enhancement for Melbourne.

I now turn to some specific compromises in relation to the application of the bill which clarify its operation and arrangements. The Liberal member for Eumemmerring in the other place, the Honourable Gordon Rich-Phillips, has done a great job in liaising with a number of Commonwealth Games stakeholders and interest groups. This perhaps reflects his intellectual agility as the former dux of Eumemmerring College, which is in the electorate he now represents.

He had a meeting with the chairman of the Melbourne 2006 Commonwealth Games bid, Mr Ron Walker, and I would like to read into the parliamentary record a letter arising from that meeting, addressed to the Leader of the Opposition:

I refer to our recent meeting at the offices of Melbourne 2006 Commonwealth Games Corporation and to our discussions about the above bill.

During the meeting you and the Honourable Gordon Rich-Phillips, MLC, outlined concerns that media organisations have expressed to you in relation to the proposed legislation. In particular you advised that they are concerned about proposed restrictions on filming and broadcasting Commonwealth Games events such as the Queen's baton relay and Commonwealth Games cultural events.

Since our meeting John Hamden and Meredith Sussex have met with representatives of non-rights-holder television organisations, who outlined their concerns directly.

As you were aware the proposed legislation gives Melbourne 2006 the power, in certain circumstances, to authorise broadcasting and filming and to make a determination that authorisation is not required.

As discussed in our meeting Melbourne 2006 is required to protect the organisation of the games as well as commercial arrangements relating to the games. We are still planning our detailed operational arrangements and putting in place commercial arrangements with sponsors and media rights holders. However, we confirm that we intend to use the power to issue authorisations and determinations to minimise restrictions on media access to the Queen's baton relay as it travels through Victoria and to cultural (as opposed to sporting) events occurring outside the venues. Of course the authorisations and determinations will be required to ensure exclusive rights in relation to other events remain protected where events are combined or adjacent to each other.

In addition to the above Melbourne 2006 will also develop a news access policy to provide games news packages to the media for use in news bulletins and the like. The terms of the news access policy have yet to be confirmed but will be in line with those applied by other similar event organisers, for example the Sydney 2000 Olympics.

In relation to serial class advertising, the restrictions are required to ensure that the games are not subject to ambush marketing. As such they are required to be broad. We will have the power to issue authorisations and may well be prepared to authorise personal messages or messages of a non-commercial nature in certain circumstances. However, I am sure that you appreciate the need for us all to ensure that the interests of our official sponsors can be protected from ambush marketing.

As discussed, we would be happy to consult with the opposition parties in the course of developing our policies. In the meantime, we hope that you will be able to agree to support the legislation.

It is signed by Ron Walker, chairman.

At this particular juncture I would like to highlight another matter. It relates to the 1978 silver medallist in the triple jump at the Commonwealth Games in Edmonton, Ian Campbell. Ian was an outstanding Victorian and Australian athlete who, in addition to being a two-time United States collegiate champion and the silver medallist in the 1978 Commonwealth Games, came third in the world championships in 1979.

Not many people appreciate that he was robbed of a gold medal in the triple jump at the Moscow Olympic Games, of which there was an exposé. The 2006 Commonwealth Games will provide an outstanding opportunity for an athlete of his calibre to be properly recognised for the contribution he has made to the triple jump. He worked with Nike overseas for 15 years; for 5 years he worked with the National Basketball

Association in the United States, including in New York; and he was the international vice-president of the American Basketball Association.

He has an outstanding sporting and sports administration background. It is noteworthy that it is 28 years since he established the Australian junior triple jump record and was coached by John Boas. That record remains to this day. Not many Australian records have stood for 28 years, but Ian Campbell holds that record still.

At the Moscow games two international athletes were scrubbed out or disqualified in four or five of their jumps. One was the world champion, Jao de Oliveira from Brazil, who was fouled on five out of his six jumps, and the other was Ian Campbell, who was fouled on four of six jumps. This was unprecedented in their performance histories.

The nature of those fouls now no longer constitutes an offence — which is a further irony — but later there was a further exposé by Roy Masters, who alleged that there was some sort of payola between the Soviets and an international company. It was alleged that there was a deal to reward certain people in that event with medals. There are some important sources who support Roy Masters's view. One is Sergei Bubka, the famous Soviet athlete; another is David Prince, the Commonwealth Games silver medallist and head of Athletics Australia. In addition Sebastian Coe, a member of the British House of Lords, the decathlete, Daley Thompson, and Dr John Boas, a recently retired physicist, all support the contention that there was foul play at Moscow.

To reiterate a matter that I raised in this chamber some four years or so ago, the advent of the 2006 Commonwealth Games in Melbourne provides a chance, some 26 years after the event, to remedy an injustice done to a Victorian athlete, whereby it is alleged that the Soviets conspired with a number of other people to deprive an Australian athlete of a gold medal. If that jump had not been fouled he would have won either a gold or a silver medal, depending on what the view was of the disallowed jump by the world champion, Jao de Oliveira, who ultimately received a bronze medal.

In rounding off my remarks in relation to this bill I would comment that the Liberal Party strongly supports the Commonwealth Games being held in Melbourne. It takes great pride in the fact that, as the honourable member for Mornington correctly pointed out to the chamber, it was the work of the former coalition government between 1992 and 1999 that brought the

games to Melbourne. It established a framework, along with an outstanding major events program, that has seen many superb events brought to Victoria. Without the vision of that period this event may not have happened. Individuals do make a difference.

I want to pay tribute to one further outstanding Commonwealth Games performance. It occurred in Auckland in 1990. Andrew Lloyd is an Australian athlete who won the Melbourne marathon for three years; he was seriously injured in a motor vehicle accident in which his wife was killed. His arm was badly broken and he had it set in a manner that would enable him to keep on running. His ankle was also broken. In that remarkable finish to the 5000 metres in Auckland he was 40 metres behind the leader coming up to the bell lap and was in third place. He made his way up into second place and in almost the closing strides to the line made up the distance of 40 metres in the final lap. He won the gold medal by 0.08 of a second. It was a great day for Andrew Lloyd and a great day for the spirit of the Commonwealth Games.

I trust that in 2006 there will be many great stories — not necessarily stories involving the tragedy that Andrew Lloyd has encountered in his life, but great stories that may impart something to the family of Ian Campbell. It may be that his family can see him present a medal to the winner of the triple jump and have his outstanding contribution to sport acknowledged. It may be a junior Victorian athlete winning a medal; it may be the story of an athlete from one of the six regions represented by the Commonwealth Games member nations who, without strong training but through sheer will and talent, has the opportunity to make a mark in the world.

With those general comments I note for the final time that the Liberal Party strongly supports the Commonwealth Games in Melbourne.

**Mr DELAHUNTY** (Lowan) — I rise on behalf of The Nationals to speak on this important bill, the Commonwealth Games Arrangements (Further Amendment) Bill. There has been previous legislation in relation to the arrangements for the games; this bill amends it to facilitate some security for advertising people and promoters of the events.

I thank my parliamentary colleague the Honourable Damian Drum in the other place for the work he has done in consulting widely in relation to this bill. Those consultations have involved the Victorian Commonwealth Games Association, Melbourne 2006, Mr Sam Coffa and many others. I want to particularly thank Di Trotter of the Wimmera Regional Sports

Assembly and also the South West Sports Assembly, which at a late stage today provided me with information that I will be feeding into this debate.

The Nationals will not be opposing this legislation. We strongly support the running of the biggest event that will happen in Melbourne for many years, and we trust that will be a great event not only for Victoria but also particularly for the athletes and visitors who come to Melbourne on that special occasion in March 2006. We hope they have an experience similar to the experience that many people had when they attended the Sydney Olympics. I was very fortunate that at a late stage I made a decision to go there for two days. It was late in the Sydney Olympics. My only regret is that I did not go up earlier in the two-week period. Someone asked why that was. I said that if I had gone earlier I would not have come home. It was so well run and administered —

**Mr Cooper** interjected.

**Mr DELAHUNTY** — I would have come home at the end of the games; it was a super event, and Australian athletes did us proud, but more importantly the volunteers and all the workers involved put on an exceptionally good, world-class event. I trust that we in Victoria, the sporting capital of Australia, can live up to the high level that the Sydney Olympic Games set.

This legislation deals with two components: one is the broadcasting or recording of events and advertising in relation to that; the other is security in the running of the events. We are not opposed to this legislation because we believe any broadcast company that signs an agreement with M2006 — if it is going to pay the large amount of money that we need to run these events — needs to make sure there is some certainty. It needs certainty that there will not be ambush marketing by others, whether they be individuals or corporations. That is why we support the intention of this legislation. Any sponsor, if it is to pay a premium, will need to be safeguarded against ambush marketing, which can happen at times. The games will cost a lot of money to run; there are a lot of activities and events. We need to pay staff, but we also need volunteers to support the games. We need to make sure that the sponsors who are going to contribute a lot of money have some sort of security.

From my reading of the legislation and the briefing notes provided to me I note that private people or visitors coming to the events will be able to televise or record events if it is not for profit or gain. That is commonsense legislation, and we support it. It is particularly important that visitors have the opportunity

to record the events that are of special meaning to them so that they can take their record home and show their family and friends. People across Australia will be attending these events.

It is interesting to note that people who contravene the provisions for the broadcasting of events will be given a warning prior to having their equipment seized. They will be given one chance by the officials, but if they do not comply, their equipment will be seized and placed with the Commonwealth Games committee for a period of 28 days. After six months they should have it returned to them, but they could lose the film or the recorded tape.

I question that provision. That matter might be taken up by the following speaker. I am sure that if a lot of equipment is seized and put into an office — the Commonwealth Games office — there will need to be some sort of security to make sure that valuable and expensive equipment is returned. I have no doubt that mistakes will be made, but I hope they will not be made. If equipment is seized I want to make sure that it is well looked after and people can go back to the Commonwealth Games office and get their equipment and not be pointed in the wrong direction to equipment that is not theirs. When equipment is seized security is very important. If a mistake is made by officials — and we hope it does not happen — it is important that that equipment is looked after and, as importantly, that the owners get it back.

The Nationals have some concerns about the legislation. It is unclear when it comes to advertising on airships, such as the Goodyear blimp. The Honourable Damian Drum, a member for North Western Province in another place, and I understand that the legislation clearly allows for any aircraft to display its normal markings. Some people can get advertising up and say it is their normal marking, so among some people we spoke to there is uncertainty about such things as airships with 'Goodyear' written across them. That could be advertising and it could go over the Melbourne Cricket Ground while 100 000 or so people are attending the games. I am not sure whether that is covered in the bill; perhaps the following speaker will take that on board.

As I said, the Commonwealth Games is the biggest event coming up for Victoria in 2006. As we know, other major events happen in Victoria, such as Australian Football League games and the Melbourne Cup, but importantly there need to be partnerships to make them work, whether they be with sponsors, suppliers, the work force or the volunteers and athletes who are involved. Major events happen in Victoria and

we have great community spirit in relation to them, but The Nationals want to make sure that the economic benefits are returned to the state. We also want to see some other benefits. As a member of the VicHealth board I was fortunate enough to go last week to a briefing organised by the Speaker. One of the concerns we have in Victoria, as is the case throughout the Western World, is obesity. We not only want to see some economic benefits, we want to see some other sustainable benefits and growth in memberships, activities and participation in sport.

One of the things that is most concerning about participation in sport is the high cost of public liability insurance and the shortage of water and, particularly in some areas of the state, the ability to water sportsgrounds, which is a big issue in Bendigo and in the north-west of Victoria. The Nationals appreciated the state government's contribution last week, but unfortunately in a lot of cases it is too late with this funding. What a pity it was not done a couple of months ago. We also need to assist offices that run sport, whether they be for table tennis, gymnastics or the like. Running sport is becoming a big job, so we want to see some of the economic benefits gained from these games flow on to assist other sports and participation rates to make sure that they are sustainable and that they grow, but more importantly to assist the officials.

As I said before, we know that athletes are coming from 72 countries, so volunteers are going to play a very important part in March 2006. They will deal with the athletes and help them around the city and the state. We often hear that Melbourne is the most livable city, but I always say that we want to make Victoria the most livable state. We know that Melbourne is the sporting capital of Australia, but we want to make the whole of Victoria the sporting capital. We want people who visit to have the opportunity to be directed into country areas before or after the games, or even during the games when some of the events might be trialled in country areas. Therefore we need to make sure those volunteers are appropriately trained.

We also need to make sure that they are aware of the other things that are happening outside Melbourne. The Nationals focus on rural and regional Victoria, so it is important to address some of the transport issues and, importantly, assist those people who want to see more than Melbourne. There are some spectacular views around Victoria, whether they be the Grampians, the Great Ocean Road and those types of things; we want to get some people out there.

Members of The Nationals support sponsors paying big money for advertising, but they want to see some of those economic benefits go into other things, such as reducing obesity, and participation in sport can help in that area. As I said, I have some information from some of the sports assemblies. I think we need to realise that some of our great sporting stars come from country Victoria. There are not only the Tim Watsons of the world or some of our elite football athletes. We know that Shane Kelly is going to the Olympic Games, as is Lauren Hewitt. I believe Bruce Quick is a shooter from Shepparton. These people probably will be in the Olympic Games. These types of athletes and others will be participating in the 2006 games.

From south-west Victoria I want to mention some of the people who are working up to that level. Tayliah Zimmer is a top-three swimmer at this stage. Other promising athletes are Chelsea Maddock, and Tim Hollahan from Harrow. They are young people at this stage, but they are growing in stature not only as people but also in relation to their athletic ability. Melissa Tapper is an under-13 table tennis champion from Hamilton. I am sure she is working towards trying to be a participant in these Commonwealth Games.

We need to make sure that country athletes are well represented in these Commonwealth Games, but there is a real need to continue to develop and to foster pathways for such athletes to reach this top level without having to move to Melbourne at an early age. Unfortunately in a lot of cases athletes have to go away to have the opportunity to participate in these activities, but a lot of them need to stay with their families. That is commonsense, but additional funding needs to assist them to do that.

The VicTalent program assists with grants of about \$500, and in the Wimmera area other programs have been developed without government help, and that is to their credit. They assist some of our sporting athletes to go away for elite events to increase the standard of their ability. The WestVic Academy of Sport assists with coaching, but my understanding is that that is for only three sports. There needs to be further funding to assist in that area. The South West Sports Assembly is also pushing for a south-west academy. It has been given \$15 000 in seed funding, but it needs \$80 000 to make sure that a south-west sports academy opens to assist in coaching and helping other sports in western Victoria. I am putting in a plug for them at this stage!

At the end of the games there will be equipment; it could be spare equipment that could benefit and be appreciated by country Victoria. As we know, a lot of this equipment is high cost. Following the games some

of this equipment — gymnastics equipment and the like — could be moved out to Warrnambool instead of remaining in Melbourne, Ballarat and Bendigo. Perhaps some of these ideas could be put to the administrators.

I was fortunate enough to get a copy of a publication put out by the government on the Commonwealth Games. In relation to regional and outer metropolitan events, it states:

A range of games sporting events will take place in regional and outer metropolitan Melbourne. Shooting, preliminary rounds of the basketball, mountain bike riding ...

My understanding is that not too many of them will get very far away from the central business district of Melbourne. The Nationals want to make sure that transport is available for people who want to see these events taking place in the lead-up to the games, even if they cannot get to the games themselves. The publication also states:

Games-focused activity hubs in outer metropolitan and regional centres will be created —

before the games —

to ensure that the games spirit extends right across Victoria.

They are good words, but where will that happen? The Nationals want to see that happen right across the state — in Mildura, Horsham, Hamilton, Warrnambool and in places like Bairnsdale, Shepparton and Wodonga. There are opportunities for pre-games training, but, as I said, few of these options will be in places in the Lowan electorate. We should also work to ensure that these training facilities are advertised so that some people in country areas, particularly aspiring athletes, might want to go along and view some of the pre-games training that is happening in country areas. There should be some promotion and marketing in relation to those activities. Importantly there is an opportunity for sports participation in these games. This publication also states:

The Victorian government is working with sporting organisations and community groups to increase sports participation and promote community building.

We have not seen a lot of detail in relation to that at this stage. The questions that have been asked include: Will any money be allocated to that, and who will the money go to? Will it go to the sports assemblies or to the sporting associations, whether they be shooting associations or those types of groups? It is important that we see some of that detail coming out quickly so that groups in country Victoria can tap into those opportunities and so that we get increased sports participation.

We see from this documentation that the government in partnership with M2006 will be developing a community involvement kit to assist Victorians to be involved in the games. The kit will be released in mid-2004, so we are getting close to it, and it will be distributed through all Victorian municipal councils. The unfortunate thing about that is that it will be another job for local government. In many areas in country Victoria councils do not have recreation officers, limiting the staff available to take advantage of this. I hope some innovative thinking is going on about how to involve the smaller country councils that will be asked to be involved, whether that be the Shire of West Wimmera, the Rural City of Ararat or the Shire of Yarriambiack. Country communities do not always have recreation officers to drive these activities. I will just put that on record in relation to this debate.

We know there is a grants program initiated through the 2006 games that will involve partnerships with local government. My understanding is that local councils will be asked to submit bids for funding support. A lot of examples have been given of events and celebrations, but it would be better to have projects which will have long-term benefits. Again I highlight that it is important to have increased participation for country Victorians.

I will quickly cover some of the clauses in the bill. Clause 5 inserts new section 3B to the principal act, which will permit the Minister for Commonwealth Games by way of a notice published in the *Government Gazette* to declare an event conducted before the Commonwealth Games to be a test event for the purposes of the act. We support that.

Clause 7 inserts new division 2B, which includes new section 56KJ, which makes it an offence to display an advertisement within sight of a Commonwealth Games venue or event without an aerial advertising authorisation during March 2006. I have raised some concerns about that.

One of the amendments I want to highlight is in clause 9, which deals with the running of the games. This clause inserts a new part 5B in the principal act. Section 56ZC will make it an offence for a person to intentionally or recklessly obstruct or hinder the conduct of a Commonwealth Games event. I understand what the word 'intentionally' means, but I am not sure about 'recklessly obstruct'. I have seen reckless footballers. I know my colleague the member for Swan Hill not only played football but was president of the Boort football club. I remember playing against Boort, which had some reckless footballers in those days, but I do not think they did anything illegal.

**Mr Walsh** interjected.

**Mr DELAHUNTY** — I don't know about that!

How do we define the term 'recklessly obstruct'? If it were intentional, I can understand that it would be an offence and the offenders should be treated accordingly. The Nationals raise only those few concerns. We see a great opportunity for Victoria and a great opportunity for Melbourne, for sure, but we want to make sure that this is also a great opportunity for rural and regional Victoria. We want its councils to benefit from the games, not only in the short term while the events are happening but also in the lead-up to the events and, importantly, through sustainable activities afterwards. We do not want to see it quickly come and go. It is a great opportunity. As the previous speaker said, its delivery was worked on by the previous government, but we can congratulate the present government and the organising committee, in particular M2006, for their work in securing this event for Victoria.

With those few words I again highlight that we are not opposing the legislation. The Nationals are strong supporters of the games, but we want to be sure that the benefits go beyond Melbourne. We wish the bill a speedy passage.

**Ms GILLET** (Tarnet) — It is my pleasure to make a contribution to the debate on the Commonwealth Games Arrangements (Further Amendment) Bill. The bill, as has been said, amends the Commonwealth Games Arrangements Act 2001 in order to provide for authorisations for broadcasting, the making of recordings and advertising in relation to the Commonwealth Games, to provide for various offences and enforcement matters relating to broadcasting, making recordings, advertising and the obstruction or hindering of Commonwealth Games events. It is one of a number of pieces of legislation that were foreshadowed when the principal act was introduced. This bill, as does other legislation, amends the principal act and continues to develop the legislative framework for the efficient delivery of the Commonwealth Games.

I draw the house's attention to clause 4, which inserts new definitions in section 3(1) of the principal act. They particularly pertain to the purposes of that act and include new definitions for aerial advertising authorisation; broadcasting authorisation; broadcasting equipment; a Commonwealth Games event; the Queen's baton relay; and a test event. These new definitions are needed as part of the new provisions in the bill that relate to the authorisation by the corporation of the broadcasting of the Commonwealth

Games and also to assist the police to prevent the obstruction or hindrance of the running of a Commonwealth Games event.

Broadcasting equipment refers to equipment that is used for the televising of events and is also any equipment that records any sounds or images of events, whether they are tape recorders, cameras, stills, images recorded on film digitally or the whole gamut of movie cameras. A Commonwealth Games event encompasses events that are part of or associated with the Commonwealth Games. This definition is needed to cover the restrictions on broadcasting and aerial advertising unless they are authorised by the corporation.

Clause 5 inserts proposed section 3B into the principal act. The proposed section permits the Minister for Commonwealth Games, by way of a notice published in the *Government Gazette*, to declare an event conducted before the Commonwealth Games to be a test event for the purposes of the act. This provision relates to the powers of the minister to declare that the event is therefore one to which the powers in respect of broadcasting, aerial advertising and offences of hindering and obstructing a Commonwealth Games event apply.

It is anticipated that only a few events will be required to test the capacity and operational functions of venues or facilities for the Commonwealth Games to which the provisions of the act will apply. In these cases the minister will need to declare an event as a test event. This declaration will not be made unless the minister is satisfied that it is necessary to test the capacity or operational functions of a venue or facility for the games. There is no suggestion that established events like the Australian Open tennis championships or the AFL Grand Final will be declared as test events. At this stage in the planning for the games, it is not possible to specify which events will become test events for the games.

Clause 7 inserts new divisions 2A and 2B of part 5, which provide for the protection of the revenue streams of M2006 from the sale of broadcasting and filming rights. Proposed section 56KA enables the corporation to authorise in writing that a person may record moving images or broadcast, telecast or transmit any sound or image of a Commonwealth Games event for profit or gain if this does not adversely affect the organisation and conduct of or the commercial arrangements relating to the Commonwealth Games. This provision will apply to any events that are not covered by any commercial broadcasting arrangements that may be entered into by the corporation. The provision is drafted

in a manner that will ensure that the corporation cannot grant any authorisation that derogates from an existing commercial arrangement.

Additionally proposed section 56KD provides for the corporation to determine when a broadcasting authorisation is not required. Such a determination is to be published in the *Government Gazette* and must specify which event it applies to, its duration and under what conditions the activity is permitted. There may be certain Commonwealth Games events which fall outside the scope of the corporation's existing commercial broadcasting arrangements but which the corporation wishes to have covered by commercial broadcasters. An obvious such event is the Queen's baton relay. However, the application of the powers in this section depend on the various commercial arrangements that are entered into by the corporation with third parties. The corporation, through the games host broadcaster, will ensure that television feeds of all sporting events are made available, but it will be up to the individual television-rights holder to determine which events are telecast.

I will reflect briefly on a matter raised by the member for Sandringham concerning discussions that have been held with the non-rights holders. I assure the house that correspondence has indeed been sent to the non-rights holders by the chief executive of M2006, Mr John Harnden. In that correspondence Mr Harnden reassures and advises the non-rights holders that a policy will be established and that they will in fact be engaged in the creation of that policy, which will be based on that which applied in Sydney to the Olympic Games, being what is known in the industry as the three-by-three-by-three convention. Essentially the three-by-three-by-three convention ensures that there will be footage of all kinds sent to the non-rights holders so that everybody is able to see just how marvellous the sporting aspects of the Commonwealth Games are.

In the last couple of minutes I have remaining I want to reassure the house that while proposed section 56KF makes it an offence to record sound or moving images of a Commonwealth Games event for profit or gain without a broadcasting authorisation, the clause will not prevent spectators from making films or recordings for their personal use as souvenirs or mementos of the Commonwealth Games, as they are obviously not making them for profit or gain.

There will be few advantages in a company using a person as a front to lower the potential financial cost, if caught, of breaching proposed sections 56KE or 56KF. If this occurs, it is highly likely that the corporation's

involvement will be revealed during an investigation or court hearing. I again reassure the house that this legislation will not prevent spectators from making sure that they have souvenirs and mementos of what will be a fabulous Commonwealth Games.

Proposed division 2B, to be inserted by clause 7, permits the corporation to authorise aerial advertising within sight of a games venue or event. The purpose of the division is to give the corporation the power to prevent ambush marketing from the air. Ambush marketing is the unauthorised association by businesses of their names, brands, products or services with an event. It is important to note that the corporation will derive substantial revenue, and the purpose of this legislation is to make sure that that is protected and that the games can be as successful as possible.

I commend those who have worked on this legislation, and I commend the fine way in which discussions have been held to resolve any issues that have occurred during the debate on the bill. I wish the bill a speedy passage.

**Mr COOPER** (Mornington) — There is no doubt that all Victorians — and one would hope all Australians — are looking forward to the Commonwealth Games being held in Melbourne in 2006. We all hope they will be a tremendous success, and given the expertise of the people who are charged with the responsibility of running the games, headed by that outstanding Victorian, Ron Walker, I am sure that will be the case.

The games will in my view be an outstanding success. It is a pity that description cannot be applied to this legislation, because there are some aspects of it that need commenting on, and I intend to comment on them. Whilst this bill is the third tranche of amendments to the Commonwealth Games Arrangements Act 2001, it attempts to fix up a couple of messes that were made by this government in September 2003, when previous amendments were before this house. Regrettably there are still some things in this legislation that leave very large question marks over whether or not the arrangements that are being made here can be put into place effectively.

The amendments that were introduced in September 2003 banned the commercial use of the terms 'gold', 'silver' and 'bronze'. At the time the opposition warned the government that this was a ridiculous thing to put in a piece of legislation. How you can ban terms like 'gold', 'silver' and 'bronze' I do not know, but they were the terms that were put into the amendments in September 2003. This bill now does a backflip and

allows the terms ‘gold’, ‘silver’ and ‘bronze’ to be used without the authorisation of the corporation. That is a bit of commonsense, but it is a bit of commonsense that has taken a long time to penetrate the mind of the minister responsible in the other place, the Honourable Justin Madden.

When it comes to putting somebody competent in charge of something as important as the Commonwealth Games, it is rather disturbing and disappointing that the government could not find somebody better than the Honourable Justin Madden. He has been shown up by my colleague the Honourable Gordon Rich-Phillips in the other place with regard to this matter. He has been asking questions, probing and suggesting changes to the minister. The minister, in the first flush of those suggestions, rejected them, but then he turned around and had to acknowledge commonsense. One of those suggestions was with regard to the telecasting of the games, or the reproduction of images, because the minister did not bother to consult with any of the television broadcasters in this state other than the one that has the contract for the games. The other broadcasters were going to be shut out completely.

When this was brought to his attention by Mr Rich-Phillips the minister said, ‘That is a load of nonsense!’, and refused to even answer the questions when they were asked in the other place at question time. He rambled around them, avoided them and was seriously embarrassed. That serious embarrassment has now been reflected in the fact that these changes have had to be made, changes that were brought to the attention of the government by the opposition. If it had not been for the opposition, we would not be having these changes. If the government had left the arrangements as they were in the amending bill in September last year, when the games commenced we would have had severe and major problems with television networks throughout this country.

Not only was the Liberal Party in government responsible for bringing the Commonwealth Games to Victoria, but it has also been responsible for ensuring that this government was brought to the point of producing legislation or amendments that will make the games work better, not as it proposed to do in its original amendments last year.

In the short amount of time left to me, I want to now concentrate on the particular aspect of this bill that still has serious question marks over it. It is the matter of aerial advertising. Under this bill and the act aerial advertising is prohibited unless it is authorised by the corporation. It is interesting to note that on page 10 of

the bill that the proposed new section 56KJ headed ‘Offence to display certain aerial advertising’ provides for penalties of 400 penalty units in the case of a natural person and 2400 penalty units in the case of a body corporate for displaying an advertisement in airspace anywhere within sight of a games venue. As previous speakers have said, this effectively prohibits aerial advertising anywhere in metropolitan Melbourne, given that aerial advertising or skywriting is visible, if not readable, 50 kilometres from the point at which it is written.

We have a situation where there is a \$240 000 fine for a corporation and a \$40 000 fine for an individual who breaches that particular section of the act. As a matter of seeing where priorities lie, when it comes to the situation of hindering or obstructing competitors, officials or anybody in the games, the maximum penalty is \$6000. Now that is getting your priorities right, is it not? We are going to protect commercial interests, but as far as the Commonwealth Games themselves and the activities of the participants and the officials go, the penalty for obstructing or hindering them is significantly less.

Getting back to aerial advertising, the opposition has been supplied with a letter of comfort from the Commonwealth Games Corporation which says that it will offer general exemptions against the requirements of the legislation. The legislation is not going to be changed. What we have now been told is that if somebody makes an application they will be given an exemption. That means that, on each occasion they want to produce an aerial advertisement that says ‘Happy birthday’ or ‘Will you marry me?’ or whatever — there is a myriad of those sorts of aerial advertisements being displayed all the time — aerial advertisers will have to make a separate application. That, of course, is a cost. It is about consuming time and money so they can be allowed to do the business they are involved in. I frankly think that that is ridiculous. There should be an amendment to allow non-commercial advertising of that type to proceed without advertisers having to make an application for an exemption.

I want to raise one other matter, because with commercial advertising there are still going to be some problems. For example, when the minister gets the opportunity to sum up this debate he might like to talk about balloon advertising over shopping centres. As I read the definition of ‘aerial advertising’ balloon advertising over shopping centres would in fact be prohibited under this bill. It refers to:

- (a) skywriting or sign writing by an aircraft;

- (b) a banner or other sign towed by or attached to an aircraft;
- (c) matter displayed on an aircraft, other than its normal markings and livery ...

Then there is a definition:

“aircraft” includes airship, blimp, hot-air balloon and helicopter.

I read into that that balloons — and there are lots of them around — over commercial shopping centres, hotels and so on all over Melbourne would be included. Does it mean that the people who supply those to shopping centres for commercial advertising will have to apply for an exemption each time they want to put one up during the month of March 2006? If it does mean that — and it would appear that it does — then it is an absolute nonsense that needs to be addressed by this government. It is a disgrace that the government has not bothered to even look at those sorts of things until now. In fact it has not done it until now, and it definitely needs to be done. The government has grabbed hold of a bill from New South Wales, scratched out ‘Sydney’, put in ‘Melbourne’ and hoped it would work. Well, it will not!

**Debate adjourned on motion of Mr HOLDING (Minister for Manufacturing and Export).**

**Debate adjourned until later this day.**

## CRIMES (ASSUMED IDENTITIES) BILL

*Second reading*

**Debate resumed from 1 April; motion of Mr HULLS (Attorney-General).**

**Mr McINTOSH (Kew)** — Acting Speaker, it is a great pleasure to make my contribution with you in the chair. From the outset I can say that the opposition agrees absolutely with the fundamental principle and purpose of this bill. The introduction of another tranche in the government’s program to deal with organised crime and terrorism will, of course, be supported by the opposition. It is part of a national scheme based upon a national model sponsored by the commonwealth government, and hopefully every other state and territory will pass similar legislation that will enable law enforcement agencies here in Victoria and agencies in other states to properly fight what everybody universally condemns as the outrageous behaviour of terrorists and organised crime.

My concerns, which I will go into in detail in a moment, relate to the undue haste with which this bill

has come in. A considerable number of people have expressed concern about the lack of consultation — for example, the Police Association of Victoria. I will certainly refer to a letter written to me by Paul Mullett, the secretary of that association. The matter came to the attention of the Scrutiny of Acts and Regulations Committee and the concerns raised by the committee, following a letter written by the privacy commissioner, are genuine. A matter was also raised independently by the members of SARC, about which they wrote to the Attorney-General. We are all waiting for that response, but we are compelled now to push this legislation through.

It begs the question: why the undue haste? I certainly listened to the flowery contribution of the Attorney-General during the discussion of the government business program. In his usual and inimitable style he says one thing while of course we know he means quite the opposite, so we just take it with a grain of salt. The fact is that the opposition is implacably opposed to terrorism and organised crime and will congratulate any government that introduces legislation such as this, which is based upon a national model sponsored by the commonwealth government to further the fight against terrorism and organised crime. However, there are concerns in relation to this and a range of other pieces of legislation which we will debate tonight.

This is an open-ended scheme, and there is no certainty as to when the bill will come into operation, because there is an open-ended proclamation date. That is being done for the reason stated in the second-reading speech. Not only will powers be given to Victorian law enforcement agencies, particularly Victoria Police, but authority will be given to interstate police if they are part of a mutual recognition scheme — and most importantly, powers will be provided to and duties imposed upon the Australian Crime Commission, which understandably has an interest in this, to carry on this activity.

The most important thing is that this bill will not be proclaimed until the commonwealth government promulgates regulations that will control its side of the bargain. Indeed it may be that the mutual obligation, the principal purpose of this bill, will not have any effect until similar legislation is passed by other states and territories as well as by the commonwealth government.

Essentially the bill provides a mechanism to allow members of law enforcement agencies — here in Victoria that would presumably be Victoria Police and the Australian Crime Commission, as well as other agencies, of course — to acquire assumed identities for

the purposes of fighting crime in covert operations. We are all aware that the police, in their fight against terrorism and organised crime, have to undertake these covert operations. I have no personal knowledge of this, but many members of this place with expertise in this area will tell you that having the ability to assume an identity is a very valuable tool. One has only to watch some of the television drama shows to see how that may operate, albeit in a somewhat cosmetic fashion, but it certainly is an important tool.

It has to be said that here in Victoria we do not have any regulatory or legislative regime that recognises that members of the police force or any other law enforcement agencies are able to assume false identities. Currently that is really based upon internal administrative regulations. It is important that two things happen. It is probably time, firstly, that we have a proper regulatory regime with proper monitoring and proper accountability provisions in the law and, secondly, that we have a mechanism that will regularise other law enforcement agencies from around Australia that may want to operate here in Victoria so that they function under similar rules that we are familiar with and can monitor as well. That is the first important aspect of this bill, that it provides for the first time a formal legislative regime that will be similarly enacted elsewhere in other participating states and, indeed, in the commonwealth.

As I said, it has been sponsored by the commonwealth and arose out of a summit of state, territory and commonwealth government leaders in April 2002. It is something that has been the subject of consultation with a variety of bodies, and this legislation is based on that template legislation. It is not a model that will be followed exactly in every jurisdiction. Local peculiarities will come about through the process of consultation, and it is a matter of concern to the opposition that there has not been complete consultation on this matter.

The Attorney-General whinges about the fact that he has given the opposition a briefing and that it has had this bill for nearly a month. I understand all of that, and the opposition is prepared to deal with this legislation because of its importance. But there are parties such as Victoria Police and the Police Association, representing the rank and file members of the police force, that certainly have views about this and other legislation that we will be dealing with today — and the Victorian Privacy Commissioner clearly has a view on this legislation. It is important that all parties are properly consulted on this matter so that their views can be taken into account to make this legislation workable, practicable, efficient and able to address the practical

issues that the police and others will meet on the ground.

As I said, this provides a regulatory regime. One of the important limbs of the legislation is that there will be mutual recognition among the participating states. It will enable law enforcement officers in other jurisdictions, including the commonwealth, to conduct operations in Victoria. The bill provides a mechanism for recognising assumed identities in Victoria, enabling cross-border investigations to be carried out appropriately. It will be reciprocal in the sense that legislation will also be introduced in other participating states, so eventually it will cover all states and territories and the commonwealth.

One of the important aspects of the regulatory regime is the process involved in making an application to take on an assumed identity. It is not just given out willy-nilly; it is a serious matter. The regulatory regime starts with an application being made to the chief law enforcement officer of a particular agency. As I said, the greatest user of this will probably be Victoria Police, and applications will be made to the Chief Commissioner of Police. The bill provides that it can be delegated to other members of the law enforcement agency, and in the case of Victoria Police that will be a matter for the chief commissioner. The chief commissioner or the person given the delegated authority will be able to impose all sorts of conditions to provide a flexible response so that the process is not abused, and those conditions will be flexible enough to ensure that the monitoring process and the audit provisions of this bill are adhered to.

One of the interesting things is that the grant to take on an assumed identity does not have to be restricted to a member of a law enforcement agency and can be extended to civilians. As we know, great use can be made of non-police officers — that is, informers and others. The legislation is flexible enough to provide a mechanism for non-police officers, or civilians, to assume false identities if the circumstances warrant that.

We are all concerned about these matters. A mechanism is provided for an audit of every single authority at least once every 12 months so an activity can be oversighted and so the justification for it can be looked at to ensure it is still relevant. At least once every 12 months every single authority under this act will be monitored by police themselves. There is also provision for an audit of the records that must be kept on a false identity to be undertaken every six months.

Ultimately a report will be provided to the Attorney-General as the responsible minister, and he must table that report in Parliament. The report will be made once every 12 months, and the Attorney-General has an obligation to table it in this place within 15 sitting days of that report being provided to him. The Attorney-General has to be satisfied that no information contained in that report may disclose an identity or jeopardise a current investigation. To some extent he will have to ensure that the current investigation or the officers involved will not be jeopardised. That is an appropriate response. The Attorney-General will assume responsibility for the overall monitoring of the process, and the accountability comes with its being brought into the house. While we will be very interested in the report, we understand that the public document provided here will be somewhat circumspect.

An important provision relates to immunity from prosecution for certain offences, such as providing false names and addresses. Police officers will be immune from prosecution as part of the overall process. They could not be given the power to take on an assumed identity without immunity from prosecution. Of course the false identity has to be used in the course of the activity for which it was granted, so if it went outside that narrow bound that immunity would not be provided. It is limited to the situation where the assumed identity is being properly used by the law enforcement officer in relation to that matter.

Secondly, officers are provided with an indemnity from civil liability brought by somebody who would suffer some sort of loss as a result of reliance perhaps on the false identity. Importantly, it is an indemnity. It is not complete immunity. What would happen is that the agency itself would be providing that indemnity, so those people who have suffered damage or loss as a result of a lawfully authorised assumed identity could still recover against the agency. It begs the question at this stage as to precisely how that would occur, but that is at least provided for in the bill, and the immunity from prosecution and the indemnity provided to law officers is appropriate in this response.

There are offences created by the bill that would provide for a misuse of an assumed identity by law enforcement agencies. If it was used, as I said, outside that narrow bound, it creates serious offences. This is a privilege that is given by Parliament to the Chief Commissioner of Police, and if it was abused in any way Parliament would obviously take a very serious view of it. Equally it is an offence to wrongfully disclose an identity — that is, if somebody went around disclosing the real identity of a person who was

carrying out these activities, that becomes an offence in itself.

There are mechanisms to amend, for example, the births, deaths and marriages register to enable the verification process of the false identity. Indeed there is a provision that would enable, for example, someone to apply for a drivers licence from VicRoads. As we know, drivers licences are used to prove identity in all sorts of avenues; similarly with births, deaths and marriages certificates. But that is provided, so the other agencies, if you like, of government are now authorised to provide that evidence of proof of a true identity when we all know that it would be false in these circumstances.

Again in relation to births, deaths and marriages, it is not something that is done willy-nilly. It has to be done on an application of the chief law enforcement officer to a Supreme Court judge, in the case of births, deaths and marriages, in closed court, which means that it is held in camera. It is not something that can be published outside that court, which is appropriate in these circumstances. A judge, of course, has to be satisfied that the registrar of births, deaths and marriages will be justified, given the nature of the activities of the police officer. That is not an insubstantial hurdle, but certainly again there is a mechanism of just putting a brake on this fairly draconian power.

As I said, concerns have been raised about perhaps the undue haste in which we are putting this bill through. Certainly one of the principal organisations that has contacted me is the Police Association. In a letter dated 16 April 2004 Mr Paul Mullett, the secretary of that association, wrote to me in relation to all three bills, but perhaps I will confine my remarks to the Crimes (Assumed Identities) Bill. I took the liberty of sending him a copy of the bill and also the second-reading speech and asked for his comments. His response to me on 16 April was:

... the association is aware that there has been little, if any, direct consultation with our members directly operating in the aforementioned areas which the proposed legislation directly affects.

... The association will respond to these two proposed bills —

the Crimes (Assumed Identities) Bill and another bill, which the house will debate later, but certainly in relation to the first bill —

immediately our members have adequately apprised the contents contained therein.

The association on our first reading of the proposed legislation, does foreshadow potential significant issues in relation to staffing to ensure compliance provisions of the legislation are adhered to.

Of course everybody is concerned that Victoria Police adhere to the nature, spirit and intention of the legislation, but it certainly must be a matter of consultation between the government and police on the ground how this can be effectively done. What Paul Mullett is concerned about is that he has not had that direct consultation with the government from the grassroots level, and it is a matter of profound concern that a government wants to push through this legislation without that appropriate consultation at the ground level.

More importantly, I had a conversation with Mr Mullett this afternoon. He informed me that there is an arrangement or an understanding between himself and the government that the government will now sit down and discuss these matters with the association, which will consult with its members about the way this bill can be improved. Certainly we hope any amendments that come through will be dealt with expeditiously.

I find it personally a clumsy way of doing things. It is certainly not the Police Association's fault. It appears to be because the government is driving an agenda to get this piece of legislation through. It is still, as I said, open-ended. The proclamation is dependent upon an act of the commonwealth to promulgate appropriate regulations dealing with the Australian Crime Commission and the way it would operate, and certainly operate here in Victoria. It is a matter of profound concern that we have to rapidly push this legislation through in the expectation that there will be amendments coming at some stage. Certainly one of the matters that I would ask the Attorney-General to do, in summing up this bill, is that he comes into this place, and for the benefit of all members, and certainly for the benefit of members of the Police Association, say that that consultation will take place, and indeed if there are any worthwhile amendments that have been suggested the Attorney-General will ensure that those amendments be introduced as expeditiously as possible.

It is a clumsy response. I think the Police Association knows the importance of this legislation. I think every member of the house understands the importance of this legislation, but the government is going to persist with the bill going through today, and as a result of this understanding that Mr Mullett and the government have, I would ask the Attorney-General to confirm, for the benefit of every member in this house and certainly the Police Association, that it is his intention to consult with the members of the Police Association to ensure

that its practical workability can be advanced by any amendments that have been suggested by Mr Mullett and his association.

There are also concerns raised by the Victorian Privacy Commissioner. The privacy commissioner wrote a substantial letter to the Scrutiny of Acts and Regulations Committee, a copy of which had been published in a recent edition of the *Alert Digest*, dealing with this particular bill. I do not think it was the most recent edition, but the previous edition of the *Alert Digest*, not the one that has just been tabled. In any event the privacy commissioner wrote a letter expressing his concerns about some aspects of the bill. I think again they appeared to be quite valid points, not expressing concern about the underlying fabric of this bill — what it does and what its purpose is — but saying that there are matters of concern to him that perhaps should be taken up and addressed in some way. I thought they were valid matters. Again, in the abundance of haste through this place, it has been a little bit lost in that ether.

Perhaps I can just take the house to some of those concerns. As I said, they are summarised in *Alert Digest* No. 3 of 2004. There are a couple of matters that I want to alert them to, and this is a matter that the Scrutiny of Acts and Regulations Committee has raised. The privacy commissioner is understandably concerned about the privacy of individuals. He raises concern that under clause 5 of the bill relating to the ability of the chief commissioner to grant an authority to assume a false identity, every protection should be provided to ensure that an assumed identity is not that of a living person — for example, I would be a bit agitated if someone assumed the identity of an Andrew McIntosh, who happened to live in the suburb of Kew. It may be cause me some degree of angst.

The Victorian Privacy Commissioner has suggested that some sort of amendment be made to clause 5 in relation to the granting of an authority to assume a false identity to include a provision to ensure that the Chief Commissioner of Police takes all reasonable steps to ensure that there cannot be any possible linkage with a real person, with a real identity.

The second matter referred to by the privacy commissioner was a concern about giving a third party — a civilian — a false identity. What you are really doing is giving a civilian the power to break the law. The commissioner cited the case of *A v. Hayden*, a decision of the High Court related to — members may remember this — the Sheraton break-in and the exercise of a rather turgid legal process to discover the identities of the particular officers involved there. The

privacy commissioner cited that case and pointed out that this provision gives somebody the power to break the law. He said that power should not be given away willy-nilly. The privacy commissioner is a bit concerned about the fact that a sergeant of police or above can supervise a civilian who has a false identity. He feels that that provision should be strengthened in some way to recognise that what you are doing is granting someone the ability to commit an illegal act.

The privacy commissioner raised a third issue, which is really in two parts, in relation to data entry. He talked about the ability to amend the register of births, deaths and marriages to cleanse data. There does not seem to be any way of policing what happens to that data once it is cleansed from the register. The commissioner raised the legitimate concern that somebody might obtain a false identity which is, if you like, a legitimate identity because it appears in the register of births, deaths and marriages, and then use it in some way downstream even after the register has been cleansed. He suggested, notwithstanding the fact that the data has been cleansed in accordance with the provisions of the act, creating an offence in relation to the misuse of that information at some later stage. That is a matter of concern.

As I said, the privacy commissioner reported to the Scrutiny of Acts and Regulations Committee (SARC), which has reported to this house that he has raised legitimate concerns. One would hope that those matters could be taken into account. The Scrutiny of Acts and Regulations Committee (SARC) has written a letter to the Attorney-General about these provisions. We await his response.

To sum up, this legislation will provide a very powerful tool in the fight against terrorism and organised crime. The opposition totally supports a government which wishes to introduce legislation that will provide this very powerful tool in the fight against organised crime and terrorism. The opposition supports the passage of this process; what it is concerned about is the nuts-and-bolts aspects of the bill. These nuts-and-bolts aspects of the bill are important, and they have been identified by a number of people including the Police Association, SARC and the privacy commissioner. It is a matter of profound regret that in the process of introducing legislation that is important in the fight against terrorism and organised crime — everybody concedes that this is an important bill — because of an abundance of haste a number of people with legitimate concerns about the proper resourcing of police and privacy issues seem to have been ignored. It is not just me whingeing about this, it is the police on the ground who will have to use this in their operations who are

expressing concern about resources being diverted away from where they are supposed to be in strict adherence to the protocols. The Victorian Privacy Commissioner has also raised serious matters in relation to the bill.

As I said, the opposition does not want to hold the bill up. It is a matter of significant advantage to the people of Victoria and indeed Australia. It is something we have to do, but with the open-ended proclamation date there seems to be time for that consultation and I do not understand why it cannot take place. It is regrettable that we are going to pass this bill when no doubt we will have to come back to the legislation to take on board the concerns of the Victorian Privacy Commissioner, the Police Association and perhaps others. That is what I deeply regret. I support the principle and the purpose of the bill absolutely.

**Mr RYAN** (Leader of The Nationals) — This bill, the Crimes (Assumed Identities) Bill, is one of three related pieces of legislation to come before the house this week — indeed, this day. The other two bills are the Crimes (Controlled Operations) Bill and the Surveillance Devices (Amendment) Bill. The Nationals support the general thrust of these pieces of legislation. We support the three bills themselves with a measure of qualification, about which I will speak in a moment.

There is no doubt that these bills, taken together, represent the age in which we live and the mechanisms which must now be adopted by police communities across the nation from the point of view of contesting crime and terrorism. They are a sign of the times, whether we like it or not. Travelling with this is the fact that each of these bills, and certainly the troika of them taken as a group, makes substantial inroads into personal rights and remedies, and therefore it is important that they are right. It is imperative that the content is accurate and that they do what is intended to be done. That is a priority, but running in conjunction with that laudable aim is the hope that they do it in a manner that satisfies all the elements of the community that are interested in ensuring that there are appropriate levels of maintenance of care in relation to these issues. It is in that latter regard that The Nationals have some concerns about the way these bills have come before the house today.

I came here today with a reasoned amendment which at the start of the day I intended to move. That amendment would have made a request that the house adjourn debate on these three bills pending further consultation with the key stakeholders, in particular the Police Association of Victoria. As the day has unfolded, and as is the wont of this place given the dynamics of

politics and the way legislation come before the house, there has been a shift in position by all parties with regard to the matters that have been of concern to the association, and so it is that from the perspective of The Nationals we support these bills. We support them in the sense of both the tenor of their content and the content itself, subject to some amendments which may be put forward while the bills are between the houses.

I make those comments by way of a response to an extraordinarily unseemly and inappropriate contribution by the Attorney-General to the debate earlier today on the government program. As is his wont, the Attorney-General made all sorts of extravagant assertions about the position adopted by the opposition parties with regard to the passage of this legislation. To make it very clear for the record, I reiterate that The Nationals support the thrust and the intent of this legislation. Our concern is the unseemly manner in which the government has brought these bills before the house in an environment where there is no reason the government could not have properly concluded the very necessary elements of consultation, particularly with the Police Association, and then brought the bills before the house for debate during the course of next week, when the house will of course be sitting.

As I said, this is one of three bills that arise out of a 2002 summit of national leaders and leaders of the states and territories. A national joint working group was established that comprised representation from the Standing Committee of Attorneys-General and the Australian Police Commissioners Conference. Model laws were developed for all three bills. The bill under discussion deals with the model laws pertaining to assumed identity.

The principle of assumed identity encompasses the notion of a false identity that is established for a period of time for the purposes of investigating crime or for gathering intelligence. The bill allows authorised persons to obtain identity documents from a range of agencies and to use those identity documents in undercover operations, both within Victoria and in investigations that cross over into another state or territory. At the present time there is nothing in Victoria that equates to the legislation now under discussion. There is in New South Wales, but we do not have the equivalent in Victoria at present, and this bill will fill that void.

The bill provides for a regulated system which will see us with a regulatory review of assumed identity documents. There will be a requirement to cancel those documents when the particular process in place has concluded; there will be provisions for six-monthly

auditing; and there will be further provisions which require that annual reports be provided to the responsible minister.

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

**Mr RYAN** — I will take up where I left off before dinner. The system established by this legislation entails a formal application process that is set out in the bill. I will break this into segments. The definition of a law enforcement officer is set out in clause 3 on page 4 of the bill. It refers to a law enforcement officer in relation to Victoria Police being a member of Victoria Police and in relation to the Australian Crime Commission being a member of staff of the Australian Crime Commission. It goes on to extend the definition to people who are included in the general description of being within the Australian Crime Commission.

So a law enforcement officer as defined has to make an application to what is termed the ‘chief officer’ of a given agency. The definition in clause 3 on page 3 of the bill is:

“chief officer” —

(a) of a law enforcement agency, means —

(i) in relation to the Victoria Police — the Chief Commissioner of Police ...

If the words ‘chief officer’ relate to the Australian Crime Commission, it describes the chief officer as, firstly:

... the Chief Executive Officer of the Australian Crime Commission ...

Secondly it says:

... an issuing agency — means the chief executive officer (however described) of the agency;

So a law enforcement officer has to make an application to the chief officer of the agency. For its part, the agency is also defined in clause 3 at page 2. The definition reads:

“agency” means —

(a) an issuing agency; or

(b) a law enforcement agency;

Moving through the sequence of events, the law enforcement officer makes an application to the chief officer of the agency, as defined, for an authority. The definition of an authority also appears in clause 3 on page 3. It means:

... an authority granted under section 5 to acquire and use an assumed identity, including the authority as varied under section 8 ...

To restate the general principles: a law enforcement officer makes an application to the chief officer of the agency for an authority to acquire an assumed identity, which is defined in clause 3 at page 2 to mean acquiring:

... evidence of the identity and includes taking steps towards acquiring evidence of the identity;

To restate it, the law enforcement officer applies to the chief officer of the agency for an authority to acquire and use an assumed identity — and the using of an assumed identity is also defined in clause 3 at page 5 as including:

... representing (whether expressly or impliedly, or by saying or doing something) the identity to be real when it is not;

Therefore you end up with a circumstance where a law enforcement officer makes an application to the chief officer of an agency for an authority to acquire and use an assumed identity. As I have said, each of those terms is defined in clause 3 of the legislation.

The actual application is set out in part 2 of the bill. What it reflects is that an applicant must detail a number of factors. They include the reasons for the need for the acquisition and use of an assumed identity; the types of documents to be obtained; and which agencies are to be affected. It recites that only the chief officer or more senior officers can approve the application, and those officers must be of at least the rank of superintendent. It also says that an authority can be varied and the identity can be varied in emergency circumstances which are set out.

There is further provision for an annual review to be undertaken, and the identity can and should be cancelled when it is no longer required. That would mean, of course, that when the individual who has gone through the process of acquisition and use has exhausted the need for that identity, then there is a process whereby there is cancellation of the sequence of events to which I have already referred.

Various effects flow from the operation of the legislation. Entries in the registry of births, deaths and marriages can occur on the basis of this false identity syndrome, but they must have the authority of a Supreme Court judge. They are also to be cancelled when the need for the false identity has been exhausted.

Various offences are set out under the provisions of the legislation and I do not intend to go through those

chapter and verse. There are interesting provisions set out in clause 18, which deals with indemnity to persons who conduct themselves for the purpose of the bill, by way of issuing the sorts of consents which the legislation contemplates, and also under clauses 20 and 21, which deal with those authorised persons who conduct themselves in the manner which the legislation contemplates. The essence of these provisions is to provide a protection for those who are in effect breaking the law, but doing it legally.

One of the queries I raise for consideration by the government is as to whether there should be incorporated in the legislation a section 85 provision to offer fulsome protection to these people. It seems to me to be inequitable, to put it at the lowest, that a person who is, for example, fulfilling his or her role as an issuing officer should have to rest upon the provisions of an indemnity that is offered under clause 18. It does not seem to me to be fair in the context of this bill that any such person should be exposed to the prospect of an action being taken against that individual either at civil or criminal law. It should not be a question of an indemnity being offered; rather the person should be beyond the prospect of a proceeding being initiated against that individual. After all, by its very content the legislation authorises that person to conduct himself or herself in a way which, in the normal course of events, would be breaking the law. The offer of an indemnity is not sufficient to protect those people who are involved.

I might say that from a different perspective the same sort of principle applies to clauses 20 and 21; and it strikes me that protections can be given to the public at large if people want to pursue their rights. If somehow some innocent individual is wronged in a way that is subject to civil liability, for example, that person certainly should be able to pursue their rights, but I do not think that the people who are the focus of the activity which is contemplated by the legislation should be exposed to the prospect of criminal charges or civil actions. There should be included in the bill a section 85 provision which precludes that happening, and I seek a comment from the government on that point.

There are a number of miscellaneous provisions set out in the bill. They deal with penalties for misuse of the legislation, they deal with those circumstances where people inappropriately disclose the identity of those who are using the terms of the legislation for the purposes for which this bill is designed, and indeed the penalties are harsh in the latter instance and can be a period of up to 10 years jail. There are requirements for auditing, and there are different provisions in relation to mutual recognition, which is a core aspect of all of this.

There is no commencement date set out in the bill because the commonwealth regulations are pending and cannot happen until such time as the passage of the legislation at a commonwealth level, and so there is a basket of miscellaneous provisions contained within the legislation.

I note the comments by the member for Kew about the concerns that have been expressed by the Scrutiny of Acts and Regulations Committee and similarly by the Victorian Privacy Commissioner. I endorse his general commentary about the necessity for a response from the government about those matters, and I conclude by saying that the issues raised by the Police Association are very important. Whilst the Attorney-General today, in a contribution which I think shames him and the role that he occupies, has made a completely misplaced assessment of the position of the opposition parties in all of this, the reality is that the Police Association is a very genuine and appropriate stakeholder in the way this legislation goes forward.

As I understand it, having spoken with Senior Sergeant Paul Mullett earlier today, there is an understanding that the association will have the opportunity of putting its case to the government while the bill is between houses and that the recommendations of the association will be adopted by the government in the fullness of time. I do not think the Attorney-General has done anybody any good at all by the way he spoke about these important issues today.

In conclusion The Nationals wish the bill a speedy passage, albeit that if all things were equal the bill should properly have been debated in the next sitting week of Parliament, which is next week anyway, where it could have been done in a manner which surely would have enjoyed the complete support of the opposition parties and the Independents. Without wanting to speak for them, I am sure they must have some element of concern about the disquiet of the Police Association, which has been reflected in the material that has been provided to The Nationals, and indeed to which the member for Kew has referred on behalf of the opposition.

**Mr MILDENHALL** (Footscray) — One of the more arresting displays in Parliament House is the glass case that contains some of the mementos and tributes to the Bali bombing victims. It is quite an eclectic mix of Sherrin footballs and little tributes that people have made. One of my roles as parliamentary secretary to the Premier involved my helping to put together in the Premier's corridor a very large photo of the steps of the Parliament when it was covered by flowers following the call by Neil Mitchell on 3AW for Victorians to

show their feelings about the Bali outrage. That incident really cast us into a new era in terms of a sense of the need for national protection for our community. It is therefore no surprise that we have this type of legislation coming forward now.

The three bills we are dealing with this week relating to assumed identities, controlled operations and surveillance devices contain the sort of mechanisms that I had only seen referred to in novels and in some movies. They are extremely heavy duty pieces of legislation with some very serious powers being granted to our law enforcement agencies. It is quite a serious power for the state to be able to, in a sense, create new people by producing false birth, death and marriage certificates and entries in the register of births, deaths and marriages. While we have all heard about and seen reports of the underworld being involved in creating false identities, it is quite a serious exercise for the state to grant itself the same power and to set about creating the framework and the process and rules by which the state would proceed down this course.

We are the first state to introduce the model legislation that was agreed to by the national joint working group following the 2002 meeting of police ministers and attorneys-general. It is fitting both to provide for their advocacy for the increased powers in the legislation and to have the watchful eye of the attorneys-general, who were concerned to find that balance between the increased powers and the protection of the community. As such it is not surprising that when we introduce model legislation — it is not template legislation; it is based around a set of model principles, intentions and powers — it is in a sense like a pilot project.

We have tabled the legislation, and there are now discussions taking place. As the Liberal Party and The Nationals spokespersons have indicated, there are discussions to take place with, for example, the Police Association, although I note that in the development of this legislation there have been extensive discussions with the police through their formal command structure as well. It is appropriate that, just as there are house amendments to other pieces of legislation, some minor amendments may come out of those discussions while the legislation is between the chambers. That is the nature of pilot projects or model legislation. This is being done in quite a detailed way. There can be a variety of viewpoints, despite the comprehensive level of discussion that has preceded the tabling of this legislation.

There were some queries raised by the opposition, particularly quoting the privacy commissioner's concerns as expressed to the Scrutiny of Acts and

Regulations Committee. One was the use of a living person's name as an assumed identity. The concern was that the bill may adversely affect personal privacy by enabling the inadvertent authorisation of an assumed identity in the name of a living person. Apparently this issue was considered by the national joint working group that developed the legislation. It recommended against such a requirement because it was not clear how the obligation would work in practice or how meaningful such an obligation would be. It was suggested by the privacy commissioner that clause 5 of the bill should be amended to require the chief officer of the law enforcement agency to be reasonably satisfied that the identity to be assumed did not already belong to another living person. That issue was dealt with. It believed the risk to privacy was very slight in practice: not only the name but other details such as the date of birth would also have to coincide in order for any substantial confusion to arise.

Regarding the supervision of authorised civilians, there was a concern about the need for greater oversight and accountability measures regarding the use of assumed identities by civilians. The response to that issue was around the extent and rigorous nature of the accountability measures, which included having a very limited number of people in a position to authorise those assumed identities. Civilians can only be authorised if it is impossible or impractical in the circumstances for a law enforcement officer to acquire or use the assumed identity. A police supervisor must be appointed to each authorised civilian, and there are record-keeping and audit requirements relating to the reports to the chief officer and the minister, which are to be tabled in Parliament. So that issue was dealt with in a reasonably comprehensive way.

Regarding downstream data correction and data cleansing, including the issue raised by the member for Kew about appropriate supervision and the inappropriate recovery of cleansed material, the response provided was that:

Creating and removing entries in the register of births, deaths and marriages is a significant matter. Once an entry is made, it may be difficult to identify all of the data subsequently deriving from that entry. For this reason the bill requires that an entry may only be made after consideration by a Supreme Court judge.

Also regarding the data cleansing issue — I have some detailed material here, but I am conscious of the time — the response was:

A person will only be liable under this provision if he or she intentionally, knowingly or recklessly discloses information; and the person also knows that, or is reckless as to whether, the information reveals or is likely to reveal that an assumed

identity acquired or used by another person is not that person's real identity.

There are controls that are as robust as can be developed in this sort of instance. Overall the opposition support for the intent of the legislation is welcome. The whole community will welcome these powers. The legislation has been exhaustively developed, and in these circumstances it is an appropriate balance between the relative powers — —

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

**Debate adjourned on motion of Mr PLOWMAN (Benambra).**

**Debate adjourned until later this day.**

## CRIMES (CONTROLLED OPERATIONS) BILL

*Second reading*

**Debate resumed from 1 April; motion of Mr HULLS (Attorney-General).**

**Government amendments circulated by Mr PANDAZOPOULOS (Minister for Gaming) pursuant to standing orders.**

**Mr McINTOSH (Kew)** — This bill, as the house has canvassed, is the second of a triumvirate of bills that deal with law enforcement agencies and their ability to deal with terrorism and organised crime, not only in Victoria but also under the mutual obligation provisions of legislation in other participating states and territories and the commonwealth right across this country. Again I make it perfectly clear from the very outset that the principles upon which this bill is based, the tenor of this bill and the course of action that is sought to be dealt with in this bill are supported by the opposition.

Firstly, like the government, the opposition is seeking strenuously to provide solutions to the insidious behaviour that can lead to criminal activity that sees youths and other people in this state and country reduced to the depravity of drug addiction and to those who orchestrate that sort of behaviour. Secondly, with organised crime you have another dimension, which, of course, is terrorism. The member for Footscray so eloquently talked about the feelings we all had on seeing the impact the Bali bombings had on Australians and the outpouring of community concern and grief displayed on the front steps of Parliament.

Of course opposition members support the tenor of this legislation, but there is a concern about this bill, as was the case with the previous bill and other bills, that it is a complex area and that the house is dealing with complex issues. These pieces of legislation provide for people to be given permission to commit illegal acts or acts that would otherwise be illegal except for the operation of these various bills. But most importantly they are a necessary evil, if you like, and there are certainly rigorous control mechanisms in place. As was the case with the previous bill, concerns have been raised about its efficiency and its effectiveness at an administrative level. The principle and tenor of the bill have unanimous support, and I would expect that in this house, but opposition members are concerned about the way the bill is stuck together.

The Crimes (Controlled Operations) Bill goes to another tranche — that is, permitting illegal activity in controlled operations. It provides an undercover operative, or perhaps any operative, with the ability to commit a range of permitted illegal acts. The example used in the second-reading speech is a very good example of the types of operations that would be permitted. It would be to provide an operative with the opportunity to purchase drugs in pursuit of an investigation and pursuit of evidence that may ultimately lead to the conviction of not only the people on the street but also the Mr Bigs, the organisers and financiers of this appalling trade in human suffering and human life.

Drug trafficking is an insidious problem, as is terrorism, so we have to adopt these rather strident mechanisms to deal with such offences. In essence this bill provides a mechanism, a legislative framework, that enables law enforcement agencies, particularly Victoria Police and perhaps the Australian Crime Commission and, because of the mutual obligation recognition provisions of this bill, any other participating states and their law enforcement agencies in Victoria, to provide operatives with the ability to commit certain offences. It does not apply to all offences, but it certainly does to those offences that would enable an undercover operation to be pursued. Everybody is unanimous that regrettably drug trafficking is a fact of life, so this legislation is an important tool in the investigation of organised crime and drug trafficking — a tool that permits someone to commit an illegal act to further the investigation and to garner sufficient evidence to enable prosecutions to deal with these people.

The second-reading speech refers to the Ridgeway case, a decision of the High Court on appeal from a South Australian court, as being perhaps a case that caused sufficient angst to law enforcement agencies. That case

was reported in 1995, and presumably it had a gestation of a year or so until it got to the High Court. It involved the importation of drugs by both Malaysian and Australian operatives — an Australian informer and a Malaysian police officer, as I understand it — for the deliberate purpose of importing those drugs into the country and to on-sell them to the person who was seeking the importation of those drugs to this country.

Importation of drugs is a very serious offence under commonwealth law, and the possession of large quantities of heroin, as it was in that case, would be illegal in Victoria, and I would assume it would be illegal in the same terms in South Australia. It was a commonwealth operation and the prosecution occurred under the commonwealth legislation that dealt with the importation of heroin. That in itself was an illegal act, but the sale to the Mr Big, if you like, in this particular case was obviously the sting that had to generate sufficient evidence to enable a conviction.

Unfortunately there was not a legislative regime in place, so it went on appeal. The High Court on balance, citing the well-known precedent of *Bunning v. Cross*, exercised its discretion because it was such a serious offence, because there was a selective prosecution and because the actual importation of the heroin was an illegal act, and decided not to admit the evidence in relation to the importation, which meant the whole of the prosecution had to fail.

The most important thing is that it highlights a problem — that is, that here in Victoria there are some provisions that deal with the ability for controlled operations in relation to drugs to occur, and the point is made in the second-reading speech about section 51 of the Drugs, Poisons and Controlled Substances Act. But this legislation builds upon that legislative and administrative patchwork to provide a formal regulatory regime that will cover all different areas of the law, whether the investigation relates to drugs, to organised crime or, in another guise, to terrorism.

It seeks to address, bring together, consolidate and codify all of the law that may have built up in relation to controlled operations and to combine the existing body of legislative and administrative procedures into one simple, model piece of legislation. If it is adopted by the other states and territories and by the commonwealth, it will provide a very powerful tool, not only here in Victoria but also for cross-border investigations, and hopefully the situation that arose in the Ridgeway case will not arise again. What happened in that case was that while there was clearly criminal intent and criminal activity, because of a high degree of illegality that had no legislative support, the whole prosecution was blown. The prosecution was based not

only upon a substantial number of man and woman hours in relation to the investigation but also on the physical danger in which the undercover operatives placed themselves in dealing with insidious people.

As I said, the opposition supports the principle that we should codify, consolidate and combine the existing patchwork of legislative and administrative procedures into a single act that provides a regulatory regime that makes it easier to undertake controlled operations, to define and monitor those operations and ultimately to provide some mechanism of accountability for this place in relation to them. I think the government has genuinely attempted to carry out its aim in, firstly, providing guidance as to acceptable and unacceptable activities, defining clearly what it considers to be appropriate and inappropriate conduct; secondly, providing protection, with immunity from prosecution and indemnity in relation to civil wrongs; thirdly, lessening the chance of evidence being excluded; fourthly, providing internal discipline; and fifthly, providing a system of accountability and monitoring of this operation.

It does this by essentially defining the two law enforcement agencies that can operate here in Victoria — the Australian Crime Commission and Victoria Police — as having the ability to make an application. But as I said, one of the principal points of this bill is that it provides mutual recognition for all participating states, so interstate law enforcement agencies are able to carry out these controlled operations in Victoria — and likewise, Victorian law enforcement agencies are able to continue operations in other states. Of course the regulatory regime that applies to the operative's application to the Chief Commissioner of Police is the subject of the first amendment. There are actually two amendments, but both have the same effect and both carry out the same intent.

The opposition has no difficulty with the amendment that is being sought. We have been briefed about the two amendments, which seem to me to be appropriate. It is all about the Chief Commissioner of Police being able to delegate authority to the deputy commissioner to grant an application to carry out a controlled operation. However, it was felt on balance that that authority should be extended to the next rank of police officer, which is the assistant commissioner. The assistant commissioner, as I understand it, will be able to authorise a minor, local controlled operation to commit an offence which in Victoria would otherwise carry a jail term of three years or less or a fine. That seems to me to provide complete flexibility, expanding the pool of people who can grant these applications for

controlled operations. It seems to be appropriate, and I have no difficulty with the high-jump bar being assignable down to the assistant commissioner.

I will move on to some of the other details in the bill which it is important to highlight. While the bill permits the commission of designated offences for the purposes of carrying out an investigation to garner evidence to launch a prosecution — as I said, it is a powerful tool — it is important to note that it does not permit any sort of offence which deals with either causing death or serious injury to a person. It does not permit seriously endangering a person's health or safety, nor does it permit the commission of any form of sexual offence or involvement in conduct that will result in the unlawful loss of or serious damage to private property. It is important that these things are excluded, because it would be hard to justify the commission of those offences in relation to any matter.

We are dealing with serious offences ranging from trafficking in drugs right through to terrorism. The legislation not only involves the commission of offences relating to drug trafficking and, as the member for Footscray said, what we saw in Bali, but is also about what it is appropriate for a legislature to provide by way of a mechanism for the commission of these offences. We stipulate death and serious injury, sexual offences and the loss of or serious damage to private property as things we draw the line at, but apart from those controlled operations we may permit activities which carry serious penalties, including the possession and purchasing of and trafficking in large quantities of drugs of addiction like heroin, as happened in the case of Ridgeway.

Interestingly enough, one of the concerns I have arises out of the oversight procedures. Under this legislation, unlike the previous bill dealing with the assumed identity provisions, the oversight provisions require the Ombudsman to carry out regular audits of controlled operations and to provide an annual report on them to this place.

The legislation dealing with assumed identities placed the role of overseeing the law enforcement agency in the hands of the Chief Commissioner of Police, who will be responsible to the Attorney-General. The Chief Commissioner of Police will be required to carry out those audits and to provide an annual report to the Attorney-General, who will table that report in the Parliament. The legislation before us places the oversight, accountability and auditing mechanism in relation to controlled operations in the hands of the Ombudsman, who will be required to report to Parliament every 12 months.

Do not get me wrong — I have no disagreement with the Ombudsman having that oversight, as I think it is appropriate. Nor do I have any difficulty with the provisions in the previous bill under which the Chief Commissioner of Police will be required to carry out those auditing and reporting functions and to ultimately be accountable to the Attorney-General. But why the difference? Essentially there is a great similarity between the two bills in their desire to address the issue of organised crime and terrorism in this jurisdiction and in other jurisdictions around Australia, so why are there different auditing provisions? Why are there different reporting mechanisms?

One of the complaints the Police Association has made about the legislation is its complexity. It seems to me that the government is introducing unnecessary complexity by having two differing regimes. Surely it would be appropriate to have one legislative regime in relation to auditing and monitoring assumed identities and controlled operations, and perhaps also in relation to surveillance devices, which come under yet another regulatory regime.

I will deal with the provisions that relate to compensation. Firstly, I have no difficulty with the provision of immunity from prosecution for authorised officers carrying out their duties in a controlled operation or indeed extending it even further than that. I have no difficulty with the immunity provisions as they relate to those operatives, which are a bit like the assumed identity provisions. There is little or no concern in the opposition about those matters. Similarly, we agree with the idea that it is appropriate that there be indemnity provisions in relation to a law enforcement agency that permits a controlled operation as a result of which somebody suffers any loss or damage. I am still grappling with the idea of how someone would suffer loss or damage in these circumstances, but it is appropriate that there be indemnity provisions in relation to that. Someone might be able to enlighten me as to an example of where someone may suffer loss and damage. But I am happy to suggest that it is appropriate to have an indemnity in relation to civil wrong.

It is interesting that there is another area of complexity in this legislation, and I do not know whether it was directly intended or whether it was just a legislative oversight. It is something the Scrutiny of Acts and Regulations Committee (SARC) highlighted in its *Alert Digest*, and perhaps the government could explain whether or not it was intentional. The legislation does not apply just to controlled operations by Victoria Police or by the Australian Crime Commission, it also makes amendments to the Wildlife Act and the

Fisheries Act to provide for controlled operations to be conducted under those two pieces of legislation. Those two acts deal with important matters, and it is appropriate that controlled operations be conducted in those areas and that immunity from prosecution be provided to operatives under both those acts, but the indemnity provisions that apply to Victoria Police and the Australian Crime Commission do not apply to controlled operations under the wildlife and fisheries legislation.

Victoria Police and the Australian Crime Commission are protected by indemnity provisions, which I think is appropriate, and I would have thought it would also have been appropriate to provide for that in the fisheries and wildlife legislation. As I said, SARC has reported to this place on the matter and has written to the Attorney-General asking whether this difference in indemnity was intentional and what the reasons were for the difference in the way the legislation treats controlled operations under the Wildlife Act and the Fisheries Act on the one hand and controlled operations undertaken by Victoria Police or the Australian Crime Commission on the other, which are provided indemnity here in Victoria.

Perhaps it is understandable when you consider that the fisheries and wildlife legislation has no extraterritorial jurisdiction. There is no mutual recognition, presumably because the legislation in other state and commonwealth jurisdictions is not quite as broad or as advanced as ours is in dealing with the drug trade and terrorism, which is the subject of this bill. I can understand that, but one would hope there could be some cross-border cooperation in the areas of fisheries and wildlife.

There is no default commencement date for the legislation, and this was one of the matters I raised when talking in the course of today's earlier debate about the haste with which the government is pushing this legislation through. It seems to me that the commonwealth will be required to promulgate regulations in relation to the Australian Crime Commission. I was listening to the Leader of The Nationals, who indicated that the commonwealth legislation has not yet even been introduced, let alone regulations that would deal with the issue of Australian Crime Commission operatives working here in Victoria. It seems to me that the government is pushing this legislation through a little too hastily without taking into account all of these matters, which may create the anomalies that have only just been picked up.

I reiterate the concerns that I raised in debate on the assumed identities legislation. Time really does not

permit me to go through the letter I read out in relation to the previous bill, but it relates precisely to the legislation before us. Paul Mullett, the author of the letter, talked about there being no opportunity to consult with his members on this bill, stating that they would have liked more time. It was certainly the opposition's intention to move a reasoned amendment to enable those consultations to take place. I have also had a conversation with Mr Mullett today in relation to this bill, and he is content with a promise from the government to continue that consultation. If any matters come up that genuinely need to be addressed, then they can be addressed by way of amendment either while the bill is between houses or at some later stage.

When the Attorney-General sums up on this bill, I formally ask him to address the particular matter I raised in debate on the assumed identities bill but which also relates to this bill — that is, will he confirm that there is an understanding in place and will he undertake to sit down with the Police Association, take on board any of its concerns and make the necessary amendments in relation to appropriate mechanisms?

The Police Association is very concerned that the regime that is currently proposed may unduly deflect police resources away from investigating crime and garnering prosecution evidence and into dealing with the bookwork. Bookwork will be a necessary evil in a process such as this, but it is not impossible to address many of these matters.

I have no difficulty with a proper regulatory regime, but as I said before, it seems to me bizarre that we have bills that are doing essentially the same thing — that is, permitting an illegal activity to be conducted by law enforcement agencies for the betterment of the community by garnering evidence to lead to prosecution and conviction — yet we have two different monitoring processes. That is a matter of profound concern. Unlike the assumed identities legislation and the two other bills we will be dealing with this evening, I am not aware of any concerns raised by the privacy commissioner in relation to the bill before us.

In conclusion, and as I said from the outset, the opposition absolutely agrees with the tenor and the principle of this legislation. When we consider the insidious nature of the drug trade and the heinous activity of terrorism that luckily this country has not had to face on its own shores — although we had the horror of Bali — everybody is aware that we have to introduce draconian measures to deal with these terrible and appalling crimes. Sometimes you actually have to commit a crime to garner sufficient evidence to lead to

a prosecution that goes to the very heart of the criminal activity by going to those who finance the activity and will get the benefit of that activity. Notwithstanding the fairly draconian nature of the legislation, there are concerns about the way the legislation is regulated and the way it operates, but those concerns could be addressed by way of consultation.

As I indicated, it was our intention to move a reasoned amendment to enable that consultation to occur, but with the Police Association indicating that it has entered into an agreement with the government to consult about those matters and with the possibility of further amendments coming into this place or being proposed while the bill is between the houses to address these issues, the opposition is content with the passage of this very significant legislation.

**Mr RYAN** (Leader of The Nationals) — It is my pleasure to join the debate on the Crimes (Controlled Operations) Bill. This is the second of three bills the government has brought into the Parliament which are intended to deal with the investigation of crime and terrorism. The Nationals, as a general concept, certainly support what is intended by both the tenor of this legislation and the content. I know that amendments are being moved by the government. I understand that at least in part that is happening as a result of discussions with the Police Association of Victoria. I mention the association specifically because over the last four or five weeks there has been correspondence back and forth between that organisation and The Nationals as we have sought to achieve a position whereby the association is happy with the content of these bills.

That is important, as I have said in other debates today, because it is the members of the association who are at the forefront of the enforcement of this legislation. It is the members of that association who have the job of giving effect to these bills once they are passed into the legislative structure of this state. It is important that the people who are charged with that important responsibility are satisfied with the content of the legislation. I hope, therefore, that the government is eventually able to negotiate a position of finality with the association and its membership. As I remarked in the debate on the previous bill, the fact is that the discussions occurred today, and with a bit of luck we will be able to see a successful conclusion to those discussions over the course of time when the bill is between the houses.

This is the second of the three bills that are being introduced to implement the model laws that were settled upon as a result of discussions among the leaders of government at the federal, state and territory

levels. This piece of legislation and the other two bills have come out of the work that has been done by the joint committee. Having this sort of legislation apply across Australia is a very good principle.

I pause to say that one of the things this whole process lacks is the appropriate level of parliamentary scrutiny such as the work of the Scrutiny of Acts and Regulations Committee. More and more we are seeing this style of legislation, this template legislation, take its place in the Parliament. As a general principle if we had a mechanism whereby the scrutiny of bills could happen at a level above the states and the territories, and indeed the commonwealth as well, and if it occurred in an environment where all three levels of government, of whatever persuasion, could actually have the scrutiny of those bills before that template legislation arrived in any one of the host jurisdictions, the nation would be the better for it.

When I was chairing the Scrutiny of Acts and Regulations Committee during the time of the previous government it was something that we did a lot of work on. I know that during the time of this government work has already been contributed in that regard, but I implore the government to continue with that initiative. You need only look at legislation of the nature of that we are debating here tonight to see that scrutiny of bills at a level of oversight over and above the state level would be a very welcome contribution to these sorts of debates.

The controlled operation contemplated by this bill is an investigative method whereby an operative conceals himself or herself in order to associate with people who are suspected of being involved in organising or financing crime. Whether we like it or not, that is an aspect of our daily life now in Australia, and whether it occurs for the purposes of criminal activity or terrorism — whether it is a drug-related crime or whatever it might be — the fact is that this is activity the nature of which I am afraid to say Australians have grown increasingly accustomed to over the years. As part of the investigation therefore it might well be necessary to authorise an operative to commit an offence for the purposes of gathering evidence or intelligence.

All of this came to a head in a decision of *Ridgeway v. The Queen*, which was determined in the High Court of Australia in 1995. In that case there had been an instance where police officers had broken the law by being parties to the importation of a quantity of heroin. The scam which they undertook was then used as part of the initial trial of the person who was charged. That person was convicted. In the High Court it was

ultimately determined that the activity of the officers having initially been illegal should have been excluded from the initial trial. That, of course, meant in the end that the person who was charged and who was the subject of the proceeding that ultimately ended up in the High Court was exculpated. The High Court did make the observation that if that activity were to be contemplated then it should be the subject of separate legislative initiatives. What we now have before us is an outcome of that rather tortuous process.

At the present time Victoria does not have any comprehensive legislation to deal with controlled operations. Rather we have a hotchpotch of ad hoc arrangements that happen under police command. They occur under the terms of some aspects of our legislation, particularly section 51 of the Drugs, Poisons and Controlled Substances Act, but we do not have a comprehensive mechanism for being able to deal with this. This legislation will accommodate the need in today's world for having a structured basis of controlled operations to be undertaken. The bill will repeal current provisions and replace this very unsatisfactory scheme which now operates in Victoria.

The bill establishes a specific authorisation process for a defined hierarchy of controlled operations both within Victoria and cross-border. These mutual recognition provisions are, of course, very important. We need to ensure that we have a capacity to track this sort of criminal or terrorist activity across borders. The fact of these laws having to apply only intrastate is something of yesteryear. This legislation will put an end to this. The bill details those who can authorise the applications which are to be made and the nature of the offences that can be authorised. It refers to the type of activity that cannot be authorised. It describes the effect of an authority, the use of monitoring provisions and the provision of independent oversight. All those matters are very important. The vital thing to remember in that context is that, of course, significant incursions into personal and community rights are contemplated by this style of legislation. Therefore the notion of having appropriate mechanisms of oversight is very important.

Interestingly the current provisions within the wildlife and fisheries control regulations are exempt from this legislation, because they are run by the Department of Sustainability and Environment and the Department of Primary Industries under the Fisheries Act and the Wildlife Act respectively. These matters are no doubt of extraordinary interest to the Minister for Agriculture, who coincidentally has arrived at the table. He may well want to make a contribution about this important aspect of the bill because it is surely very close to his heart and the conduct of his department. I look forward

with much interest to his contribution. Those current provisions apply under those separate pieces of legislation, particularly with regard to priority species, as they are defined. What this bill does, though, is incorporate into those acts all the accountability, monitoring and oversight features of the legislation now under debate. That will strengthen those other acts of Parliament and in the scheme of things that is a good outcome for the community of Victoria.

As I said, a number of amendments are under consideration. The involvement of the Police Association is vital in all of this. As I have already remarked, its members are the ones who at the end of the day are charged with the responsibility of the enforcement of these provisions, so it is imperative that they have the opportunity of having an appropriate input. I will be interested to see in due course whether any further amendments are necessary while the bill is between houses to accommodate any concerns that the Police Association might have.

Clause 29 is of particular interest to me because it incorporates the indemnity provision. I know that the member for Kew has spoken about this in the course of his contribution. I still wonder about the more appropriate application of a section 85 provision to protect those people involved in giving effect to legislation of this nature. It seems to me as a matter of fairness and equity that those persons ought be absolutely protected from the prospect of any proceeding being instituted against them, be it criminal or civil. The way to do that is by the use of a section 85 provision. I will be interested in due course to hear the Attorney-General's response to that proposal in the interests of those people.

The Nationals strongly support the tenor of this legislation. As has been said throughout, we consider it is an aspect, whether we like it or not, of the community these days. We need these pieces of legislation to be passed to maximise the capacity for the protection of our general communities. We therefore wish the legislation a speedy passage.

**Mr LUPTON (Pahran)** — It is a pleasure to speak on the Crimes (Controlled Operations) Bill, which is part of the Bracks government's package of legislation that is being debated this week which deals with major and organised crime and terrorism activities. The bill originated as a result of a summit on terrorism and multijurisdictional crime that involved the leaders of the commonwealth, state and territory governments in 2002. Victoria was a driving force in that national meeting of government leaders, which was designed to tackle the ever-increasing problem of interjurisdictional

crime and organised crime and the links that that type of criminal activity has with a range of terrorist organisations and activities as well.

Following that leaders summit in 2002 a joint working group was established under the Standing Committee of Attorneys-General and the Australasian Police Ministers Council. Victoria played a significant and driving role in that joint working group through the involvement of the Victorian Attorney-General and the police minister. The working group carried out a very lengthy and detailed consultation process with interested parties throughout Australia and received a large number of submissions which were designed to facilitate the development of a draft model law that would be applicable in the commonwealth jurisdiction and in the states and territories across Australia. In November 2003 the report on cross-border investigative powers for law enforcement was delivered. It included a proposal for that draft model legislation, and the bill we are dealing with today is based on that draft model.

The nature of this sort of model is such that it requires legislation to be passed by the commonwealth, the states and the territories — that is, it is very much model legislation. There can be some minor jurisdictional differences in the bills that are passed at different levels, but essentially the model legislation is designed to set up a national scheme of mutual recognition and mutual obligations across the law enforcement agencies of all the states and territories and the commonwealth. As far as Victoria is concerned, the major organisations that would be involved in that process are Victoria Police and, to some degree, the Australian Crime Commission.

The importance of this legislation needs to be stated clearly. I was privileged at the conference on major criminal activity, which was held in Melbourne in late 2003, to hear a keynote address by the Australian Federal Police Commissioner, Mick Keelty. He spoke in detail about the nature of organised crime, terrorism and multijurisdictional crime and the way in which those sorts of criminal activities are financed. Commissioner Keelty has an enormous amount of experience and expertise in dealing with these issues, and his speech was warmly received and showed a keen insight into the nature of the problems we are dealing with. It is appropriate to say that the legislation we are debating tonight will be very significant in addressing the issues Commissioner Keelty raised at that conference last year, which in part relate to the issues that have been discussed through the joint working party.

One of the problems we face in law enforcement in relation to organised crime and serious multijurisdictional crime such as drug trafficking is that police and other law enforcement agencies often need to become involved in what are called controlled operations. A controlled operation is an investigative method whereby an operative, who may be a law enforcement officer or a civilian assisting a law enforcement agency, conceals his or her identity in order to associate with people suspected of being involved in organising or financing criminal activity. As part of that investigation it may be necessary to authorise the operative to commit an offence such as purchasing drugs in order to gather evidence or intelligence. Controlled operations can play a very important role in the investigation of organised crime such as drug trafficking, because it can be extremely difficult to obtain evidence of that sort of crime by other means.

The High Court of Australia in the 1995 case of *Ridgeway v. The Queen* raised very serious doubts about whether law enforcement agencies in Australia were able to rely on evidence obtained in that manner. The court in that case ruled out the evidence of drug trafficking and purchase and recommended that legislation be the basis on which the law enforcement agencies operate. So the process we are dealing with now has that as its genesis.

The foreshadowed amendment to this legislation, which I understand will not be opposed, is the result of consultation that took place between the government and other interested parties, particularly the Police Association. The amendment will mean that a cross-border controlled operation — that is, an operation crossing the border between one or more states or territories — will be able to be authorised by an assistant commissioner rather than that being restricted to a deputy commissioner. The government accepts that that is a sensible and appropriate amendment to the bill that was originally before the house, and I support it.

A couple of other issues have been raised in debate, one of which involves the fisheries and wildlife legislation. The issue raised by the Scrutiny of Acts and Regulations Committee concerns the nature of compensation that may be payable under the proposed Crimes (Controlled Operations) Bill compared to what may exist under the fisheries and wildlife legislation. The government understands that the fisheries and wildlife legislation will not include compensation, and that is something that is being considered, but the government does not expect that controlled operations will involve any loss or damage to property.

The general part of the bill enables controlled operations to be conducted over a wide range of criminal activity, whereas the fisheries and wildlife parts of the bill relate to controlled operations involving a much more restricted range of activity. The essence of Fisheries Act and Wildlife Act amendments go to increasing the monitoring, scrutiny and accountability aspects of that legislation. They do not go to the question of enforcement in the same way as do the model bill proposals that involve controlled operations outside the areas of fisheries and wildlife.

The existing controlled operations scheme regarding fisheries and wildlife does not contain any express compensation provision. In the unlikely event that any loss or damage were to occur under those schemes, a range of other mechanisms would apply and would continue to apply. But as the fisheries and wildlife parts of the bill are not part of the national scheme of model legislation, it was felt not necessary to include the express provision for compensation in those parts. Accordingly the government does not believe the issue raised by the Scrutiny of Acts and Regulations Committee requires other attention. I support the bill.

**Debate adjourned on motion of Mr PLOWMAN (Benambra).**

**Debate adjourned until later this day.**

## SURVEILLANCE DEVICES (AMENDMENT) BILL

*Second reading*

**Debate resumed from 1 April; motion of Mr HULLS (Attorney-General).**

**Government amendments circulated by Mr CAMERON (Minister for Agriculture) pursuant to standing orders.**

**Mr McINTOSH (Kew)** — This is the third tranche of substantive law enforcement bills that this house has dealt with today. Again I say at the outset that, contrary to what the Attorney-General was indicating from the table this afternoon, the opposition supports the tenor and purpose of this legislation. As I have said before, we are all concerned about issues relating to organised crime and terrorism, and any mechanism that this place can introduce that will facilitate the rapid prosecution of those involved in insidious activities relating to organised crime and terrorism will be supported by the opposition.

However, it is this bill — the Surveillance Devices (Amendment) Bill — that really comes to the very nub of our concerns. I have received a letter from the secretary of the Police Association — I know that many members of the opposition have received a similar letter, and I am sure the government would have been sent a similar letter from the secretary of the association — not only suggesting that there has not been sufficient time to consult but pointing out a number of difficulties that should be addressed in the legislation that one would have expected to be picked up in the course of consultation with a broad range of stakeholders, of which the Police Association is one.

Until today the opposition proposed to move a reasoned amendment in relation to this bill, as with the other bills, on the basis of the representations that had been made by the Police Association. We were doing so not because we necessarily agreed with what the Police Association had raised. Indeed in the short time available it was difficult, with the limited resources of opposition, to canvass each and every one of those across a wide spectrum of groups. However, it is indicative, as a result of its undue haste in its enthusiasm to push this legislation through, of what the government will have to address. As I understand it, as indicated to me by the secretary of the Police Association today, there is an arrangement in place whereby the government will now consult with the association to take on board any of its legitimate concerns, with the possibility of having to amend this bill while it is between houses or coming back at some later stage to make it more workable.

In similar guise, one wonders what the undue haste is about, given the fact that there is this open-ended proclamation provision in this bill and others that may necessarily expand the time frame. So there does not appear to be any urgency about it. We are going to have to take the time of this house in dealing with any amendments that come back in due course.

Many of those amendments at first blush seem to be appropriate. Indeed the four amendments that the government is proposing today take on board a number of the concerns that have been raised with the opposition by the Police Association. As the Leader of The Nationals has indicated, these are the people at the very coalface. These are the members who are using this legislation to pursue their law enforcement activities — the garnering of evidence leading to prosecutions. These are the workhorses who see it at the coalface and who would have a very good practical knowledge of its operation. Indeed I would have thought at first blush they would be one of the first groups that the government would have consulted with

in dealing with such a significant piece of legislation. Having said that, the opposition supports the tenor and the purpose of the legislation.

The whole concept of ramping up our legislation to provide mutual recognition with other participating states to enable cross-border investigations is totally appropriate in a modern world, and similar mutual recognition provisions provided in the two previous bills are equally supported in relation to these matters.

However, there are concerns in relation to this legislation. Unlike the two previous bills relating to assumed identities and controlled operations, there is currently a regulatory regime in place in Victoria that deals with surveillance devices. It is a well-known and well-tested area of the law. Indeed, as I understand it, the current legislative framework in Victoria has been adopted as the basis of the national model legislation. That does not mean that it does not require the tweaking that is required of this legislation, but certainly it is something that has been picked up by other jurisdictions as being the model around which we should frame the national model legislation.

Unlike the other ones where there was no legislative regime in place in relation to controlled operations or indeed in relation to assumed identities, in this case there is a current regulatory regime which has been ramped up by this legislation and then used as part of the national model. Unfortunately what has happened is that, according to the Police Association, in the Victorian legislation there have been substantial deviations from the national model.

I now want to raise a couple of more administrative matters. In this particular regime again we have a slightly different regulatory auditing, reporting and accountability process than we had with the two previous bills. With respect to the first, the Crimes (Assumed Identities) Bill, the regulatory regime related to oversight by the Chief Commissioner of Police in relation to the police, with accountability to the Attorney-General, who would ultimately report to Parliament. In the second bill, the Crimes (Controlled Operations) Bill, there was a regulatory regime that involved the state Ombudsman overseeing the operations of law enforcement agencies, with a report directly to Parliament.

In this instance there is a slightly different and added complexity to the reporting regime in the sense that the Victorian Ombudsman reports to Parliament in the usual way, but the Australian Crime Commission is overseen by the commonwealth Ombudsman. There is just a slight difference between each of those regulatory

regimes, and this increases the complexity of the process. It is similar legislation carrying out similar activities. In the first two bills you are validating and authorising illegal activity; in this bill you are in effect permitting what are otherwise pretty draconian activities — that is, listening in to the activities of other people. It is being done for the purpose of the pursuit of investigation, garnering evidence and the prosecution of people involved in organised crime and terrorism. We support that process, and it is a necessary step.

However, it is in relation to concerns raised by the Police Association that I want to devote the vast majority of my time. Because of the length of the matters raised by the association, they need to be put on record. I will probably have to quote from a letter dated 8 April 2004 signed by Senior Sergeant Paul Mullett, the secretary of the Police Association. He wrote to me, and I understand other members in this place got a similar letter in which he identified his concerns and, vicariously, the concerns of the opposition. This is not because we accept each and every one of them, but simply because it is a matter of profound concern that the Police Association has seemingly been cut out of the negotiations and the consultation process.

There is an agreement in place, as I understand it. I would certainly ask the Attorney-General, as I have done in relation to the previous bills, to confirm that his understanding of the agreement is that the government will consult with the Police Association and that, if there are appropriate amendments to be made, they will be introduced while the bill is between houses or in very short compass by way of amendments to this legislation.

The letter from Paul Mullett states in part:

The association contends that far from enhancing the Surveillance Devices Act, the amended act in its present form will impede investigations of serious crime in the state of Victoria.

The association understands the proposed legislation has largely been developed from the Commonwealth Surveillance Devices Bill 2004. The state model, however, has been reworked, significantly reducing opportunity for the wider police use of surveillance devices as proposed in the commonwealth model.

It then goes on to outline a number of his concerns in a series of dot points. The first two are:

The definition of record in the proposed commonwealth legislation includes ‘a record in a digital form’ ... This should be included in the proposed Victorian legislation.

The definition of surveillance device in the proposed commonwealth legislation includes ‘a device of a kind

prescribed by regulations’ — see section 6. This should be included in the proposed Victorian legislation.

The third dot point, I think, has been adopted by the government in some of the amendments it is moving today. I will move on to the fourth point, which states:

The proposed commonwealth legislation makes clear that ‘a warrant may be issued in respect of more than one surveillance device of any particular kind’ — see section 10(2). This position needs to be included in the proposed state legislation.

The next two dot points have, I think, been picked up by the government. I will move on to the seventh dot point, which reads:

The proposed commonwealth legislation provides that a law enforcement officer will not be subject to criminal or civil liability for any act done in the proper execution of a surveillance device warrant before that officer is made aware of a revocation of that warrant — see section 20(5). This should be included in the proposed state legislation.

I will interrupt my reading of the document to say that this is a matter of profound concern. It is not about whether I am right; it is not about whether we are right in this place; it is about a piece of legislation. But the Police Association is saying, ‘Why are we not provided with immunity in relation to criminal and civil liability?’. Immunity in relation to criminal prosecution, assumed identities and controlled operations and indemnity in relation to civil liability certainly exist in the first two bills. But the bill in relation to surveillance devices does not have any immunity or indemnity provisions concerning civil liability.

The Attorney-General perhaps needs to explain to the house why that has not been put in this legislation, given that it is very similar to the bills debated earlier today. Yes, in relation to assumed identities and controlled operations there is this notion that you are actually permitting somebody to carry out an unlawful act, whereas what you are doing here is infringing on someone’s privacy, but it is a matter of real concern.

One of the principles upon which immunity and indemnity are granted is to enable law enforcement officers to know that they are carrying out their duty free of the risk of prosecution. Perhaps it is a matter the Attorney-General needs to explain, at least to the secretary of the Police Association, in relation to the operation of this act. It may be there. I certainly have not discovered it in my examination of the legislation, but we will await the Attorney-General’s comments about that. Certainly it is a matter of profound concern that in relation to two previous bills it does exist, but not in relation to this similar legislation. The association’s letter continues:

The proposed commonwealth legislation provides authority of the discontinuance of the use of a surveillance device under a warrant to be authorised by the chief officer (chief commissioner) of an agency — see section 21 (2). The proposed commonwealth legislation also provides for the chief officer to delegate this authority to an equivalent commonwealth level of commander. By contrast the proposed Victorian amendments provide that discontinuance of the use of a surveillance device requires a further application to and authorisation from the (Supreme) Court. It has previously been submitted that this proposal is onerous and reflects an excessive and unwarranted level of accountability and we would support the proposed commonwealth position being included in amendments to the state legislation.

The next point is as follows:

The proposed commonwealth legislation provides for an emergency authorisation for the use of a surveillance device to be given by an appropriate authorising officer (senior law enforcement officer) in circumstances where the use of the surveillance device is immediately necessary to prevent the loss of evidence relevant to a specified investigation — see section 30(1b). Whilst the present and proposed state legislation contains/provides for emergency authorisation in circumstances of serious risk to persons or property — the commonwealth model provides a significant enhancement that should be included in the proposed state legislation.

This is again an important matter that should be taken on board by the government. In one case in the state legislation you are saying you can get an emergency authorisation where there is a serious risk to persons or property, and you can understand the reasons why that exists here; but because this is about garnering evidence in difficult circumstances relating to organised crime and terrorism, the commonwealth legislation has a provision that says that one can get an emergency authorisation to prevent the loss of evidence relevant to a specified investigation. It is not beyond the realms of possibility or contemplation that such a grant would have to be undertaken, and I would have thought the government would have been very keen to adopt this amendment. It would seem to me to be a relatively easy amendment to make, and it would dramatically enhance the state legislation and bring it into line with the commonwealth legislation. The next point is:

The proposed commonwealth legislation contains provisions for the use of optical surveillance devices without warrant ...

by a law enforcement agency. I think the government has picked up that particular amendment in amendment 3. The letter continues:

The proposed commonwealth legislation contains provisions for the use of a listening device without warrant by a law enforcement officer acting in the course of his duties where he is a party to a conversation or consents to the monitoring or recording of the conversation to which he is party by another law enforcement officer — see section 38. This is commonly referred to as participant or consensual monitoring

and is permissible under similar legislation in South Australia, Western Australia, Queensland and under the Customs Act and Australian Federal Police Act. These provisions should be included in the proposed state legislation.

Again I think the government may have sought to address that with one of its amendments today, but I would like the government to clarify that it has actually picked up this particular amendment.

As I said, it is a detailed three-page letter. A number of the matters may have been addressed by the government in its amendments, but there are real concerns, particularly in relation to emergency warrants and also the criminal and civil liability that should be addressed by the government today. It is a matter of concern that the government has not consulted with the foot soldiers, the people at the coalface who deal with these things daily, because it would seem to me that many of those would be sensible and rational amendments. I may be wrong, and I am not in government, but the government should not merely dismiss them out of hand and ram the legislation through without taking these matters on board.

Another matter that is set out in the Scrutiny of Acts and Regulations Committee report deals with the Victorian Privacy Commissioner's concerns. He makes a very valid point, and one can give a number of concrete examples of how it would actually operate in this particular legislation. It says that the primary purpose of a tracking device, which is a type of surveillance device under the legislation, is to track people. That does not mean that other electronic devices would not be able to be used as a tracking device, notwithstanding that their primary purpose is not the tracking of people — for example, an e-tag would have the capability of being used as a tracking device. It seems to me that by this primary purpose test it is a lot more stringent than the commonwealth legislation — and it is a deviation away from that commonwealth legislation according to the privacy commissioner.

That deviation is a matter of concern. Again I may not be right, but I am just relating it to a credible person, being the privacy commissioner, who says that the primary purpose test should be really expanded because this could actually act to the detriment of people. If it is not a surveillance or tracking device, then it would be excluded from the operation of the act and the police would be willy-nilly able to use these things without being subject to this particular act.

In summary, the opposition is supportive of the tenor and nature of the legislation. We are all interested in ensuring that organised crime and terrorism are

prevented and that there are appropriate processes in place. What concerns me about this legislation is that we have three different types of regulatory regimes, all seeking to do the same thing, which is to provide auditing and a proper degree of oversight and accountability. But it is all different, and that adds another layer of complexity. Surely in relation to this piece of legislation there should be one single regime for oversight and for accountability that everybody would know.

There are also real concerns by people such as the members of the Police Association and the privacy commissioner that indeed some of the amendments that the government is moving this evening address some of those concerns but not all of them. It is acting in an abundance of haste. Rather than being able to deal with a clean bill, a clean issue where the issues could be properly canvassed in one debate, we now have to look at the prospect of amending this bill while it is between houses or alternatively amending it at some later stage and taking up the time of this house with a further bill.

Given the fact that there does not appear to be any urgency in relation to this matter and that people acknowledge that the model bill is based upon a regime that has been built up in Victoria, it is a matter of some significance that the government seems to want to ram this legislation through. As supportive as the opposition is of the principle, it is a matter of fact that many of these factors raised by, among others, the Police Association and the privacy commissioner should be taken on board and should not be ignored.

**Mr RYAN** (Leader of The Nationals) — The Surveillance Devices (Amendment) Bill is the third of the three items of legislation which the government has introduced into the house to deal with issues regarding fighting crime and terrorism not only across Victoria but across the different jurisdictions of Australia. This is an outcome of the 2002 summit between the leaders of government at commonwealth, state and territory level. The bill now before the house has been developed by a working party across all jurisdictions and has involved the Standing Committee of Attorneys-General as well as the Australian Police Ministers Council. In that sense, therefore, it can be said to be pretty exhaustively representative of the aspirations of all jurisdictions.

Interestingly, though, this particular bill was the main focus of the correspondence which was directed to The Nationals by the Police Association. That letter of 8 April was distributed to all members of Parliament. I do not intend to go through it in any detail because the honourable member for Kew has just done so.

To demonstrate the dynamics of this debate I should add to *Hansard* the correspondence that I received yesterday from Senior Sergeant Paul Mullett in his capacity as secretary of the association. That letter was in response to a letter I had sent to the association yesterday morning. To quote the correspondence from Senior Sergeant Mullett:

The Police Association ('the association') confirms receipt of your correspondence today, 3 May 2004, re the above trio of bills to be debated in the Parliament this week.

The association confirms that we have already provided a detailed submission in respect of the Surveillance Devices (Amendment) Bill; however, we have not as yet provided a submission re the Crimes (Controlled Operations) Bill and the Crimes (Assumed Identities) Bill.

The association, as a matter of urgency, is consulting with our members who are the practitioners that this proposed legislation will directly affect.

The association will provide a detailed response to the latter two bills by the end of this week (7.05.04).

To proceed with the bills in their present form in our view far from aiding future serious criminal investigations would only aid the perpetrators of serious crime.

The association seeks your party's support in delaying debate in the Parliament to enable the matters raised by the association to be considered prior to any debate.

If you have any further queries in relation to this matter —

et cetera. All that just goes to demonstrate that 24 hours is a long time in politics. Today there have been communications and telephone calls back and forth. There have been discussions between the government and the association, discussions between the association and The Nationals and, I gather from the contribution by the member for Kew, discussions between the association and the opposition. The net result of all of that is that this bill is now being debated in circumstances which some would say are rather unseemly, given that this is occurring this week. There is no reason at all why this very important legislation, the tenor and general content of which The Nationals support, could not have been debated next week. There is no reason why, for the sake of a few days after literally years in the making, this legislation could not be part of the program for next week at a time when the necessary consultative process to which the association has referred, both in its initial letter of 8 April and in its further letter to me yesterday, could and should be undertaken.

It is a shame that the government has seen fit to push this through with unseemly haste, because we are now faced with the prospect that this bill will probably be amended — and it may well be amended while it is

between houses. I appreciate that there are amendments in the house now. I appreciate also that the association has said to me today through the agency of Senior Sergeant Mullett that any further concerns that members of the association have will be the subject of ongoing discussion with the government. All of that aside, the fact is that we have a work in progress before us, when so easily we could have had the complete product being debated next week. Be that as it may, we have what we have.

This legislation, as the third of a trio of bills, is reflective of the world in which we live. There is a necessity to extend the operation of the provisions of the Surveillance Devices Act as it currently applies in Victoria. The nub of the association's point can be generally summed up as one of concern that the legislation before us will have the contrary effect — namely, that even with the amendments the legislation may well achieve an outcome whereby the way in which it takes effect will impose a constraint upon Victoria Police rather than doing what it intends by its nature, which is to extend the operation of the proposals it contains.

This bill arises out of the 2002 summit between the leaders of government at the commonwealth, state and territory levels. Presently our 1999 act regulates the use of electronic surveillance devices, including their use by law enforcement officers. What this bill does is amend the legislation by incorporating within it the relevant aspects of the national code. The current act contains a range of protections to ensure that the public is secure from the illegal use of surveillance devices. The bill does not alter the general framework; it maintains those protections. Rather what it does is focus on the use of those devices by police investigating serious crime, and it also deals with the accountability for that conduct. The act is being amended by this bill so that it can apply both within Victoria and for the purposes of cross-border activity. It regulates the same four surveillance devices that are currently regulated in Victoria — namely, listening, optical, tracking and data surveillance devices. It also enables new surveillance devices to be prescribed by regulation as they are inevitably developed.

The bill establishes the process whereby law enforcement officers can obtain surveillance devices warrants from a Supreme Court judge or, in the case of tracking devices, from a magistrate, with degrees of proof varying according to the seriousness of the alleged offence to which the application relates. In the emergency instances that occasionally arise there is a capacity for senior officers to issue emergency authorisations, but they are subject to very strict

constraints. There are also the mutual recognition provisions, which are a feature of the other two bills. The material that is obtained through the use of a warrant that is issued under this bill is termed 'protected information', and there are extensive controls within this bill as to how, where and when that information can be used. There are various new safeguards in the bill that provide for the strict oversight of the warrant regime.

The amendments that have been introduced this afternoon in part satisfy the concerns of the association. The member for Kew has gone through the letter of 8 April and dealt with the amendments as proposed by the association, as opposed to those that have been accommodated thus far by the government. As to what will happen to the balance of the points raised by the association, this is simply a work in progress, for all the reasons I have mentioned so far.

I raise again the issue of the indemnity provisions contained in this bill, including the various persons to whom they apply. It seems to me that indemnity provisions, or even immunity provisions, are unsatisfactory in the context of this style of legislation. It is one thing to say that a person is immune from legislation, and I suppose short of a section 85 provision that is the high-water mark. But it is patently deficient to have indemnity provisions. The notion of indemnity provisions means that proceedings can be instituted against an individual who might be the subject of a court judgment, and then an indemnity can be provided under the terms of this bill. That seems to me to be a very unsatisfactory state of affairs.

Anybody who is engaged in the activity which is enabled under the terms of this legislation should rather be offered the benefit of a section 85 provision. That person should be beyond the prospect of proceedings being instituted against them. The corollary of that is that there must necessarily be incorporated in legislation of this nature a capacity for compensation for those who might suffer a loss, in whatever form, as a result of its operating in circumstances where they are the proverbial innocent victim. If for whatever reason a person within the community were to be subject to the provisions of this legislation and suffered loss as a result, then I have no argument with the fact that, as an innocent victim, they should be entitled to compensation.

The reality is that it is possible to construct legislation to enable compensation to be paid while simultaneously and absolutely protecting people who conduct themselves entirely in accord with the legislation. I do not think it is good enough that those people should be

exposed to having their names raised in litigious forums whereby they are placed in a circumstance of having, prospectively at least, to explain themselves. So I ask again for an explanation from the government as to why that form of structure should not properly apply.

It is with those few comments that I reiterate that The Nationals support this legislation in tenor and in form and that we do so despite the rantings of the Attorney-General earlier today, when he made a very ill-conceived and unseemly contribution on the occasion of the debate on the government's business program.

**Mr HUDSON (Bentleigh)** — It is a great pleasure to speak in support of the Surveillance Devices (Amendment) Bill, which amends the Surveillance Devices Act 1999 and creates a regime whereby we can use cross-border surveillance devices with warrants. It will ensure that the Australian Federal Police and state police forces can more effectively tackle crime across state and territory borders. It is a fact of life not only that organised crime networks have no respect for our nation's laws but that they take advantage of the artificial barriers and loopholes that arise as a result of our having eight different state and territory jurisdictions. The bill overcomes these problems. Once other jurisdictions also enact this model legislation, the cross-border regime will ensure that a surveillance device warrant issued in one jurisdiction will be recognised in another.

I believe the bill also strikes an appropriate balance between the need for our law enforcement agencies to properly undertake surveillance as part of criminal investigations and the need to protect the right to privacy of ordinary citizens. Obviously we want the police to use surveillance devices to investigate serious crime, but we also want a proper accountability framework that ensures these devices are used appropriately. I believe the bill achieves these objectives.

I believe that the judicial scrutiny of warrants is a cornerstone of our system, and this is safeguarded in the bill. Other than in cases of emergency the bill requires our law enforcement agencies to obtain surveillance device warrants from the courts. In issuing a warrant a judge or a magistrate must take into account the nature and gravity of the alleged offence and the extent to which the privacy of any person is likely to be affected.

The bill enables senior law enforcement officers to continue issuing emergency authorisations for the use of surveillance devices in a limited range of situations. However, instead of simply furnishing a report to the

Supreme Court these agencies will now be required to seek retrospective approval from a Supreme Court judge for the use of those emergency powers, and I think that is an important safeguard.

The bill also includes a number of important accountability requirements for the reform agencies. I want to run through these briefly, because they are much more comprehensive than the requirements in the 1999 Surveillance Devices Act. Under new section 20B there is an obligation to switch off a surveillance device and revoke the warrant if the use of the device is no longer necessary.

New section 30K requires law enforcement officers to provide additional information to the court when they carry out surveillance under a warrant.

New section 30L requires all additional information to be provided in the annual report prepared by the law enforcement agency in the Parliament. This will include things like the information on the number of warrants and the number of arrests and prosecutions based on the use of a surveillance device under a warrant.

New section 30N provides for new record-keeping obligations, including a register of warrants and emergency authorisations. New section 30P includes an oversight role for the relevant Ombudsman. This is an important element, because it means that he or she can inspect the records of the law enforcement agency and report to Parliament on that agency's compliance with the legislation. These accountability requirements are quite important, because they ensure that the right to privacy is protected at the same time as the warrant powers available to the law enforcement agencies are properly used.

The opposition has made reference to Victoria Police raising a number of matters following the introduction of this bill. I point out to the house that most of these amendments have been dealt with through the proposed house amendments. The first amendment clarifies that the law enforcement agency whose name is on the warrant as primarily responsible for executing it does not have to be physically present for any step in the execution of the warrant.

The second amendment enables a police officer who is acting in the course of his or her duty to use a listening device to remotely monitor and remotely record a conversation, where a participant consents, in order to protect any person's safety, including that of the police officers.

The third amendment the Attorney-General has brought forward allows law enforcement agencies acting under warrant to connect a surveillance device to any object or system that may be used to operate the device or transmit the recorded material back to police. That certainly broadens the existing definitions. This will be much broader than an electrical supply or telephone system: it will allow police to use systems that are not electronic or telephonic. For example, they will be able to use wireless technology and fibre optics to transmit information and power the device.

Amendments 4 to 13 concern the process for revoking a warrant where the grounds for the issuing of the warrant no longer exist. Currently a warrant has to be revoked by a court. These amendments will streamline the process by allowing the chief officer of any law enforcement agency to revoke the warrant in these circumstances.

Amendments 14 to 17 deal with the process whereby the law enforcement agency reports to the court on the execution of warrants. The amendment requires the agency to state in its report whether the chief officer has revoked the warrant.

The opposition and the shadow Attorney-General have raised other concerns with the bill. The Attorney-General has in detail addressed the concerns raised by Victoria Police and the Police Association which have followed the bill's introduction.

Now I think we need to examine these quite closely because of the 12 issues that have been raised by the Police Association, 4 are dealt with by the in-house amendments that have been brought forward by the Attorney-General; 5 of them are principally debates about drafting where there are no substantive policy differences between the government and the Police Association, and 3 of them are substantive issues arising from the commonwealth legislation. I will make this point: those 3 substantive issues that have arisen — —

#### **Business interrupted pursuant to standing orders.**

#### **Sitting extended on motion of Mr CAMERON (Minister for Agriculture).**

**Mr HUDSON (Bentleigh)** — I just make the point that the three substantive issues that have arisen in the context of what is the commonwealth bill are not issues in the model bill. Many of the things the commonwealth has raised in the surveillance devices legislation which it has introduced into the Parliament depart significantly from the model bill which was introduced by and agreed on by the states and territories. We need to note that if the states and territories — and this includes Victoria —

deviate too much from the model bill which was agreed, certainly in terms of the core provisions, we risk undermining the national scheme for the mutual recognition of warrants, which is the whole purpose of this bill.

These issues were not originally considered as part of the model laws, and we have to acknowledge that further amendments might compromise the model laws. Another thing we need to note is that we do not even know whether the commonwealth bill will become law. Its current status is that it has been referred to a Senate committee for further consideration and public consultation. One of the issues that will no doubt be raised in that consultation is the extent to which the commonwealth bill deviates from the model bill.

I will make this point, too, in relation to some of the provisions the Police Association has raised because I believe they go to the heart of privacy. For example, the commonwealth bill would allow police to use cameras, video cameras or binoculars to undertake surveillance of people in their own homes without a warrant so long as the police did not enter the premises. I put it to the house that this raises very real questions about the right to privacy. This is something I believe we should protect for the community. I do not believe the police should have the right to intrude on people's privacy without the approval of the courts through the warrants process.

In summing up, the Surveillance Devices (Amendment) Bill strikes the appropriate balance between the rights and privacy of the citizen and the need for the police to effectively undertake investigations using surveillance devices. The use of the court process ensures there is a proper accountability framework and oversight of those warrants and the operations of the police.

The bill will ensure that our law enforcement agencies have a much better capacity to undertake the necessary work that needs to be done to crack down on cross-border crime, and the mutual recognition of warrants will ensure that that will occur. It will also ensure that in undertaking their investigations, the police are overseen by the courts, that the right to privacy is protected, and that the fundamental rights and liberties of citizens are not infringed without court approval. This amending bill is an excellent bill, and I commend it to the house.

#### **Debate adjourned on motion of Dr NAPHTHINE (South-West Coast).**

**Debate adjourned until later this day.**

**Remaining business postponed on motion of Mr HOLDING (Minister for Manufacturing and Export).**

### ADJOURNMENT

**The ACTING SPEAKER (Mr Nardella) —** Order! The question is:

That the house do now adjourn.

#### **Bicycles: Esplanade, Mount Martha**

**Mr COOPER (Mornington) —** I have a matter for the attention of the Minister for Transport. I ask the minister to take action in the interests of public safety for both pushbike riders and motorists to ban the riding of pushbikes on the Esplanade at Mount Martha.

For those members who are not aware of the Esplanade at Mount Martha, it is a winding section of road running along the coast from Mount Martha down to Safety Beach. It is a narrow road with a single lane each way, and for virtually all of its distance it has double lines — in other words, it is dangerous enough to have the passing of vehicles prohibited all along that section of road. The section of the Esplanade at Mount Martha I am particularly referring to is from Prescott Avenue to Ellerina Road, where it changes its name to Marine Drive, Safety Beach. It then runs from Ellerina Road to Tassells Creek.

Particularly but not exclusively at weekends a lot of pushbike riders use this section of road. They will often ride two abreast but even if they are riding in single file, motor cars that come up behind them and want to pass have to break the law to do so, because they must cross the double lines. It is extremely dangerous, and there have been many near misses. In the interests of both the bike riders and motorists it seems to me that the only sensible solution would be to ban pushbike riding on that length of road.

I have had requests from a large number of people in Mount Martha over the last few months, and I have consulted widely with that community. Everyone is of the same view, that the only sensible way to deal with this issue is to ban pushbikes along that section of road. It is a scenic road, and I acknowledge the fact that a ban would take away a great benefit to pushbike riders, but in fact if they die looking at the scenery while riding along that road, it is not much of a benefit to them at all and it would certainly be a trauma for their families and also for the motorist who possibly would be involved in an incident with them.

I ask the minister to look at this issue as a matter of urgency, and I hope that he will take the action that is requested by the community of Mount Martha, which I represent, and ban pushbikes from that section of the road.

#### **Pearcedale Primary School: funding**

**Ms BUCHANAN (Hastings) —** The issue I raise tonight is for the Minister for Education and Training. The action I seek from the minister is to address the priority building works at Pearcedale Primary School. Pearcedale Primary School is considered to be one of the best government schools in this state. The principal, Don McKenzie, along with the dedicated teaching and support staff and the committed school council, in particular outgoing president David Burhap, have worked very hard on plans to build some fantastic new facilities at this school site.

This school is special for many reasons. For many years Pearcedale Primary School has been renowned for its exceptional work with hearing-impaired students and students whose parents are hearing impaired. Much energy, time and care have been put into the successful integration of these students into our education system.

Hearing students at the school learn sign language as part of their curriculum, and in the process the broader community has obtained a greater understanding of the challenges these particular students face and the environment they inhabit away from the school grounds.

Pearcedale Primary School's proposed plans to upgrade its educational facilities include the construction of some general-purpose classrooms and associated staff work spaces, a new deaf facility consisting of two therapy rooms, an interview room, several staff resource areas, a new library extension and refurbishment of the existing library. These combined facilities will greatly assist the school in achieving the goals and educational learning objectives in literacy and numeracy outlined in the school charter for all of the students, including those with special needs.

Pearcedale is a growing region and has been ignored by previous state governments. Galvanised by their concern for the health and wellbeing of their community, the parents and residents of the Pearcedale region have worked tirelessly to provide young people with a wide variety of recreational and cultural activities. I commend the Pearcedale residents group and the local sporting clubs, amongst many volunteer groups in the region, for their outstanding commitment to their community. It has been my pleasure to interact

with many of these groups over the last 18 months, and I have seen how hard they work and how committed they are to their community down there.

The Bracks Labor government's budget announced today has provided for greater educational opportunities for the Hastings electorate. Another example of that is its commitment to the second stage of the Mount Erin junior secondary school campus at Somerville, along with comprehensive implementation of the Schoolyard Blitz program across the whole of the Mornington Peninsula, which will be fantastic for all the schools in the region. Residents across the area will be able to avail themselves of lots of other educational opportunities.

In conclusion I again call on the minister to address these very valuable facilities at Pearcedale Primary School, specifically as they address the broader deaf and hearing-impaired community across Victoria.

### **Aboriginals: young offenders facility**

**Dr SYKES (Benalla)** — The issue I raise is for the Minister for Corrections, and it relates to his actions in deciding to locate a young Aboriginal offenders centre at the base of Mount Teneriffe, 18 kilometres south-west of Euroa in the shire of Strathbogie in north-east Victoria. The minister and the Department of Justice deliberately chose not to consult the local community until well after the minister had made his decision to proceed with this project. In doing so he has alienated the Shire of Strathbogie councillors and the local people in Longwood, Locksley and adjoining areas.

I call upon the minister to promptly respond to my letter to him of 3 May and to address the local community concerns which I have raised, and if that is not possible, to then agree to relocate the project to somewhere else more suitable.

The local community recognises the problems experienced by young Aboriginals and supports the principles of the project, which are in part to provide a better environment for minor offenders to fulfil their community-based orders. However, the community objects to the lack of consultation prior to the decision being made, and the community considers that the site selection process is flawed on two counts: first of all, it did not include external considerations such as local community support, fire-risk management and personal security of neighbours in the adjoining community; and secondly, infrastructure issues such as water supply and access to services such as police and public transport seemed to count for little.

On the issue of fires, the area is in an extremely high-fire-risk area in summer; the block has little or no surface water; the department is contemplating carting water in; the intended residents are from the city and have no bushcraft; and the block is downwind and downhill from Mount Teneriffe, which is steep and inaccessible to vehicles. If a fire gets going, it will require helicopters such as Elvis to control it. Local Country Fire Authority volunteers — the ones who put their lives at risk to fight fires — consider that this situation is unacceptable, as do the families who live in the area.

On the personal security side of things, there are a number of young females and young families living in the area within a few kilometres of the site, and there is uncertainty about the type of offenders who will be at the centre; there is a concern about the low level of supervision that will be provided, particularly at night; and there is a concern about the failure rate of around 40 per cent of these people to fulfil their obligations.

In closing, I seek a prompt reply from the minister to my letter of 3 May and a commitment by the minister to meet the concerns of the members of the community to their satisfaction, and if that is not possible, to then relocate the project to a more suitable site, such as near the existing low-security prison at Dhurringile, which is about 20 kilometres south of Shepparton.

### **Mordialloc Primary School and Cheltenham Secondary College: funding**

**Ms MUNT (Mordialloc)** — Tonight I rise to call on the Minister for Education and Training to take action and provide urgent building works to Mordialloc Primary School and Cheltenham Secondary College in my electorate of Mordialloc. As the minister would be aware, I have made a number of representations on behalf of Mordialloc Primary School and Cheltenham Secondary College to upgrade their facilities and buildings. Indeed I was particularly pleased that last year the children's toilet facilities were improved, providing better access and comfort for the students at Mordialloc Primary School.

Mordialloc Primary School is a wonderful school community, and I give credit to the principal, Mr Lee Murnane, on his wonderful work in ensuring that the school is both an effective educational institution and a great support network for the young children who attend. I also give great credit to the hardworking school council, the wonderful teachers of Mordialloc Primary School and the parents who fundraise and work very hard.

The school has always played an important role in our local community in my electorate, and it has been comforting for mums and dads in the area to know that their young children are receiving a good education in a warm and caring environment, as well as receiving assistance in life skills — and, dare I say, also having some fun at the same time. By this I mean the school's special programs, which allow young children to improve their confidence by encouraging positive attitudes in a wide range of extracurricular activities like sport, art and music, as well as in core curriculum areas.

However, to continue to maintain this environment the school needs support to ensure that the buildings and facilities are upgraded so that the physical environment for children at Mordialloc Primary School can match the great learning environment. Under the previous Liberal member for Mordialloc, Geoff Leigh, Mordialloc Primary School struggled with the constant threat of closure. Contrast this with the Bracks government's commitment to education of our local children.

Cheltenham Secondary College is a major secondary school in my electorate with large student numbers and great energy and resourcefulness. Like Mordialloc Primary School, it also has great teachers and students. They also need a second-stage refurbishment to build new classrooms and provide new technology. It is a gift that we as a government can give our next generation — a great school environment and a great education. For all of those reasons, I urge the minister to approve the building works for these wonderful state schools in my electorate.

### **Rosebud: foreshore upgrade**

**Mr DIXON** (Nepean) — I raise a matter for the Minister for Environment concerning Rosebud foreshore. I am asking the minister to start delivering on the Rosebud foreshore master plan. The former government committed \$2 million for the upgrade of the foreshore, and that included camping facilities and day-visitor facilities as well. That was in the context of a master plan for the entire foreshore, which is now run by Parks Victoria and which includes the camping facilities, the visitors facilities and other works.

This government finished off the works with that \$2 million and completed that part of the master plan — and of course claimed it as its own work. The work has been done, and it is good work. However, I wish to highlight two parts of the master plan that basically remain untouched: one is the proposed boat

ramp and boating facilities and the other is the skate park.

There is now a desperate need on the Mornington Peninsula for a new boat ramp, given the considerable number of people boating around the Mornington Peninsula. The other boat ramps are filled to capacity, and there is certainly a need for more facilities. The boat ramp at Rye has actually been planned. The plan, which has met with the approval of the local community and the boating fraternity, has been approved by the minister, but it is still sitting there.

I have a solution. It does not have to be necessarily funded by the government, but a private operator could be asked to fund that boat facility, which could include a cafe, not a restaurant, on the foreshore and cabin accommodation as well. This would make Rosebud foreshore an all-round camping facility, not just during the summer holidays. If a private operator could be attracted to this place to construct these facilities and to take out a lease on them, that would be a goer. It would add a lot to the area of Rosebud and also to the foreshore.

The site that I am looking at is the old baths site, so it is not of any environmental significance at all. It is really quite a degraded site. This would add to Port Phillip Bay and the Rosebud foreshore. The skate park has been approved by the minister under the master plan and it needs about \$150 000 to construct it; \$25 000 has already been raised by the local community. I call on the government to fund this initiative through Parks Victoria. The plan is there, it has been approved and it has certainly got the support of the local community. I urge the government to spend some money on this foreshore master plan.

### **Birmingham Primary School: funding**

**Ms McTAGGART** (Evelyn) — I wish to raise a matter with the Minister for Education and Training. I ask that she take action to provide urgent building works for Birmingham Primary School, which is in my electorate of Evelyn. Birmingham Primary School has nearly 600 students and is the biggest primary school in the local area. I have visited this school on many occasions and most recently presented badges to the junior school councillors.

For two years in a row, students from Birmingham have achieved state finalist status in the Tournament of Minds competition. They had to tackle unseen maths and engineering problems over a 3-hour period and make a presentation of their work to a learned panel. I am delighted to say that they came second in the

Australian final in Darwin last year. This is a credit to the teachers, staff and parents of this school, but mostly to the students who achieved this great result. The school is located in a beautiful rural setting at the foot of the Dandenong Ranges. Birmingham Primary School is extremely committed to the environment. It is part of the Sustainable Schools program; it has a chook pen, a worm farm, and the students are currently working on a frog bog. The students learn first hand the importance of protecting our environment and sustaining our natural resources.

The new principal, Trish Enzinger, is very passionate about the early learning years of schooling and Birmingham is currently running a modified prep program concentrating on early literacy and numeracy intervention. It also has a great music and instrumental program. I have had the pleasure of hearing many students during music classes. All of the programs I have mentioned take dedication and commitment from the staff and I commend them on their efforts. I appreciate the many hours that they put in outside of school hours for extracurricular activities and events. I was recently approached by the school council president, Colin Campbell, to call for capital works funding for this school.

I recently attended a school council meeting to discuss this and other matters relating to the school. I was particularly pleased to have known many of the parents on this council through their other community involvements. Birmingham Primary School students participate in local events such as the Anzac Day march organised by the Mount Evelyn RSL. They can be proud of their school community involvement on this special day. I know the RSL members greatly appreciated them being there.

The school desperately needs new facilities to ensure that they can offer students improved opportunities in their quest for better educational and learning outcomes. Birmingham Primary School is a fantastic school and is very active in our local community. I call on the minister to ensure that these urgent building works are provided.

### **Wills: legal challenges**

**Mr INGRAM** (Gippsland East) — The issue I raise is for the attention of the Attorney-General. The action I seek is for the Attorney-General to conduct a thorough public inquiry into the impact of the 1998 changes to the limitation of those who can challenge a legal will. This inquiry should focus on the major reported increases in challenges to the legitimacy of legal wills, the number of forced settlements, the distress on

families and the financial impact on the estates. While the majority of costs are issued against these estates, I have raised this issue with the Attorney-General and also publicly.

I point out to the house that I have received a large amount of correspondence. Some of those people had very distressing stories to tell about the financial implications for their families when a distant relative or someone outside the immediate family legally challenged those wills. Some of those examples are quite distressing. I will give just a brief outline of one of those.

When a husband passed away the partner of the wife's son put in a challenge to the will. Three years and a number of court appearances later the estate had to come up with \$200 000 costs — for a court case that lasted 3 minutes and was dismissed. In that case the husband had suffered from cancer for a number of years and there had been an enormous amount of distress in the family. The will was tied up in probate for a number of years, which also caused an enormous amount of distress to the family. I have had a number of people contact me with similar stories.

I would like the Attorney-General to conduct a thorough review of the impact of the legislation and hopefully come up with some solutions to make sure that it is fair. My personal view on this is that it should be limited to challenges to wills being able to be made only by those who are partners — and I use the broadest possible description of partner in this case — and direct dependent offspring. That would redress some of the problems that are being confronted. This is something the community is quite concerned about. I know that I have some support within this place on this issue, and I would like to think this house could conduct a full parliamentary inquiry into this and get to the bottom of the issue.

### **Eltham High School and St Helena Secondary College: funding**

**Mr HERBERT** (Eltham) — My issue is for the Minister for Education and Training. The action I seek is for her to provide funding for capital works at Eltham High School and St Helena Secondary College. The minister is very well aware of the fact that the Eltham electorate is home to some 13 000 students, 7500 currently studying in government primary and secondary schools. The area has some of the best schools in the state — schools which have not only embraced the government's initiatives in literacy and numeracy but which are flourishing under government policy to promote innovation and excellence. This drive

for excellence in education is highlighted in the programs offered at both Eltham High School and St Helena Secondary College. Both are large secondary schools which offer a great diversity of subject choice to their students and have a great involvement with their broader local communities.

Eltham High School is a school of well over 1200 students and is well known for its high academic achievement and for the calibre of its arts, performing arts and orchestral programs. Perhaps not quite so well known is the school's commitment to ensuring that all students maximise their educational potential. It does this through innovative middle years programs, focused approaches to students in danger of dropping out and accelerated literacy programs for students who have fallen behind in the basics. Importantly it is developing an excellent reputation in the sciences, as is highlighted by the fact that some 10 per cent of last year's Melbourne University postgraduate physics students were from Eltham High School.

Whilst Eltham High School is located in the heart of Eltham, St Helena Secondary College is a relatively new school which services the newer communities of St Helena and Eltham North. The families who dominate this area have a driving desire to ensure that their children receive the best education possible — an education which will set their children up to meet and conquer all future challenges. In seeking to achieve this aim they are flocking to St Helena Secondary College in droves — over 1400 students to date and rising every year.

Unfortunately for many families seeking entry to St Helena Secondary College the school has to turn away many hopeful students each year. Despite the fact that it has received over \$2 million in capital works under the Bracks government, it is constrained in taking more students because it cannot fit them comfortably into existing buildings. St Helena Secondary College desperately needs additional facilities to continue to develop its excellent courses and to meet student demand. The school particularly needs specialist facilities to expand its highly developed science and technology studies, which are in strong demand among students.

In conclusion, I am very much interested in hearing from the minister whether these two schools have received funding in this year's budget so that they can further improve the excellent educational outcomes they offer their students.

### **Donvale Primary School: funding**

**Mr PERTON** (Doncaster) — Like my friend the member for Eltham and my other friends in the house, I too have a school that needs substantial capital works. Donvale Primary School is an excellent primary school which has strong leadership by its principal, Garry Briggs; its deputy principal, Carol Curwood; its office manager, Jane Caudry; its school council president, Jim Finch; and its parents association president, Suzie Thompson. But this school —

**An honourable member** interjected.

**Mr PERTON** — My matter is for the Minister for Education Services — but given the calls by other members to the Minister for Education and Training, I would be delighted if she would respond in her stead.

Many of the schools in my electorate have received capital upgrades over the last decade. Donvale Primary School is certainly the most deserving now. The school community has worked very hard to create a master plan. Its highest priority is a new library, but it needs other new facilities. It is prepared to exercise its own initiative and has engaged in excellent fundraising to contribute to its own maintenance and capital upgrade needs. Like the school communities that my friend the member for Eltham raised, it is deserving of a government-funded capital upgrade. I ask that the minister come into the chamber and make that commitment to Donvale Primary School.

Like my friend the member for Eltham I can refer to a number of other schools that are also deserving of capital upgrades. Portland South Primary School is in desperate need of a capital upgrade, and I would be very appreciative if the minister could refer to that school. East Doncaster Secondary College in my electorate has been waiting for years to get its master plan up. It would be delighted with not even a capital upgrade this year but just some idea from the government of where its master plan is in terms of priority. There are other schools across Melbourne and Victoria that are deserving of maintenance funds. I think also of schools like Traralgon South Primary School, in a Labor electorate; Brunswick North Primary School; Northcote Primary School; Laverton Plains Primary School; Erinbank Secondary College; and Glen Orden Primary School. These schools are hundreds of thousands of dollars behind in maintenance funding and capital upgrades.

We have had the mushrooms from the marginal Labor seats calling for school upgrades tonight. If the minister comes into the house, then let her reply to the matters

raised on behalf of other schools — schools like Wonthaggi North Primary School and Wonthaggi Primary School. These schools are deserving of not only maintenance funds but capital upgrades as well. I appreciate the time, Acting Speaker.

### Disability services: Newton House

**Ms BARKER** (Oakleigh) — I raise a matter with the Minister for Community Services, and I ask her to take action to safeguard the rights of residents of Newton House, a facility currently managed by Newhurst Securities Pty Ltd in my electorate. The matter was raised with me by Ms Dilveridis, the manager of Newton House, on 25 March, at which time she expressed concern that government funding would cease at the end of the current agreement, which is June 2004, and that no reason had been given for this cessation.

I certainly agreed to see her, but I indicated that I would firstly, of course, obtain information from the minister's office and the department in the eastern region. I received detailed information regarding the facility and the care of 27 very high-support residents on 1 April, and I might also add that I have been constantly updated by the minister's office and the regional office since then.

On receiving that information I again contacted the manager and indicated that having read all the information, particularly regarding the KPMG review of the care — or lack of care — being offered to residents and the attempts that were being made to discuss these issues with management, staff and particularly residents, I would be very happy to discuss this matter with her. She, however, declined that offer.

The information I received showed quite clearly that there have been some very serious issues at Newton House concerning the care of residents — issues that have been brought to our attention by the community visitors program and the Office of the Public Advocate. As I said, I have been receiving a lot of updates. The process which the department has now come to with this facility is very well documented. The KPMG report indicated some significant concerns with nursing practices and certainly indicated that the current manager is not well placed as a provider to address the issues.

I was therefore somewhat surprised to note that a member for Waverley Province in the other house, Andrew Brideson, raised the matter during an adjournment debate and basically said that the proprietors of Newton House should be given the

opportunity to continue to provide a substandard service to 27 residents. He rushed off to the local papers, in one of which he is quoted as saying:

... the centre was purpose built, and the decision by the department not to renew the funding agreement made the business and its assets almost worthless.

There was nothing about the care of residents. I was also absolutely appalled to read in the *Herald Sun* of Friday, 30 April, that the member for Caulfield, the shadow Minister for Community Services, also visited Newton House and took the newspaper people with her. The article states:

Ms Shardey said the government was stripping the residents of their dignity.

'It is treating these people like animals instead of people who have a say in their future', she said.

I suggest to the member for Caulfield that before she makes such outrageous and appalling statements she seek information from the minister's office about the lack of care that is being offered to 27 very vulnerable people at Newton House and the work of the department in trying to ensure that appropriate care is delivered to them. I do not believe these proprietors need help, but I believe the residents do.

### Responses

**Mr HOLDING** (Minister for Manufacturing and Export) — The member for Mornington raised a matter for the Minister for Transport, and I will refer that to the minister. The matter relates — —

**Mr Perton** — On a point of order, Acting Speaker, a number of Labor members have raised very serious and important matters on education — in the government's own words, its highest priority.

**The ACTING SPEAKER (Mr Nardella)** — Order! What is the point of order?

**Mr Perton** — Where is the Minister for Education and Training or the Minister for Education Services?

**The ACTING SPEAKER (Mr Nardella)** — Order! There is no point of order.

**Mr HOLDING** — That matter relates to the banning of pushbikes on the Esplanade at Mount Martha. I will refer that to the Minister for Transport for his response.

The member for Hastings raised a matter for the Minister for Education and Training in relation to

Pearcedale Primary School and priority works there, and I will refer that to the minister.

The member for Benalla raised a matter for the Minister for Corrections in relation to a young Aboriginal offender centre at Mount Teneriffe, and I will refer that to the minister for his attention.

The member for Mordialloc raised a matter for the Minister for Education and Training in relation to Mordialloc Primary School, Cheltenham Secondary College and some urgent building works. I will refer that to the minister for her attention.

The member for Nepean raised a matter for the Minister for Environment in relation to the master plan for a boat ramp, boating facilities and a skate park on the Rosebud foreshore, and I will refer that to the minister for his attention.

The member for Evelyn raised a matter for the Minister for Education and Training in relation to urgent works at Birmingham Primary School. I will refer that to the minister for her attention, and she will respond to the member for Evelyn directly.

The member for Gippsland East raised a matter for the Attorney-General seeking a thorough review of arrangements for contested wills, and I will refer that to the Attorney-General for his attention.

The member for Eltham raised a matter for the Minister for Education and Training in relation to Eltham High School and St Helena Secondary College, and I will refer that matter to the minister.

The member for Doncaster also raised a matter for the Minister for Education Services in relation to Donvale Primary School, in particular its library, as well as referring to a range of other primary schools and secondary colleges around the state, and I will refer that to the minister for a response.

**Ms GARBUTT** (Minister for Community Services) — The member for Oakleigh is absolutely correct in being very alarmed about the comments that the member for Caulfield made about Newton House in last Friday's *Herald Sun*. I point out to this house, and in particular to the member for Caulfield — I hope she is listening — that she certainly did not ask for a briefing and received no information except what was provided to her by the Newton House owners and managers.

Firstly, let me say that the service that Newhurst Securities, which manages Newton House, has been providing has been totally unacceptable. It has been

deplorable. It is seriously below acceptable standards in a whole range of areas, including client care, medication, nursing care, staff training and financial management. I will provide the details of some of that. Infection control has been substandard, there has been poor management of the basic continence needs of residents — —

**Dr Naphine** — On a point of order, Acting Speaker, can the minister advise the house whether these matters are subject to legal action and whether they are sub judice? If the minister is proposing to take action in a legal context with respect to these proprietors, I question whether she should be proceeding in this way. I wonder whether this matter is sub judice.

**The ACTING SPEAKER (Mr Nardella)** — Order! There is no point of order. The minister may respond to the honourable member for South-West Coast in her reply to the honourable member for Oakleigh, but there is no point of order.

**Ms GARBUTT** — There are no sub judice issues either, so I will talk about the details. There is no privacy for people, they do not get a say about their food, they do not get a say about what they do during the day, they are expected to pay for essential equipment and the building itself is run down and dilapidated.

The government commissioned an independent review, which the member for Oakleigh referred to, which was carried out by KPMG and which was in fact referred to in the *Herald Sun*. It is interesting that opposition members are quite happy to talk to the *Herald Sun* but they do not want the matter raised in Parliament.

**Mr Holding** interjected.

**Ms GARBUTT** — It is sub judice in Parliament — or he is hoping it is! He is quite happy to speak about it to the *Herald Sun* and to get it all wrong.

I am not prepared to tolerate substandard services being delivered to people with disabilities. The member for Caulfield might, and the member for South-West Coast might as well, but I certainly will not tolerate that.

**Dr Naphine** — On a point of order, Acting Speaker, I take offence at that inference, because nobody would tolerate substandard services being provided to people with disabilities. I take absolute offence at the inference and ask her to withdraw.

**The ACTING SPEAKER (Mr Nardella)** — Order! There is no point of order. The minister made a reference in passing and was not making an accusation

against the honourable member for South-West Coast, so there is no point of order.

The house is now adjourned.

**Ms GARBUTT** — And I withdraw.

**House adjourned 10.42 p.m.**

**Dr Napthine** — She has withdrawn.

**The ACTING SPEAKER (Mr Nardella)** — Order! The minister has withdrawn.

**Ms GARBUTT** — My only concern is for residents and their welfare. The Department of Human Services has therefore decided to terminate the funding contract with Newhurst and to appoint a different service provider to take over.

While there are problems with the building at Newton House, I also recognise that it has been known to these residents for a long time. They have been living there together, as a family, for a number of years, and of course many do not want to move. When appointing a new service provider to provide client care, I wanted to make sure that the residents were not displaced, if that was possible, or at least that any move was going to happen smoothly and sensitively and that the residents were not going to be split up.

It is actually not the government that is going to evict the people from Newton House, as the member for Caulfield seems to think; it is the company that owns the property and the manager of the services. Very clearly, they are causing that to happen. However, happily we have been able to find an alternative place for the residents to move to, and the lease for a property in Brunswick has been signed. The residents of Newton House are pleased about the news of their new home. They will be moving there all together, they will not be split up, and their friendships and connections can be maintained.

It does not come as a surprise to me that the member for Caulfield has got her facts wrong. Her capacity to do that is absolutely staggering. We have seen that in the house time and again. She is the queen of clangers: she gets it wrong so often, she does not do the work to check out the facts, and she does not care about disadvantaged Victorians.

**Dr Napthine** — On a point of order, Acting Speaker, I ask the minister to withdraw those last remarks. They are a disgrace!

**The ACTING SPEAKER (Mr Nardella)** — Order! There is no point of order. The honourable member for Caulfield would need to be in the house to have those words, or any words about her, withdrawn. The honourable member for Caulfield is not here. There is no point of order.

