PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 28 February 2006

(Extract from book 2)

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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TUESDAY, 28 FEBRUARY 2006

Tuesday, 28 February 2006

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.02 p.m. and read the prayer.

SHADOW MINISTRY

Mr DOYLE (Leader of the Opposition) — I wish to inform the house of changes to portfolio responsibilities since we last met. The member for Nepean is the shadow minister for education, the member for Caulfield adds responsibility for community services, and the member for Bulleen adds responsibility for tourism.

QUESTIONS WITHOUT NOTICE

Land tax: increases

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to the case of Mr Ron Grande, a 77-year-old Rosebud self-funded retiree, whose land tax bill has gone from $6655 last year to over $20 000 this year even though there has been no change in his property holdings or rates. I refer to the Treasurer's promise last year that:

> … we will cap increases in land tax liabilities in 2005–06 so that no land tax payer will experience an increase in their land tax liability greater than 50 per cent …

I ask: how many other Victorian taxpayers with unchanged property holdings have had increases in their land tax bills of more than 50 per cent, in breach of the Treasurer's promise?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. The opposition leader is correct; there is a cap in place as part of our reforms and changes to land tax.

As I have indicated in the past, if anyone has a concern about their particular land tax payments, then they should contact the State Revenue Office and that matter will be attended to. I should add, as most members would know, that in the last budget we reduced land tax payments in the forward estimates by $823 million — a $823 million cut. We now have the lowest land tax rate in Australia of under $1 million. We have a higher threshold, we have reformed the middle rates, we have brought the top rate down, and, if you look at the comparison to other states, we have the lowest rate in Australia of under $1 million. If there are matters for individual taxpayers to attend to, I would urge them to deal with the State Revenue Office, and I am sure those matters will be attended to properly.

Melbourne convention centre: progress

Mr LUPTON (Prahran) — My question is to the Premier. I ask the Premier to detail for the house how the government's recent announcement of a $1 billion redevelopment of the convention centre will benefit Victoria?

Mr BRACKS (Premier) — I thank the member for Prahran for his question. I also thank him for his strong and abiding interest in the tourism industry and the convention market to ensure that we grow even further our international reputation as a place for major conventions in the future. One of the limitations of the current facilities is that we cannot cater for large conferences. That will be redressed in the new consortium bid, which is in place and has now been accepted, to build a 5000-seat convention centre and plenary hall.

Mr Mulder interjected.

The SPEAKER — Order! If the member for Polwarth wishes to have an extended conversation of that volume, I suggest he leave the chamber.

Mr BRACKS — As well as the contribution of $367 million that our government is making, together with the City of Melbourne — and I want to congratulate the City of Melbourne for its contribution of $43 million towards the convention centre — importantly, and this is where the member for Prahran's question is extremely useful, that levers up $1 billion of new investment in our state. It is a three to one ratio. For just over $300 million, we lever up $1 billion of investment, which includes a new 5-star Hilton hotel on site, an office and residential tower, and a new retail complex. As well as that we will have what is the best convention centre not only in Australia but in the Southern Hemisphere.

It will help the job generation that we require for a growing market and will make us more competitive. It will also help in the construction phase, with about 1000 jobs in the construction phase for this $1 billion project and 2500 jobs ongoing on top of the existing jobs to service the convention centre and the complex.

This is a good outcome for the state, with a contribution from the state government and a contribution from local government. The upgrading of an excellent site on the Yarra River will lever up $1 billion of investment and position us as the best convention centre in the Southern Hemisphere, if not the world.

Country Fire Authority: enterprise bargaining agreement

Mr RYAN (Leader of The Nationals) — My question is to the Minister for Police and Emergency Services. I refer to the government's enterprise bargaining agreement negotiations applicable to some 400 Country Fire Authority career firefighters who are members of the United Firefighters Union, and I ask: will the minister guarantee that in accordance with the volunteers charter, the 58 000 CFA volunteers will be fully consulted during those negotiations since they also will in many respects be directly affected by the terms of the agreement?

Mr HOLDING (Minister for Police and Emergency Services) — I thank the Leader of The Nationals for his question. Firstly, what it enables us to do is again remind Victorians that it was actually this government which introduced the volunteers charter, signed by both the Minister for Police and Emergency Services and the Premier and also by representatives from volunteer firefighting associations across the state, to make sure that when enterprise bargain negotiations are occurring or, alternatively, when there are other processes of change under way within the Country Fire Authority (CFA) there will be opportunities for volunteers to be consulted.

The Leader of The Nationals asked whether these consultations will occur in the context of this enterprise bargain negotiation. I am very pleased to reassure the Leader of The Nationals not only that CFA representatives themselves will be engaged in careful and close consultation and negotiations with the representatives of volunteer associations in Victoria but that tomorrow I am meeting with representatives of both the urban and the rural fire brigade associations to hear their views. There has been no enterprise bargain concluded at this stage. There are discussions continuing with both representatives — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high. I ask members, particularly members of the opposition, to cease interjecting in that manner and allow the minister to continue answering the question.

Mr HOLDING — To conclude, this government values the contribution that volunteers make across the state. This government has done a huge amount to strengthen and support the volunteers of all our emergency service organisations, whether it is the CFA, the State Emergency Service, the volunteer Coast Guard Association or others. We are pleased to be meeting with them tomorrow, and we look forward to having fruitful discussions.

Road safety: drug-driving tests

Mr TREZISE (Geelong) — My question is also to the Minister for Police and Emergency Services. I ask the minister to detail to the house the most recent addition to the government's road safety strategy to clamp down on drivers driving under the influence of drugs.

Mr HOLDING (Minister for Police and Emergency Services) — I thank the member for Geelong for his question and his ongoing interest in issues surrounding and concerning road safety in Victoria. Like all members of this government the member for Geelong takes very seriously the things that we can do to make our roads safer and to further reduce our road toll. All members of this government are very proud of the things we have implemented, along with Victoria Police, the Transport Accident Commission, VicRoads and other road safety agencies, to make sure that Victorian roads continue to be the safest in the nation. Indeed we are particularly pleased that in 2003, 2004 and 2005 the road toll has been of the order of 340. This is considerably less — in fact, 60 deaths less per year — than the average road toll in the decade prior to 2003. This is a huge achievement and something that all members of this government are very proud of.

We have taken a comprehensive approach to tackling road safety. We have been making sure that Victorians travel more slowly on our roads by addressing speeding, we have introduced measures to further strengthen laws in relation to drink-driving, we have focused on fatigue and on making sure that drivers and motorists continue to wear seatbelts when they are using motor vehicles, and importantly, for the first time in world history we have introduced a random roadside drug-driving test. This has been a very successful trial which has been conducted over the past 12 months. Victorian police have tested over 13 000 motorists, and surprisingly — and, in a sense, disappointingly — 287 of those motorists have tested positive to using either cannabis or methamphetamine (speed) during the period prior to those tests occurring. Of course infringement notices have been issued against those motorists.

The Victorian government is now looking at ways in which we can strengthen the random roadside drug-driving tests that we have put in place. Today we will be introducing legislation in this Parliament to extend indefinitely those roadside drug tests to make sure they continue to be a permanent feature of

Victoria's road safety initiatives. We will also be expanding the tests to include not only methamphetamine and cannabis but also, for the first time, MDMA, or methylenedioxymethamphetamine (ecstasy), which will further expand the comprehensiveness of the drug-driving tests we have put in place.

We are concerned about the high number of Victorian motorists who have tested positive to having drugs in their system. We are concerned that Victorian motorists are at this stage not getting the message — that if they take dangerous drugs and attempt to drive a motor vehicle, they are a menace to themselves and to other road users. We know the data supports this: 30 per cent of Victorian motorists who died on Victorian roads in 2002 had a drug other than alcohol in their system.

We will continue to push hard to get this message through to motorists, and the message will continue to be a very important part of Victoria's road safety strategy.

Land tax: increases

Mr CLARK (Box Hill) — My question without notice is to the Premier. I refer the Premier to the case of Arthur's Seat Hotel where the land tax bill has gone from $1694 last year to over $21 000 this year, even though the owners have sold off part of the land to hold down their land tax bill — —

Honourable members interjecting.

The SPEAKER — Order! I ask government members to be quiet to allow the member for Box Hill to ask his question.

Mr CLARK — I ask: what explanation will the Premier give to the 20 employees of Arthur's Seat Hotel if they lose their jobs as a result of the Treasurer's broken promise to restrict increases in land tax to 50 per cent?

Mr BRACKS (Premier) — I thank the member for Box Hill for his question. As I have indicated, the land tax cuts we have made have given us the most competitive land tax rates in Australia. In fact, if you have holdings in Victoria below $2.9 million, you will pay less in Victorian land tax than you do in any other state in Australia.

If you look at the total tax take in terms of business taxes, we have an average taxation rate which is below the national average even though we are the second-biggest state in Australia. On business taxes we are doing better than other states. As to individual matters, they need to comply with the rules and changes we have made, and if there are matters that require individual attention, the State Revenue Office will examine them and make an assessment on that basis.

Drugs: cocaine kits

Ms MORAND (Mount Waverley) — My question is to the Minister for Health. Will the minister outline to the house the most recent example of the government's efforts in tackling the issue of illegal drugs in our community?

Ms PIKE (Minister for Health) — I thank the member for Mount Waverley for her question. This government has been working very hard over the last six years to assist the people in our community who have difficulties with drug addictions. The government has implemented a very comprehensive package of measures because we really are committed to saving lives. Those measures have included more emphasis on prevention and early intervention so we can stop young people in particular from taking up drug use in the first place. We have dramatically increased the number of treatment options and have put a lot of extra resources into rehabilitation so that the waiting times have been lowered significantly.

The other dimension that we have been engaged in is getting very tough on people who peddle drugs to our community and who try to avoid being caught. To this end we are committed to clamping down on the sale and use of paraphernalia that is used exclusively in the consumption of hard drugs, and in this case the assembling, putting together and sale of so-called cocaine kits in Victoria. The government will legislate to ban these kits. This will be backed up by very hefty fines for those who breach the new provisions.

We want to ensure that we do everything we can to make sure Victoria is the safest place to live and raise a family. We know there is no end to the imagination of evil people who will do things to try and subvert the law and, as I said, peddle these kinds of drugs onto the community.

Amendments to the Drugs, Poisons and Controlled Substances Act will prevent cocaine kits containing paraphernalia which is used to consume cocaine from being displayed and sold in Victoria. Obviously it is quite impractical to legislate against the varying components of these kits because they are common, everyday items, but the intention of the sellers is clear: they put them together, package them as kits, and then advertise and sell them with the absolute purpose of trying to entice people to take them up.

Once introduced, these new provisions will be enforced by Victoria Police, and police will have the power to seize any alleged cocaine kits that are sold or offered for sale. We will be advising retail outlets of these new provisions. This is one of a number of initiatives that we have undertaken over the last six years not only to assist people in our community who are taking drugs, to rehabilitate them and give them every possible chance in life but also to clamp down very hard on people who want to provide these drugs to our community.

Horsham hospital: computerised tomography scanner

Mrs SHARDEY (Caulfield) — My question without notice is to the Minister for Health. Can the minister confirm that the government paid for a four-slice computerised tomography scanner for the Horsham hospital at a cost of $450 000, as is claimed in the *Wimmera Mail-Times* of 17 February 2006, in a taxpayer-funded advertisement?

Ms PIKE (Minister for Health) — I am very pleased to have the opportunity to talk about this government's very significant contribution to hospital equipment, which has surpassed by many fold the investment that was not made by the previous government. I can also confirm yet again that while we have been spending the last six years boosting the availability of new technology and medical equipment to hospitals right around the state, there are 12 sites where there is no medical equipment because those hospitals were closed.

The Bracks government has particularly focused on investment in medical equipment and new infrastructure in our rural hospitals. Some 70 rural hospitals have received an extra $40 million just in medical equipment, and that comes on top of a massive rebuilding program. Right across the state virtually every town has seen improvements in its hospital service, and Wimmera Health Care Group is no exception.

Honourable members interjecting.

Ms PIKE — Wimmera Health Care Group has a number of sites, and there has been a lot of investment in new equipment and in rebuilding. We have been very pleased to make sure that Wimmera Health Care Group does have an allocation towards its infrastructure and equipment, and it is certainly my understanding that we did allocate over $300 000 to the Wimmera Health Care Group. That was to help it to provide the capacity for the computerised tomography scanner, which is placed within the infrastructure of the hospital. It is a very important piece of equipment, and I am very pleased that the government has been able to contribute to the provision of this service at Wimmera Health Care Group.

Victorian Law Reform Commission: uniform evidence law

Mr WYNNE (Richmond) — My question is to the Attorney-General. Could the Attorney-General update members of the house in relation to the government's response to the recent Victorian Law Reform Commission report on uniform evidence law, and in particular professional confidential communications privilege as it relates to the protection of journalists sources?

Mr HULLS (Attorney-General) — I thank the honourable member for his question. I guess the issue of the protection of the role of journalists in our democracy is indeed a very important one. As ministers will be aware, the law reform commissions of Victoria and also New South Wales — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high. I ask members to restrain themselves and allow ministers to be heard when answering questions.

Mr HULLS — Those law reform commissions recently released a report that recommends the protection of journalists sources and that they should be protected in certain circumstances. It paves the way for simplifying and improving the evidence laws in a number of areas.

Victoria has taken a national lead on this particular issue. At the last Standing Committee of Attorneys-General meeting we put the issue fairly and squarely on the national agenda.

Mr Doyle — Did you?

Mr HULLS — Yes, we did! As usual, the Bracks government will take a very balanced approach in relation to this issue. We think this is necessary, because there may well be situations where the public interest is best served if a journalist reveals certain information to appropriate authorities. This may be where a journalist has information necessary to prosecute a serious crime or to protect things such as national security. Equally there are clear examples where it would be in the public interest for sources to be protected, such as when, for instance, an unnamed source states that a leadership challenger is a toll-touting toff from Toorak!

Mr Honeywood — On a point of order, Speaker, on the issue of relevance, the answer must clearly relate to government business. Where a member of Parliament may or may not come from, and what this has to do with opposition business, is not relevant to the answer that should be given.

Honourable members interjecting.

The SPEAKER — Order! The member for Burwood and the Leader of the Opposition will be quiet!

Mr Thwaites — On the point of order, Speaker, I would have thought it would a key matter of government policy and administration that appropriate evidentiary rules be applied to enable journalists to protect their sources. I would have thought that between 13 and 17 members of the opposition would support that position.

The SPEAKER — Order! There is no point of order. The Attorney-General, to continue his answer.

Mr HULLS — As it turned out yesterday, it was actually a Toorak toff without ticker! Whilst public figures may not always like the way the media reports things about them, the freedom of expression of journalists is indeed a cornerstone of our democracy.

In response to the law reform commissions' report the government has committed itself to introducing balanced legislation that will in certain circumstances protect professional and confidential communications between journalists and their sources. It is my hope that when this legislation eventually comes before the house it will be supported by members of this house. In particular, I hope members can come together. I hope the members for Brighton and Mornington can come together with the members for Box Hill and Warrandyte and support this kind of legislation.

Mr Thompson — On a point of order, Speaker, answers to questions must be relevant to the business of the house. The Attorney-General is deviating from that particular course of action.

The SPEAKER — Order! I ask the Attorney-General to continue answering the question.

Mr HULLS — In conclusion, I hope all members can come together and support this type of legislation. I certainly hope if they do support it, particularly members on that side of the house, they are not described as the scum of political life or as bottom feeders.

Honourable members interjecting.

The SPEAKER — Order! I remind members that they should endeavour to use parliamentary language.

Horsham hospital: computerised tomography scanner

Mrs SHARDEY (Caulfield) — My question is to the Minister for Health. I refer the minister to her answer to my previous question and I ask — —

Honourable members interjecting.

The SPEAKER — Order! I remind the members for Melton and Mulgrave — —

Interjections from gallery.

The SPEAKER — Order! The sitting of the house will be suspended for 5 minutes. I will ring the bells for the resumption.

Sitting suspended 2.31 p.m. until 2.35 p.m.

The SPEAKER — Order! We will try again. The member for Caulfield, without the assistance of the member for Bass.

Mrs SHARDEY (Caulfield) — My question without notice is to the Minister for Health. I refer the minister to her answer to my previous question, and I ask: will the minister confirm that the computerised tomography scanner at the Horsham hospital is in fact the property of Symbion Health or Mayne health, and that the government made no contribution to the purchase of this machine, as falsely claimed in its advertising?

Ms PIKE (Minister for Health) — I could reiterate my previous answer and talk about the absolutely dramatic contribution this government has made to installing hospital equipment, like computerised tomography (CT) scanners and other things, over the last six years.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high.

Ms PIKE — In 2005–06, over $300 000 was allocated to the Wimmera Health Care Group at Horsham to contribute to their CT scanner equipment. The funds were used by the hospital to build the new capital facility so that the upgraded four-slice scanner could be accommodated.

Honourable members interjecting.

The SPEAKER — Order! I remind members again that the level of interjection is far too high, particularly from the Leader of the Opposition, who I have spoken to a number of times this afternoon. I ask him to cease interjecting at that level and allow the minister to answer the question asked by the member for Caulfield.

Ms PIKE — I am very proud of the Wimmera Health Care Group, because I think it is a very creative organisation that has worked with a private provider to make sure that people in its community have access to the very best — —

Mrs Shardey — On a point of order, Speaker, on the question of relevance — —

Mr Maxfield interjected.

The SPEAKER — Order! The member for Narracan will not interject in that manner. Members are fully entitled to raise a point of order without interruption from behind them.

Mrs Shardey — I referred specifically to a four-slice CT scanner, which is mentioned in the advertisement. I am asking the minister to clarify whether the claim that the government paid for this scanner is in fact true. I believe it is false.

The SPEAKER — Order! The member for Caulfield appears to be repeating the question. I cannot direct the minister to answer the question the way the member wishes.

Ms PIKE — I am very pleased that the community has argued for Horsham and its surrounding areas to have access to high levels of technology so that patients can have appropriate diagnosis and treatment. Without the contribution of over $300 000 from the government's equipment scheme, this particular machinery would never have been available to that community.

Rural and regional Victoria: government initiatives

Ms OVERINGTON (Ballarat West) — My question is to the Minister for State and Regional Development. I refer the minister to the government's commitment — —

Honourable members interjecting.

The SPEAKER — Order! I should not have to remind members of the house, as I have said it many times, that people are entitled to ask questions without continual levels of interruption. It is extremely discourteous.

Ms OVERINGTON — My question is to the Minister for State and Regional Development. I refer the minister to the government's commitment to making Victoria an attractive place to work and raise a family. I ask the minister to update the house on the most recent independent figures that demonstrate the government is delivering on that commitment.

Mr BRUMBY (Minister for State and Regional Development) — I thank the member for Ballarat West for her question. I am happy to advise the house that since we last met there has been more good news for the people of Victoria. I am pleased to advise the house — —

Mr Smith interjected.

The SPEAKER — Order! The member for Bass!

Mr BRUMBY — It is good news for the people of Victoria — not such good news on that side of the house but good news for the people of Victoria. I am pleased to advise the house that last week the Australian Bureau of Statistics population figures were released. They show that there was on average an increase of 793 people extra in Melbourne every week of the 2004–05 financial year. To put this in perspective, in the last financial year Melbourne recorded a larger increase in its population than any other capital city in Australia: Melbourne, 793; Sydney, 573; Brisbane, 640; and Perth, 446.

An honourable member interjected.

Mr BRUMBY — I can see why you did not get a portfolio with that interjection!

Growth was strong across the state, particularly in regional Victoria with growth at 1.3 per cent. In fact the growth in regional Victoria at 1.3 per cent was higher than the growth for Victoria as a whole at 1.2 per cent and higher than the growth for Australia as a whole at 1.2 per cent. I am pleased to say that this is a dramatic turnaround. This is the highest rate of population growth in regional Victoria for more than 15 years, so it is a great outcome for our state. It represents a huge turnaround from the 1990s. In 1994–95 alone Victoria lost more than 22 000 people in one year to interstate migration. As the *Herald Sun* pointed out at the time, Victorians were on the move to other states.

There have been some great turnarounds. The member for Ballarat West asked the question and, as the Ballarat

Courier said on 25 February, 'Ballarat achieves 88 000 people'. Its growth has been in excess of 2 per cent. A decade ago Ballarat was going backwards. In the rural city of Ararat growth this year was at 1.3 per cent compared to a decrease of 1.9 per cent a decade ago. The shire of Murrindindi has had a dramatic turnaround with growth this year of 1.4 per cent compared to a decrease of 0.7 per cent a decade ago.

There has been generally good growth across the state but some areas have been a bit weaker. Some areas have been struggling. In particular I note that in the city of Boroondara, which is in the member for Hawthorn's electorate, the population in 2005 increased only by 29 people. I suppose if just a couple of them came into the Liberal Party caucus and voted with the member for Hawthorn, that would be enough to get him across the line.

Other areas have gone backwards. They have not even stood still. The biggest decline in population was in the member for Malvern's area, the city of Stonnington, where over 400 people left the city.

Honourable members interjecting.

Mr BRUMBY — I am very proud of my electorate.

The SPEAKER — Order! I remind the Leader of the Opposition and the member for Ripon that they are required to cease interjecting when the Speaker is on her feet. The minister to continue his answer, without assistance.

The minister has finished his answer.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I advise the house that under standing order 144 notices of motion 105 to 108 will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing by 6.00 p.m. today.

STATUTE LAW (FURTHER REVISION) BILL

Introduction and first reading

Mr BRACKS (Premier) introduced a bill to revise further the statute law of Victoria.

Read first time.

SUSTAINABLE FORESTS (TIMBER) (AMENDMENT) BILL

Introduction and first reading

Mr THWAITES (Minister for Environment) introduced a bill to amend the Sustainable Forests (Timber) Act 2004 to provide that transfer of certain licences to management by VicForests does not occur, to consequentially amend the National Parks (Otways and Other Amendments) Act 2005 and for other purposes.

Read first time.

ROAD SAFETY (DRUGS) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) introduced a bill to amend the Road Safety Act 1986 to include ecstasy in the random drug testing program for drivers, to amend the Road Safety (Drug Driving) Act 2003 to remove the sunset on that program and for other purposes.

Read first time.

DISABILITY BILL

Introduction and first reading

Ms GARBUTT (Minister for Community Services) introduced a bill to enact a new legislative scheme for persons with a disability, to repeal the Intellectually Disabled Persons' Services Act 1986 and the Disability Services Act 1991, to amend certain other acts and for other purposes.

Read first time.

MELBOURNE SAILORS' HOME (REPEAL) BILL

Introduction and first reading

Ms GARBUTT (Minister for Community Services) introduced a bill to repeal the Melbourne Sailors' Home Act 1986, to close the Sailors Welfare Fund established under that act, to provide for the transfer of all money standing to the credit of the Sailors Welfare Fund to the consolidated fund and for other purposes.

Read first time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (AGED CARE SERVICES) BILL

Introduction and first reading

Ms PIKE (Minister for Health) introduced a bill to amend the Drugs, Poisons and Controlled Substances Act 1981 to provide for the administration of drugs of dependence, schedule 9 poisons, schedule 8 poisons and schedule 4 poisons to certain residents in aged care services, to amend the Nurses Act 1993 to create an offence of directing or inciting unprofessional conduct and for other purposes.

Read first time.

DRUGS, POISONS AND CONTROLLED SUBSTANCES (PROHIBITION OF DISPLAY AND SALE OF COCAINE KITS) BILL

Introduction and first reading

Ms PIKE (Minister for Health) introduced a bill to amend the Drugs, Poisons and Controlled Substances Act 1981 to provide for a prohibition on the display and sale of cocaine kits and to amend that act to further provide for offences committed by bodies corporate and for other purposes.

Read first time.

VALUATION OF LAND (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Minister for Planning) — I move:

That I have leave to bring in a bill to amend the Valuation of Land Act 1960, the Victorian Civil and Administrative Tribunal Act 1998 and the County Court Act 1958 and for other purposes.

Mr BAILLIEU (Hawthorn) — Would the minister provide a brief explanation of the bill?

Mr HULLS (Minister for Planning) — This bill implements the outcome of the review of the Valuation of Land Act as endorsed some time ago by the government and, as I said, it implements most of those recommendations.

Motion agreed to.

Read first time.

PETITIONS

Following petitions presented to house:

Education: home-schooling

To the Legislative Assembly of Victoria:

The petition of Victorians who support home-schooling points out to the house extensive research in America, Canada, England and Australia has revealed that home education works both academically and socially and produces 'literate students with minimal government interference at a fraction of the cost of any government program'. Home-educated children enter conventional schools, go on to university, enter the work force and become responsible citizens. The government has provided no evidence to show that regulation would have any beneficial effect. Moreover, the powers granted to the Victorian Registration and Qualifications Authority under the terms of the exposure draft of the Education and Training Reform Bill in regard to home education are unlimited and would allow unfair and ineffective regulations to be imposed on Victorian parents to the detriment of their children.

The petitioners therefore request that the Legislative Assembly of Victoria orders the redrafting of the clauses of the Education and Training Reform Bill pertaining to home education in line with the existing requirements of the Education Act of 1958 and Community Services Act of 1970 that parents provide 'regular and efficient instruction' without reference to a statutory authority. This provides for the parents' rights to determine the manner of their children's education and for the state's responsibility to ensure all children are educated.

By Ms ALLAN (Bendigo East) (12 signatures)
Dr HARKNESS (Frankston) (6 signatures)
Ms LOBATO (Gembrook) (48 signatures)
Mr LANGDON (Ivanhoe) (6 signatures)
Mr JENKINS (Morwell) (11 signatures)
Mr ANDREWS (Mulgrave) (6 signatures)
Ms MORAND (Mount Waverley) (1 signature)
Mr LUPTON (Prahran) (2 signatures)
Mr MAUGHAN (Rodney) (6 signatures)

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ineffective regulations to be imposed on Victorian parents to the detriment of their children.

The petitioners therefore request that the Legislative Assembly of Victoria orders the redrafting of the clauses of the Education and Training Reform Bill pertaining to home education in line with the existing Education Act's requirement that parents provide 'regular and efficient instruction' without reference to a statutory authority. This provides for the parents' rights to determine the manner of their children's education and for the state's responsibility to ensure all children are educated.

By Mr LOCKWOOD (Bayswater) (25 signatures)
Mr STENSHOLT (Burwood) (15 signatures)
Ms McTAGGART (Evelyn) (22 signatures)
Mr MERLINO (Monbulk) (17 signatures)
Mr DIXON (Nepean) (49 signatures)
Ms GILLETT (Tarneit) (14 signatures)

Albion North Primary School: upgrade

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

The petition of certain citizens of the state of Victoria draws to the attention of the Legislative Assembly.

Your petitioners therefore pray/request that Albion North Primary School is replaced with new school buildings as soon as possible.

By Mr LANGUILLER (Derrimut) (265 signatures)

Retirement villages: residents rights

To the Honourable the Speaker and members of the house assembled in Parliament:

The petition of the undersigned citizens of Victoria draws to the attention of the house of the continuing distress of many retirement village residents due to problems with the implementation of the retirement villages legislation.

We believe that the Parliament's decisions, following the review of the act, provided reasonable exit provisions for new residents. These provisions have not yet been proclaimed. Further, we believe that existing residents do not have appropriate protection or avenues of redress where they have entered into complex and unfair contracts.

The petitioners call on the house to ensure that the Victorian government:

1. takes immediate action to proclaim all the remainder of the amendments to the Retirement Villages Act adopted by the Parliament in 2005;

2. requires retirement village contracts to specify and protect residents rights;

3. regulates for contracts to be in a form that can be understood by residents, prospective residents and their legal or financial advisers;

4. provides accessible and affordable avenues of redress for residents with current contracts that include unfair provisions.

By Ms ECKSTEIN (Ferntree Gully) (115 signatures)
Ms LOBATO (Gembrook) (1 signature)

Schools: religious instruction

To the Legislative Assembly of Victoria:

The petition of citizens of Victoria concerned to ensure the continuation of religious instruction in Victorian government schools draws out to the house that under the Bracks Labor government review of education and training legislation, the future of religious instruction in Victorian schools is in question and risks becoming subject to the discretion of local school councils.

The petitioners therefore request that the Legislative Assembly of Victoria take steps to ensure that there is no change to legislation and the Victorian government schools reference guide that would diminish the status of religious instruction in Victorian government schools and, in addition, urge the government to provide additional funding for chaplaincy services in Victorian government schools.

The petition of citizens of Victoria [is] concerned to ensure the continuation of religious instruction in Victorian government schools, and to provide additional funding for school chaplains.

By Mr MERLINO (Monbulk) (36 signatures)

Rosebud Hospital: upgrade

To the Legislative Assembly of Victoria:

The petition of the residents of Victoria draws to the attention of the house that the demand for hospital treatment has found many people having to wait inordinate times for surgery at Peninsula Health, Frankston Hospital; and that the emergency ward at Frankston is overworked, leaving patients without proper care.

The petitioners therefore request that the Legislative Assembly of Victoria solve this problem by upgrading the Rosebud Hospital to treat a wider range of medical conditions.

By Mr DIXON (Nepean) (81 signatures)

Neighbourhood houses: funding

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 shows their great concern for supporting the important contribution that neighbourhood houses make in strengthening our communities and building social capital by providing programs for 95 000 participants each week with the assistance of 13 000 volunteers.

Your petitioners therefore respectfully request that the government commit to $84 million over five years so that

both the hours and the remuneration of neighbourhood house coordinators can be increased.

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

By Mr MAUGHAN (Rodney) (29 signatures)

Ambulance services: Whittlesea and Kinglake

To the Legislative Assembly of Victoria:

We, the undersigned, draw the attention of the house to the unreasonably long average ambulance response times in the communities of Whittlesea and Kinglake.

The current Victorian government target for code one emergencies is that the response time be within 14 minutes, in 90 per cent of cases. The communities of Whittlesea and Kinglake experience much longer response times.

Postcode	Total Cases	Code One Cases	Average Code One Response Time
3757 (Whittlesea/surrounds and Kinglake West/surrounds)	102	67	**26.3 minutes**
3763 (Kinglake)	16	14	**34 minutes**
Total	118	81	**NA**

Summary of ambulance attendances during period November 2004 to February 2005

The petitioners therefore request that the Legislative Assembly of Victoria should immediately act to ensure that the ambulance response time for code one emergencies in the communities of Whittlesea and Kinglake be reduced to not more than 14 minutes in 90 per cent of cases.

By Ms GREEN (Yan Yean) (128 signatures)

Tabled.

Ordered that petitions presented by honourable members for Bayswater, Bendigo East, Evelyn, Frankston, Gembrook, Ivanhoe, Monbulk, Morwell, Mount Waverley, Mulgrave, Prahran, and Tarneit be considered next day on motion of Mr PERTON (Doncaster).

Ordered that petition presented by honourable member for Rodney (Education: home-schooling) be considered next day on motion of Mr PERTON (Doncaster).

Ordered that petition presented by honourable member for Yan Yean be considered next day on motion of Ms GREEN (Yan Yean).

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

Ordered that the petition presented by honourable member for Derrimut be considered next day on motion of Mr LANGUILLER (Derrimut).

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 2

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 2 of 2006 on:

Building and Construction Industry Security of Payment (Amendment) Bill
Drugs, Poisons and Controlled Substances (Volatile Substances) (Extension of Provisions) Bill
Education and Training Reform Bill
Interpretation of Legislation (Further Amendment) Bill
Land (St Kilda Triangle) Bill
National Parks (Otways and Other Amendments) Bill
Public Sector Employment (Award Entitlements) Bill
Retail Leases (Amendment) Bill
Terrorism (Community Protection) (Amendment) Bill

together with appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Commonwealth Games Arrangements Act 2001 — Orders under s 18 (25 orders)

Interpretation of Legislation Act 1984 — Notice under s 32(3)(a)(iii) in relation to Statutory Rule No 3

Land Acquisition and Compensation Act 1986 — Certificate under s 7

Legal Profession Act 2004 — Practitioner Remuneration Order under s 3.4.24(1)

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

Brimbank Planning Scheme — No C85

Buloke Planning Scheme — No C11

Frankston Planning Scheme — No C36

Gannawarra Planning Scheme — No C13

Greater Shepparton Planning Scheme — No C63

Hume Planning Scheme — No C76

Latrobe Planning Scheme — No C34

Macedon Ranges Planning Scheme — No C48

Maroondah Planning Scheme — No C48

Moira Planning Scheme — No C24 Part 1

Nillumbik Planning Scheme — No C43

Stonnington Planning Scheme — No C53

Strathbogie Planning Scheme — No C20

Surf Coast Planning Scheme — No C28

Whitehorse Planning Scheme — No C63

Statutory Rules under the following Acts:

Mineral Resources Development Act 1990 — SR No 8

Racing Act 1958 — SR No 11

Transport Act 1983 — SR Nos 9, 10

Subordinate Legislation Act 1994 — Ministers' exemption certificates in relation to Statutory Rule Nos 8, 10, 11

Transport Act 1983 — Final Report by the Essential Services Commission on the Review of Accident Towing and Storage Fees 2005

Victorian Privacy Commissioner — *Jenny's Case: Report of an Investigation into the Office of Police Integrity* pursuant to Part 6 under the *Information Privacy Act 2000* — Ordered to be printed.

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

Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act 2004 — Section 37 (except paragraph (b)) on 1 March 2006 (*Gazette G8*, 23 February 2006)

Prisons (Interstate Transfer) (Amendment) Act 2005 — Section 7(1) on 23 February 2006 (*Gazette G8*, 23 February 2006)

Transport Legislation (Further Miscellaneous Amendments) Act 2005 — Part 4 and section 35 on 10 February 2006 (*Gazette G6*, 9 February 2006).

APPROPRIATION MESSAGE

Message read recommending appropriation for Education and Training Reform Bill.

PARLIAMENTARY PRIVILEGE

Complaint: legal action

The SPEAKER — Order! I desire to inform the house that the member for Preston lodged with me on 3 February 2006 written notification of an alleged breach of privilege. The essence of the complaint is that a constituent, who had provided information to the member for Preston relating to an issue that the member had previously raised in the house, later received a solicitor's letter threatening legal action if the member for Preston repeated certain allegations in the house.

The member for Preston claims that the threat of adverse action against his constituent is an attempt to constrain him from speaking in the house and therefore a breach of privilege.

It is the Chair's role to determine whether the matter raised falls within the category of contempt. The complaint raised by the member relates to the basic privilege of freedom of speech. Article 9 of the English Bill of Rights 1689 declares:

> … that the freedom of speech, and debates or proceedings in Parliament, ought not to be impeached or questioned in any court or place out of Parliament.

Erskine May states that a contempt consists of:

> … any act or omission which obstructs or impedes either house of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such house in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results.

There are two questions to be considered in this case. The first is whether such a threat, when directed at a constituent for the provision of information to a member of Parliament for use in the house, constitutes a contempt. There is no doubt that members are provided with a range of information from time to time and that such information becomes an important source for members to raise matters in the house. To have the provision of such information regularly subjected to legal threats would significantly hamper members in the performance of their duty. Whilst this particular question has not been fully determined by the courts or parliamentary practice, I am of the opinion that this matter could fall within this category of contempt.

The second question to be considered is whether the threat could be considered as an improper means to influence the member for Preston in the performance of his duties. The *House of Representatives Practice* makes it clear that:

> … to attempt to influence a member in his or her conduct as a member by threats, or to molest any member on account of his or her conduct in the Parliament, is a contempt. So too is any conduct having a tendency to impair a member's independence in the future performance of his or her duty.

It appears to me that there is a reasonable expectation that the threat could be seen as an improper means to influence the member. I am therefore satisfied that a prima facie case has been established and that precedence should be given to the matter being considered by the house. I call the member for Preston

to now proceed in accordance with the practices of this house.

Mr LEIGHTON (Preston) — I move:

> That the complaint made by the member for Preston on 28 February 2006 be referred to the Privileges Committee for examination and report.

I am moving this motion because there has been a clear and premeditated attempt to stop me from speaking in this house. I will not be gagged, and I do not believe this house should accept any of its members being gagged. In the Westminster system — indeed, in any parliamentary system — the right of elected members of Parliament to go into their chambers and to speak without fear or favour is one of the pillars of democracy. This right is protected by parliamentary privilege, and the Privileges Committee has an important role to play in investigating any breaches.

In my 17 years in this place I can only recall three prima facie rulings by the Speaker, two of them then being referred to the Privileges Committee. This demonstrates the seriousness with which this place treats such matters and the tests which an individual member has to undergo to be able to get a matter to this stage.

The basis of my complaint is a letter from a firm of solicitors, Mills Oakley, to a constituent which contains a threat of action should I raise a matter in this house. I understand my letter and the solicitor's letter have already been circulated. I intend reading into *Hansard* the letter from the firm of solicitors so that it is privileged, which it otherwise would not be.

The letter from Mills Oakley Lawyers, under its letterhead, is addressed to Mr John Cannard, unit 23, 2 Gremel Road, Reservoir, Victoria, 3073:

> Dear Mr Cannard,
>
> Defamation of Mr Stephen Wellard
>
> As you are aware, we act for Ellerton Lodge Pty Ltd. You may not be aware that we also act for Mr Stephen Wellard, a director of Ellerton Lodge.
>
> We are instructed by Mr Wellard that you have made erroneous allegations that he at some point assaulted you. We are instructed that those allegations have been made verbally in the hearing of a number of other residents and Mr Michael Leighton, minister of Parliament for Preston.

Wishful thinking!

> As you are also aware, Mr Leighton has made numerous false and embarrassing allegations and name calling of Mr Wellard under the protection of parliamentary privilege. He cannot be sued for defamation at this point, because he has not dared to make those allegations outside of Parliament.
>
> You are not protected from parliamentary privilege and can be sued for false and damaging allegations made about Mr Wellard which have the effect of besmirching his character and damaging his reputation.
>
> We request that you make an immediate and formal apology to Mr Wellard for your false allegations and cease to make those allegations immediately. We hereby put you on notice that, should your false allegation be repeated in any media or by Mr Leighton in Parliament or by yourself or any other person, we will bring action against you to recover the damages suffered by our client.
>
> If you have any questions or require further information, please contact Jeanette Thomson on (03) 9605 0879.
>
> Yours faithfully,
>
> Mills Oakley Lawyers.
>
> cc: Steve Wellard

The offending part of this letter is the paragraph that states that if I repeat the allegations in Parliament, it will take action to recover damages. In its letter Mills Oakley says that it acts on behalf of its client, Steve Wellard. Mills Oakley is a city law firm located in William Street which has now extended into Sydney. As well as acting on behalf of Mr Stephen Wellard, it also says it acts on behalf of Ellerton Lodge Pty Ltd.

I have done a recent company search which shows that Ellerton Lodge trades as Summerhill Residential Park. Its line of business is running an independent living retirement home and lists its chief executive officer as Stephen Wellard. The company has 12 ordinary shares — six owned by Stephen Wellard and the other six by his wife. Summerhill is, within the meaning of the Residential Tenancies Act, a caravan park in which long-term residents live in relocatable homes. They purchase their homes but also pay fortnightly rent for the land on which they are located.

The important part of this is that I have been speaking in this place for some time in critical terms not only about the conditions that the Summerhill residents face but also about the treatment of the residents by the proprietor, Stephen Wellard. It would certainly be fair to say that he would not be happy with my comments.

At the same time an application has been brought before the Victorian Civil and Administrative Tribunal (VCAT) by a number of residents, including the resident who has written to me. The resident who received this letter from Mills Oakley met with me in December 2005. He briefed me on allegations of kidnapping and assault and provided me with various documents, including written statements. The

allegations of kidnapping made by Mr Wellard against my constituent I believe are false. The allegations my constituent has made about Mr Wellard assaulting him I believe are true.

A brief outline of what happened is that in the Summerhill Residential Park on 15 January 2002 my constituent noticed a young man photographing houses. While he stated that he was Mr Wellard's — —

The SPEAKER — Order! I do not wish to interrupt the member for Preston, but he does not need to go into the history of that matter. It is really the privilege matter that we are discussing at the moment.

Mr LEIGHTON — I certainly will not detail the matter, Speaker, other than to say that in their letter to Mr Cannard the solicitors stated that he had put allegations of assault to me, and they relate to this incident. I accept the truth of that, and I am making the point that Mr Wellard found those most embarrassing and took action through his solicitors to head me off from repeating them. It was my intention to raise in this place, along with other matters I have been raising about Summerhill, details of those allegations of kidnap and assault. Hence the letter from Mills Oakley.

The letter that my constituent received from Mills Oakley has had a very profound effect on him. He is 76 years old, he is an aged pensioner and he is in poor physical health. He has Parkinson's disease, asthma, hypertension and prostate cancer, and his wife — —

Mr Doyle — On a point of order, Speaker, whilst in no way do I wish to detract from the seriousness of this motion, surely this is not the place to be arguing the merits of the particular case of privilege. This is merely about deciding, following your prima facie decision, whether or not the matter should proceed to the Privileges Committee, and any canvassing of the issues which the committee may in turn have to canvass may well be a polluting of that whole process. I do not say that as a means of trying to obstruct this matter but as a means of trying to ensure that all involved receive natural justice in the course of our making the decision today about whether this matter goes to the Privileges Committee. It is not for us in this chamber at this time to argue the rights and wrongs of the case itself.

Mr LEIGHTON — On the point of order, Speaker, I will not go on any further about the constituent. I will turn to the actual breach of privilege. I needed to provide that information to members of the house so they could understand the context of the threat.

The SPEAKER — Order! I uphold the point of order raised by the Leader of the Opposition. It is necessary to relate the matter to the motion seeking to refer the matter to the Privileges Committee.

Mr LEIGHTON — I believe the actions of both the solicitors, Mills Oakley, and Mr Wellard are a contempt of the Parliament. I refer to chapter 8 on page 128 of Erskine May's *Parliamentary Practice*, 23rd edition, where it says under the heading 'Contempts':

> Generally speaking, any act or omission which obstructs or impedes either house of Parliament in the performance of its functions, or which obstructs or impedes any member or officer of such house in the discharge of his duty, or which has a tendency, directly or indirectly, to produce such results, may be treated as a contempt even though there is no precedent of the offence.

I quote also from the *House of Representatives Practice*, fifth edition, at page 731, under the heading 'Intimidation of member':

> … to attempt to influence a member in his or her conduct as a member by threats, or to molest any member on account of his or her conduct in the Parliament, is a contempt. So too is any conduct having tendency to impair a member's independence in the future performance of his or her duty.

While not all dealings between a member and a constituent are covered by privilege, in my view this one is because it goes directly to my role of speaking in this house. As I have indicated, I have spoken on Summerhill previously. I intended to do so again, and I communicated that. Clearly the letter makes the threat in the context of what would happen if I were to speak in this house.

The letter from Mills Oakley is signed 'Mills Oakley'. Therefore the firm itself must take responsibility for the letter. The letter lists Jeanette Thomson as the contact and Roger Jepson as the partner responsible. Jeanette Thomson is quite likely the solicitor who drafted the letter. She has been involved as the hands-on solicitor at the VCAT hearing, in meetings with me and in media reports. In one report, on page 6 of the *Preston Leader* of 14 February, she is reported as having spoken about parliamentary privilege. She is not a junior solicitor and should know better. Her title is — —

Honourable members interjecting.

The SPEAKER — Order! I ask the member again to refer his comments to the motion, which refers to parliamentary privilege. It is not really appropriate to be canvassing opinions about the people involved in a matter that is to go before the Privileges Committee. The members of the committee will decide on the matter, so I ask the member to restrict his comments to the motion requesting that the matter go to the Privileges Committee.

Mr LEIGHTON — I will go no further on Mills Oakley, other than to draw the attention of the Privileges Committee to the fact that the letter is signed by Mills Oakley.

The SPEAKER — Order! The members of the Privileges Committee will decide for themselves what they will look at.

Mr LEIGHTON — The other matter I raise also is that in my view Mr Stephen Wellard is equally responsible for any contempt of the Parliament.

Mr Doyle — On a point of order, Speaker, this is a very serious matter. During the course of trying to convince us that he is going just to the matter of whether this should go to the Privileges Committee the member is naming people and putting forth an opinion about them which remains his opinion and which may or may not be the conclusion of the members of the Privileges Committee. That has the effect in this house of impugning those people. I would again argue that the member has, for perhaps the third or fourth time, polluted the very process which he seeks to set in train.

The SPEAKER — Order! I have asked the member previously, and I must now insist that he address his comments to the matter going before the Privileges Committee. It is not for him to introduce evidence in the house this afternoon.

Mr LEIGHTON — I ask the Privileges Committee to look at the letter in its totality, which I believe is important.

The SPEAKER — Order! Once again, the motion before the house seeks to have the matter referred to the Privileges Committee. It is not for anyone in this house to be giving directions or helpful instructions to members of the committee. They will determine themselves what they want to look at. The only thing that members of the house are deciding today is whether they believe the matter should be referred to the Privileges Committee. It is not appropriate to be canvassing those issues or, indeed, to be suggesting what members of the committee should do. As I said, that is entirely a matter for the Privileges Committee.

Mr LEIGHTON — I want to conclude by saying that the issue of Summerhill is one that I have spoken on in this house, and I intend to continue speaking on — —

The SPEAKER — Order! Once again, the member is talking about general issues. The motion is about referring the matter to the Privileges Committee.

Mr LEIGHTON — I would like to conclude by saying that it is vital to the health of a democracy that its representatives have the capacity to speak in this chamber. It is on that basis that I am urging honourable members on both sides of the house to support this motion. Irrespective of their views on Summerhill, the paramount and overriding principle is the ability of members to come in here, free of any constraint or threat, and be able to say their piece. In my view, the letter is an attempt to gag me and stop me from doing that. I ask members to support this motion to protect the privileges of the house and the rights of honourable members to come in here and speak freely, openly and without constraint.

Mr DOYLE (Leader of the Opposition) — I feel compelled to join the debate on this very serious substantive motion. It is rare that these matters are brought before us, as the member for Preston said. The reason that this is so serious is that this place is special. We do not need to rely on the courts for these matters. We have our own penal jurisdiction, the highest expression of which is through the privileges process, and that is the process which the member for Preston seeks to put in train today. The powers available in that penal jurisdiction are quite remarkable. They go to committals — that is, imprisonment; fines; suspensions; expulsions, because normally it is a matter between members; and reprimands. There is a range of other remedies that this Parliament can impose as a result of the privileges process.

I understand that the Speaker has already determined — it is, of course, the Speaker's role — that there is a prima facie case to say that this matter should go to the Privileges Committee. I respect that, and I will make my comments in light of the decision that has been made.

The SPEAKER — Order! Can I correct the Leader of the Opposition on one point. I do not decide that it goes to the Privileges Committee. I allow a motion to be put before the house, and the house decides whether it goes to the Privileges Committee or not.

Mr DOYLE — I am happy to be corrected on that matter, Speaker. I understand that you have determined that there is a prima facie case for its coming before the house.

It is a rare case that the member for Preston brings before us, because of course the usual privileges case is about one member raising concerns about another member, so it is a member of Parliament who is brought before the Privileges Committee. That is not to say that that rules this out. As I understand the motion

that the member for Preston has put before us today, it is about whether an attempt by one individual to influence another individual who is not a member of Parliament over the nature or content of the communication between that second individual and the member for Preston constitutes a breach of the privileges of this house. Therefore it is a one-step or two-steps-removed process, a little different from the usual thing that we deal with, even in unusual circumstances.

It seems to me that there are two issues, some aspects of which were spoken about by the member for Preston, that we need to consider in order to determine whether this goes to the Privileges Committee. I do not wish to prejudge the committee's decision, should we send it to the committee, but the first aspect is whether any information that is passed from a constituent to a member of Parliament constitutes part of parliamentary proceedings, because if it does not then of course the question does not arise. In previous cases it has been a vexed question as to whether information or communication to a member of Parliament is, in fact, part of parliamentary proceedings. The definition that we go to, as I understand it, is whether it is for the purposes of or even incidental to the business of the house.

Clearly I would argue, and the member for Preston made the point, that in the forms of this house there are many forums in which such a communication could be used — whether they are 90-second statements, a grievance debate, the adjournment debate, matters of public importance, questions without notice or even questions on notice. There are many forums in which such communications can be a part of the business of the house. That seems to be something the Privileges Committee may well choose to look at but is almost no longer a question because of the universal nature of the material that is put before members of Parliament. I understand the committee will have to deliberate on the matter should we decide to send it.

The second issue, though, is the more important in deciding whether something should go to the Privileges Committee. It is the argument that the member for Preston wishes to make — that is, whether there has been an attempt to prevent the member for Preston from discharging his role and responsibilities as a member of Parliament. The member went further in his presentation to the house and even imputed improper motive or influence. I make the argument that I do not think that is appropriate. It is a matter, if the Parliament decides to proceed today, for the Privileges Committee to determine on hearing all sides of the story.

This is not such a rare occurrence. Honourable members may be familiar with such cases as those of Gordon Scholes, Con Scaccia, Peter Nugent and, most recently, Bob Katter, who have had matters of this kind put before the Federal Parliament. I cannot recall in my time in this Parliament such a case where we are dealing with two individuals at arm's length from the member neither of whom are members of the house and about whom the case turns. As I say, we are not here to engage in debate on that matter.

As I look at this, the one thing that I am not sure of is that there does not seem in the member for Preston's presentation to be any connection between the letter and himself. He has a copy of the letter — —

Mr Leighton — Have you read it?

The SPEAKER — Order! This is a serious matter and the Leader of the Opposition should be able to put his position without interjection.

Mr DOYLE — I think the member misunderstands me. What I am suggesting is that in his presentation there is not a causal link established between the letter and himself. The letter is not addressed to him.

Mr Leighton interjected.

The SPEAKER — Order! The member for Preston has had his turn and we should allow the Leader of the Opposition to have his.

Mr DOYLE — Again I am not wishing to clarify it, but what the member for Preston did not point out to the house is the communication between Mr Cannard and himself by which the letter has obviously come into his possession and through which he now wishes to argue that improper influence. That seems to me to be a large omission. I understand that he tabled the letter, and I understand the original complaint that he made, but what he did not tell us was in what way Mr Cannard or the letter itself has influenced him or constrained him in his duties. That is not something I wish to canvass here. That is something the committee should canvass if we decide to go down that track. I must say that for me that was an omission in the member's presentation.

The other point I make is this. This is a matter between two individual members of the public where legal proceedings have been proposed. In the normal course of events in the general community that would play itself out. It may or may not happen, depending on whether the member speaks in the house or the other conditions are met. That is a matter not for the consideration of this house or for the consideration of the Privileges Committee; the matter of whether a

defamation has or has not occurred is a matter for the courts and is between the two individuals. That, therefore, is not a matter by which it would go to the Privileges Committee.

I sound one further note of caution about the nature of this motion. There are many groups in the community who oppose a government or a parliamentary decision and who want to lobby the government, the opposition or the Parliament about decisions we might make or influence the government, the opposition or the Parliament about decisions that we might make. Some of them are quite vocal and some are very forceful. Are we now to say that if any lobby group forms out there that is violently opposed to a decision of the government and therefore seeks to say, 'Do not raise that in Parliament', that may be a breach of the privileges of this place?

Mr Helper — Yes.

Mr DOYLE — No. The member has not been in this place very long. I put the question to him and invite him to consider the consequences of what he is suggesting. The point I make is this: the member for Preston tells us that he feels — —

Mr Haermeyer — On a point of order, Speaker, the Leader of the Opposition appears to me to be in breach of the very point of order that he raised and that you upheld in that he appears to be now debating the substance of the motion before the house. The issue before the house is whether there is a prima facie case which needs to be referred to the Privileges Committee and not to debate in detail the merit of the matters that need to be considered by the Privileges Committee.

Mr DOYLE — On the point of order, Speaker, surely if the member for Preston, during the course of his motion, raises things that go to whether we need to send this to the Privileges Committee, then that does have to be canvassed, very carefully I concede, by the opposition in deciding whether to support this motion going to the Privileges Committee.

The SPEAKER — Order! I certainly cautioned the member for Preston about dealing with the details of the case that has resulted in the motion for the matter to go to the Privileges Committee. Whether or not the matter should go to the Privileges Committee can be discussed as long as we do not go into the details of the specific case before the house.

Mr DOYLE — I do not intend to add much more to my contribution because we on this side believe these matters should be sent for the consideration of the Privileges Committee — and we will support that. We place on the record that we have some reservations in this case partly because of the unusual circumstances and partly because of the presentation of the member for Preston. In supporting sending this to the Privileges Committee we on this side hope the motives of the member for Preston are as passionate in this matter and truly to do with privileges and not to do with something that is less than appropriate for this house to deal with in committee. We support this being sent to the committee.

Mr RYAN (Leader of The Nationals) — The Nationals support the reference of this matter to the Privileges Committee. The key consideration in the correspondence that has been tabled by the member is in the second last paragraph where it says:

> We hereby put you on notice that, should your false allegation be repeated in any media, or by Mr Leighton in Parliament, or by yourself or any other person, we will bring action against you —

that is, Mr John Cannard, the person to whom this letter is directed —

> to recover the damages suffered by your client.

It is an unusual circumstance in that we have three parties involved as opposed to the usual circumstance where a member of Parliament is subject to correspondence of this nature or is directly involved in the exchange in some way. The Nationals believe the high point of this case rests around that provision I have quoted. It will be up to the Privileges Committee to determine how it goes about the conduct of any inquiry which may fall to it to undertake. In so far as the actual reference of the issue for consideration by the committee is concerned, in all the prevailing circumstances The Nationals support that course.

Mr BATCHELOR (Minister for Transport) — I support the motion moved by the member for Preston, which has been supported by the Leader of the Opposition and the Leader of The Nationals. The contribution I wish to make goes to the general principle about the absolute desirability and longstanding need for members of Parliament to be able to conduct themselves in this chamber without fear of retribution against them or against other parties for things they may say in this chamber.

The freedom of political communication is one of the most important democratic protections that Australia has. It is absolutely fundamental to our way of life. The High Court of Australia has indeed recognised this as an implied constitutional freedom for all Australians. It is also recognised in section 19 of the Constitution Act of 1975. It is based on article 9 of the United Kingdom

Bill of Rights Act 1689, from which you quoted, Speaker, and I think it is worthwhile quoting it again. Article 9 says:

> … that the freedom of speech and debates or proceedings in Parliament ought not to be impeached or questioned in any court or place out of Parliament.

I believe this privilege is quite unambiguous and straightforward, and it gives members of this Parliament the freedom to debate subjects of their choosing and to say in Parliament what they wish to say without the risk of incurring any legal liability. That extends not only to the risk of any legal liability accruing to them but also to other parties to which the contribution in Parliament may be directed. As the Leader of The Nationals quite rightly pointed out, that goes to the nub of the privilege issue that is of concern to members of Parliament, and it goes to the nub of the privilege issue that the member for Preston has raised.

This privilege protects members of Parliament against legal actions alleging defamation, whether in libel or in slander. It means that members can engage in debate in an open and frank way. Attempts by improper means to influence members in their parliamentary conduct may be considered a contempt, and that is one of the issues we will be asking the Privileges Committee to consider.

The intimidation of members by threats to sue in defamation over statements made under the protection of this privilege may be a contempt, and that is an issue we also will be asking the Privileges Committee to consider. The reasons for this are obvious. If members of Parliament were able to be intimidated in this way, the freedom of the Parliament to debate issues in an open and frank manner would be absolutely compromised. Any attempt to compromise this freedom strikes at the heart of democracy in the state of Victoria and ought to be treated very seriously.

The foreshadowed support for this by members of this Parliament is an indication that the Parliament itself treats these matters — in particular, the fundamental principle and its application — as very important. Whether it is an act of intimidation against a member of Parliament for what they say here or, as is suggested in the second-last paragraph, an action to be taken against a third party because of what a member of Parliament might say in this chamber, it is my view that this goes to the fundamental way in which this Parliament is structured. It also goes to the very basis upon which those freedoms of speech and debates are founded, right back to the United Kingdom Bill of Rights of 1689. I believe it is a matter that the Privileges Committee ought to be asked to address, and that is why I am supporting this motion.

Mr LEIGHTON (Preston) — By right of reply I will briefly respond to the points raised by the Leader of the Opposition. Firstly, he said there was no demonstration of the link between the constituent and me. I would have thought it was self-evident that the constituent provided the letter, and I can confirm that he provided it to my office. The certified stamp is signed by one of my staff, who actually held the original and was able to confirm that this was a certified copy.

The second point I want to make is that it is the attempt to gag me which is the important component, not whether it actually occurred. By definition, if I had been gagged this house would not have heard about it. The attempt in the letter to gag me was happening pretty clearly, because the constituent came to my office in a hurry and a panic. That is at the heart of the matter that I think the Privileges Committee ought to examine.

Motion agreed to.

BUSINESS OF THE HOUSE

Program

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

> That, under standing order 94(2) the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 2 March 2006:
>
> Crimes (Document Destruction) Bill
>
> Gambling Regulation (Miscellaneous Amendment) Bill
>
> Infringements Bill
>
> Justice Legislation (Miscellaneous Amendments) Bill
>
> Rail Safety Bill
>
> Transport Legislation (Safety Investigations) Bill.

The moving of this government business program motion identifies that the Parliament will be set the task of dealing with six pieces of legislation during this coming week. However, I point out that two of the proposed bills — namely the Transport Legislation (Safety Investigations) Bill and the Rail Safety Bill — will be moved and debated concurrently in accordance with an order of the house dating back to 20 October 2005. The reasons for doing so are obvious to anyone who has looked at those bills — that is, it will be a convenient and easy way of dealing with two pieces of interlocking legislation and a more expeditious way of dealing with important rail safety issues.

I point out also for the benefit of the house that it is my intention to move some house amendments to these bills. For the benefit of the opposition, The Nationals and the Independents, when the time for government business arrives I propose to have those two rail safety bills called on simply to have the amendments circulated. I suggest that, that having been done, debate on the two bills then be adjourned. This is being done so that the house will have before it the details of those amendments, which will assist later in the debate when we come back to them.

I also add that we have already provided briefings to the opposition and The Nationals — and we made them available to the Independents, if that was their desire — before today to facilitate their understanding of the amendments to those two pieces of legislation. That is one change in the business program that I want to bring to the attention of members.

The other change is the order of going through bills. After those transport amendments have been circulated, we will start with the debate on the Crimes (Document Destruction) Bill as the first part of the legislative program for this week. We will continue with that until it is likely to be concluded. That will be followed by the debate on the Gambling Regulation (Miscellaneous Amendments) Bill, so that those bills can be dealt with at the beginning of the parliamentary week before we go back to the rest of the program. Depending on what stage we are at, it is likely that the two rail safety bills will be next. In that context, I commend this government business program to the house.

Mr THOMPSON (Sandringham) — It has just been drawn to my attention that a number of house amendments are being introduced to the Rail Safety Bill and the Transport Legislation (Safety Investigations) Bill.

I trust there will be sufficient time for the opposition to be briefed as to the breadth and detail of those amendments, and to consider its position on them. A characteristic of the government has been to introduce legislation into the house and disseminate it for public comment but then to bring in amendments to that legislation without allowing sufficient time for members of the chamber to properly dwell and reflect upon them.

It is regrettable that the government has not been able to organise its program in a constructive way so that these matters can be considered appropriately. The government has had all summer to get its advance legislation program in order. Amendments to the legislation have been discussed, but I have just spoken briefly with the shadow Minister for Transport, the member for Polwarth, and he does not know what amendments are likely to be introduced here. I trust there will not be disruption to the deliberation on these matters by the opposition through a lack of preparation due to a shortage of time. One would trust that the government can get its legislation in order, taking into account the expert advice it has across a number of areas. The opposition notes those matters in relation to the government business program.

It has been a practice in relation to the business of the house that the opposition be advised late in the preceding week as to which bills are likely to come forward. That process itself may be a matter of tradition, but it does not always allow sufficient time for all responsible shadow ministers to make sure they have their matters in hand and their briefings organised as they prepare for each upcoming sitting week. As we consider the business program, I caution the house and the minister that we need to ensure that the shadow minister has sufficient time to consider the legislative amendments that are to come forward.

Mr MAUGHAN (Rodney) — The Nationals will not be opposing the government business program. This week's business program is reasonable, but I pick up on the comments made by the member for Sandringham. It is not a problem to The Nationals this time around. I appreciate that the minister notified us in good time, The Nationals have had a briefing and are aware of the amendments. We appreciate that.

Nonetheless, the point that the member for Sandringham has made is a good one in that the pattern developing is for legislation to be introduced to the house, that the house then has time to consider a bill, but then, at the last minute — and I can refer to the water bill, the Children, Youth and Families Bill and a range of other others when this has happened — amendments are circulated here shortly before the bill is to be debated.

It is hard enough for members to get their minds around those amendments and their consequences. It is not easy to refer back to consequences that could have been contemplated. We have no opportunity with the very short time frame to then consult with the broader community and with various interest groups.

I support the comments of the member for Sandringham: it is becoming a bit too much of a pattern. In this case it is not a problem as far as The Nationals are concerned. We are quite happy with the government business program.

However, I make the comment that a couple of bills have been sitting on the notice paper for a long time. I wonder when the government will get around to debating them. The Channel Deepening (Facilitation) Bill is one. I know that the Minister for State and Regional Development would be very keen to get this bill debated and passed, but I guess there would be other government members who would not be so keen to have it debated. So it is sitting there on the notice paper. I would lay a shade of odds that it will still be sitting there when we go to the election on 25 November.

Mr Plowman — Bring it on!

Mr MAUGHAN — Yes, we should bring it on. Another bill that has been sitting on the notice papers for a long time is the Courts Legislation (Judicial Pensions) Bill — and I do not understand the government's rationale on this one. It would be nice to have that also brought on and debated. The government business program is a reasonable one this week. The Nationals have no difficulty with it.

Motion agreed to.

MEMBERS STATEMENTS

Geelong: Eastern Park

Mr LONEY (Lara) — Eastern Park is a great asset for the Geelong community. It was a piece of land set aside by the founding fathers of Geelong to be a major open-space benefit to future generations of those who have lived in the region. It includes the site of the Geelong Botanic Gardens which has been developed into a leading garden over those years. It also includes sport and recreational facilities and passive recreational facilities, and is a great place for all in the Geelong community to use.

Unfortunately Eastern Park is now under attack, not by vandals, hoons, or the like, but actually by the custodians who are meant to protect it. For years developers have had their beady, greedy little eyes on Eastern Park, but the community has strongly said, 'Hands off'. But in recent times it has unfortunately been sliced more than the family salami.

Now a heritage listing is being proposed to give Eastern Park the protection it needs. Elements within the Geelong council are opposing it, because a listing may hinder future development opportunities. It is time a clear message was sent to all those who are trying to take bits of Eastern Park away from the Geelong community. It is a very clear and simple message: hands off our park.

Snowy Hydro Ltd: sale

Mr SMITH (Bass) — When I look at the members of the mob opposite — not that there are many of them here — I think to myself, 'What a pack of hypocrites they are'. After they bagged the Kennett government for years over the professional way it disposed of a number of government institutions by privatisation at a premium price, which in the long run was to pay off the debts that had been incurred by the former Cain and Kirner governments, which included a $600 million school maintenance black hole, now the Bracks government is selling off Victoria's holdings in the Snowy River hydro project to the highest bidder — and without a whimper!

There are no cries of, 'Don't sell our water' from the weak group of backbenchers, nor do I hear the socialists on the other side complaining that, 'This is our heritage and our precious water resources'. All we hear from them is, 'How are we going to spend the money?'.

It is not that I am against the sale; in fact far from it. I am against the hypocrisy shown by this disgraceful bunch opposite. You must question where the Bracks government says it is putting the money. It says it is going into schools that the Bracks government has neglected over the past seven years, just like the Cain and Kirner Labor governments did. What would have happened to our schools if this windfall gain had not come along? Shame on you, you pack of bloody hypocrites!

Employment: Muslim job seekers

Ms ALLAN (Minister for Employment and Youth Affairs) — We see that the federal government has abandoned young Muslim job seekers but it is certainly not afraid to use them to grab the latest headline. Yesterday the federal government Parliamentary Secretary to the Minister for Immigration and Multicultural Affairs called for specific unemployment programs to target young, jobless Muslims. You certainly have to give it to the Howard government; it has been in office for 10 years and for 10 years it has failed to adequately support job seekers. Instead of showing leadership the federal government has become a commentator more interested in grabbing headlines at a time when this country needs strong leadership more than ever to make sure it remains a diverse and tolerant community and not one that is riven by division.

Many young Muslim people, indeed many young people right across Victoria, need more support and are being let down by this uncaring government because of failures in the job network system. Certainly the gaps in the job network system have been clear to this government since it took office. We have acted to make sure that our state-run employment programs assist young people who face barriers to employment. We would certainly encourage the federal government to follow the lead of the Bracks government. Instead the parliamentary secretary has just realised that these services are a good idea. The Bracks government already has the runs on the board. We have been funding organisations like Victorian Arabic Social Services and the Centre for Multicultural Youth Issues to make sure young people get — —

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

Commonwealth Games: public transport

Mr JASPER (Murray Valley) — I wish to bring to the attention of the house concerns relating to the $10 train fares available to country people utilising V/Line services to attend Commonwealth Games events in Melbourne. I applaud the government's response to representations by The Nationals and others for special fares to be provided to country Victorians to travel to Melbourne on the day of specific events being attended. Due to some inappropriate day return timetables which will not allow people to attend some events, further representations were made and the availability of the fares was extended to travel on V/Line services on the day before or the day after the event.

However, the difficulty that now has arisen is the limit on the availability of the V/Line seats at the special price for the Commonwealth Games. Constituents have contacted me complaining about not being able to access this $10 pricing structure and being informed by V/Line staff that there are no further seats available. After my representations additional seats have been made available on the north-eastern railway lines, but it is obvious more carriages must be provided by V/Line.

I call upon the Minister for Transport, together with the Minister for Sport and Recreation in another place, to immediately review the availability of seating on country rail services so that Victorians living in the country areas of the state can access the special fares to attend Commonwealth Games events in Melbourne.

Danny Sandor

Mr WYNNE (Richmond) — I rise to acknowledge the life of Danny Sandor who died last Tuesday after a brave battle with cancer. His passing is a great sadness to those in the law, the human rights movement, the gay, lesbian, bisexual, transgender and intersex community, and advocacy groups for children's rights.

In our first term of government I worked with Danny, along with an extraordinarily talented group of people, on the Attorney-General's advisory committee which framed the groundbreaking raft of legislation that redressed fundamental inequalities before the law suffered by gay, lesbian and transgender people. Danny was at the forefront of that work. He was hardworking, intellectually rigorous, a great tactician and he brought to our work a sense of urgency born from a real desire to achieve change and to right an historical wrong. I well remember emails that would be sent from far-flung parts of the world at all hours of the night as Danny travelled on behalf of Defence for Children International, responding to the latest thorny issue which the advisory committee was tackling.

Danny worked for a number of years as a senior legal associate to former Chief Justice Alastair Nicholson of the Family Court, and what a powerful team Danny and the chief justice were in speaking out bravely and clearly when they felt that governments were failing in their responsibility to the most vulnerable our community. All who worked with Danny will remember with affection his sense of fun, wonderful smile and zest for life. His passing at such a young age is a great loss to our community and the broader human rights movement. Vale Danny Sandor.

Land tax: increases

Mr CLARK (Box Hill) — Many small and medium-sized taxpayers are again being hit with big increases in their land tax bills this year. The bills are going up and not down because on the government's own figures property valuations from land tax have increased by an average of 40 per cent over the past two years. The government deliberately pretended the valuation increases had not occurred when claiming its so-called cuts. However, the typical owner of land valued at $600 000 for land tax in 2004 will be hit with a 38 per cent increase in land tax this year and a doubling of their land tax bill in just two years from $1180 in 2004 to $1730 last year and $2380 this year on land now valued at $840 000. The tax bill for the typical owner of land valued at $1 million for land tax in 2004 has increased from $6230 to $7503 last year to

$8730 this year. This is a 16 per cent increase since last year and a 40 per cent increase in two years.

In the last year of the Liberal government land tax collections stood at $411 million. Last year the Bracks government collected $848 million in land tax; this is an increase of 106 per cent. The government needs this ever-increasing tax burden to pay for its endless major projects blow-outs, political advertising campaigns and expensive consultants. In contrast a Liberal government will wind back the land tax burden and return to the past practice of periodically revising land tax scales to take genuine account of changes in land values. We will also base tax bills on true market values, scrap indexation factors and give taxpayers the right to object.

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

Alfred Centre

Mr LUPTON (Prahran) — Building work continues apace on the new Alfred Centre for elective surgery in Prahran. Recently the Premier and I visited the site to inspect progress. Construction of the new centre at the corner of Punt and Commercial roads is well under way, on time and due for completion later this year. The new Alfred Centre will treat more than 48 000 patients each year and ease pressure on emergency services at the Alfred hospital. By providing a physically separate medical centre that is still integrated with the Alfred hospital, elective surgery will no longer be at risk of cancellation due to emergency trauma cases arriving at the Alfred hospital.

As the chair of the community participation panel for the Alfred Centre, I am working with patients, families, community members and the project development team to ensure the new Alfred Centre provides a model of care that responds to the needs of patients. The Bracks government is turning around our health system by rebuilding our hospitals and ensuring patients get the support they need. The Productivity Commission's report on government services 2006, released in January, shows Victoria in front of other states and the national average on key health indicators, including waiting times in emergency departments and time to treatment for elective surgery.

As a result of the Bracks government's massive investment in our community's health and wellbeing, our hospitals have gone from being the basket case of the nation in 1999 to leading Australia. The government's investment of over $60 million in the new Alfred Centre in Prahran will reinforce that position by cutting waiting lists further. Separating emergency and elective surgery will minimise the need for multiple hospital visits, ensuring that patients surgery will not be postponed due to emergency trauma cases. Turning around Victoria's health system is an important part of making Victoria the best place to live, work and raise a family.

Government: performance

Ms ASHER (Brighton) — I wish to raise the issue of the government's poor performance in investment attraction and facilitation. My first concern is that raised by the Auditor-General in his May 2002 report. He said:

> There is insufficient transparency in the reporting of investment attraction and facilitation programs.

My second concern is that the government has been giving grants to companies which either reduce investment or employment in the state of Victoria, such as Saizeriya and Kodak.

My third concern is the fact that the government's performance in this area has been declining over time. In 2003–04 it facilitated and announced $2.46 billion of new investments, which it claimed created 7995 jobs. However, in the following year, 2004–05, the government's performance went down. It facilitated and announced $2.117 billion of new investments and the government claimed the number of jobs derived from these projects was 5866. These figures are of course available in the Department of Innovation, Industry and Regional Development annual reports.

What I wish to comment on and draw to the house's attention is not only those three concerns of the government's poor performance in investment attraction and facilitation but the abject failure of a policy result in this vital area. In times of economic growth this government should be facilitating and announcing increased numbers of projects, with increased jobs. It has failed abysmally to do so.

Berwick Fields Primary School: facilities

Mr WILSON (Narre Warren South) — It is my great pleasure this afternoon to inform the house of the new Berwick Fields Primary School. This school in my electorate opened this year, the fifth to do so since the government changed in 1999. The school cost $6.1 million and is one of four new schools to open this year in the state of Victoria. Since 1999, the five new schools in my electorate have cost a total of $57.8 million.

The facilities at Berwick Fields Primary School are excellent and include general purpose classrooms, a state-of-the-art library and technology centre, large spaces for staff and a modern art room. Berwick Fields Primary School has been carefully designed to meet the educational needs of our students now and well into the future, when I expect to be the member. Both the principal, Steven Wigney, and I congratulate the architects and the builders on the great job they have done. I congratulate Steven and his team on the work they have done since he was appointed principal some months ago.

Energy conservation has been built into the design through measures such as eaves that minimise sun in summer, and the positioning of the school and the planting of deciduous trees to maximise sunlight in winter. With the population of my electorate continuing to increase and education being the no. 1 priority of the Bracks government, I will continue to work towards the expansion of schools in my electorate, both primary and secondary.

Mildura: road tragedy

Mr SAVAGE (Mildura) — Just over a week ago, on Saturday, 18 February 2006, at about 9.40 p.m. in Myall Street, Cardross, a car sliding sideways struck a group of teenagers walking beside and well off the roadway. This tragic event took the lives of six bright and beautiful teenagers: Josie Calvi, Shane and Abby Hirst, Cory Dowling, Cassandra Manners and Stevie-Lee Weight.

This tragedy is every parent's nightmare. I know everyone in this place offers their heartfelt sympathy to the families and friends of these beautiful children. When we as a community collectively move on, the parents are left to grieve. No parent should have to bury their children. Consider Rex Dowling, who raised his son Cory from the age of 18 months on his own.

I wish to pay tribute to and commend the efforts of the principal of the Mildura Senior College, Dennis Norton; the regional principal, Garry Weir; the school chaplains; the Mildura Rural City Council; the Minister for Education Services; the Premier; Victoria Police; the Rural Ambulance Service; the *Sunraysia Daily*; the State Emergency Service; and the Sunraysia community for their generosity and solid support for all these families affected by this tragedy. The lesson to be learnt from this is that we should never take relationships and our children for granted.

Schools: Eltham forum

Mr HERBERT (Eltham) — On Tuesday, 21 February, local legal studies students joined me at the Old Eltham Court House for a fascinating legal discussion with the Victorian Attorney-General. The forum was a fantastic chance for our future legal highfliers to hear from the Attorney-General, and they were free to raise any legal issue of interest to them. Almost 50 students heard the Attorney-General speak with passion on a range of legal topics, such as a Victorian bill of rights, the community courts and a more open legal system.

I was deeply impressed with the insightful questions asked by the students and their articulate presentation to the Attorney-General. Clearly a lot of thought had gone into the topics that students raised. All who took part were keen to make the most of the opportunity to grill the Attorney-General about key issues of concern to our legal profession and the community more generally.

The Old Eltham Court House is Eltham's oldest public building and is a fascinating part of our local history. It was a perfect setting and attracted great interest from the students. I would like to congratulate the principals, staff and students from Eltham High, St Helena Secondary College, Eltham College and the Catholic Ladies' College for supporting the forum and making it such a resounding success. Clearly Eltham's schools are producing an extremely bright, driven and switched-on group of legal eagles. I would also like to thank the Attorney-General for offering his time and insight into law reform in Victoria.

Victorian Communities: taxi vouchers

Mr KOTSIRAS (Bulleen) — While I support the use of taxi vouchers when attending work meetings, working back late, or travelling interstate or overseas, I do not support the use of taxi vouchers to attend sporting events here in Victoria, to attend personal functions or to simply travel to Lygon Street for a cappuccino and a chocolate Baci. If public servants decide to organise a party as an excuse to have a Singapore Sling or enjoy some cutlets and continental sausages, then they should pay for themselves or use public transport.

In 2002 the Premier promised that he would introduce strict guidelines for the use of taxi vouchers. Unfortunately he has failed to deliver. I have been advised by some public servants that in the Department for Victorian Communities the abuse of taxi vouchers is out of control. While this will put a smile on the faces of shareholders in Cabcharge, it does nothing for some

of our young people who require assistance. Money that can be saved from the misuse of taxi vouchers can go towards services for our young people — more money for Melbourne Youth Music, more money for Youth Week and more money for Advance.

Perhaps next time the public servants could also invite Ministers Allan, Pandazopoulos, Thwaites, Madden, Broad, Jennings and Delahunty to enjoy a cold El Presidente in honour of their leader. While this government cuts funding to young people, it allows the abuse of taxi vouchers.

Doreen Kay

Dr HARKNESS (Frankston) — It is with much sadness that I rise to note the loss of Doreen Kay who passed away at 3.00 a.m. on Sunday, 19 February 2006, after suffering a second and debilitating stroke. Doreen was an enthusiastic member of the Australian Labor Party's Frankston branch; she attended its meetings and functions up until her first stroke in the middle of 2005.

Born in Halifax, West Yorkshire, in 1920 Doreen migrated to Australia in 1955 and immediately became involved in the local community, particularly through the Lions Club and as a member of Frankston council's disability advisory committee from 1988 until recently. Always cheerful and positive, Doreen will be sadly missed by her son Henryk, Labor Party members and other friends and family. Doreen was given a lovely send-off at St Paul's Church in Frankston last Friday afternoon. On behalf of all your Frankston friends, rest in peace, Doreen.

Frankston Teddy Bears Picnic

Dr HARKNESS — On a much more positive note I gladly attended my third annual Frankston Teddy Bears Picnic on Sunday last and, as always, relished my difficult task of judging the best storybook costumes and the best-dressed teddy bear competitions in four different categories.

I was joined this year notably by St Kilda great Nathan Burke, who handled his interviewing role with great aplomb. Funds raised from this picnic go toward Frankston toy library, which is Melbourne's largest. It is a terrific organisation ably run by the hardworking Bev Le Bas. A range of fantastic activities were available for Frankston families, and it was an opportunity for community groups such as kindergartens to set up stalls.

Kyabram Community and Learning Centre

Mr MAUGHAN (Rodney) — Last Friday I had the pleasure of attending what I believe to be the fifth graduation ceremony of the Kyabram Community and Learning Centre (KCLC). This organisation has grown from very simple and humble beginnings to now be a major training provider in the area and to have been recognised as the Australian small training provider of the year.

This year there were more than 200 graduates from a wide range of courses including certificate III in aged care, certificate III in health services, children's services, disability work, general education for adults, information technology, and certificate IV in assessment and workplace training.

I was honoured to present most of the graduates with their certificates and was delighted to learn that many of the graduates in aged care and disability work had already secured permanent employment. I congratulate all the graduates on their achievements and wish them every success in their future careers or in undertaking further study. I also congratulate Maureen Atkins, the chairperson; the board of KCLC; the chief executive officer, Pam Whipp; the training manager, Paddy Turner, and every one of the large number of tutors on their outstanding contribution to a better trained and better educated work force not only in Kyabram but also in areas far from Kyabram where the KCLC runs training programs.

Yan Yean electorate: community awards

Ms GREEN (Yan Yean) — Today I would like to congratulate the fabulous community-minded people who make the Yan Yean district so special. Many people volunteer and dedicate their time to the community and its benefit. Unfortunately, for much of the time their work passes beneath the radar and does not get publicly acknowledged. Luckily we have events such as annual Australia Day awards to show our appreciation.

In my electorate of Yan Yean we have four such award ceremonies. Although I love attending these awards ceremonies, this year I was only able to attend one as on Australia Day I was on Country Fire Authority duties at the Kinglake bushfires. The following members of our community have worked tirelessly and deserve to be mentioned, and I apologise for missing their special day.

In the Nillumbik Shire Council's Australia Day awards the Nillumbik citizens of the year were my dear friends

Mick and Marg Woiwod. The community group business of the year was won by the fabulous Hurstbridge wattle festival committee. The Nillumbik volunteer of the year was Leighton Boyd. The young citizen of the year was Tayah Landmann, with a special mention for Akshay Naidoo. The Jagajaga award winners from my electorate were Carole Bonney, Heather Shanks, Ruth Wearne, Charles Stray and Diane Cross.

In the Whittlesea City Council's Australia Day awards citizen of the year was won by Kerryn Holland. The environmental student of year was Nicholas Rutter. The young citizen of the year was won by Andrew Buultjens who also carried the Queen's baton through Mernda last week. The senior citizen of year was Helen Campbell, and the community event of the year was won by Northern Hospital. The *Whittlesea Independent* Australia Day awards citizen of the year was Betty Pratt. Other awards went to Gwen Mahoney, Sue Ewert, Darren Peters, Whittlesea Community Market, Sophie Mastoras and Ashley Lovick. Congratulations to all these great contributors to our community.

Land tax: increases

Mr DIXON (Nepean) — This government's merciless grab for cash will cause one thriving business in my electorate to close down and cause a 77-year-old man to lose his financial independence. Mr Ron Grande came to Australia with nothing. He worked very hard setting up a water boring business and retired on the income of five investment properties. His land tax bill has tripled between 2005 and 2006.

Jason Griffith established Arthur's Seat Hotel at Arthur's Seat. This young guy has employed 15 young people. His landlord's land tax bill has increased from $1200 last year to $21 000 this year — a soul-destroying 1300 per cent increase, despite the fact that the landlord has disposed of two properties.

Both of these examples fly in the face of the government's claim of a 50 per cent cap on the tax from one year to another. When the owner of the Arthur's Seat Hotel rang the State Revenue Office about his 1300 per cent bill blow-out, he was told, after being passed around the entire bureaucracy, that he was wrong and they were right, and that the 50 per cent cap did not apply to him.

I ask the Treasurer: who does the cap apply to and why did he not tell the full truth about the cap? I say to the Premier, when asked about these sorts of cases he should stop making the 10-second grab he has been taught about cutting land tax and raising thresholds and answer the real question: why after all his promises are my two constituents being driven to the wall by his 300 per cent and 1300 per cent land tax hikes?

Brentwood Secondary College: achievements

Ms MORAND (Mount Waverley) — It was my pleasure last week to attend the first assembly this year for Brentwood Secondary College. The assembly was to welcome the year 7s and to introduce school captains, vice-captains and school leaders for 2006. I am proud to be a former student of Brentwood, and I always greatly enjoy my visits to this great government secondary school. The school has an outstanding principal in Vicki Forbes and a fantastic teaching and support staff. Brentwood students achieved outstanding results in the Victorian certificate of education (VCE) last year, which has led to the school being the subject of significant interest in student enrolments for this year and beyond. I congratulate the students on their performance and wish this year's VCE students equal success.

I would like to congratulate the school leaders for 2006 and wish them a successful year in their leadership roles and their studies. Congratulations to Carly Walker and David Crowe as college captains; Jane Leong and Kelvin Yap as vice-captains; senior sports captains Maddy Hogan and Mathew Sutherland; middle junior sports captains Debbie N and George Lambdaridis; junior sports captains, Jessica Bond and Lachlan Mann; and senior house captains Amy Bisset, Jarrod Cruse, Emily Alexander, Nick Ryan, Nicola Govan, Ben Parker, Cathy O'Brien and Sasa Ruzicka. I would also like to congratulate the dux of year 11, Andrew Basset, on receiving the Monash University prize for outstanding achievement in year 11 and wish him the best for year 12.

Brentwood is currently undergoing a rebuilding program, supported by $2.5 million in government funding, and is in for a successful year. Well done, Brentwood!

Mental health: national reform initiative

Mr ANDREWS (Mulgrave) — I rise today to welcome the recent decision by the Council of Australian Governments to develop a single national framework for mental health care in Victoria and right across Australia. This decision is significant for the mentally ill in our community as well as their families, their carers, our dedicated psychiatric and medical work forces, and the broader community. It is important because we know that one in five Victorians will at some time in their life suffer a mental illness. A

national framework for both policy and service delivery will better help meet the needs of today and the challenges of tomorrow, so I welcome this national cooperative approach to such an important issue.

The national framework will complement the hard work of this government in providing for Victoria's mentally ill. Highlights of that work include $732 million recurrent funding for mental health, which represents a 60 per cent increase in funding since the government was elected in 1999 — the biggest ever single boost to mental health funding of some $180.3 million in last year's A Fairer Victoria social policy statement that was supported by all quarters including former Premier Jeff Kennett and his work at beyondblue — and what a great job he does!

Finally, we have seen a record boost to mental health capital works — for example, the redevelopment of Bunjil House and the $32 million allocated for Eastern Health mental health services at Maroondah and Box Hill hospitals. Ours is a record investment and achievement in mental health, and this new national framework will help improve further services for all Victorians.

White Eagle House, Geelong

Mr TREZISE (Geelong) — On Saturday, 25 February, I had the pleasure of helping to celebrate with the Polish community of Geelong the 25th anniversary of its headquarters in Geelong, White Eagle House. The function was attended by hundreds of people — many from the local Polish community but also many from the wider Geelong community, especially residents from Breakwater who frequent the club on a regular basis to enjoy the hospitality of the club. Also in attendance was the Ambassador of the Republic of Poland, Mr Jerzy Wieclaw. The night consisted of traditional Polish dancing, music and fine food.

White Eagle House is a credit to the hard work and dedication of the Polish community of Geelong. In 1981 the committee bought what was then a disused ball bearing factory in Fellmongers Road, Breakwater. From there with minimal outside assistance the local Poles spent many hours transforming the factory into a superb facility for their community to call home.

Today White Eagle House consists of a magnificent reception hall, dining facilities and a poker machine facility. The complex also boasts soccer fields where the club has built a proud and strong record locally. The Breakwater Eagles Club boasts 10 soccer teams, 160 juniors and a number of women's teams. I take this opportunity to congratulate the Polish community in Geelong for the hard work it has committed not only to its own community but to the wider Geelong community over the last 50 or 60 years. It has done magnificent work for the community.

Northern Cyprus Turkish community festival

Mr SEITZ (Keilor) — I rise to congratulate the Northern Cyprus Turkish community for its festival which I had the pleasure of attending last Sunday. It was the community's 50th anniversary, just as it was also the 50th anniversary of my arrival here in Australia, so it was an extra special day for me as well as being a special day for the community.

The Northern Cyprus Turkish community is going from strength to strength across the electorate of Keilor and also the broader city of Brimbank, and with the mayor, Natalie Suleyman, being of Turkish-Cypriot origins, and with the mosque and the cultural centres that are developing in the area, it is really a pleasure to see that community progressing.

The association was formed 50 years ago to welcome the Olympic Games team to Australia from Cyprus, and now with the approaching Commonwealth Games it is again fitting to have a festival for the 50-year anniversary and to see the community going from strength to strength in supporting the welfare of its young people. It was a pleasure to see so many young people taking part in the festival, joining in the activities with the organising committees. With the support of the state government and its sporting bodies, the Brimbank council is establishing some soccer facilities.

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

TRANSPORT LEGISLATION (SAFETY INVESTIGATIONS) BILL and RAIL SAFETY BILL

Concurrent debate

Debate resumed from 6 October 2005; motion of Mr BATCHELOR (Minister for Transport).

Government amendments to Rail Safety Bill circulated by Mr BATCHELOR (Minister for Transport) pursuant to standing orders.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until later this day.

CRIMES (DOCUMENT DESTRUCTION) BILL

Second reading

Debate resumed from 16 November 2005; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — The opposition supports this bill. Certainly it is an improvement on the commonwealth position of perverting the course of justice or the old offence of attempting to pervert the course of justice.

Members of the house and many others would be familiar with the circumstances that led to this bill — that is, the Rolah McCabe case — which involved the destruction of documents. It was a matter of some significant debate in the press and certainly among the public but also in our courts as to what constituted the offence of perverting the course of justice.

It did not involve a criminal prosecution. Mrs McCabe had brought a civil proceeding against British American Tobacco. At the time of her death she was some 52 years of age and for the antecedent 30 or 40 years, certainly from when she was a child when she took up cigarette smoking, she alleged that British American Tobacco had in some way been responsible for the cancer that ultimately claimed her life. Mrs McCabe in the proceeding sought to strike out the defendants' defence to the proceedings on the basis that British American Tobacco, essentially themselves or through their agents — in this case their lawyers — had deliberately orchestrated a campaign to destroy documents that in the words of Justice Eames made Mrs McCabe's case impossible or very difficult to prosecute because of the destruction of those documents. Accordingly Justice Eames struck out the defence, essentially entering judgment for the plaintiff, Mrs McCabe, and damages flowed from that.

British American Tobacco then appealed that case to the Court of Appeal, and three judges sitting as the Court of Appeal unanimously agreed that what went on did not constitute an attempt to pervert the course of justice and did not constitute a contempt of court and that the judge erred in exercising his discretion in striking out the defence. They added that the evidence that was before them did not indicate that that offence had been made out. Essentially the Court of Appeal said not only that the offence was not made out on the facts but that it was certainly not available because it did not amount to a formal contempt of court.

Then ensued a very public and acrimonious debate that involved a firm of solicitors, the Attorney-General and many commentators, certainly from the antismoking lobby — from Quit Victoria, right through. Perhaps what very much got lost in the public statements was the very simple proposition, which is what constitutes perverting the course of justice. Certainly to some extent there was a large degree of grandstanding, perhaps on all sides, but at the end of the day it was about a woman seeking to vindicate her rights in the courts, and I think the public debate was taken over by these other commentators.

Ultimately there were suggestions that the Attorney-General was to intervene in the proceeding before the High Court. I have a very strong view about governments intervening in proceedings where private citizens are seeking to vindicate their rights. Unless there is a legal interest that is sought to be vindicated by our courts, I do not see it as the role of government to intervene on behalf of civil litigants, because that is tantamount to oppression. But that is another argument, because it means governments will go out there and choose winners and losers in these sorts of proceedings. It is far better that civil litigants are left alone to have their own rights vindicated or otherwise in our courts.

Of course if the government has a legal interest to prosecute, then it certainly has a legitimate interest in vindicating those rights, but where the government does not have a legal right to vindicate, it should butt out. But that is a different matter, and it is certainly not a criticism of either Mrs McCabe and her lawyers, or indeed the other parties. It is just a matter of concern that, with some degree of high-handed behaviour, the Attorney-General sought to intervene in a civil proceeding.

As I said, it did not amount to a hill of beans in the end, because the High Court refused Mrs McCabe leave to appeal the matter to the High Court, and Mrs McCabe had died shortly before the Court of Appeal handed down its decision. In any event, as a direct consequence — and properly — where there is a lot of concern about a particular aspect of the law and where there is an anomaly where perhaps, as the Crown Counsel identified, novel law is made by the Court of Appeal, it is of legitimate interest to the government to properly go through a process to address those matters. As I said, this government acted properly in these circumstances by not intervening in the proceeding but in referring the matter to the Crown Counsel for advice and also referring it as part of a global review to the

joint parliamentary Law Reform Committee to look into the issue of administrative crimes such as contempt of court and perverting the course of justice.

It is interesting to note that the Rolah McCabe case was heard in the years 2002 through to 2003. The joint parliamentary Law Reform Committee — and I see the chairman of the committee in the house — reported in 2004. Similarly the Crown Counsel, Peter Sallmann, reported on the specific aspect of perverting the course of justice by way of document destruction — unlike the joint parliamentary committee, which had a more global review of that aspect of the law.

All in all one thing that surprises me is the time that has been taken to bring this bill into the house, given the public concern that warranted the Attorney-General making the respective referrals at the time and the acrimony and heat he generated in this debate with talk of intervening in the High Court proceeding. I am surprised that now at the beginning of 2006 this bill has come into the house for debate. I am surprised that it has taken some almost two to three years for this bill to come forward, given the fact that it is a relatively easy bill which deals only with attempting to pervert the course of justice in relation to the destruction of documents. It is the particular discrete matter that was raised in the Rolah McCabe case, certainly not the global issue that the Law Reform Committee dealt with, that we are dealing with in this bill.

I do not know what The Nationals are doing, but given the fact that there is general consensus that this is a step forward and an advancement of the law, it surprises me that it has taken so much time. Perhaps after having got the headlines some two to three years ago it dropped off the political radar. The hit had been got and it was just a question of putting it through at some appropriate time, and that would appear to be now. As I said, I am surprised it has taken so long for a relatively simple amendment to the Crimes Act to come before the house.

Importantly, the provision for the new crime under new sections 254 and 255 of the Crimes Act essentially means that it is a criminal offence where documents — and 'documents' has a very broad meaning which includes not only physical documents but also photographs, sound recordings, photographs scanned in and all sorts of things; the broader definition of 'documents' I think we all accept as being part of that body — are destroyed with the intention of preventing them from being used or with the intention that they should not be used in a court proceeding. That is a very broad definition, given the fact that the Court of Appeal so narrowly restrained what was considered to be the body of the law at the time. It is very broad. As I said, the definition of 'documents' is very broad and 'destruction' is not just physical destruction but also making recordings or otherwise undecipherable so they cannot be used in court proceedings. Their even being made incapable of being identified properly in a court proceeding also constitutes their destruction.

Importantly, the intention does not even have to be direct; it can arise either tacitly or impliedly by a person authorising some other person to destroy those, and it covers a wide range of people including someone defined as an associate, which is either a direct employee or an agent of a corporation. New section 255 essentially enables the involvement of not just an individual but a corporation in a matter.

The penalties for such offences are certainly commensurate with what our own views would be in relation to their seriousness. For an individual it can mean up to five years in jail or 600 penalty units, which translates to about $60 000; and for a corporation penalties of up to $300 000 can be imposed for such an offence. As I said, the new section creates the new offence of intentionally preventing a document from being used in court.

It is not just about their destruction, it is about preventing documents from being used in court; so physically restraining their use right through to the physical destruction of those documents would be a properly constituted offence. As I said, it applies to both individuals and corporations. It places a very high onus on a board of directors of a corporation to adhere to the highest possible standards in the preservation of those documents.

The most important thing about this change is not its breadth; the most important thing is that it applies to situations where there is a reasonable likelihood that those documents will be required in court proceedings. The very thing that the Court of Appeal construed as being what otherwise was considered the common-law position is now being made abundantly clear by this legislation. If you destroy documents in anticipation of legal proceedings, even though those proceedings have not been issued, you commit the offence. As we know, in civil cases such as the Rolah McCabe case there is a statute of limitations of six years, and in the case of personal injuries that can now be extended beyond six years with the leave of the court. But the most important thing is that even if court proceedings have not been commenced at the time of the destruction, removal or obliteration of those documents, if it is anticipated that those proceedings will or may be brought, that is sufficient to constitute the offence.

In summary, the opposition supports this bill because it supports the principle that perverting the course of justice should be a very serious crime. Perverting the course of justice is not just constituted by the destruction of documents; it can be constituted by interfering with a witness, it can be constituted by interfering with a person on the jury and it can be constituted by entering into a conspiracy to tell lies in court. It is a very broad term, and this is just one aspect of it.

Despite the Law Reform Committee making a number of wide-ranging recommendations and undertaking a review of administrative crimes, including perverting the course of justice, we get only this one aspect. Certainly it is an aspect that received a great deal of publicity at the time of the Rolah McCabe case. As I said, I agree with this amendment being made as a result of that particular decision. But most importantly I am very surprised, given the heat that was generated at the time and certainly given the report by the Crown Counsel and the Law Reform Committee, that it has taken over two years for this bill to come into the house, albeit that it is a very broad-ranging amendment of the Crimes Act. This certainly has the support of the Liberal Party, but as I said, it surprises me that it has taken so long for it to come into the house.

Mr RYAN (Leader of The Nationals) — I have no doubt that this legislation is itself going to be the subject of a fair deal of interpretation by the courts. It is extraordinarily wide in its compass and somewhat convoluted in its design. It applies to individuals and corporations, and to individuals working within corporations. It applies to the boards of corporations and to the officers of corporations generally. It covers a field of conduct that I am certain will attract the consideration of the courts in time to come as its interpretation is sought.

A legitimate question to ask when considering this legislation is what you will be able to actually destroy if you are conducting a business of any sort, shape or kind in circumstances where you are faced with its operation. In what instances could you safely destroy documents while being utterly sure that you were not going to contravene the terms of this legislation? I believe the ramifications of the legislation will be far reaching and that this will be another instance where the business community will need to be very careful about mechanisms of compliance. It may be that by accident rather than design they will find themselves being brought under the terms of this legislation in time to come. It may well be that acts that are undertaken entirely innocently at the time will subsequently be the subject of consideration when proceedings are brought under the terms of this legislation.

I say that understanding clearly that the provisions of the bill, particularly proposed section 254, are built around the notion of an individual who is engaged in any conduct which contravenes it actually having knowledge of a certain number of factors, and I will return to that. Nevertheless, where you set in train legislation of this nature you are going to find that a large number of people across a broad scope of the community, particularly in the business sector, will be at risk of being subject to the operation of its provisions.

Be that as it may, The Nationals support the general thrust of it. We readily acknowledge that the McCabe proceedings were a tragedy in a variety of respects. It brought no great honour on many of those involved, at a time when the poor lady who was the plaintiff in the proceedings was endeavouring to do what she could to represent her rights through the solicitors who were representing her. The whole thing in many senses brought no great honour upon the law and, as I said, upon those who were involved in defending the proceedings.

Without wishing to patronise anybody in this place, I point out to those perhaps not familiar with the way these cases work that the discovery of documents and materials from the other party is an absolutely vital component of the conduct of a proceedings. I pause to say that this legislation has application to all forms of legal proceedings as broadly defined in the Evidence Act. The definition in the act of a legal proceeding includes ‘any civil, criminal or mixed proceeding and any inquiry in which evidence is or may be given before any court or person acting judicially’. That is a very wide definition, so one can say that virtually all forms of proceedings, as one normally understands the term, are going to be subject to the way this legislation operates.

In the course of civil proceedings — that being the area I was particularly interested in when I practised — the virtue of the process of discovery was that it was the one opportunity you realistically had when acting for plaintiffs — I only ever acted for plaintiffs, so I only ever acted for the good guys — to look inside your opponent’s case. You could serve what were called interrogatories, which are a series of questions that the other party is required to answer on oath, but they for the main part were a mickey mouse process, particularly in civil litigation. There were standard questions, and there tended to be standard answers. The aim of the questions was to make them as hard as you

could; the aim of the respondents was not to answer them. It was a bit like question time around this place. It is maybe why I feel at home!

For all that, the interrogatory process was one of the elements of a proceeding, and everybody went through the virtual charade because it was one of the things to do. But the discovery of documents was an entirely different issue, and I must say I put an enormous amount of time, energy and effort into making it as broad as possible and into getting hold of as much material as I could, because as I said this was the opportunity to have a look inside the defendant's case.

It would often come up, for example, in civil cases, where I was acting for plaintiffs who were suffering from mesothelioma or asbestosis or other terrible forms of disease. When you served a notice of discovery on the other side you might find, deep in the recesses of the history of the company that had built a particular building, that it had been warned about the curse that the use of asbestos would inevitably bring to the people who worked for it.

It might be that if you were acting for someone who was injured on a oil rig or some sort of manufacturing enterprise there was some sort of safety report that had been delivered but had not been acted upon and that you were able to access through the process of discovery. It would even get down to things so apparently simple as a date in a document that just did not fit with a sequence of facts which was being put by the other side. So being able to get hold of documents was an absolutely critical part of the case. Save for absolutely extraordinary examples — of which I am pleased to say there were very few — the documents for the very general part were not the subject of deliberate interference by the other side. It was just a simple case that they had to fess up — they had to provide you with the documents in accordance with the provisions of the court rules.

In the case of McCabe, of course, this all came to a head when it became apparent that certain documents had been destroyed because there was a concern on the part of the defendant that the fact of the presence of those documents in the hands of the solicitors for the plaintiff would cause great difficulties for the defendant in the defence of the proceeding that had been instituted on behalf of Mrs McCabe. So it was that a decision was apparently taken to destroy that material. That, for the reasons I have explained, was a critical blow to the case and one which in the end was pivotal in the decision that ultimately arose from what I have already described as being a rather tragic set of consequences.

This legislation is intended to address the McCabe style of conduct and indeed is generally intended to address the position where a party, in anticipation of a court proceeding, decides that the best way to avoid the problems that might arise from the embarrassing production of documentation is to destroy it. The legislation follows on work that has been done by the parliamentary Law Reform Committee and recommendations that have been obtained by the Attorney-General. It is unfortunate that it took a couple of years for the proceedings now being debated to get before the court, but nevertheless we have what we have.

New section 254 is the operative provision in the bill. Its heading is 'Destruction of evidence'. Within new subsection (1) it recites the criteria that need to apply before an individual can be regarded as having been guilty of an offence under the terms of the legislation. Those criteria are various in number. When you look at the provisions of new subsection (1)(a), you see that they entail the fact of a knowledge on the part of the individual that a particular:

> … document or other thing —

and 'document' is also defined in the Evidence Act, which is wide in its definition. It refers to:

> (a) any book map plan graph or drawing;
>
> (b) any photograph;
>
> (c) any label marking or other writing …
>
> (d) any disc tape sound track or other device …
>
> (e) any film negative tape or other device …
>
> (f) anything whatsoever on which is marked any words figures letters or symbols which are capable of carrying a definite meaning to persons conversant with them —

the point of it all being that it is very wide in its definition. So it is about any person who has the knowledge:

> … that a document —

in the nature of those that I have just generally referred to —

> or other thing of any kind —

and therefore again you have this very broad compass intended by this legislation —

> is, or is reasonably likely to be —

so again an extension of the application of this legislation —

required in evidence in a legal proceeding.

It is in that case that the provisions relating to the offence are triggered, if an individual is possessed of all those criteria. In addition to all that, that person must then be in a situation of destroying or concealing or rendering:

… illegible, undecipherable or incapable of identification —

that particular document or these other things, or having effectively authorised someone else to do all those things or having done all those things:

… with the intention of preventing —

whatever the item may have been —

from being used in evidence in a legal proceeding.

If all that happens the person is guilty of an indictable offence and liable to a five-year maximum prison term or a fine which equates to about $300 000, subject to how the Treasurer lifts the ante on 1 July next year.

Needless to say, this is a very serious offence. The provisions of the legislation are to apply with respect to a legal proceeding, whether that proceeding is already on foot when this legislation takes effect or any proceedings that may be brought in the future. As I say, I have no doubt that in time to come people who will be subject to the provisions of this legislation and will be prosecuted under the Crimes Act will have to work hard for the purposes of exculpating themselves from the application of this new law.

The same commentary can be made about corporate criminal responsibility, which is provided for under new section 255, because the chapter of events to which I have just rather laboriously referred occurs in a corporate setting but on behalf of a particular individual or individuals who are detailed in that section. It might be an associate — and the definition of an associate is there; it might be a member of the board of directors; it might be an officer of the company. Those people will all find themselves exposed to the prospect of the actual application of this legislation. In new section 255 there is reference to:

… relevant conduct engaged in by an associate of the body corporate.

There is a definition of what constitutes 'relevant conduct' and what constitutes 'corporate culture'. I am sure that in time to come all those things will be the subject of plenty of interpretation by the courts. In the end, though, the intention is to bring about a result which will ensure that proper measures of fairness, justice and equity are applied to these cases. Like so many things in life, the essence of this is simple. The actual mechanics of doing it, particularly when you are looking to reduce these things to words and put them into a course of conduct embodied in legislation, can sometimes be much more difficult and this is one such instance.

The basic thrust of this is in the notion that people are entitled to a fair trial. They are entitled to a consideration before the law which has regard to the merits of the respective arguments of the parties. In the course of mounting those arguments, the documentation or things of relevance — the physical items of relevance — which go to make up the materials which are pertinent to the court's consideration should be before the court for the purposes of a determination ultimately being made. That is just a matter of equity and fairness.

The intention behind the legislation is to preclude anybody who might think it is the smart thing, in the face of prospectively having to face a court and produce embarrassing material, from going out and destroying it. Any such person who undertakes that conduct either in his or her own right individually or in a corporate sense will now be faced with the provisions of this law. So The Nationals support it. The origins of it rest with Mrs McCabe and of course one would like to think that with the application of this law we will not see that sorry chapter of events repeated in Victoria.

Mr HUDSON (Bentleigh) — It is a great privilege and pleasure to speak in support of the Crimes (Document Destruction) Bill. What the bill does is send a very clear message to the community that offences that undermine the administration of justice strike at the very heart of our judicial system.

We all understand in this place that the rule of law is fundamental to our democracy. But confidence in the administration of justice will be undermined if we allow it to be perverted in any way. What we have to do as a Parliament is ensure that those who attempt to pervert the course of justice are subject to very severe penalties, and that is what the legislation is about. Attempts to pervert the course of justice affect not only individuals involved in the case but the community as a whole. They affect confidence in our system of justice. I believe we all have an interest in ensuring that justice is done and done properly and fairly.

This bill has its genesis in the case of Rolah McCabe who brought a damages case against British American Tobacco arising out of her terminal lung cancer which she claimed was brought on as a result of smoking the company's cigarettes. In March 2002 Justice Eames

ruled in the Victorian Supreme Court that British American Tobacco, on the advice of its lawyers, Clayton Utz, had deliberately destroyed thousands of documents and therefore denied Mrs McCabe a fair trial. Justice Eames struck out the company's defence because he found that it had subverted the process of discovery and destroyed or denied documents that Mrs McCabe would have found useful and helpful to her case. The consequence of this was that she could not get a fair trial.

The judge in that case was particularly critical of the law firm Clayton Utz, which had advised British American Tobacco on its 'document retention' policy, which should perhaps be more accurately described as a 'document destruction' policy. A jury awarded Mrs McCabe damages of $700 000.

Six months later Mrs McCabe was dead. Unfortunately, shortly after her death, the Victorian Court of Appeal overturned the decision of Justice Eames and ordered a retrial. The Court of Appeal took the view that where litigation was anticipated but had not yet commenced, there is no breach of the law if documents are destroyed, even if those documents are helpful to the case of the plaintiff, unless it amounted to an attempt to pervert the course of justice or contempt of court.

In my view that was a very narrow reading of what constituted an attempt to pervert the course of justice. At this time litigation was being mounted in the United States of America and indeed by Mrs McCabe to show that companies not only had strategies to make their cigarettes more addictive but had marketing strategies which were designed to attract people to smoke and also knew and had in their possession research which showed these products caused lung disease and other diseases.

Mrs McCabe lost her case. Then we had the explosive evidence of Frederick Gulson, a former legal adviser to British American Tobacco. In his affidavit, Mr Gulson stated that:

> It was obvious to everyone in the know what the strategy was. That is, its purpose was to get rid of all sensitive documents but do so under the guise of an innocent housekeeping arrangement and to ensure that all relevant documents that were not destroyed or removed from the jurisdiction were properly privilege.

Mr Gulson also stated that the company's document retention policy involved:

> … getting rid of everything that was damaging in a way that would not rebound on the company or the BAT group as a whole.

Gulson stated in his affidavit that thousands of documents were destroyed as part of this policy. Many of these documents related to what the tobacco company knew about the addictive nature of cigarettes and the relationship between cigarette smoking and diseases such as cancer. Rolah McCabe and her family were denied justice, but this bill will ensure that such an injustice will never occur again. That is because under this bill the intentional destruction and concealment of documents to prevent their use in judicial proceedings will now be illegal.

The bill reinforces and strengthens the common-law offence of attempting to pervert the course of justice. It gives effect to the recommendations of the Victorian Parliament's Law Reform Committee, of which I am the chair, following its inquiry into the administration of justice offences, which report was tabled in June 2004.

The Law Reform Committee found that under the common law, attempting to pervert the course of justice was not sufficiently clear. It did not make clear what offences were covered by that general all-purpose catch-all offence. Specifically, we recommended that a specific offence in relation to the destruction or concealment of evidence should be enacted. The work of the Law Reform Committee was supported by the Crown Counsel, Professor Peter Sallmann, who recommended that there ought to be a new law to cover the destruction of documents where its purpose is to prevent their use in judicial proceedings.

This legislation gives effect both to the recommendations of the Law Reform Committee and the Crown Counsel. It creates a new section 254 in the act, with a new offence to cover the situation in which the document is intentionally destroyed or concealed to prevent its use in evidence. The offence applies to proceedings which have commenced or which are reasonably likely to commence in the future. To be found guilty of this offence, the person or corporation must know that the document is, or is likely to be, required in evidence.

The bill also sheets home criminal responsibility for offences against new section 254 to corporations. This is a very important part of the bill. Under the bill, corporations will be found guilty of this offence where a corporate culture existed that directed, encouraged, tolerated or led to the destruction of documents.

The Leader of The Nationals expressed concern that companies that go about the process of managing their records may be caught up in this legislation. The legislation makes it absolutely clear that a corporation

will need to have acted in such a way that it intended to destroy or conceal evidence that might be used or was reasonably likely to be used in proceedings. That is a clear and crucial difference.

The bill makes it clear that these are very serious offences. The maximum penalty of five years imprisonment or a fine of $62 886 for individuals and a fine of $314 430 for corporations demonstrates the seriousness that this government attaches to this offence.

The rather sorry episode of Rolah McCabe's case shows both Clayton Utz and British American Tobacco in a very poor light. Rolah McCabe ultimately lost her battle against British American Tobacco but she won the war. The legislation stands as a testament to her efforts to take on and beat a tobacco company.

Great credit is due to the Attorney-General for introducing the legislation and making clear his displeasure at the behaviour of Clayton Utz and British American Tobacco. The house ought to remember that it was the Victorian government that sought leave to support the appeal by Mrs McCabe's family to the High Court of Australia, arguing that Mr Gulson's evidence raised the issue of the appropriate test for what constitutes a lawyer's breach of duty to the court. It is a timely reminder that the first duty of a lawyer is to the court and to the administration of justice, and that there is a special duty on those who work in the law to uphold it.

The shadow Attorney-General claims that the government has been slow to introduce this legislation. The shadow Attorney-General and the Leader of The Nationals might carp about that, but the fact is that Victoria is the first state in Australia to create a specific document destruction offence where a corporation can be prosecuted in circumstances where there was no direct instruction to destroy a document but it was implicit in the corporation's culture. This bill sends a clear message to those corporations which would seek to pervert the course of justice by concealing or destroying documents.

It has now been made clear that the destruction of documents that is designed to prevent their use in cases already under way or likely to begin will not be tolerated in the future. It makes it clear that we expect the highest standards of probity and responsible behaviour on the part of not only corporations but our legal profession. I commend the bill to the house.

Ms ECKSTEIN (Ferntree Gully) — It gives me great pleasure to make a contribution in support of the Crimes (Document Destruction) Bill. This very important bill ensures that individuals and corporations cannot intentionally destroy important documents to prevent their use in judicial proceedings and to potentially influence the outcome of a case that is before the courts. As we know, this issue came to prominence in the Rolah McCabe case, where on appeal it was found that the destruction of documents to prevent their use in a court case was not unlawful.

I recall being absolutely appalled at the time this happened that documents which were germane to the case before the courts, which ultimately affected Mrs McCabe's ability to make an effective case, were intentionally destroyed. This was absolutely wrong, and I am very proud that this legislation is being introduced to address that appalling situation.

Subsequently the Victorian parliamentary Law Reform Committee and the Crown Counsel also examined the issue, and both recommended that a new offence be created to prevent the deliberate and intentional destruction of documents which would avoid their use in judicial proceedings.

The intentional destruction of documents to prevent their use in court is inherently unfair and undermines our system of justice. It adversely affects a court's ability to consider a case and make a judgment on all the relevant evidence. The court should have access to all the available information, and to deliberately attempt to pervert that is an attempt to pervert the course of justice. It impacts on all of us, it affects all of us and undermines our confidence in our system of justice. It must be addressed, and is being addressed through this legislation.

The new offence applies where it can be proven that someone destroys or conceals a document that is, or is likely to be, needed as evidence or who allows someone else to do so with the express intention of preventing its use in court. Most other Australian jurisdictions, including the commonwealth, have a law of this nature, and this bill brings us into line with other parts of the country.

It is also important to stress that this law does not affect lawful and routine forms of document destruction. Under the Public Records Act the Keeper of Public Records issues standards and guidelines for the periodic destruction of documents that are no longer needed. This is clearly not intended to avoid their use in court proceedings and therefore not subject to this legislation. Both in the private and the public sectors, documents need to be cleared out from time to time, and it is quite

proper that this be done and that it be done in accordance with appropriate guidelines and standards.

This legislation targets deliberate criminal wrongdoing which is intended to deny the judicial process access to important information — information that could lead to a different outcome if it were available to the court. The bill provides an appropriate penalty of five years in prison and/or a fine of 600 penalty units, which is currently some $62 886. It is not an insignificant penalty for an individual who is guilty of such an offence. The offence applies equally to corporations and to individuals; however, the maximum penalty for corporations is a fine of 3000 penalty units, which is currently $314 430. These are appropriate penalties given the seriousness of the offence in terms of the integrity of the Victorian justice system.

The bill also ensures that where a corporate culture exists that condones intentional document destruction to prevent access by a court to relevant information, this is equally an offence. This applies where corporate policies and procedures imply approval to destroy documents, and where despite the absence of formal policies there is expected non-compliance. The government is also planning to introduce complementary legislation in relation to civil proceedings as recommended by the Crown Counsel. It is expected that both pieces of legislation will coincide and come into effect at the same time, and this is also appropriate.

This is a very important bill for the rule of law and the administration of justice in this state. It sends a very clear message to individuals and corporations that attempts to withhold, destroy or interfere with information in documents that may have an affect on the outcome of a court case will not be condoned. As I have said before, I am very proud to be part of a government that has introduced this important legislation. Our system of justice will be much the better for it. Having made those few remarks, I commend the bill to the house and wish it a speedy passage.

Mr WYNNE (Richmond) — I rise to support the Crimes (Document Destruction) Bill, and in doing so I am delighted to follow my colleague the member for Ferntree Gully, and indeed to acknowledge the support of the opposition parties for this particular bill.

All Victorians, whatever their background, have an expectation that our justice system will operate in a fair and transparent manner. Indeed this is the hallmark of our system. New circumstances and causes arise from time to time which present challenges to the justice system, and one such case that did emerge and was very well publicised was the very tragic case of *McCabe v. British American Tobacco Australia Services Ltd*.

Many members would be familiar with the circumstances of that particular case, which I will briefly touch upon. In the 1990s British American Tobacco was taken to court in a slew of litigation for smoking-related illnesses. By 1998 the first stage of that litigation had wound up, and it was well understood by the company that further litigation was imminent from other victims of smoking-related illnesses. In what some people may have described as a bureaucratic oversight, a large volume of documents were destroyed, many of which had a material bearing on the subsequent McCabe case. I would submit that there is clear evidence to suggest that this was no accident and that something deliberate was being undertaken.

At the McCabe trial it was held that the document destruction was undertaken with ‘some urgency’. This corporate giant went so far as to destroy databases and the catalogued documents so as to completely expunge any trace of the documents. In a widely reported decision at the initial trial the court found in favour of the plaintiff, Rolah Ann McCabe, a 51-year-old woman who was dying of lung cancer, and she was awarded $700 000 in damages; however, on appeal — and of course tragically, following the death of the plaintiff — the Court of Appeal established that unless the document destruction amounted to contempt of court, it was not unlawful.

Many people believe that the company had engaged in quite improper behaviour and obviously were very disappointed that the multinational corporation escaped both criminal and civil penalty. Indeed following that decision, in June 2004 our colleagues on the parliamentary Law Reform Committee handed down their very significant report into administration of justice offences. The report recommended the introduction of an offence of document destruction and a penalty for such behaviour. That recommendation was buttressed by the Crown Counsel, Professor Peter Sallmann, who made a similar recommendation in May 2004.

The government has heeded the important sources of advice of both the Law Reform Committee and Professor Peter Sallmann, and recognised that the destruction of documents can undermine and indeed has seriously undermined the fairness of court proceedings. We are taking appropriate action with this bill, which will make it a criminal offence to

intentionally destroy or conceal documents to prevent their use in legal proceedings. The offence will apply to both individuals and corporations. It will apply if a person knows that a document is or is likely to be required in evidence and destroys, conceals, authorises or allows its destruction with the intent of its not being able to be used in evidence.

Under the provisions of the bill, individuals can be imprisoned for five years or fined up to 600 penalty points, which amounts to a sum of up to $60 000. As I indicated earlier, the bill will also apply to corporations. Unlike laws in other states, a notable provision of this bill is that a corporation will be found to have committed an offence if its corporate culture gave implied authorisation to destroy documents. This unique feature recognises it is possible for an organisation to cause documents to be destroyed without giving an explicit instruction.

The effect of these provisions is to make it very clear that no matter how big your corporation is, and how large or well tooled up your legal department is, it is never acceptable to destroy or conceal documents to prevent their use as evidence. We all followed with increasing dismay the media reporting of the McCabe case, which was particularly tragic. We saw Mrs McCabe on television on numerous occasions over the last few years. The relationship between her smoking-related illness and the multinational organisation British American Tobacco was, in her view, well established. From the evidence available it is clear that the British tobacco organisation did everything in its power to ensure it concealed and destroyed evidence that would have been particularly valuable and important to her case.

I think this particular piece of legislation goes a long way towards addressing the concerns raised by the McCabe case. It also shows the ability of the Bracks government to give proper references to its relevant parliamentary committees, to use parliamentary committees in a very proper and thorough way so they can research evidence and provide timely advice to government as to how to proceed, and to provide further expert advice to government with the extra support of the Crown Counsel, Professor Sallmann, in that instance.

Whilst the opposition parties have indicated in their contributions that there has been a delay of up to two years in the government bringing this legislation before the house, the government would submit it is proper that the Law Reform Committee did its work, that Professor Sallmann considered the matter in detail in 2004 and at the earliest possible point in the parliamentary and legislative schedule, this particular bill has come before the house.

I am pleased that it enjoys bipartisan support across both sides of the house. This is quite groundbreaking legislation, because its message to corporations and individuals is that you cannot deliberately destroy evidentiary material that is relevant to cases. Indeed if you do so, very significant penalties will be attached. I commend the bill to the house.

Ms BEATTIE (Yuroke) — The genesis of this bill, which has been canvassed widely already, is the tragic case of Rolah McCabe in which the defendant, British American Tobacco, destroyed documents prior to the formal commencement of court proceedings. That is not the way we do business in this state.

We do business in this state with some very high principles in mind — that all citizens should be equal before the law, that the process of justice should be fair to all and that the justice system should be effective in delivering outcomes expected of it by the community. Tragically in this case that did not happen. What we had was a multinational company with smart lawyers from the big end of town, Clayton Utz, setting about destroying documents which would have favoured the McCabe case against British American Tobacco.

This bill, the Crimes (Document Destruction) Bill, should perhaps be known as the Clayton Utz bill because that is the company that advised British American Tobacco. Its advice was the catalyst for that document destruction. It was euphemistically known as the document retention scheme for British American Tobacco.

The Victorian Law Reform Committee, which received a reference from the government, was very thorough in its investigations. I am now a member of the committee, but was not at that stage of the investigation into this issue. I would like to acknowledge the work of the members of the Law Reform Committee. I would also like to acknowledge the work of the Crown Counsel, Professor Peter Sallmann. Following the McCabe case the Attorney-General asked Professor Sallmann to advise on the adequacy of the current laws, procedures and practices relating to document destruction.

In the report on document destruction the Crown Counsel made the following recommendations: that there be a new statutory offence to cover destruction of documents to prevent their use in judicial proceedings; that there be complementary civil law proposals; and that the proposed offence addresses the Crown

Counsel's recommendation to create an offence of document destruction.

The bill creates a new offence to cover the situation in which a document is intentionally destroyed or concealed to prevent its use in evidence. I am sure no member of the house would say when a document is destroyed or concealed to prevent its use in evidence that that fits in with those three principles I described — that all citizens should be equal before the law, the processes of justice should be fair and the justice system should be effective in delivering outcomes expected by the community. How can it be when a multinational decides to destroy documents that do not enhance its case?

The offence will apply to individuals as well as corporations. As we know, the defendant in the McCabe case was a corporation — British American Tobacco. The Crown Counsel proposed that a different offence based on criminal negligence should be created for corporations. However, this bill adopts the same offence for both natural persons and corporations. I understand there is a similar offence at commonwealth level and most other jurisdictions.

The Victorian Law Reform Committee's final report on *Administration of Justice Offences* recommended the creation of an offence of this type. The maximum penalty will be five years imprisonment or a fine of 600 penalty points for individuals, which would be $62 886, or 3000 penalty units for corporations — $314 430. Complementary legislation is proposed for the autumn of 2006 to address those civil law issues. In general terms the offence will apply if a person knows a document is, or is reasonably likely to be, required in evidence and destroys or conceals the said document or authorises or permits another person to destroy or conceal it and does so with the intention of preventing it from being used in evidence.

Section 39 of the Crimes Act 1914, which is a commonwealth act, provides the model for the proposed offence. The modifications are that the person must know that the document is, or is reasonably likely to be, required in evidence. Certainly British American Tobacco and I believe Clayton Utz knew those documents would not enhance their case at all. If we had had this legislation at that time, that certainly could have been proven. It removes the specification that destruction must be intentional because corporations and smart lawyers always say, 'I just happened to be standing near the shredder and fed a lot of documents in but I did not mean to destroy those ones. I meant to hold those or give them to the secretary or somebody else, but I inadvertently put them through the shredder. What a shame that was!'. It adds that an individual could authorise or permit destruction by another person. That would prevent that.

The offence will apply to proceedings that are in progress or proceedings that are reasonably likely to be instituted at a later time. A corporation or a smart law firm cannot say that they did not know this would be required so they destroyed them anyway.

This bill is one of the hallmarks of justice in this state. It protects vulnerable people from smart lawyers and big corporations with an army of lawyers behind them, the corporations which have their eye on profits rather than the harm they are doing. We have seen this tragically where corporations deny their responsibility to the very people they are harming. We have seen it with James Hardie and with British American Tobacco, which knew its product was harming people. Yet it still encouraged young people and women to smoke — and it was thought to be very glamorous to smoke.

Personally I do not see anything glamorous about someone smelling like a tobacco plant, but British American Tobacco and other tobacco companies encouraged people to think it was glamorous. If you started smoking, you could ride horses, do figure skating and all sorts of things. But mainly, if you started smoking, you could kill yourself. British American Tobacco knew its product was harming people and killing people, and yet it sought to destroy evidence which proved that. It sought the advice of smart lawyers at the big end of town; they paid the lawyers, Clayton Utz, plenty of money.

Tragically, people like Rolah McCabe paid the price. However, it will not happen in this state again. The Bracks government has introduced legislation which says all citizens should be equal before the law. This is a good bill. I commend the work of the Law Reform Committee and I commend this bill to the house. It is shameful the way those companies acted.

Mr STENSHOLT (Burwood) — I rise to support the Crimes (Document Destruction) Bill. This is really a bill regarding shredding, avoidance techniques in legal proceedings and corporate culture. This is very pertinent and something which cannot just be sloughed off, as the member for Kew said, as a debate which is trying to pad out time.

On behalf of the voters of Victoria I resent those sorts of statements made across the house that we are just trivialising this bill. We are not. This bill quite frankly is about life and death. As the member for Yuroke has rightly pointed out we are talking about Mrs McCabe

who unfortunately as a result of smoking eventually died. Let us not gild the lily; she died. In the case that was brought before the courts against British American Tobacco there was clear evidence that documents had been destroyed before the proceedings.

This is about shredding documents and avoidance techniques. We all know about shredding — we all have shredders in our office. It is done by many people. Under the Public Records Act 1973 records can be destroyed in accordance with standards issued by the keeper of the public records. We know that. We know we often shred items in our own offices, particularly documents regarding our constituents which are matters covered by privacy. We know, for example, when the Kennett government went out of office the shredders went into overtime. There were newspaper reports about that. This is nothing new. Shredding can be a legitimate activity. But it can also be intentional where there is destruction and concealment of documents to prevent their use in legal proceedings.

There is also the issue of the avoidance techniques which are used in proceedings. We have seen a bit of this happening in the last few weeks. I am sure many members in the house, and I know at least 70 per cent of the general population, have been following this very closely. In the AWB inquiry before Commissioner Cole there have been some marvellous avoidance techniques. 'I can't remember' and the Sergeant Schultz defence of 'I know nothing' have been some of the avoidance techniques in those proceedings.

I am ashamed to say that often these avoidance techniques, like the examples in this legislation of destroying or concealing documents, are done by companies. There have even been avoidance techniques, in terms which I found a bit reprehensible, because they cannot hear properly. Ironically, the defence that was given of, 'I cannot hear properly because I have a very bad left ear and am not so good in the right ear' is exactly the same as my hearing loss. But let me assure you that there are techniques regarding this — you can get some hearing aids and you can hear. Avoidance techniques like selective hearing are not on, just as avoidance techniques of destroying documents are also not on. I am glad that this issue has been brought to the house's attention.

The third aspect, which the bill describes quite exactly, is corporate culture. The definition of corporate culture in the definitions section of the legislation is:

> … an attitude, policy, rule, course of conduct or practice existing within the body corporate generally or in the part of the body corporate in which the relevant conduct is carried out or the relevant intention formed;

There have been lots of examples over the last few weeks in terms of the AWB, the former Australian Wheat Board. Some living examples of corporate culture have very much been played out many times, day after day, and reported in the *Australian Financial Review* and other papers.

It can be insidious when people cannot remember, when they use the 'Sergeant Schultz' defence. But sometimes it can actually be a direct action, such as in the case of the shredding of documents. This legislation is aimed at addressing that. For example, in the McCabe case it was found that documents had been shredded before the proceedings took place. Later, the Court of Appeal said that it was okay for the documents to be shredded unless there was very strong evidence of intention. This legislation rectifies that and makes it an offence. It codifies it so that the courts can interfere in proceedings affected by the unavailability of documents, by way of broad judicial discretion and amended rules of discovery.

I was very pleased that the Attorney-General asked the Crown Counsel, Professor Peter Sallmann, to investigate this matter after the case. Peter Sallmann looked at that and in his report, *Document Destruction and Civil Litigation in Victoria*, recommended giving judges the power to strike out any part of defence where document destruction had occurred and regulating the advice given by lawyers about document retention and destruction, as well as the advice given by lawyers about document retention. In the report he also recommended that the rules committee of the Supreme Court consider examining obligations of the parties to disclose the destruction of documents in their possession, custody or power.

As I mentioned, this was done following the McCabe case. She died before the Court of Appeal looked at the case, and so it was Roxanne Cowell representing the estate of Rolah Ann McCabe, then deceased, and the British American Tobacco Australia Services Limited. It was a very shameful chapter in Australian corporate settings. The Attorney-General rightly said:

> The destruction of discoverable documents raises fundamental questions that go to the heart of the integrity of our legal system that go to the heart of the integrity of our legal system.

This is what this legislation is about. It is about making sure that our legal system has integrity and about making sure that people can approach the court with some confidence that documents will be appropriately discovered — because they will still be there, which quite frankly is the whole issue. It will be not just individuals but also corporations and their corporate

culture. You cannot adopt the Nuremberg defence in this regard in terms of associates or other people because proposed section 255 (6) states:

> (6) Factors relevant to the application of sub-section (1)(c)(iii) or (4)(c) include —
>
> (a) whether authority to commit offence against section 254 … had been given by an officer of the body corporate; and
>
> (b) whether the associate of the body corporate who carried out the relevant conduct or formed the relevant intention believed on reasonable grounds … that an officer of the body corporate would have authorised or permitted the relevant conduct being carried out with the relevant intention.

Hence you go back to the corporate culture, which is being used by the particular company, either itself or through its lawyers — which the Attorney-General pointed out correctly in his press release following the release of the Sallmann report — which may well have made the suggestion which an associate of the company may have acted upon. Victoria is the first state to create a specific document destruction offence whereby a corporation can be prosecuted in circumstances where there is no direct instruction to destroy a document but it is implied by the corporation's culture.

The fines in this regard are quite severe, as has been mentioned by others. An individual can be fined up to $62 886 at the current rates, and corporations can be fined up to $314 430. This is for the removing of relevant evidence, which can be done in many ways — the destruction of it, the concealing of it, or rendering it illegible, undecipherable and incapable of identification. It is quite broad. It can be a document or other thing of any kind which is reasonably likely to be required as evidence in a legal proceeding. It provides a wide scope to ensure that we have a fair and transparent justice system for all Victorians, to be sure that the McCabe case does not happen again and that there is justice for all here in the state of Victoria.

Ms MORAND (Mount Waverley) — I rise in support of the Crimes (Document Destruction) Bill. This legislation comes about, as other members have said, as a consequence of a particular case that highlighted the legal gap that could be used to avoid liability. Specifically this legislation comes before the house due to the actions of British American Tobacco and its lawyers in the case of Rolah McCabe. In 2002 lung cancer victim Rolah McCabe sued British American Tobacco for compensation for her illness. Rolah McCabe had lung cancer which she attributed to the smoking from a very early age of cigarettes manufactured by British American Tobacco. Rolah had started smoking as a child and had quickly become addicted to cigarettes.

For most people lung cancer is a death sentence and tobacco is very strongly associated with lung cancer. There is no doubt about the association between smoking and lung cancer. Lung cancer is not a diagnosis that anyone would want, with its extremely low survival rates especially compared with other cancers. I was looking on the cancer council web site earlier today. Lung cancer is the fourth most common kind of cancer in Victorians and is the leading cause of cancer deaths in Victoria. In 2003, 2000 new cases of lung cancer were detected in Victoria. Death can occur very quickly after diagnosis. I had a friend who was diagnosed with lung cancer. She had been smoking cigarettes from a very young age. She was only in her 30s and despite having a lung removed and very active treatment she died from lung cancer only six months after diagnosis, leaving behind two small children. It is a horrible, horrible condition, and there is no question at all that tobacco is associated with the instance of lung cancer.

In this case Rolah McCabe went to the Supreme Court and the judge, Geoffrey Eames, found that the documents that would have been important in helping Mrs McCabe had been destroyed by British American Tobacco. He awarded her $700 000 compensation. The destruction of those documents meant that Rolah McCabe could not be given a fair trial. However, the Supreme Court decision was later overturned in the Court of Appeal, which ruled that the destruction of documents was not unlawful as it occurred prior to the commencement of litigation. The company had in fact been engaged in a systematic process of document destruction for a number of years before that litigation coming before the court. Rolah McCabe unfortunately died after the case had been argued in the Court of Appeal but prior to the judgment being handed down. She was only 52 years old when she died.

Rolah McCabe's family then unsuccessfully sought leave to appeal to the High Court against the decision of the Court of Appeal. It was after this unsuccessful appeal that the Attorney-General asked Professor Peter Sallmann, the Crown Counsel of Victoria, to report on document destruction and civil litigation. In his report to the Attorney-General Peter Sallmann provided a lot of discussion about the Rolah McCabe case and the circumstances that led to the case and led to its being thrown out. I will quote from Peter Sallmann's report in which he actually quotes the decision of Justice Eames. On page 10 of the *Document Destruction and Civil Litigation in Victoria* report:

> Central to the conduct of a fair trial in civil litigation is the process of discovery of documents … The party which controls access to the documents must ensure that its opponent is not denied the opportunity to inspect and use relevant documents … In my opinion, the process of discovery in this case was subverted by the defendant and its solicitor … with the deliberate intention of denying a fair trial to the plaintiff, and the strategy to achieve that outcome was successful. It is not a strategy which the court should countenance, and it is not an outcome which, in the circumstances of this case, can now be cured so as to permit the trial to proceed on the question of liability.

That quote neatly sums up why we need the amendments in the bill before us today. The recommendations in this report I have been quoting from form the basis of the bill before us.

I commend the Attorney-General for taking this action and bringing this important bill before the house. The bill will create a new offence to cover the situation in which a document is intentionally destroyed or concealed to prevent its use in evidence. Other members have spoken in detail about these provisions. They mean that the deplorable tactics used by British American Tobacco will not be able to be used again. But I wonder if it will encourage other people to take on the tobacco companies, companies which are known to use the sorts of tactics that perhaps do not hold them in high corporate opinion.

It must have been extremely hard for Rolah McCabe to take on the might of a tobacco company. She must have been very brave, as must her family in the process of supporting her, to take on a tobacco company. We have been shown through many different media examples — television, and movies such as *The Insider,* for example — what tobacco companies get up to in cases of litigation. What sort of person is going to consider taking on a tobacco company, knowing what they are going to face and knowing, in the case of lung cancer victims, that they may have only a short time before they pass away? If the bill before us today is successful, I wonder whether it will encourage people to take on the tobacco companies. I hope so.

The McCabe family still has to live with the threat that British American Tobacco will recover the $1 million through its appeal to the High Court. There is no doubt that this threat by British American Tobacco is designed to dissuade other people from taking the company on, and that is a deplorable action. It would be very hard for families to take this sort of action, considering the tactics of the tobacco companies. In summary I am very pleased to support this bill. It will provide clearer and stronger laws governing the practice of document destruction. I commend the Attorney-General for introducing the bill, and I commend the bill to the house.

Mr LOCKWOOD (Bayswater) — The Crimes (Document Destruction) Bill is an important bill and answers the issues brought up by the Rolah McCabe case. It was something of a David and Goliath case, because large corporations have enormous amounts of power, significant amounts of money, a massive payroll and a huge ability to fund legal proceedings and lawyers. They can also delay or prolong proceedings, stretching them out to inconvenience the individuals who want to try and take them on, as has already been said.

An important part of this bill is its definition of the term ‘corporate culture’, because big corporations often have a culture of document retention or destruction. Corporate culture can dilute the behaviour of individuals. Things can be passed down the line so that it is not necessarily the people at the top who are directly responsible for giving instructions for document destruction. the rules of corporate culture are often unwritten; they are absorbed over time. This bill seeks to circumvent that behaviour by making the corporations responsible for the retention of documents that are being used or are likely to be used.

It is simply wrong that large corporations can try to circumvent legal proceedings simply by destroying the evidence. I am sure every person before a court would love to destroy the evidence that is going to be used against them. But a large corporation should not be allowed to do so simply because it possesses the wherewithal and the power to do so, because it prevents litigants from obtaining justice. It prevents them from arguing their case properly before the courts. It is a very important principle that people be able to argue their case. The rule of law is certainly integral to the maintenance of a civil society. People should be able to argue their cases fully before the courts without being circumvented by corporate or even individual behaviour.

In my view smoking is evil; I have never personally liked it. Quite clearly it leads to significant illnesses — cancer, heart disease and the like — and for years companies have tried to avoid legal culpability for the damage their products do. In the Rolah McCabe case British American Tobacco certainly demonstrated, through the destruction of documents, that it would go to any lengths to avoid legal culpability. As has been said, the Court of Appeal found the destruction of documents to be not unlawful. We now have a new criminal offence to govern the intentional destruction of

documents that will be used or are likely to be used in judicial proceedings.

In coming up with this bill there has been fairly wide consultation with the courts and with Victoria Legal Aid, the Office of the Public Prosecutor, the Victorian Bar, the Criminal Bar Association, the Law Institute of Victoria, the Australian Chamber of Commerce and Industry, the Victorian Chamber of Commerce and Industry, the Australian Industry Group, the Australian Institute of Company Directors, the Cancer Council and various government stakeholders like the Department of Human Services. A wide range of people have been consulted in putting this together, and it is a reasonable response. It was looked into by the Victorian Law Reform Committee, which made recommendations to create an offence of document destruction, and it was also looked into by the Crown Counsel, which also made recommendations on a new statutory offence to cover the destruction of documents to prevent their use in judicial proceedings. This new offence addresses those recommendations.

The same offence will apply to individuals and corporations. In general terms the offence will apply if a person, an entity or a corporation knows that the document is or is likely to be required in evidence and destroys or conceals it or authorises and permits another person to destroy or conceal it and does so with the intention of preventing it from being used in evidence. This, as I said, is quite important. There are other models around Australia. The commonwealth Crimes Act is being used as a model, with some differences such as those between 'may be used', 'may be required', and 'likely to be required'.

The Victorian statute will say 'likely', and we have added that an individual who authorises or permits destruction by giving an employee the right to destroy something will be liable. They will not be able to just pass it down the chain and expect a secretary or a cleaner to dispose of the document; they will be responsible. We are also adding to that an individual's concealing a document, which is consistent with the Victorian Law Reform Committee's recommendations. The offence, as I said, will apply to proceedings that are in progress or proceedings that may be instituted at a later time, and there is a considerable penalty there — I think up to five years imprisonment and a significant fine.

As I mentioned, the principles have been provided to outline what should be done in the corporate context. Large corporations have a lot of power, they have a lot of processes and procedures which can dilute responsibility, and it is important that this responsibility be sheeted home to them so they cannot dilute responsibility and that they are at the end of the day still responsible for the documents, no matter how they were destroyed or sought to be destroyed. So if an employee, agent or officer of the corporation knows that a document might be required in evidence and destroys or conceals the document, then it is still an offence by the corporation because they are still to be held responsible for that documentation.

The structure of organisations has been carefully taken into account in the legislation. Even if the elements of the offence were committed by a range of people rather than just one person, or all different people, or some by one person and some by another, it is all still covered by corporate responsibility. It is important, too, to ensure that there are no uncertainties about document destruction practices. Corporations cannot keep every document that comes in — nor can government departments or local members — so it is important to have procedures whereby documents can be aged and archived and perhaps destroyed at a later date. There is quite an archive industry within the public service, for example.

The McCabe case brought all this to the fore. I am sure lots of people who know of the McCabe case became aware of the natural injustice of what was happening, although it turned out to be lawful. Initially the defence of British American Tobacco was struck out, but it appealed and, as we know, won the day: it was not found to be unlawful that the company did such things. The focus of the legislation will also be on whether the unavailability of the documents has made a fair trial impossible or complemented the criminal offence which addresses the unlawfulness of the conduct.

This is an important piece of legislation which covers a gap, as people have found. It is important to balance the power of large corporations so that they do not simply overpower individuals who might have a case to bring against them. This makes it possible for individuals to have their day in court, to put their case and have all the evidence brought before them.

Of course there is no single antidote for such a thing. Corporations will still have enormous power when it comes to illegal proceedings, and it will be up to individuals to weigh up whether they can bear the responsibility and the weight of the arguments that will be brought against them. This is important legislation: it is important for Victoria and important for anybody who might litigate against such companies. I commend the bill to the house.

Mr ROBINSON (Mitcham) — I am very pleased on behalf of the residents of the Mitcham electorate to have the opportunity to make a brief contribution on the Crimes (Document Destruction) Bill. I am very confident in stating my belief that overwhelmingly Mitcham electorate constituents will welcome this legislation.

As previous speakers have indicated, the bill has grown out of the McCabe case. That has been well documented, and I do not want to spend any time going into the intricate details of the case. But it was very tragic, and it starkly illustrated the human casualties of the corporate world, if you like. It is important that at all points in this debate we not lose sight of the fact that there was a human casualty — Rolah McCabe. She had a name, she had a family and she had a life. It must have been doubly galling for the family not only to have lost a loved family member but also to have learnt of the way in which the company and its lawyers went about trying to escape responsibility for their actions.

There are many lessons to be learned from the McCabe case, but I think the most important relates to corporate morality. We are not in the habit of using the word 'morality' very widely, but that is at the heart of this matter. Today we live in a time where more than ever corporations seek to avoid their responsibilities and to effectively operate in a world devoid of morality. We have seen too many examples of corporations and companies obfuscating and denying the truth, looking to distract and delay, and essentially seeking to weasel out of what the broader community would properly regard as their responsibilities.

The McCabe case gives us cause to reflect upon the way in which life sometimes imitates art. We saw British American Tobacco playing the role of a villainous corporation as well as anyone in Hollywood could ever have scripted — indeed, at the same time as the McCabe case was running in real life you could go along to the cinemas and watch Russell Crowe play the lead role in a movie that is alarmingly similar given the corporate ethics it proclaims.

We have seen the same sorts of behaviour, as other speakers have mentioned, by the James Hardie company. In recent weeks, somewhat unnervingly, we have seen the same sort of behaviour by witnesses attending the oil-for-food inquiry, where notwithstanding the fact that $300 million was paid in kickbacks, everyone has stood around saying, 'It wasn't my responsibility'. That is an incredible, unbelievable and unacceptable reflection on corporate morality in Australia today. To hear witnesses in that Sydney commission make the claim that 'everyone else does it, therefore it must be okay' is nothing short of appalling.

I do not know how people can sleep at night maintaining that sort of a defence. It is a reasoning which is as cancerous as the disease which killed Rolah McCabe. The danger is that Australian society will become immune to it and allow this corporate behaviour to debase corporate life on the basis that the end becomes more important than the means to the end. Certainly the proceedings of the oil-for-food inquiry are very much geared around the twisted philosophy that somehow it is more important to get into a market than to think about the means by which contracts are secured.

The bill identifies a key characteristic of corporate bad practice — that is, document destruction. Documents are the key to the evidentiary process, and as long as our courts rely upon evidence being presented in an orderly fashion in order to apportion responsibility in instances where rights have been transgressed, then the temptation will exist for clever lawyers and immoral corporate executors to look at ways of short-circuiting that evidentiary process. The most ready recourse for individuals of that ilk is to have key documents destroyed.

We in this chamber would all be mugs if we believed that the only case in Australia in recent history in which documents have been destroyed is the British American Tobacco case. I suspect — in fact, it is reasonable to expect — that that type of corporate behaviour and that lack of ethics have, like a cancer, spread into other companies. Only time will tell. But the fact that even one company has been caught out doing it demonstrates that the law needs to be strengthened to send a clear message that it is not acceptable.

It concerns me that the actions of British American Tobacco could not have come to pass without the involvement of a large and, to all intents and purposes, well-regarded legal firm up to that point in time. The example raises concerns about the role of large legal firms in providing services, particularly to multinational corporations, whether they operate in tobacco, petroleum, chemicals, insurance or banking. We cannot tolerate a situation in which legal firms, much like companies such as AWB Ltd, seek to do whatever it takes in order to secure lucrative contracts with multinational firms. In that case, as much as in the case of other corporations, the ends do not justify the means — and can never be allowed to.

I want to congratulate the Attorney-General on the zeal he has shown in pursuing the matter. It is very much in

keeping with the broad community's expectations as to how the law will be amended and strengthened in order to stamp out practices which are unacceptable. These provisions will be located where they can send the strongest message — that is, in the Crimes Act. I do not think there is a stronger or more potent way for this chamber to do its bit than to strengthen the law and provide a clear deterrent to corporations which might think about destroying documents and interfering with material which could impact grievously upon the evidentiary process down the track.

I will conclude by again indicating my strong support for this bill and noting that, as much as it is to be welcomed, there is still a family in Victoria very much grieving for the loss of Rolah McCabe. She had a name, she had a family and she lived a life. I simply hope that, amongst other things, this bill offers some sense of support to that family, which has been to hell and back.

Mr THOMPSON (Sandringham) — Alexandr Solzhenitsyn used as the theme for his Nobel Prize address in 1970 a Russian proverb: 'One word of truth shall outweigh the whole world'. The symbolism of that is not lost in many different forums, and in part the context of the present legislation is that the truth of the matter is not to be lost through the non-availability of documentation.

The opposition supports the legislation, which creates the offence of destroying documentary evidence, which in part codifies the common law relating to perverting the course of justice. Other speakers have alluded to the fact that the bill is a result of the Rolah McCabe case. It also follows from the recommendations made by the Victorian Parliament Law Reform Committee and Peter Sallmann.

The bill creates a new offence of intentionally destroying documents or other things that are or can reasonably expected to be required as evidence in court. The offence applies to both individuals and corporations. The penalty for an individual is five years imprisonment and/or 600 penalty units, and in the case of corporations it is 3000 penalty units. The offence still applies to a corporation even if one or more of its employees, agents and/or officers are involved in the destruction of documents.

The opposition has raised concerns as to the depth of the amendment. The common-law offence of perverting the course of justice prohibits conduct of this nature in any event, and the McCabe case was a civil case, not a criminal case. Nevertheless the opposition supports the legislation. It is important that the truth of a case is able to be established. To the extent that a corporation or individual may hold records that could be instructive to a court and jury as to the facts of a case, the opposition strongly supports the codifying of a proposition which was in part inherent in the common law in the first place. Any factors that contribute to the scales of justice being more equitably balanced are of value in the realms of a just society.

Mr DONNELLAN (Narre Warren North) — It is an honour to speak on the Crimes (Document Destruction) Bill. Victoria will be the first state in Australia to create a specific document destruction offence, whereby a corporation or individual can be prosecuted in circumstances where there may not have been a direct instruction to destroy a document but where it is implied by the corporation's culture.

By introducing this offence we are making it very clear that this type of activity is totally unacceptable. In general the offence will apply to a person who knows or is reasonably likely to know that a document will be required in evidence when they destroy or conceal it or authorise or permit it to be destroyed or concealed. The penalty for individuals will be five years imprisonment or 600 penalty units. For a corporation the offence will apply if an employee, agent or officer of the corporation or an associate knows the document is or is reasonably likely to be required in evidence and destroys or conceals the document with the intention of preventing its being used in evidence at a future date or the corporation authorises or permits its destruction or concealment with the intention of preventing its use. The penalty for that act is over $300 000.

I can think back to the various times I have come across constituent cases. I remember Mr Ebadi, an Afghani refugee who had worked for a publicly listed company for seven years and was regarded as a very good worker. One day he was brought in to do some overtime because he was so well regarded, but unfortunately on that day he injured his back. He went in and saw the nurse at the company. Under the WorkCover scheme at the time the injury was not of a nature that would not have allowed him to return to work, so he was told to return to work the next day. Consequently his back was well and truly stuffed.

When his solicitor decided to take action against the publicly listed company, the nurses' and doctors' reports which were made on that day had gone missing, which certainly helped the company defend its case. Whether that was deliberate or otherwise I do not know, and I am not sure whether the act would have applied in this case, but it appeared to me on the surface of things, and from the correspondence, that the company was reasonably certain that this gentleman

was never going to receive compensation, yet forevermore his back was terrible. He could never sit down properly in a chair for more than 20 minutes, and it is unfortunate that for some reason those reports deliberately disappeared. From what I understand two other people in a similar situation in this public company had nurses reports just disappear out the door, so at the end of the day no-one was able to take action in a court through their solicitors.

I can think of another example involving the defence department and private contractors. We were chasing up a particular case on behalf of a private contractor who had done some work for a navy base down in Hastings, HMAS *Cerberus*. He was very good, because he had kept a lot of documents, so realistically he had been sensible. But when we went to prosecute the case within Parliament and within the Senate Estimates Committee, it was amazing to learn that all the documents he had could never be found by the private contractors down at HMAS *Cerberus*, even though he had them himself. In the end he won the case, because we had four contracts signed on the same day by the same people for the same job but for differing amounts, so obviously something was going wrong. We knew where the documents were, and we had a person who was able to assist us to identify where the documents were.

It is unfortunate that this poor individual had to prosecute his case, firstly, through the Senate Estimates Committee to try and drag out the truth from the defence people — not the serving officers, the public servants — and eventually he had to take the private company to court. As I said, because he had kept so many documents he was able to prove the case, but it cost him his business and it cost him an enormous sum of money to prove that a pack of buggers in a private company had deliberately been hiding documents, forging them and so forth.

We had the Australian National Audit Office confirm that from some of the material we chased up, which related not just to this private contractor but to many more, because there was about $250 million worth of mismanagement. The audit office was able to find the documents for $125 million worth of the mismanagement, but it simply could not find the documents in relation to the other $125 million. I know the Victorian act will not apply at a federal level, but it is the type of act which could encourage that corporate culture to disappear over time, because at least there are some penalties here.

In summary, this is a very good bill. It goes to the heart of what should be proper and appropriate behaviour by both corporations and individuals, and I commend it to the house.

Mr MAUGHAN (Rodney) — I have listened with a great deal of interest to contributions by members on both sides of the house, and I note that this small but important piece of legislation has bipartisan support. It goes without saying that some of the hallmarks of any civilised society are a democratic system of government, the rule of law and due process. They are things we all hold dear in our society, whatever our political backgrounds. A fair go for all and justice before the law are things to which I think all members of this house would subscribe.

Our democratic society is underpinned by a system of justice which should be fairly administered and free from corruption. That is a basic tenet of our society. We can be proud in this country and in this state that we have such a system and that it is fairly administered, free from corruption and generally speaking gives people a fair go before the law. But every now and again a deficiency is identified, as it was in the McCabe case, where documents were destroyed and where a person was not given justice before the law because of the destruction of those documents — and that in part led to this legislation.

There were two things leading to this legislation. The McCabe case was certainly the trigger point, but the all-party Law Reform Committee in its report on the administration of justice offences — and I was privileged to be part of that committee and hence listened to a lot of the evidence in that case and was certainly party to the recommendations that were made to the government — and Professor Peter Sallmann in his report on document destruction and civil litigation in Victoria dated May 2004 recommended the creation of a new statutory offence to cover the destruction of documents to prevent their use in judicial proceedings. I commend the government for picking up the recommendations of the Victorian parliamentary Law Reform Committee and Professor Sallmann on this very important point to close this loophole and bring us into line with other states. As I understand it, almost every other state in the commonwealth has provisions similar to those being proposed in this bill.

Once the bill has passed it will be an offence under the Crimes Act, with heavy penalties for those that breach that legislation, for a company or an individual to destroy a document or documents — they are very broadly and clearly defined in the act to include maps and other documentation of all sorts — that are reasonably likely to be required as evidence in legal proceedings. After the passage of this legislation it will

be a very serious offence for an individual or a company to destroy documents which one could reasonably presume would be an important part of any legal proceedings.

I simply want to commend the legislation and note that it has bipartisan support. Sometimes out there in the community people believe this place is largely a place of conflict without acknowledging that we have a common interest in issues such as this and that people on both sides of the house support this sort of legislation. This is important legislation, and it has bipartisan support. I wish the bill a speedy passage and commend it to the house.

Ms DUNCAN (Macedon) — It is my pleasure to speak this afternoon on the Crimes (Document Destruction) Bill. Members may recall the case of Rolah McCabe — I remember it very well — when we watched this woman slowly die before our eyes on the television screen. This bill has come about as a result of that case and a number of recommendations. People will remember that Rolah died of lung cancer and never really got to have her day in court because of events that overtook her case against British American Tobacco. As we now know that company had a policy called, I think ironically, the 'document retention' policy that basically determined that a range of documents were not required and the company then destroyed them.

This government is of course very interested in justice and the integrity of the justice system. The passing of this bill will ensure that the rule of law continues to be upheld in Victoria. The bill makes it very clear that the intentional destruction of documents to prevent their use in judicial proceedings will seriously undermine the fairness of any such proceedings by removing the ability of the courts to consider all the relevant evidence. It is vital that people who have claims are not prejudiced by the actions of defendants in deliberately destroying documents which, as in the case of Rolah McCabe, may cause the plaintiff to be unable to prove their case. Documents such as these may be all that is available as evidence, and often cases are relying on documents that have been in existence for a very long time. Therefore it is important for the rule of law that individuals and corporations — it was a corporation in the McCabe case — do not intentionally destroy documents to prevent their use in future proceedings.

As has been said, the bill has been introduced following a number of reports. The Victorian parliamentary Law Reform Committee was provided with a general reference to review administration of justice offences. In its final report in June 2004 the committee recommended, amongst a range of things, that a specific offence of evidence destruction should be enacted. The Crown Counsel, Professor Peter Sallmann, was also specifically asked to advise on the adequacy of the current laws, procedures and practices relating to document destruction.

As a result of that a number of recommendations were made, including that there be a new statutory offence to cover the destruction of documents to prevent their use in judicial proceedings. Civil law recommendations were made that go to codifying the powers of the courts to intervene in proceedings affected by the unavailability of documents. The creation of a professional conduct rule to apply to legal practitioners when advising clients about documentary retention and destruction was also recommended.

The bill acts upon the recommendations of the committee and the Crown Counsel to create a new offence. In general terms the offence will apply if a person knows that the document is, or is reasonably likely to be, required in evidence, and destroys or conceals that document or authorises or permits another person to destroy it and does so with the intention of preventing it from being used in evidence. There are many examples of documents being destroyed. The Public Records Act specifies conditions under which documents can be destroyed. The bill does not affect any existing acts.

The penalties for an offence under the bill are fairly hefty: for an individual the maximum penalty is five years imprisonment or a fine, currently of $62 800 or so, or both; for corporations, which often are parties to litigation, the maximum penalty is a fine of $314 000 under the current penalty points. The bill also covers what is described as 'corporate culture', which is often an unspoken culture. It is might be an unspoken direction or expectation that certain things will happen. As I said, the bill seeks to cover examples of that.

I am really pleased to speak in support of the bill this evening. Rolah McCabe died tragically. I suppose in some ways more tragically, just weeks before she did, her husband died very suddenly and unexpectedly. Neither Rolah nor her family have ever had her case tested in a court. I am very pleased that Rolah will not have died in vain. A lot has come from her case, and this bill is one of the positives to come from that situation. I commend the bill to the house.

Ms BUCHANAN (Hastings) — I certainly rise in support of the Crimes (Document Destruction) Bill. In many respects this will be known forever within the Victorian community as the Rolah McCabe bill because

of the issues surrounding the legalities of the process that she was denied at the time of her death. Rolah McCabe was based in Cranbourne. She had adult children, and it is unfortunate that she was not able to live to enjoy watching her children reach middle age and her grandchildren as well.

I remember avidly reading the newspapers and watching the television reports as her case came to light, with all the permutations in the legal process that she had to endure going through while she was in that state. I note that there was a great outpouring of community grief when she died. Likewise there was outrage in many of the communities I deal with around my area when it came to light that the potentially incriminating documents were deliberately destroyed by British American Tobacco. That destruction of evidence is totally contrary to our sense of transparency and the integrity of our legal system.

The words that I often heard when people raised the Rolah McCabe case with me were 'those rotten bastards', if I can use that unparliamentary term in this house. It was a term most often used by people across all the communities I visited when they talked about the process that was undertaken and brought to light by this organisation. That is why I and my community are pleased to see a review of existing legal frameworks and the bringing in of laws that apply substantial penalties as a consequence of community condemnation and outrage at this sort of process.

As many other speakers have pointed out, the destruction of those documents was unfortunately not a unique event. There are other cases of documents being deliberately destroyed because of their incriminating nature. I am very proud that this state government is the first to bring in laws to address that issue.

There is another issue here. I wish to take up something the member for Macedon said about Rolah McCabe and making sure that the process she initiated through the legal system was not in vain — that is, that public confidence in the administration of justice in Victoria and across the country is going to be enhanced by the introduction of this bill. It certainly reflects this government's commitment to a fair and transparent justice system for all Victorians, and I hope that other states take this process on and look at monitoring and prosecuting, with the full vigour of the law behind them, those cases that are deemed to be proved the same way.

I acknowledge the work of a journalist, Keith Platt, who is currently working for the Independent News conglomerate. He was a local journalist who followed the story passionately and whose investigative journalism highlighted further issues that reinforced the basis on which we have brought in this legislation. He focused on the fact that the fairness of the court process is seriously undermined by the removal and destruction of documents. By making this a new offence we are clearly reflecting community attitudes that the practice of destroying documents to prevent their use as evidence is totally unacceptable to the community and should be given zero tolerance. Unfortunately this offence has become a common practice by corporations.

In closing I again endorse what I consider to be the Rolah McCabe bill. I commend all members of Parliament involved with the parliamentary inquiry, the Attorney-General for initiating the process to redress this practice and Rolah McCabe and her family. I commend this bill to the house.

Mr LUPTON (Prahran) — The Crimes (Document Destruction) Bill is an important piece of legislation that goes to the integrity of the judicial system here in Victoria. I am very pleased to support this legislation. It of course springs from the tragic case of Rolah McCabe, who took legal proceedings against British American Tobacco in which she claimed that their tobacco products that she had smoked over the years had caused her to contract lung cancer.

Through a complicated series of company policies and pieces of legal advice it became apparent that prior to legal proceedings being instituted against the company, documents that may have been adverse to the company's interests were destroyed, and of course that had a greatly prejudicial effect on the ability of Rolah McCabe to bring her legal proceedings.

It is important that we understand the nature of documentary evidence when we are considering these pieces of legislation, because so many cases in our courts these days turn on it — for example, the emails, the memoranda of advice and the various letters that are circulated within companies. Interfering with documents by destroying them or concealing them from people who are interested in legal proceedings is a very serious form of tampering with evidence. In essence it is really no different to interfering with witnesses, because it has the potential to pervert the course of justice and interfere with the genuine and proper conduct of the judicial system.

The first duty of a lawyer is to the court, not to their client, and it is important that we recognise that fundamental principle when considering this legislation. Part of the reason for this legislation is that

some of the legal advisers in the McCabe case were involved in the provision of advice which played a part in the destruction of documents. It is vital that independent legal advice that can be trusted is preserved, maintained and strengthened. This legislation effectively provides for that.

To illustrate the way in which a lawyer's first duty is to the court I give the example of the duty a lawyer has to cite unhelpful authorities. If a lawyer is aware of a legal authority that is not helpful to their client's case, it is nonetheless their duty to advise the court of that authority. In its own way that is similar to not concealing documents of the type that may not be helpful to their client's interests.

In addition to the legal advice elements of the McCabe case this legislation also deals with the type of corporate culture that in those circumstances led to the development of what was euphemistically called a document retention policy but which of course came to be clearly understood as a document destruction policy. The sorts of documents that were involved in the British American Tobacco case are particularly vital in cases where people are taking legal proceedings where warnings by companies are important or where the knowledge of a company is important in the manufacture of products. During my years as a practising barrister I was involved in numerous cases on behalf of plaintiffs who were suing the manufacturers of products where the ability to obtain documents that showed what the companies knew and when they knew it was vital to the outcome of the cases and the ability of the court to make fair and just decisions. Anything that undermines the ability of the judicial system to have proper evidence put in front of it is a great threat to its integrity, and we must act strongly to make sure that does not occur.

When the case involving Mrs McCabe came to light the Attorney-General quite properly instituted some inquiries which led to the development of this legislation. I am also indebted to the Victorian Parliament's Law Reform Committee for its work on the development of this legislation. I am a member of that committee, but I commend the other members who worked on the reference, and I also commend the Attorney-General for referring the matter to the committee. This is an important piece of legislation for the operation of the justice system in this state.

This bill creates the offence of destroying documents. It is appropriate that the penalties for destroying documents in an unlawful manner are severe, because it means that there is every incentive for companies and lawyers to do the right thing and act in the interests of justice and integrity in this state. I commend the government and the Attorney-General for bringing in this legislation.

Mr CAMERON (Minister for Agriculture) — On behalf of the government I thank the honourable member for Kew, the Leader of The Nationals and the honourable members for Bentleigh, Richmond, Ferntree Gully, Burwood, Yuroke, Mount Waverley, Bayswater, Mitcham, Sandringham, Narre Warren North, Rodney, Macedon, Hastings and Prahran for their contributions. On behalf of the Attorney-General and the government I thank honourable members for their support and wish the bill a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.31 p.m. until 8.02 p.m.

GAMBLING REGULATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 19 October 2005; motion of Mr HULLS (Attorney-General).

Mr SMITH (Bass) — The Gambling Regulation (Miscellaneous Amendments) Bill is a small but very important bill that will give the gaming commission greater control over an important industry in Victoria. I think we all recognise that gaming is an important industry. It is one that brings problems so far as problem gambling is concerned, but it also employs a lot of people and generates huge funds for the government and for the industry itself. It also gives a lot of people, particularly recreational gamblers, an opportunity to indulge in some gambling and to have some enjoyment. Unfortunately it brings with it the stresses that are brought on by problem gamblers.

Mr Robinson interjected.

The SPEAKER — Order! The member for Mitcham is out of his seat. I ask him to be quiet.

Mr SMITH — Earlier tonight I had an opportunity to meet up with some gaming industry leaders who confirmed to me the need for greater vigilance and care within their industry and, of course, control. Not everybody likes control of an industry, but when you

have gaming it is important — as we have in this state — to have an industry that is controlled. We are able to say we have a very clean industry in Victoria, far better than in some of the other states.

We also do not want to make life difficult for the people who are in the industry. We like to have control, but we also want to see people being able to operate in an environment where they can gamble and win or lose. The industry employs staff in establishments to control what goes on in those establishments and allow people to enjoy the environment they go to, whether it be their local pub or club. People can gamble to their heart's content. They can put $5, $10 or $50 into poker machines. At the end of the night they can say, 'I have had an enjoyable night'. Unfortunately there are some people who will stay at establishments and continue to put money into those machines, and those people make up about 15 per cent of the gamblers in Victoria. They are the ones that most of us are concerned about. They are the ones who take up newspaper space. They are the ones who create problems for themselves, their families, their work mates, their football club mates or whoever they may be.

The debate tonight does not actually relate to problem gamblers and dealing with them but is about working with the industry to try and bring about — as I said earlier — more control of it and to give a bit more of that control to the Victorian Commission for Gambling Regulation. It has a very important job. The three commissioners that are there now — two commissioners and the executive commissioner — do a very good job in controlling this industry of ours. We are not dealing with the problem gambler aspect of the industry tonight, we are dealing with other parts of the industry.

We are looking to give more flexibility to the commission to vary the number of machines in particular venues. I do not mean that the commission can grant licences to put a particular number of machines it wants into venues. We have a maximum of 105 machines in each venue but most venues do not have that many. A number of them might only have 15, 20, 30 or 50 machines. The bill will allow the commission to negotiate with people from pubs and clubs for them to put in extra machines without going through the whole gamut of regulatory controls that are normally needed to allow that to happen. Because of the way the industry is now, some of the smaller clubs are finding the regulations, the restrictions and the need to employ staff very restrictive, and that is stopping some of the clubs from making the dollars they expected to make.

There will also be a number of clubs and pubs that will be in a position to amalgamate with a bigger club or pub. As time goes by we will finish up with a number of what will be called mega-clubs around Victoria. They will not be mini-casinos — these venues will not have gaming tables or anything like that — but they will certainly be in a position to hold the maximum number of machines. When the commission asked for this to happen it was looking for a way it could control the growth of those venues without some of the current restrictions imposed on owners of pubs and clubs.

The bill will also enable the commission to refuse applications for some of the trade promotion lotteries it considers to be offensive. I thought, 'This is a bit strange. Are we going to have a commission that sticks its nose into competitions and that sort of thing?'. When I discussed the issue with the commission I discovered that those holding competitions — and FM radio stations are particularly bad — can say, 'You can win a car, but if you lose you are going to have to smash all your wedding photos so that you won't have those reminders'.

I am sure there would be a lot of people who would say, 'If I smash the wedding photos does it mean I get an instant, overnight divorce?'. But it does not work that way. You can win a car, but if you lose you will have to have a greased pig running through your house and you have to try to grab it to stop it doing too much damage. There may be competitions where people are offered certain amounts of grog, and there are not really any restrictions on the ages of people who are able to win copious amounts of grog. This is stuff that is over $5000 in value, and when you look at Bundy and Coke and some of the other grog that is available now that kids seem to go for it does not take long for $5000 to mount up.

I understand something like 4000 or 5000 applications come before the commission each year for the granting of licences for this type of competition or trade lottery, as they call them. I think the commission is well within its rights to have some sort of say in that when it becomes offensive or dangerous or may put kids at some risk — not that it should be so restrictive that it stops people from having fun, because I do not say anybody should be stopped from having fun. Under this bill when a big winner at the pokies in a club, a pub or even the casino wins $10 000 — which would be very nice, and it happens on a reasonably regular basis — they will get $2000 in cash, if they wish, and the rest will come in the form of a cheque that has to be paid into a bank account.

When clubs and pubs make out a cash cheque to these people, somebody who is not a problem gambler can say, 'That's fine, I will take my cheque and go home. I can go and put it in the bank'. But somebody who is vulnerable, who has an $8000 cheque and already has $2000 in cash, may spend that $2000 trying to make another $10 000 and may then start wanting to cash in their cheque and have an extra $8000 to splash around. That is not on. We have to try to save these people from themselves. Genuine gamblers who have a big win like that would say, 'This is great. I have had a really terrific night tonight. I am going to go home and take my winnings with me'. If they have got a brain at all, they will put their $10 000 in their pocket and go home and surprise their wives, if they are not already there with them.

Mr Ryan — Or their husbands.

Mr SMITH — Or their husbands — their spouses. I did not mean to be sexist when I said that, but that is the sort of thing I would have expected The Nationals to have picked up — good family people that they are.

This bill will enable bingo centre operators to renew their licences, which they have to do on a regular basis. I understand they will be able to have up to a five-year licence. Those applications often take some time to be dealt with. If a licence expired on 1 January 2006 and the gaming commission did not get to it until 22 February 2006, the centre is not precluded from playing games over that period of time; it is covered for that period of time. This gives the commission an opportunity to have a good, close look at the applications for approval. If there have not been any problems at all, they will be renewed from the time the licences were due for renewal.

It is very difficult to serve a notice on somebody to say they have lost their licence due to some misdemeanour or because they have been caught out doing something wrong. This bill will allow the commission the opportunity to serve documents on these people in a better way than having to walk up and say, 'Fred Smith, we are giving you notice that your licence to operate has been cancelled'. In fact some of the Fred Smiths around would make sure they were not in that position, and until they actually had the notice served on them they would not in fact have lost their licence and could continue to operate. This will allow the commission to put into practice other ways of serving those notices on an employer who may well have lost their licence or premises that have lost their licence for some other misdemeanour.

This legislation allows the commission to more closely monitor and seek information about some of the community and charitable organisations that tend to run what can often be big raffles. They are not actually charities or community organisations, they are professional fundraisers that are raising funds for themselves but tend to use the names of some of these organisations to allow them to raise funds. Often not very much money flows back into the organisations they are supposed to be representing. This legislation will allow these people to be properly checked out to be sure that they can maintain the status of being a charitable or community organisation. The commissioner can ensure that these people are the real thing and not crooks.

I keep thinking back to the raffle that was run by an organisation called Kids at Sea. The organiser of that finished up being chucked in the slammer for a number of years for dudding the people of Melbourne and Victoria of something like $8 million. He came out of it very well; he used to run raffles for very expensive cars. He was a very lucky man because he kept winning. It was amazing how many Porsches he finished up with — you never know just how lucky you can be, particularly if you are running a raffle! But I must say it concerned me a little bit when we looked into this that he kept getting licences to allow him to continue running raffles. That particular gaming group is not in a position of power any more; that was changed by this government. I am pleased that occurred, because there are a lot of kids who did not get the opportunity they were promised to go out on boats and yachts and learn how to sail and enjoy life on the high seas. That did not happen; the person behind it all was making a small fortune for himself and not for those kids.

The bill will also allow commercial raffle organisers licences to remain in force, as I said before about the bingo people. When they go to renew those licences there will be some flexibility in the time when their licences can be renewed. That will be of some help to them and to the commission.

The bill allows for the streamlining of the casino's responsibilities to publish new games and rules. I am a bit mystified by some of the games at the casino; I am not sure how a lot of them are played. I see a lot of people sitting there, some winning, some losing. The rules are usually on a little card you can get from some of the tables that have been set aside where you can learn a bit about the games. The casino is constantly bringing in new games. As members would be aware, there is a real push now for poker. In the old days we probably used to sit around and play a bit at home or with our mates at the football club or whatever it was. It

is now becoming a bit of a rage not only here in Australia but around the world.

Joe 'Hash' Hachem, the winner of $10 million in Las Vegas, made a lot of people think that if a guy who lays floor tiles can win this sort of money, maybe they could do it as well. A lot of hotels are now holding poker games. What I am trying to say is that information about any new games — the rules and the way they are played — will show up on the casino's web site so that people can know and understand the rules before they play, whether at a table at the casino or anywhere else, because the casino will probably rule the roost as far as the way these games are played.

The Liberal Party supports this legislation. We see it as good sense. I have spoken to people from the casino and gaming regulation commission and representatives from Crown Casino and the bingo operators association. The world of bingo operators — what another world that is! I visited a couple of bingo parlours. It is a lot different to when I played bingo at the Mt Eliza football club. Now there are prizes of $1000, $2000, $3000 or $4000. When we used to play, $30 was a pretty good prize, but now they play for thousands of dollars. I saw the extremely professional way the games are run and the premises they are played in. People go along week after week — or even day after day — and enjoy playing bingo. They set up a lot of mates and friends at those places.

I remember going to a bingo parlour in Narre Warren where someone had died. They had a big funeral, which had to be planned around the bingo times so that friends could go to the funeral and pay their respects, without interfering with them going to the bingo. The last time you would want to have it was at 1.00 p.m. on a Wednesday. There was a sort of mateship. They had left a spot at the table spare for that lady, who was not going to come back again. It seemed like a well-run function at the Fountain Gate shopping centre. It was good to talk to people about how it operated. The last thing you do when you go to a bingo venue is stand between the canteen and the tables when the time comes for people to rush over to get their pre-ordered food, because you will be knocked over and trampled. All of it was done in a very professional way.

We support this bill. We hope it goes through a lot quicker than the one regarding Betfair, which languished on the Governor's desk for a long period of time. I am not sure that we ever got any sort of ruling as to the legality of what the government did in holding back the bill until Betfair got its foot in the door in Tasmania. We do know that the Tasmanian Premier came over and had a very good time at Crown Casino, which is all part of PBL, which has a half share in Betfair. Nevertheless, we support this legislation and wish it a speedy passage.

Mr RYAN (Leader of The Nationals) — It is my pleasure to join the debate on the Gambling Regulation (Miscellaneous Amendments) Bill. The figures in relation to gambling and gaming in Victoria are significant. Remember, this is the government that promised all sorts of wondrous outcomes regarding the gambling industry, gaming in particular. The figures bear some telling in the current context.

Gambling expenditure in Victoria in 2003–04 was $4.251 billion, or 26.22 per cent of the total gambling expenditure in Australia. It was the second highest revenue in the nation after New South Wales, which was $6.567 billion. From the revenue breakdown, gaming machines made up 53.894 per cent, or $2.291 billion, of that money; the casino made up 22.67 per cent, almost $1 billion; and the rest followed. From the Victorian government's perspective, its revenue in 2003–04 was $1.324 billion. The breakdown of those revenue sources was gaming, $1.2 billion; racing, $106 million; and sports betting accounted for another couple of million.

The figures are very significant in a budget in Victoria now that is about $35.6 billion. It is about $100 million every day, day in day out. The sun has gone down on yet another day; it will be midnight soon and another $100 million will have gone into the coffers of the Victorian state government. That, of course, is about twice what it was only five years ago, and around $1.3 billion of that is to do with revenues derived from gambling, but principally from gaming. On these occasions you cannot help but reflect on the commentary by the present government before it came into power in 1999 as to what it was going to do, the solutions it was advancing and all the rhetoric that was then played out. Here are the figures saying what the government has done.

The bill before the house has a number of components to it, principally around amendments to three pieces of legislation. There are about half a dozen issues I want to refer to during my contribution this evening. The first act to be amended is the Gambling Regulation Act 2003. Members would remember that as the tome that was introduced by the minister in 2003. It is about 720 pages long and comprises a series of legislative instruments. Basically the government tore the front cover and the back cover off a lot of acts, banged them all together, put a new front and back cover on it and called it the Gambling Regulation Act. There are not really any new aspects to the content of that legislation.

The first amendments to which I want to refer are to the Gambling Regulation Act 2003. The first of those amendments deals with further empowering the commission to do additional things with regard to the licensing of venues. When I say the commission, I mean the Victorian Commission for Gambling Regulation, which was established under the Gambling Regulation Act of 2003. What the commission will now be able to do under the terms of this amendment is to vary the number of machines in a given venue. As the clause notes recite, proposed section 3A provides that the commission will now be able to approve an amendment to vary the number of gaming machines, subject to a condition that the approval does not come into effect until the commission is satisfied that certain criteria have been met. We are not told what those criteria are.

Through entirely my own fault, I have not had the advantage of a briefing from the commission, or indeed from the government, with regard to the rationale behind this provision, but I think people in the industry will want to know sooner rather than later what is in the mind of the commission as to how it will exercise the new powers which are granted under the terms of this legislation. I say that because the industry itself seems perpetually to be in a state of uncertainty. Certainly it is a whipping boy for some of the dailies here in Melbourne, and it is a whipping boy for some sections of the community who have no time at all for the industry. On the other hand it is an industry that does provide an enormous amount of employment across Victoria, not only within the hotels but also in the clubs. Victoria is probably the best regulated jurisdiction for the operation of gambling, particularly gaming machines, in any jurisdiction in Australia and, dare I say it, globally.

I had the opportunity late last year to be in England to talk to those who were responsible for the passage of the English legislation. That legislation was passed in April last year, and in the United Kingdom they are now grappling with the process of its implementation. The comparisons between the two jurisdictions are absolutely stark in the sense of the issues we are discussing here tonight. In Victoria we have one casino and 30 000 gaming machines, 2500 of which are in the casino. In the UK there are 141 casinos, as I recall, and around about 275 000 fruit machines — or gaming machines, or whatever term one might like to use to describe them. The United Kingdom is also grappling with managing the Betfair issues that are now encroaching upon the UK market.

Here in our state, under a system which was set up under the previous government, we have a superbly regulated structure. There is a duopoly, with Tattersalls and Tabcorp controlling those other 27 500 machines on an 80:20 split between city and country and a 50:50 split between the two organisations, and all of them of course are computer linked to the central processing system. It is the envy of other jurisdictions around Australia, and as I say, that certainly is the case internationally. The commission will now have additional powers granted to it under the provisions of clause 3.

My only query — not necessarily concern — is that it is very important that the commission, which I pause to say does an excellent job, has a conversation with the industry about how these new provisions will be exercised, what the criteria are, what will trigger them and what the bases are on which the commission will see fit to implement these new provisions given to it under the clause.

The second issue I want to refer to involves the payment of winnings by cheque. In a sense it is sad and a reflection on some that this has to be here. The legislation as it has existed has meant that any winnings beyond $2000 have had to be paid by cheque. It was understood at the time it was passed that it would mean that the winnings would be paid in the form of a cheque, that the cheque would then be credited to an account by the winning gambler and that the money would effectively be taken out of the venue. It is now felt necessary to introduce a clause which precludes a cheque for the minimum sum of $2000 being made out to cash. That carries the obvious implication that some venues at least have been indulging in the notion that although they have to make out a cheque for $2000, by making it out to cash it can be cashed straightaway. That will now be precluded by this provision. Inasmuch as it is necessary to deal with problem gamblers, so be it. We therefore support that clause.

The third issue that I mention is the provision for trade promotion lotteries. As the member for Bass has exemplified, unfortunately these days some of those lotteries are run on a basis which has some ridiculous aspects to it. The commission will now have the capacity to approve or refuse a permit application, subject to what it feels is appropriate in the prevailing circumstances.

The fourth area in this legislation which is of particular significance is the capacity of the commission to investigate community or charitable organisations. The intention is to make sure they are the real deal. There are benefits available to those organisations in a variety of respects under the principal act. The imperative is to make sure that people are not scamming and taking

advantage in a way which is inappropriate and which should not otherwise apply under a strict application of the legislation.

The fifth area relates to the bingo industry. I do not intend to go through the provisions chapter and verse, but it is interesting to note that despite all the developments that have occurred in the industry over almost 15 years, bingo is still popular for many. It is not necessarily my game. 'Legs 11' never really appealed to me but everybody has their own thing; that is what makes the world go around.

Mr Smith interjected.

Mr RYAN — No, to respond to the interjection from the member for Bass, it is not politically correct any longer to say, 'Two fat ladies', so I am not going to say that. That was the saying — 'Two fat ladies, 88' — but it is not appropriate now. But there are many other calls which those who are expert in these matters can produce at the drop of the proverbial hat.

The sixth area is the licence renewal provisions to do with the licences for commercial raffle organisers. Really they are minor matters to do with timing and process.

The seventh matter is the amendments to the Casino Control Act. Under the terms of these amendments it will now be a requirement to have the approval of games and rules for games dealt with in a manner which the provisions stipulate.

I irregularly go to the casino in Melbourne, and then for research purposes only, of course. The operation of the casino and the general industry itself brings me to another point which is pertinent to this legislation — that is, the question of this ubiquitous individual, the problem gambler. The industry in Victoria, in Australia and globally is grappling with this notion of the problem gambler. I suppose the question that remains unanswered is who this individual is. How do you identify that person who is the problem gambler? A lot of work has been done through the specialist unit at Sydney University by Professor Blaszczynski and those who work with him. Those responsible for examining this issue in the United Kingdom are also grappling with this question of who this individual is.

I believe that there is the capacity for the government of Victoria to do much more of this important work. It is important in the first place for the individuals who are afflicted by problem gambling. Then there are other elements of the community, other individuals and the industry itself, all of whom would benefit from a greater investment by the government of Victoria than we are presently seeing.

I have a concern that the proceeds of gaming that are going into the Community Support Fund are increasingly being used for line items in the budget. More and more we are seeing this money used for the delivery of programs, particularly in the health sphere, which should really be line items in the budget. Whilst we all welcome the health programs — that is unanimous across the house — I think there is plenty of scope for the government to address the issue. Originally the Community Support Fund was intended to be directed to the industry and the people who participate in it. There is plenty of scope for additional investment to be made by the government in programs to deal with questions such as who the problem gambler is and how we deal with this individual.

Recently I went to Crown Casino to look at some of its programs. They are instructive. I make a distinction between the processes at Crown Casino and those at other venues around the state. Crown Casino is a destination gambling point. People go there deliberately. They usually get in a car and drive there, park there and go upstairs and play. That is to be contrasted with the position that so often applies with electronic gaming machines in the pubs and clubs, where people have their favourites but will often go to them simply by accident rather than by design. They are looking for somewhere to go, so they will just go to the nearest place.

That is a different from what happens at Crown. The other thing to be said about the comparison is that Crown is a huge establishment. I think the attendance numbers are 15 million or 20 million people a year — something of that order — going through Crown Casino.

Mr Smith — Forty thousand a day.

Mr RYAN — It is 40 000 a day, so whatever that works out to in a year — it is a lot of people. This is to be contrasted with the pubs and the clubs, which obviously do not have anything like that number of people going through them. The point is, though, that there is a capacity at Crown to be able to do things in relation to this important issue which other venue operators are not able to do because they operate separate venues. Mind you, that does not exclude the major operators from this important role, and I am aware of the exclusion programs run by the Australian Hotels Association, Tattersall's and Tabcorp.

I am aware of those things, but the comparison with what happens at Crown regarding this issue is interesting and perhaps instructive. On every shift at Crown the company has six people patrolling the floors with the task of being interventionist, particularly in relation to those who are playing the gaming machines. These are staff who are trained to actually go to players who they believe are having problems — playing too much and wasting money and the like — and to engage them in conversation and take them away from the machine or the table, as the case may be.

Crown has an excellent system upstairs in the first floor area, where people can be drawn and then offered the services of the experts who are necessary to assist those who have a gambling problem. Crown does not provide those expert services itself, as I understand it, but it has people on call 24 hours a day, seven days a week, who can provide that sort of assistance. I think that is a responsibility being played out in the community at large and within the industry, particularly for the people who are the most vulnerable — to use the expression of the member for Bass — and who above all others need help.

I would like to see the government in Victoria invest much more money in the development of programs of that order. I agree with and am a strong proponent of personal choice. I think this government is erring on the side of regulation — we will need a permit to get out of bed soon, as I have said in this place many times — but on this issue I do think there is a question of balance which is not being addressed by the government. I think there is plenty of capacity to do much more to look after the problem gambler — as we term that individual — to identify that person and to develop programs which are appropriate to assist that individual to escape the curse of gambling addiction. That is important not only from the perspective of the individual but from that of families and other dependants around that individual.

The Nationals support this legislation. We think that contained in this bill are some useful additions to the whole fabric of the industry, but I believe the government, which is now deriving about $1.2 billion a year from this industry, owes it to the people who are at the blunt end of the instrument, who are suffering as a result of the industry's activity and in need of help — and I emphasise again that they are a small minority; you only have to look at the Productivity Commission's report on gambling to know that to be so — to do much more for them. It is with those observations that I wish the bill a speedy passage.

Mr LONEY (Lara) — I also rise to support this bill, the intention of which, as has been stated by others, is to extend the provisions of the Gambling Regulation Act 2003 and other acts. Following the comments of the leader of The Nationals I might say at the outset in relation to regulation that the role of this place is to support appropriate regulation where it is demonstrated to be necessary. The gaming area is one area where it seems to me that it is appropriate to have a degree of regulation.

If you look internationally where jurisdictions have operated what is sometimes called light-handed regulation of the gaming industry, I suspect you do not have to look far to see elements of corruption also occurring in that industry. That is something that Victorian governments of both persuasions have been very keen to ensure does not occur in relation to gambling and gaming here. It was mentioned by both previous speakers that the regulatory regime in this state is a world leader and is admired throughout the world. If you go to other places you find that the level of probity and integrity of gaming companies that are registered in Victoria is accepted because of the very fact that they operate within the Victorian regulatory framework and meet those regulations. That is something of which we on both sides of the house should be supportive.

The bill has a number of aims. It aims to improve the effectiveness of regulation of gambling in Victoria and to make further amendments to a series of acts that are relatively recent. It also — and I think the Leader of The Nationals was alluding to this — aims to improve the responsible gambling environment within Victoria. Both of those are reasonable aims for this place to be pursuing. As I said before, probity and integrity in this area are paramount.

As the Leader of The Nationals said, the bill amends three particular pieces of legislation. The first is the Gambling Regulation Act of 2003. I do not necessarily intend to go to each of them, but a number of the amendments are worth commenting on. The first is one that the Leader of The Nationals referred to — that is, extending the commission's power to attach conditions to an approval to amend a gaming venue operator's licence to include approval to do a number of things: firstly, to vary the number of gaming machines, to add or remove a venue, and to vary the gaming machine area of an approved venue. Previously the commission was restricted in the conditions it could attach because these could only be attached to an amendment that varied the days on which 24-hour gaming was permitted, so it is actually giving the commission a much wider scope to which it can attach conditions.

The Leader of The Nationals was saying some of this needs to be clarified, and I think the commission will do that as it goes through; but the sort of conditions that could be attached to an approval under this amendment would be things such as varying the number of gaming machines or to include conditions that require the operator to undertake and complete building alterations through a venue. It could require the removal of a number of machines from another venue before an approval could take effect, so a number of things could be done there that would ultimately benefit the community.

Secondly, the amendments will enable the commission to undertake ongoing monitoring of declared community and charitable organisations and require them to provide specified information. Similar to the previous speakers, I think this is an important amendment, even though quite small, in that it is about establishing the bona fides of such organisations and ensuring that the community can have confidence in those organisations that claim to be of charitable status.

As has also been mentioned, the bill will amend the act to require that where payment is being made by cheque that cheque cannot be a cash cheque. As the Leader of The Nationals said, it would seem the purpose behind that amendment is to try to obviate the situation where a person walks immediately to the cashier, cashes the cash cheque and returns to the table. Some might say that is getting a bit too interventionist in some ways but I think it is probably a reasonable provision in terms of ensuring a responsible gaming environment.

An amendment I wanted to talk about a little bit is the one which enables the commission to refuse an application for a trade promotion lottery if the commission is of the opinion that the conduct of the lottery is offensive or contrary to the public interest. The commission does not have this power at present and is being given it in this bill. The sort of thing that would be prohibited under this provision is something that may involve minors. For example, it may well be considered not in the public interest to allow children to enter trade promotion lotteries to win prizes such as alcohol or lottery tickets, as it would be illegal for them to purchase those products in the normal course of trade. Such lotteries would allow minors to effectively step around the law making it illegal for them to have those sorts of things.

Some past trade promotion lotteries provide examples of things that might come under the offensive or contrary to the public interest provision. They have involved things such as displays of public nudity, entailed potentially dangerous stunts, involved objectionable contracts such as destruction of personal property for losers, breached people's right to privacy, and been promotions which have encouraged people to increase their gambling activity by means which may offend the principles of responsible gambling. Of course any attempt to involve children in any inappropriate promotions or to award age-inappropriate prizes, as mentioned before, could fall within that provision.

It is interesting to note that while there has been some discussion around whether minors should be allowed to participate in trade promotions, across Australia there is currently no jurisdiction in which minors are precluded from being involved in trade promotions. There are provisions in some jurisdictions. For example, in South Australia you cannot have a trade promotion which is conducted to promote the sale of cigarettes, cigars, tobacco, tobacco products, firearms or ammunition, or gambling products. All of those would be precluded if the promotion was available to minors. There are different provisions in other states and only three jurisdictions — Western Australia, Tasmania and Queensland — have a total deregulation of trade promotion. With those comments I support this bill and hope it passes quickly.

Mr COOPER (Mornington) — I have a few issues I want to raise about this piece of legislation. I always become terribly interested when I see phrases in second-reading speeches in relation to gambling that talk about the government's desire to promote responsible gambling. I made a note in my copy of the second-reading speech that while the government may have a desire to promote responsible gambling, it wants to do so without diminishing its revenue stream. If we are looking at a system of priorities, the government's revenue stream from particularly electronic gaming machines would certainly be no. 1 and the desire to promote responsible gambling would come behind, possible well behind, that priority of revenue.

I will return to the point about responsible gambling, but, firstly, I want to address one issue on the question of winning cheques of over $2000 being paid into a winner's bank account and not being made out to cash. That is an admirable aim, but the reality is that, particularly in the larger venues, that will create another little industry — the discounting of cheques. This already occurs in some casinos, where winners of large amounts are given cheques and are offered cash immediately by somebody who is well cashed up, and usually for that purpose — for example, a $2000 cheque can be made out to that person and $1800 can be received back.

The gambler does not have to worry about a bank. In many cases they have the bank on the premises and can therefore just continue gambling with cash and the cheque goes into the pocket of the dealer, who has made a fast — whatever it is — percentage. While the aim is admirable — and I think everybody would support the aim — the fact of the matter is that for the problem gambler that would be a very simple method of getting around the situation, and no doubt that will occur in an increasing number of venues. Considering the number of machines at some venues — there are 100-plus machines at quite a number of venues around the state — it would be worthwhile for people to set up this sort of little business as they would do quite well out of it.

I come back to the issues of electronic gaming machines. In regard to responsible gambling we need to understand that while the Leader of The Nationals says that the number of problem gamblers in this state is a tiny minority, the reality is that whilst it may be a minority it certainly is not all that tiny. According to the Productivity Commission report in 1999 it was estimated that 15 per cent of all people who play poker machines are addicted — they are gambling addicts — that is, 15 per cent. To simply say that we have a well-regulated industry in which everything is done properly and to write off those 15 per cent and say, 'Well, they don't count' and refer to the benefits that apply to the remaining percentage of people who play poker machines in Victoria is simply an untenable stance and argument.

We have to remember — again this is based on the 1999 Productivity Commission report, and one can assume that the figures today can only be worse than those extrapolated from that report — that in Victoria poker machines cause 550 suicide attempts annually, of which 9 result in death, and cause 300 divorces annually, and that about 400 or more people annually are convicted of committing crimes to obtain money to play poker machines. That is a significant social cost which we must recognise. With any legislation in this Parliament which deals with gambling, and which particularly impacts upon electronic gaming machines, we should be addressing those issues. We should be doing more about it.

The approach of the Leader of The Nationals to this is that the government should be putting more into the issue of dealing with problem gamblers, and I support him on that — but I go further. I am on the record, and have been for quite sometime, as saying that there should be a reduction in the number of gaming machines and that we should be putting revenue second to the problems that are experienced by a significant number of people in this state. When you look at those figures for suicide attempts and at the reality of how many of those are successful, the number of divorces and the number of people who are convicted of committing crimes simply to feed poker machines, you have to say that we should be doing a lot more and should be tackling this situation far more stringently than we currently are.

Last December there was a lot of comment in the media about the report called *Community Impacts of Electronic Gaming Machine Gambling*. All the newspapers had articles on that report. I will take a couple of points from its comparison of Western Australian and Victoria. The number of new clients attending gambling counselling was 13 times higher in Victoria than it was in Western Australia. The 2002–03 figures show that Victorians spent an average of $1133 on gambling compared to an average of just $460 in Western Australia. What is the difference between Victoria and Western Australia? In Western Australia they do not have electronic gambling machines. The great furphy is that gambling — in particular, electronic gaming machines — has boosted employment in this state and that it is a huge benefit.

The report puts that to rest. It says that gaming-related employment was lower than employment in other industries, with just 3.2 jobs for every $1 million spent on gambling compared to 20.2 jobs per $1 million spent on food and meals. The report goes on to say that more than two-thirds of Victorians said — here is the wake-up call for us all: not just for the government but for this side of the Parliament too — that gambling was too accessible and that 75 per cent believe pokies did more harm than good. That is not just a small minority; that is a large majority of Victorians saying that they are worried about the impact of gambling, particularly of electronic gaming machines, and they want something to be done about it. The reality is that not enough is being done and not enough is being looked at in terms of dealing with those people who have been dramatically affected by the impacts of electronic gaming machines.

Finally, I point out to this house that last year, 2005, Victorians alone lost about $2.4 billion on poker machines. This year that figure looks like rising about $2 million to $2.5 billion. We know of course that in the wash-up a $1.4 billion revenue stream comes back to the government. That is why one can but question what the government has in mind when it talks about responsible gambling. We on this side of the house know what the realities are. Ours is the only party in this state that has made a commitment to a reduction in gaming machines. It is about time the government bit

the bullet and acknowledged that the damage has been done, and it is about time the government acknowledged that it is not doing enough.

It is also about time that the priorities of the government were turned around and that the interests of the 15 per cent of poker machine players in this state who are being affected in such a dramatic and disgraceful way were put ahead of the revenue stream that is currently flowing to the government. To put a revenue stream ahead of the damage being done to the community is unconscionable and disgraceful. I appeal once again to this government to turn its priorities around and do something proper about problem gambling in this state.

Ms ECKSTEIN (Ferntree Gully) — I too am pleased to make a brief contribution in support of the Gambling Regulation (Miscellaneous Amendments) Bill. This is an important bill which is part of the government's fundamental commitment to responsible gambling in Victoria. The bill will strengthen the powers of the Victorian Commission for Gambling Regulation and further improve the regulatory role of the commission.

As a result of this legislation the commission will be able to attach conditions when it approves an amendment to the licence of a gaming venue operator. These conditions may include a variation to the number of machines, the addition or deletion of a venue and/or a change to the gaming machine area of a venue. As I understand it, it is currently only possible to attach conditions to an application to vary the days or dates when 24-hour gaming is allowed. This legislation allows for broader attachment of conditions to applications for licence variation. These are important powers for the commission to be able to apply to gaming machine operators' licences. They will enable the commission to exercise some important flexibility and discretion when determining how gaming machine venues operate and how they continue to operate into the future.

Another important provision of the bill is that cheques for gaming machine winnings of more than $2000, which must be paid out by cheque, will no longer be able to be made out to cash. We are all aware that there are some people who can develop an addiction to gambling and in particular to electronic gaming machines. Whilst most people can responsibly enjoy playing the pokies from time to time, without pouring their or their family's life savings into gaming machines — and I freely admit that I include myself amongst the people who enjoy playing the pokies from time to time — there is a group of people who cannot stop themselves and become hopelessly addicted. Delaying people's ability to access large winnings may just give people time to reflect and consider and prevent some people from tipping those large winnings straight back into the machines. Whilst this provision will not eliminate problem gambling, it is an important strategy for reducing its harmful effects.

Yes, we could always do more, but this is certainly a step in the right direction and will, I am sure, make a difference and enable some people to stop, consider and reflect and perhaps do some other things with a large windfall, which does not happen all that often. I cannot ever recall having ever received such a large windfall myself. This is part of the government's approach to responsible gaming.

The other provisions of the bill include bringing into line the renewal provisions for a commercial raffle organiser's licence with those already applying for a bingo centre operator's licence. This will mean that where an operator holds a valid licence that is the subject of a renewal application, that licence will remain in effect until the commission has decided on the application for renewal and made a determination. This seems to me to be a fair and reasonable provision and provides procedural fairness to those operators.

There are also amendments to the Casino Control Act 1991 relating to the approval of games able to be played at the casino and the provision of information about those games to the public through the casino's web site. These also seem to me to be very sensible provisions which streamline the approval process and provide for better information to the community.

Consequently I am very pleased to support the bill before the house, which will improve the regulation of gambling in Victoria and strengthen the government's responsible gaming measures. This will ultimately be of benefit to the whole community in general. I am pleased to commend the bill to house and to wish it a speedy passage.

Mr KOTSIRAS (Bulleen) — It is great to see the Minister for Gaming at the table. I was not going to speak on this bill but I decided to speak because I heard the minister on radio, which I will get to in a few minutes. I support the bill because I think it is vital that we have a clean and transparent industry, but I have to say that I was a bit disappointed with the minister. In the minister's second-reading speech he said:

> The reforms introduced by that act reflected the government's desire to promote responsible gambling and to retain a stringent regulatory structure for the gambling industry.

This would imply that the government cares about problem gamblers and about the families impacted upon when in fact what it really wants is revenue. It wants the extra money, and since 2000 Victorians have actually lost over $16 billion. What I am concerned about is the way the minister misled members of the Greek community on radio. He is treating them with contempt, he is treating them as if they are little children and he is misinforming them. On 3XY, which is a great radio station, the minister said in an interview last week:

> For the first time in the history of Victoria and in fact in all parts of the world that have poker machines we are receiving less money from poker machines today than we did in the past because of the changes that we have introduced such as smoke-free venues, no advertising, no 24-hour access, except at Crown Casino …

The minister knows that is not true, because if we look at the figures we see that in the period 1992–2000 revenue amounted to approximately $768 million; in 2000–01, $837 million; 2001–02, $907 million; 2002–03, $826 million; 2003–04, $809 million; 2004–05, $840 million; and the figure in the *2005–06 Budget Update* is $930 million. Could the minister tell me how $930 million is less than $768 million?

The minister has been on radio saying what a wonderful job he is doing catering for everyone and trying to lessen the problem that many face, yet he is misleading the members of the Greek community. In actual fact the minister is providing misinformation in all the ethnic media. The minister, when asked whether the government would reduce the number of poker machines in Victoria, refused to answer the question but went on to say:

> … for the first time the government is receiving less money than it did in 2001 because less people are playing poker machines …

That is not true, Minister. In Dandenong, for example, in 2004–05 average losses per person were $1042 and losses per heavy user were $12 509, and that has gone up over the years. I say that what the minister has said is untrue. The minister also went on to say there are less poker machines in some areas.

Mr Pandazopoulos — Losses are down in Greater Dandenong compared to 2001–02. The member should look at the data, which is all publicly available.

Mr KOTSIRAS — So what! The minister goes on to say that there were 7 machines per 1000 — —

Mr Pandazopoulos — The member is comparing apples and bananas. I want the truth.

The ACTING SPEAKER (Mr Jasper) — Order! The minister will get the opportunity to respond in closing the debate.

Mr KOTSIRAS — The minister also went on to say that there were 7 machines per 1000 people in Victoria for the first time. The minister forgot to say that this has been the case since 1999; nothing has changed.

Mr Pandazopoulos — No, it is not, because our population is bigger. I would not like to see you as Treasurer.

Mr KOTSIRAS — It is the same. At the minister's webpage the figure for the number of poker machines per 1000 adults was 7.76 in 2000, 7.68 in 2001, then 7.45, 7.33, 7.11 and 7.01 — it is all around 7. If the minister can sit there and tell me that he did not mislead, then he has got another problem.

The minister went on to say that the number of machines will be cut in poorer suburbs, and the minister mentioned his suburb. The minister knows that the people there are suffering because he has not done anything about it. Finally, the minister said that we do not want a Las Vegas here in Victoria, yet he is doing absolutely nothing to ensure that does not happen.

In a media release to the Greek local newspaper the minister said:

> The partnerships program has provided $721 000 to community organisations …
>
> …
>
> This initiative is an element of the massive $111 million budget …

From $111 million the minister has given people from a non-English-speaking background $721 000, which will go absolutely nowhere. It is a disgrace that the minister says on radio how wonderful he has been as a minister and what he has done for Victoria when he has failed the community. He is giving people misinformation. It is a shame because people did respect him. If the minister gives people misinformation just to show how good he is, unfortunately people will lose respect for him.

I support the legislation. It is a first step, but unfortunately this government is very slow and the minister has failed — in seven years he has done nothing for Victorians. It is okay for public relations to go out with the media to try to convince everyone that he is doing a wonderful job, but in the end he has not achieved much, and that is disappointing. The minister

has another six months. I hope he can actually achieve something.

Mr HUDSON (Bentleigh) — It is somewhat disturbing if not unenlightening to listen to the member for Bulleen. If you listened to the member for Bulleen you would come to the conclusion that the government has done nothing to address problem gambling. Yet the reality is that this government has done an enormous amount to tackle problem gambling. It has done more in its six years in government than members of the opposition even dreamed of during the time they were in government. It has implemented a vast array of measures to reduce the incidence of problem gambling.

Mr Smith interjected.

The ACTING SPEAKER (Mr Jasper) — Order! The honourable member for Bass has made his contribution. I am listening with intent to the member for Bentleigh.

Mr HUDSON — Let's just run through some of those initiatives. We have put a ban on gaming machines accepting $100 banknotes; we have put a ban on auto-play facilities; we have put a limit on game spin rates; we have introduced a requirement that machines generate and display game and player information, including the amount of time and money spent by the player in a session of play; we have put a complete ban on automatic teller machines in gaming rooms; we have put a cap of $200 per transaction on withdrawals from automatic teller machines and electronic funds transfers at point-of-sale machines located anywhere near the venue; and we have required the compulsory payout by cheque of winnings over $2000.

On top of that, since it came to office this government has spent $111 million on problem gambling services and community education. Not the kind of campaign that the Kennett government ran — that said, 'Come on down to the casino and have fun. Come on down — everyone's a winner!'. That is not the kind of campaign we have been running. We have been running campaigns pointing out to people the kinds of problems they can experience if they gamble to excess on gaming machines.

Mr Plowman — Have you fixed problem gambling?

Mr HUDSON — We understand that in the community there are people who experience problems with gaming machines. We have not only directed an enormous number of resources to telling them the kinds of problems they can have but also provided the resources and infrastructure with problem gambling services so that when they get into trouble they can talk to someone. What did members of the opposition do throughout all the time they were in government? All they did was adopt a let-it-rip philosophy.

Dr Napthine interjected.

Mr HUDSON — They increased the number of machines from 10 000 to 30 000, and they were going to let it blow out to 48 000.

Dr Napthine interjected.

Mr HUDSON — They had no control whatsoever over the industry, and they did nothing — and now they have the absolute hide to come in here and criticise this government for what it has sought to do and achieve. I consider the provisions in the bill to be sensible.

The government introduced a provision that required cash winnings over $2000 to be paid by cheque. There was a very simple reason for that. We did not want people who had won that amount of money to immediately go back into the gaming venue and blow that money. We know there are people who do that.

This bill ensures that operators do not do the irresponsible thing and make out those cheques to cash; that they do not set up a situation where someone who has got the winnings, in the exuberance of winning the big jackpot, goes in and fritters it all away without giving it some thought. We all know that there are people who have significant gambling problems and we need to encourage an environment where they take a sober assessment of what they have won, what they can afford to lose and what they should put in their pocket and take home.

I think it is worth our looking at other measures — for example, the introduction of smart card technology where someone can nominate from the beginning what they think they can afford to lose on that day, and once they get to that limit they perhaps ought not to be able to go back in and gamble again for another 24 hours. We know that once they get into the venues, those who have a problem lose all sense of perspective about their responsibilities and their families and their liabilities.

Mr Smith — How? You have done nothing!

Mr HUDSON — The member for Bass obviously was not listening to what I just said, because I was suggesting to the Parliament that we ought to consider saying that before people go into a gaming venue or before they get caught up in white line fever and start putting money into the machine, they ought to predetermine what they can afford to lose that day —

maybe with a smart card — and once they reach that limit they ought not be able to bet for another 24 hours. I know they are measures that are under consideration by the ministerial round table that the minister has set up. I know that there are lots of ideas under its consideration, but what I hear from the opposition is not a single idea as to how it would deal — —

Dr Napthine — Five thousand less machines!

Mr HUDSON — Five thousand less machines! An announcement was made over lunch by the Leader of the Opposition and we have not heard anything about it since. We have not heard about where the machines will be taken from; we have not heard a single thing about how that would address problem gamblers.

Mr Smith interjected.

The ACTING SPEAKER (Mr Jasper) — Order!

Mr HUDSON — We have not heard a single thing from the opposition gaming spokesman.

The government has indicated that it is prepared to give councils greater planning powers in relation to the opening of new venues within their cities and also to the extension of venues. It is interesting that the member for Bass is saying, 'What has the government done?'. The member for Bass, at the time the minister made that announcement, was quoted in the media saying that it could cause a problem for the operators whose local councils might be anti-gambling. The member for Bass has absolutely no concern for those communities that might actually want to reduce the impact of problem gambling. He has absolutely no concern for those councils that might want to say no to more gaming venues.

The member for Bass talks out of both sides of his mouth. He comes into the Parliament and asks, 'What is the government doing about problem gambling? What is the government doing to reduce the incidence of problem gambling in the community?', and at the same time, as soon as the minister puts forward a proposal to give councils the power to limit the number of venues in their community, he says, 'I am opposed to that because, after all, we do not want councils having the capacity to do that'.

Mr Smith — I never said that!

Mr HUDSON — You did.

The ACTING SPEAKER (Mr Jasper) — Order! The member for Bass has made his contribution. We would like to listen in silence to the member for Bentleigh.

Mr HUDSON — This is typical of what the member for Bass says. On one level he is out there talking about having an untrammelled system for the operators, and then when we come into the Parliament and introduce legislation to reduce problem gambling and reduce the level of harm in the community through sensible measures such as ensuring that cheques for $2000 or more are made out to the person and not to cash, all we get from the member for Bass is criticism. All we get from him is the suggestion that the government is not doing enough.

I would be interested to hear what the opposition spokesman for gaming has to say is his responsible gambling policy, because since 1999 there has not been a single measure put forward, other than the over-lunch promise by the Leader of the Opposition that he would reduce the number of machines by 5000. We have heard no more on that, and we have not heard how that would have an impact on problem gamblers. We have heard absolutely nothing. It is all empty rhetoric.

I commend the minister for the measures in this bill. They are sensible and will go some way towards ensuring that the level of harm in our community can be minimised even further. I commend the bill to the house.

Mr PLOWMAN (Benambra) — I was intrigued to listen to the member for Bentleigh because clearly he has not been in this house as long as many other members who are fully aware that the Kirner government was responsible for, firstly, the legislation which allowed the introduction of gaming machines to Victoria. Secondly, it was responsible for the legislation which allowed the introduction of the casino to Victoria. Thirdly, it wanted to have 50 000 gaming machines in Victoria.

It is fair to say some of the points the member for Bentleigh made are right. Some of the changes that have been made by this government to reduce problem gambling are headed in the right direction. But to suggest it has been successful is far from the truth; and to suggest the previous Liberal government did nothing to try to overcome problem gambling is also not true. Many measures were introduced during the Kennett government years to look at and to reduce problem gambling. I was part of a committee that actually reviewed problem gambling so I can tell members that it is not something that is unilaterally the fault of the current Labor government — it is not. Therefore I think it is better to take a more bipartisan view on this and

say that problem gambling is something we are faced with, no matter which side of the house we are on. It does not do much good for members on any side of this house to berate members on the other side and say, 'You have got it wrong'. Let us look at the issues that need correcting, and let us do it collectively.

I live on the border of Victoria and New South Wales. One of the issues on the border is that there are 3000 gaming machines in Albury, whereas in Wodonga, a city of an almost similar size, there are a little over 200 gaming machines. In New South Wales they have learnt to live with gaming over a much longer period, whereas in Victoria we are still learning to compensate for the fact that families are now facing problem gambling issues they have not faced before. It is a problem we need to look at, and we need to be alert to the fact that there is no easy fix. Pointing the finger at any side of government is not going to help.

It is of concern to me that in the gaming industry now we have a situation where country venues are being denied gaming machines. Gaming machines are being taken from country venues to supplement those areas where there is a bigger return per gaming machine. I again cite the fact that in Wodonga, directly over the river from Albury where there are 3000 gaming machines, it is impossible to have the same level of return that you would have in areas where there is not that level of competition.

However, it is totally unfair to say to the operators of venues that currently have them that the machines will be taken away under the current policy of this government, which is to allow those gaming machine operators to say that because their machines are not earning as much as comparable machines elsewhere in Victoria they will be taken from those cross-border sites where the return is less. This will be totally detrimental to the hotel and club trade operators along the border on the Victorian side who rely on having a few gaming machines. They must be given equal opportunity, because they cannot rely solely on the returns from their machines. If the minister is not aware of that issue, he certainly should consider it when planning the future of gaming machine legislation in Victoria.

I come back to problem gambling, an issue that almost every one of us has had some contact with during our lives — and on that basis I suggest that it is of enormous importance socially to every community. It is enormously important that we look at the means by which we can improve the gaming industry in Victoria. I believe both sides of Parliament should look at the issue collectively in a bipartisan manner. I suggest that it be up to a select committee to establish those areas in which problem gambling can be reduced, and it is important that the knowledge gained by members on both sides of the house be utilised by that select committee to come up with answers.

I commend the bill for its intention to reduce the problem, but I suggest that there are many more issues to address in respect of the gaming industry. Certainly this government does not have the sole answer to problem gambling. To suggest that the current government and past Labor governments have a clean sheet on this issue is a total misconception, and it is incorrect to attribute that to one side of politics or the other. It is certainly not true.

Ms DUNCAN (Macedon) — It is my pleasure to speak on the Gambling Regulation (Miscellaneous Amendments) Bill. As we have heard, the bill continues the reforms the Bracks government has introduced since coming to office in 1999 and further regulates and enhances the role of the Victorian Commission for Gambling Regulation. As we all know, in 2003 a range of reforms were introduced to further regulate gaming in Victoria, and this bill continues that series of reforms, enhances and promotes responsible gaming and retains a stringent regulatory structure for the gaming industry.

I listened with interest to the contribution made by the Leader of The Nationals, particularly his point about problem gamblers — about who these people are and how, if we could easily identify them, a lot of the problems with this industry would be solved. If we had a crystal ball, it would make it a lot easier to try and regulate this industry.

Many of the reforms introduced by this government have been designed to address the issue of problem gambling and to make it easier for everybody to gamble responsibly. Many of these reforms are also designed to ensure that the industry continues to be tightly controlled. A gaming licence brings with it an enormous responsibility, and it is the commission's role — and the role of all governments — to ensure that that responsibility is exercised.

I refer to an amendment in the bill relating to the ongoing monitoring of declared community and charitable organisations and the requirement for them to provide specified information. If these groups are to have declared charitable status, it is critical that the required checks are made to ensure that they are entitled to this status and that the checking be done in a regular and ongoing manner. The commission will be able to monitor these groups and organisations, which will give the public confidence in this form of gaming.

This ongoing monitoring will balance the need to protect the integrity of community and charitable gaming with some additional reporting. It is an industry that is probably going to be with us forever. It is an industry that needs ongoing monitoring and tight regulation, and I think governments of all persuasions really need to look at it continuously to learn from research and from what other jurisdictions are doing, and to continue to move reforms as we have done. These further amendments are part of an ongoing series of reforms. I am sure it will not be the end of amendments in the gaming industry. It is incumbent on all of us to remember that a gaming licence is in some instances a licence to grow money, so it needs to be balanced and very carefully and responsibly regulated.

I commend the minister for this ongoing series of reforms. We have made some fantastic changes. We have tried to help everybody — whether or not they are a problem gambler — to gamble more responsibly and to be more conscious of their gambling and more conscious of the cost that it has, not just to themselves but to their families and to the wider community. I commend the bill to the house.

Mr DELAHUNTY (Lowan) — I rise to speak on the Gambling Regulation (Miscellaneous Amendments) Bill. The main purpose of the bill is to amend various gambling acts and to expand the regulatory role of the Victorian Commission for Gambling Regulation. I know the Leader of The Nationals has spoken on behalf of our party, and I support his comments. I need to make a couple of comments about how it works in my electorate of Lowan. I must also declare that my son works for Tattersall's as a computer operator. He has been with Tattersall's for about 14 or 15 years, so it has been a good organisation and a good experience for him. I hope he looks after his job.

Mr Smith interjected.

Mr DELAHUNTY — Not a problem. He did reasonably well.

I want to make some comments, particularly about clause 3 which amends the conditions of a venue operator's licence. This can be done by the Victorian Commission for Gambling Regulation. In looking through the documents I have not seen anything about the consultation process in relation to that. I live in Horsham where there are four gaming venues: the Horsham Sports and Community Club, the Royal Hotel, the RSL and the Tabaret, and I will come back to the details of how many machines the clubs have in a moment. The clubs work very well together; there is good cooperation. As a result of consultation with the council and the community there was a change in the number of gaming machines in the town and another five machines were put into the Horsham Sports and Community Club.

The commission is a long way from the electorate of Lowan and I wonder how it will oversee the regulations appropriately for the community I represent which only has two towns with gaming machines — Horsham and Hamilton. Those gaming machines attract people from a long distance away, including residents of the shires of West Wimmera, Glenelg and Hindmarsh. Those people may travel into Horsham and Hamilton to use the gaming facilities. While they are in those towns for a particular event they will sometimes use the gaming machines. It is important to understand that these gaming machines affect not only Hamilton and Horsham but also the wider community for up to 150 kilometres from those towns.

I have not seen much comment on how the new regulations will be applied by the Victorian Commission for Gambling Regulation and how it will consult with the broader rural community that I represent. Overall we do not see a major problem with this legislation. As the Leader of The Nationals said, we are not opposing it.

It is also interesting to note that this bill will prohibit a cheque being made out to cash. This provision unfortunately had to be brought in. I would have thought that most of the gaming facilities would have noted the concern of members of this Parliament who want these cheques written out to people. Those people would take the cheque out of the venue and deposit it into their bank account or wherever it may be. The money may then be used at a later stage when needed. This gives these people a bit of a breather. As members know, when a cheque is written out to cash it is like money in your hand. Again, I think this is commonsense legislation. We in The Nationals have plenty of commonsense.

While I have the opportunity, I want to highlight the Horsham Sports and Community Club. This facility and entertainment venue was going to be closed. It was established in 1992 by unsecured loans from many people in the community of Horsham. The profits from the sports and community club now go to the community. The club increased the number of machines from 49 to 54 a year or so ago. In the last year alone the club put $137 000 into the community. Over the last seven years, I am informed that the club put a total of about $660 000 into 520 groups. Contributions have ranged from $150 to $10 000 and have gone to

kindergartens, sporting groups, the Victoria State Emergency Service, brass bands and even the Horsham Junior Soccer Club which was established in Horsham last year. The junior soccer club received a lot of money from the sports and community club to buy its equipment and uniforms.

Importantly, the contributions go not only to Horsham but to a broad cross-section of groups. And the contributions go not only to kindergartens but to other community groups right across the region. The sports and community club is really spreading some money around. This fills up kindergarten funds. The club has also given a lot of money to the Horsham hospital. The club will advertise that properly. The club does not tell porky pies. It has put money forward and will get the recognition for that, unlike the government which has not told the truth in relation to $80 million worth of advertising.

The sports and community club is a great success story. Apart from wages and the like — there are a lot of people employed there — all the profits are going to a lot of community groups right across the electorate I represent and even into the electorate of Swan Hill, which is very well represented by its member of Parliament. It is interesting to note that the Horsham Sports and Community Club has 54 machines, the Royal Hotel has 27, the RSL has 31 and the Tabaret club in Horsham has 34. The Royal Hotel is a private facility. It is a hotel and we know how they operate. The RSL has 31 machines and is another excellent facility that has been developed in the Horsham community. It provides a lot of benefits to members, the returned services people who obviously fought for us and have been members of the armed forces over many years. It is an excellent facility and a great venue. Congratulations to the people who run that facility.

The Tabaret club is based in the racing centre at Horsham. It not only services the race club but also the harness racing club. It has been turned into an excellent facility. It is well recognised across Victoria for the facilities it provides as a gaming venue. It is a great entertainment venue which also has good racing. The facility has been complemented by the catering facility of the Horsham campus of the University of Ballarat. The staff are trained there to serve meals, and on race day they service the community.

I heard the member for Bentleigh speak. His contribution was like a squeaky wheel. I am not a gaming person but these venues play a role. I remember years ago when I went to sporting clubs. I travelled up to Barham and visited various facilities along the river. Those facilities took all our money from Victoria and spent it in New South Wales. I remember living in Mildura at the time. The facilities at Wentworth were built with mostly South Australian money, but an enormous amount of money came across from Victoria.

Members know it was the Kirner government that brought in gaming machines. The member for Bentleigh's squawking in Parliament does not do him justice. I do not think it does him any good. You have to be honest about these things. Australians love to gamble: they will bet on two flies or two ants running up a wall. It is about how we manage those.

Dr Napthine — Two locusts?

Mr DELAHUNTY — There are millions of locusts in Victoria. We could have a bet on how far they are going to get. Australians, and particularly Victorians, love to have a bit of a gamble. It is about the way we manage it, and I think we do a reasonable job. The Leader of The Nationals has highlighted the way in which the problems have been addressed, and we agree there is more work to be done. But let us not forget that gaming venues provide excellent facilities, particularly in the electorate I represent. They also provide employment and wages, and more importantly clubs like the Horsham Sports and Community Club provide good revenue for some groups that badly need resources to continue in their communities. So let us not put down gaming too much; it has been around for a long time. I was pleased to be able to compliment the work done by the Leader of The Nationals, and like him, I will not be opposing this legislation.

Mr PERERA (Cranbourne) — I rise to support the Gambling Regulation (Miscellaneous Amendments) Bill and to make a brief contribution to the debate. This is a debate about the new regulations and about whether they are good or bad. It is not a debate about anything else. I was disappointed to see that some members of the opposition parties have lost the plot.

Mr Delahunty — Lost the plot?

Mr PERERA — Yes, because they did not speak on the bill. The main purpose of the bill is to amend the gambling regulation acts and the Casino Control Act to enhance the regulatory role of the Victorian Commission for Gambling Regulation. The Bracks government has always wanted to promote responsible gambling and to retain a stringent regulatory structure to ensure that gambling is conducted honestly. That is why this government is not hesitant about introducing regulations as and when it deems necessary. This is in stark contrast to the previous government, which had a hands-off approach to gambling in Victoria. None of

these regulations was in place, and that is why this government has to introduce them.

The bill includes a number of provisions that will enhance the regulatory role of the commission and improve its administrative procedures. It will enable the commission to attach conditions to an approval to amend a gaming venue operator's licence. The conditions can be attached to an approval to vary the number of gaming machines in the venue, to add or remove the venue from a venue operator's licence or to vary the gaming machine area of an approved venue.

For example, a venue operator might seek variations to their operation on the basis that the increased revenue will be used to make a positive contribution to punters or to the community as a whole, or to provide better facilities for punters — an enclosed smoking area or an airconditioned area — or that a percentage of the increased revenue will go to a local sporting club or kindergarten. That will not necessarily get an application approved, but it will make it easier for the commission to approve it when the venue is subject to the conditions attached to the application.

This legislation will enable the commission to refuse an application for a trade promotion lottery if it is of the opinion that the conduct of the lottery is offensive or contrary to the public interest. This regulation will only apply to lotteries with a prize value over $5000, which require a permit. This is a proactive measure based on overseas evidence. The bill will ensure that the commission can adequately monitor declared community and charitable organisations to ensure that they are not deregistered or moved away from the original focus that entitled them to undertake community and charitable gaming. For instance, organisations set up to raise funds for the tsunami appeal may not be relevant any longer.

It is important that the commission have the power to seek information from declared organisations and to undertake investigations in relation to their entitlements. This is a very minor additional burden for the organisation to undergo, but it will build public confidence in the gaming industry. The bill will enable a bingo centre operator's or a commercial raffle organiser's licence to remain in force until an application for renewal has been determined by the commission. These measures provide peace of mind for the operator to continue without interruption until a decision is made.

The Gambling Regulation Act 2003 requires a venue operator to pay gaming machine winnings by cheque where the winnings are in excess of $2000. However, a cash cheque could be as good as cash under certain conditions and can be cashed promptly, and the money could easily get back to where it came from. I recall the member for Mornington saying that even a cheque written in favour of a particular person's name can be cashed. I do not know how it can be done. However, responsible gaming venues could call for IDs before raising a cheque.

The bill will improve the effectiveness of this problem gambling measure by prohibiting cheques for the payment of gaming machine winnings to be made payable to cash. This is a great measure that will help problem gamblers, and I commend the bill to the house.

Mr PANDAZOPOULOS (Minister for Gaming) — I want to thank members for their contributions to the debate, although I must say that I was very disappointed in the comments of the member for Bulleen questioning my integrity. I am pleased that none of the other members of the opposition did that. It is unfortunate that he chose to do so. His Greek must be very poor. He should use data to compare apples with apples and not apples with bananas, which is what he did.

The fact is that gambling regulation continues to evolve — this is just one of those things. The different elements of the bill are important. I appreciate the decent contribution of the member for Bass; he was very eloquent. There was a little bit of politics at the end of it, but not much. The Leader of The Nationals made a considered contribution also, although he made a number of political comments as well. At the end of the day this is part of the evolution process. We rely on the gaming commission to be the police for us. It learns from experience when it faces difficult applications for trade promotion licences or in regulating bingo centres or in dealing with gaming venues when they seek additional machines and say they will do certain things with them. In effect it is all about learning from those activities, effective regulations and international best practice as things evolve. That is the sort of contribution members have made.

There is a lot of history. We can all go back to the Kirner government, which introduced poker machines. As the Leader of The Nationals said, the Kennett government put a whole lot of systems in place as the industry grew. We can all reflect on that and say that in a perfect world maybe some of the things this government has done could have been done earlier in setting up the system. There is no doubt that early on the impact on the community was not as well understood as it now is. Of course we did not have local

evidence and locally based information about what those impacts would be.

We have seen that there is still a high concentration of gaming machines on a per capita basis in lower socioeconomic areas. That is an issue that still needs to be resolved. We know from the research that has been done, some of which emanated from the Productivity Commission, that accessibility of gaming machines is a major factor in terms of impacting on levels of problem gambling. The fact is that, compared to all other states bar Western Australia, Victoria has the lowest number of gaming machines per capita in Australia.

Mr Kotsiras interjected.

Mr PANDAZOPOULOS — Whilst the member for Bulleen continues to interject the reality is that, because we have made a deliberate decision not to expand the number of gaming machines as our population grows, we have less accessibility.

Dr Napthine interjected.

Mr PANDAZOPOULOS — The member for South-West Coast interjects and says the previous government put a cap in. I bet my bottom dollar that, if the previous government were re-elected, there would be more than 30 000 poker machines in Victoria. I will also pick up some comments made earlier by the member for South-West Coast, when he said that a Liberal government would cut poker machines by 5000. The opposition's lead speaker, its spokesperson on gaming, did not even mention it. I understand members of the opposition are running away from these comments at a million miles an hour.

Mr Smith interjected.

Mr PANDAZOPOULOS — Yes, it was not part of the bill, but the lead speaker gets a lot more leeway and sets the scene for the debate. I appreciated the contribution — —

Mr Smith interjected.

Mr PANDAZOPOULOS — I am sure you will.

Mr Smith interjected.

Mr PANDAZOPOULOS — You told me you were going to raise all that sort of stuff anyway, but you missed the opportunity, so I will respond.

The reality is that we have the lowest number of gaming machines per capita of any state bar Western Australia, which does not have gaming machines outside of its casino. The reality is also, unlike what the member for Bulleen said, that when you compare 2000–01 data to the data from the last financial year you find that 6.6 per cent less revenue was collected by government from these areas. The interventions — smoking bans, no more 24-hour venues and regional caps — have meant that we have not yet really recovered. While the budget projections might say that — we will see what they end up being at the end of the financial year — the reality is that poker machine revenue peaked in 2000–01.

When the issues papers on the gambling licences review come out in the not-too-distant future, I encourage members to look at the tables, which will show quite clearly what those trend rates are. They will also say that of all the states Victoria has the lowest gambling spend in terms of household expenditure. Also, in terms of retail expenditure we have the lowest spend. We have had a very strong, growing economy since we have come to government, but our household expenditure is the lowest of all states. That says a number of things are happening as a result of government intervention, whether it is the problem gambling services, the hard-hitting advertising campaigns or the opening up of discussions that were banned under the previous government. We allow councils to have a say. We want discussions about the impact of gaming in communities. That is how you reach out to people — by helping them think about what they are doing before they become a problem to themselves.

We also know from research done into the problem of gambling in Victoria by the former gambling research panel (GRP) — —

An honourable member — The one you sacked!

Mr PANDAZOPOULOS — No, we changed the system. While the previous chair may not have been happy, the other two members of the panel were very supportive. At the end of the day an important research report it did cited a Productivity Commission report that estimated that about 2.2 per cent of the adult population of Australia were problem gamblers, whereas the GRP report said that in Victoria's case it was 1.12 per cent.

Irrespective of the percentage of problem gamblers, at the end of the day there are considerable issues and we need to work on them, as the member for Mornington said. That is exactly what this government has been doing — banning advertising, limiting 24-hour trading, changing signs at gaming venues so we do not become a Las Vegas, which the member for Bulleen seems very critical of.

The measures in this bill are part of the armoury we are building up around responsible gambling. Take, for example, the trade promotion lotteries. Complaints were made to the gambling commission about a trade promotion lottery — the Tim Tams Win a Wish promotion — which was perceived to be targeting young people, who would try to win instant lotteries. That is why we have the clause in this bill that gives additional powers to the commission to limit trade promotions that are not in the public interest if they are designed to target young people or are unconscionable.

The Leader of The Nationals raised the issue of giving additional powers to the commission to attach conditions to an approved gaming venue licence. I know he did not have the opportunity to get a briefing, although we did make our best endeavours to organise it, so I will explain to him that often with gaming venue applications a venue says, 'Give us extra gaming machines and we will spend the money we earn from that over time on upgrading our venue or updating the accommodation in the hotel or motel'. No provision to date allows that to be enforceable, so that if you apply for machines for a certain purpose, that purpose will have to be fulfilled. There have also been cases where a licensee has made an application regarding one venue, saying, 'We will take half the machines out of this venue but will put them into the new venue'. We need to make sure that happens.

These are just some explanations. I thank members for their contributions to the debate and wish the bill a speedy passage in the other place.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING SPEAKER (Ms Barker) — Order! The question is:

> That the house do now adjourn.

Gas: Port Fairy supply

Dr NAPTHINE (South-West Coast) — The issue I wish to raise is for the Minister for State and Regional Development. The action I wish the minister to take is to ensure that the whole township of Port Fairy is connected to natural gas. The government promised residents and business operators in Port Fairy that they would be connected to natural gas. Due to a lack of government funding and a lack of government support, large areas of Port Fairy will now be without natural gas.

Once the township has seen the actual map showing where the natural gas rollout will take place, they will see that about one-third of the township, or 33 per cent of businesses and households, will be left high and dry without natural gas. This is the government that promised natural gas to all of Port Fairy, and it is certainly not delivering it to over one-third of Port Fairy. This has caused great consternation in the community. I received two emails recently, which state:

> As business owners and residents in the East Beach area, we feel that we have been treated unfairly by not being given equal access to natural gas as other business owners and residents have. This will place us and all other businesses in the East Beach area at a considerable disadvantage when having to compete with other businesses who will have significantly lower energy costs as a result of being connected to natural gas.

Another resident said:

> Can you please tell me how we can get the gas pipeline rolled out right through the town. As it is now, some of the town has got it and others haven't. I live at —

and I will not disclose the address —

> the gas line comes halfway down the road and stopped 20 metres short. Around the corner from me are a lot of homes that are also interested in having gas. One would have thought that when all the equipment is brought to town they would do the complete job.

But the Bracks Labor government has never been able to do the complete job. It promises a lot but fails to deliver. It promised natural gas to the whole of Port Fairy, but it is delivering to only two-thirds of the town. The whole of the East Beach area was not covered, as well as large areas behind the hospital and many streets south of the Princes Highway.

In September 2005 there was a meeting at the Port Fairy Yacht Club at which the government was talking about where natural gas was going. Would you believe it — that end of Griffiths Street is an area that is not going to get natural gas. The place where it held the meeting is an area that will not be getting natural gas! What we want from the government is for it to keep its promise to the people of Port Fairy. When it says it is going to deliver natural gas, let it deliver natural gas to the whole township and not just parts of the township. Many businesses and many residents are very keen to get natural gas, because natural gas provides a cheaper,

more effective way of heating and servicing their households and businesses. But the Bracks Labor government promises a lot but fails to deliver. I can assure the people of Port Fairy that after the next state election we will connect the whole town to natural gas.

Buses: Stud Road lanes

Ms ECKSTEIN (Ferntree Gully) — The matter I raise is for the attention of the Minister for Transport. The action I seek is that the minister take all necessary steps to ensure that the additional bus lanes currently being constructed along Stud Road for the SmartBus are dedicated to buses.

A SmartBus service along Stud Road is part of the Ringwood–Frankston SmartBus route announced as part of last year's state budget. It will be an important and efficient orbital public transport service for the people of my electorate as well as for the outer eastern suburbs more generally. It will connect Ringwood, Dandenong and Frankston railway stations as well as provide links to the new palliative care and rehabilitation hospital at Knox and the Knox City and Stud Park shopping centres. It will provide people with a real alternative to using the car to connect either to other modes of public transport or to significant services and facilities.

Currently additional bus lanes are being created along Stud Road by sealing the shoulders where sufficient land is available — all in all a very good and sensible measure, I would have thought, because it assists public transport commuters as well as drivers. Unfortunately local Liberals are scaremongering and causing unnecessary alarm in my community. The member for Scoresby and the Liberal candidate for Ferntree Gully put out a joint press release on 24 January this year opposing dedicated bus lanes and calling for their banning through legislation, no less. I would have thought if this were to proceed it would have considerable implications for bus lanes right across the city of Melbourne.

It would seem to me that we need to provide additional dedicated bus lanes to facilitate the use of public transport services and make them a real and efficient alternative for people to use — and even better if, at the same time, we can improve safety and road space. I therefore ask the Minister for Transport to clarify the situation in relation to dedicated bus lanes and to take whatever steps are necessary to ensure the additional bus lanes currently being constructed along Stud Road for the SmartBus are dedicated to buses and to consign this crazy Liberal scheme, with no long-term vision, to the scrapheap.

Peter Ross-Edwards Causeway: upgrade

Mrs POWELL (Shepparton) — I raise an issue with the Minister for Transport about the government's promise to upgrade the Peter Ross-Edwards Causeway between Shepparton and Mooroopna. The action I seek is for the minister to announce when the upgrade works will commence on this very busy and dangerous road. I was advised by Danny Morgan from ABC radio last week that when he asked Mr Bruce Sweet from VicRoads when the upgrade would begin he was told that works would begin soon but that there was no specific start date. This certainly is not good enough. The people of the Shepparton district deserve to know when the works will start.

In 2001 the former member for Shepparton and I called on VicRoads to conduct a safety audit after there were a number of accidents on the causeway. We wanted to know what had caused the accidents and whether it was the road or driver error. In 2002 a planning study supporting the VicRoads safety audit report showed that the Peter Ross-Edwards Causeway was substandard and did not even meet VicRoads minimum safety standards for its road classification as a state highway. The report stated that the traffic lanes were too narrow, that the SPC Ardmona Kidstown intersection did not meet current Australian design standards and that all six bridges along its whole length suffered from some form of defect or deficiency, although some of them were considered minor in detail. The report also recommended that there be lighting across the whole length of the causeway, but this was not taken up by the minister.

I have raised the need to upgrade this road many times, both here in Parliament and by letter to the minister. In 2003 I presented a petition with 6500 signatures calling for an immediate upgrade of the causeway. In the May 2004 budget I welcomed the $6.3 million which was finally allocated to the upgrade. I was advised that work on the project was to start in 2004–05, with construction work starting in mid-2005. When work was not started by June 2005 I asked VicRoads the reason for the delay and was told there were issues with the tender because of the complex design, with all six bridges needing to be upgraded. It was interesting that VicRoads knew in 2002 that the design needed to be done and that all six bridges needed to have some work done on them. I was then advised that work would commence in around February this year. Now I am being told there is no specific date by which the work will begin. The funding for this road was announced almost two years ago, but only preliminary design work has been carried out.

The community is fed up with the continual delays. The road is unsafe; the government knows it, and everyone travelling across it knows it. The planning study shows there is a higher-than-average volume of commercial vehicles using the causeway. It is very dangerous, given the mix of large vehicles and smaller vehicles and narrow lanes. I am asking the minister to honour his commitment and make this road safe for the people in the 23 000 vehicles who use it daily before we have another major accident or incident, which usually closes the road and causes huge disruption as well as human tragedy.

York Road–Wray Crescent, Mount Evelyn: pedestrian crossing

Ms McTAGGART (Evelyn) — The matter I raise is for the Minister for Transport, and the action I seek is for the minister to request VicRoads to investigate the possibility of providing safe pedestrian access across the York Road–Wray Crescent intersection in Mount Evelyn. The crossing concerned links the Lilydale–Warburton rail trail across York Road. This is an extremely busy road which provides alternative access from Canterbury Road to the Warburton Highway via Wandin.

The minister would be aware that I have constantly raised this matter directly with him, as the Mount Evelyn community has lobbied me strongly and a petition with some 800 signatures has been presented to my office. I would like to thank Carol Cardamore for her efforts in forwarding this petition and getting it out into the community.

I have had numerous letters from community groups such as the Mount Evelyn Environment Protection and Progress Association, the Mount Evelyn Township Improvement Committee, the Mount Evelyn Adult Riders Club and Friends of the Lilydale–Warburton rail trail. I have also had discussions with the Mount Evelyn Country Fire Authority, the Mount Evelyn Traders and with the newly elected local councillor, Tim Heenan. All of these people have expressed their concern about the safety issues at this very dangerous intersection.

I am sure the minister is aware that the Lilydale–Warburton rail trail is a wonderful asset for the Shire of Yarra Ranges. The rail trail is used by many pedestrians, cyclists and horseriders, many of whom travel from all parts of Victoria. I have seen quite a few members of this house on the rail trail and around the shops in Mount Evelyn. Many come to share the great experience that the trail offers, but we locals value it as part of our recreational activities.

Not only would the improvement of this crossing ensure that visitors to the shire have safe passage, but our local residents would also benefit as many parents with young children use this crossing to attend Mount Evelyn Primary School and St Mary's Primary School and to access the local shopping precinct. It would also be beneficial to the local community to improve access for pedestrians and traffic entering and exiting Wray Crescent, as this is also a very dangerous intersection. I urge the minister to give this request serious consideration.

Family Life: youth counselling service

Mr THOMPSON (Sandringham) — I wish to raise a matter for the attention of the Minister for Victorian Communities. I received a letter dated 5 January 2006 from the chief executive officer of the Bayside City Council and chief executive officer of Family Life. It notes:

> This year the state government withdrew funding for youth counselling provided by Family Life in the Bayside community. However, council research indicates that our young people face significant mental health issues, which exceed the Melbourne metropolitan average. Attached is a fact sheet that outlines some of the findings of Bayside City Council's youth wellbeing study 2005–07. This study demonstrates the considerable needs of young people in our community.

I seek from the minister the opportunity to lead a deputation to him to canvass the issues raised by the City of Bayside and welfare agencies in my electorate. It is suggested that historically successful outcomes have been achieved for young people through the counselling services. These include young people turning around negative thinking as an influence on a presenting problem or on problems in their lives. Family Life has helped young people to make changes and move forward with hope and aspiration to reclaim their lives as they want them to be.

Some of the wider issues summarised as being elevated risk factors for young people in the Bayside community relate to family management, family histories of antisocial behaviour, early initiation of problem behaviours, friends' use of drugs, favourable attitudes towards drug use, perceived availability of drugs, antisocial behaviour and interaction with antisocial peers. A range of other measures might relate to risk factors presented. When an individual experiences a challenge, risk factors decrease the chances of dealing with the problem effectively. It might also be noted that many of the problems confronted by young people do not have a socioeconomic basis underpinning them. They are confronted across the whole state of Victoria irrespective of socioeconomic background.

Family Life, formerly known as Southern Family Life, has a longstanding community agency in the Sandringham area and an outreach across the municipalities of Glen Eira, Kingston and Bayside. It has a very strong support volunteer network. I ask the minister if he could meet with a deputation from the southern region of Melbourne to evaluate the issues and to see whether it may be possible to reinstate the youth counselling service which has recently been defunded.

Great Ocean Road–Hoylake Avenue, Jan Juc: traffic lights

Mr CRUTCHFIELD (South Barwon) — My issue is also for the attention of the Minister for Transport.

Honourable members interjecting.

Mr CRUTCHFIELD — He is very popular tonight; you are quite right. I ask the minister to request VicRoads to re-examine the traffic and pedestrian issues at the Hoylake Avenue–Great Ocean Road intersection in Jan Juc. This issue is much more complex than it seems; it is not just about that intersection.

The history is that the installation of lights at the Great Ocean Road–Hoylake Avenue intersection was approved by the minister back in 2001, but at the time some councillors, residents and community groups believed lights would be more appropriately placed at the Duffields Road intersection. A member for Geelong Province in the other place, Elaine Carbines, conducted a survey of the Jan Juc community in 2001, and the result resoundingly supported the installation of lights at the Duffields Road intersection, not at the Hoylake Avenue one.

I have a copy of the documents covering a quite extensive survey of the Jan Juc community in relation to how regularly residents use the Jan Juc section of the Great Ocean Road and which intersection they would like to have the traffic lights at. At that time they indicated that their preference was for lights at the intersection of Duffields Road and the Great Ocean Road rather than at the Hoylake Avenue intersection. The lights at Duffields Road have been very well received and are being used extensively. In light of the new schools planned for Grossman Road — a new kindergarten and a new secondary school are going to be built there — the lights have been welcomed.

Sally Papworth and two councillors, Rose Hodge and Dean Webster, have approached me on behalf of the residents in the area. A recent accident resulting in a child being injured while attempting to cross the road also highlights the issue. There needs to be a safe means for pedestrians to cross the Great Ocean Road at Hoylake Avenue as well as a treatment to hopefully reduce the number of traffic accidents at that intersection. I believe traffic lights are appropriate.

We ask VicRoads to reinvestigate the question of the most appropriate means of ameliorating those issues. Of course lights would not stop people crossing the road illegally or get rid of accidents at the intersection, but they would allow families to cross the road safely, particularly in the busy summer months when traffic is at a peak. I strongly support traffic lights at this intersection, as do most residents, and again I urge the minister to ask VicRoads to re-examine this important intersection.

Mia Mia Gallery

Mr KOTSIRAS (Bulleen) — I raise a matter for the attention of the Minister for Aboriginal Affairs in the other place, Mr Jennings. I ask the minister to provide sufficient funds to allow Mia Mia Gallery to remain open. Parks Victoria has recently withdrawn its subsidy, and Mia Mia Gallery will now close. Manningham will lose a cultural icon, a great place for students to go and learn. According to Mia Mia's webpage:

> … Colin McKinnon established Mia Mia Gallery … with the aim of providing a role model for successful Aboriginal enterprises. By attaining quality pathways of employment, an indigenous economic independence can be asserted. The presentation of the unique indigenous culture has been in consultation with the advice of Aboriginal elders … It is the aim and focus of the gallery to create a relaxed, entertaining and interactive educational environment for all Australians as well as tourists to participate whilst connecting indigenous youth to the old. The Mia Mia art gallery and cafe is a meeting place and cultural centre which celebrates indigenous Australia as a living art and is a valuable contribution to the community of contemporary Australia and the spirit of reconciliation.

I refer this matter to the minister, who I understand is seeking preselection for the upper house region covering Templestowe. Perhaps this could be the first thing that he could achieve — to actually provide the funds for the gallery to remain open. I have written to the minister inviting him to visit Manningham and to see the gallery for himself, to see the enormous work that has been put into it and to see the way schools and students from right across Victoria come to the gallery to look at Aboriginal art. The gallery is a cultural icon in the area. It is used by everyone, and I think it is important that it remain open.

This problem has been going on for about three weeks. It has been in the media. The public is very upset and

concerned. On 21 February I wrote to the minister, and I would hope that the minister will find time to come out and look at the gallery and will provide some funding to ensure that it stays open for all generations, especially if he is to be the upper house candidate for the region in the next election. It would be a good first step for him. But if he decides not to turn up because he has too much work, I think that will send a message to the voters in Templestowe telling them that this minister is not prepared to come and visit the area. I urge the minister to provide the funds to ensure that the gallery remains open.

Cleanaway: Tullamarine landfill site

Ms BEATTIE (Yuroke) — I wish to raise a matter for the urgent action of the Minister for Environment regarding the Cleanaway Tullamarine toxic dump. The action I seek is for the minister to require the Environment Protection Agency (EPA) to fully investigate the concerns raised by the local community as soon as possible.

Cleanaway has applied for two works approvals that would extend the life of this dump, which is less than 30 kilometres from the city and on the doorstep of Melbourne Airport, and these are being considered at the moment. Cleanaway was given a permit to dump an extra 177 000 cubic metres in 2001, and closure should have occurred around 2003. Cleanaway now claims that it has not received anywhere near that amount. This is just another Cleanaway lie. If it has plenty of space left, as it claims, why is there a works application to build another cell on top of the existing cell? As I say, this would extend the life of the dump by 10 years. Residents understand that prescribed waste should not be put in landfill. However, this dangerous practice is still continuing at Tullamarine.

The health of the Moonee Ponds Creek is in danger. Members should understand that the oily leachate which was dumped in the old Tullamarine landfill has now formed a plume, and goodness knows what is leaking into the Moonee Ponds Creek. If Cleanaway is confident that all is well, I urge the company to conduct a study into all its past and present employees to confirm this. Other companies such as British American Tobacco and James Hardie have also claimed that their products are safe.

I will continue to back the residents in their fight to call this company to account. The Liberal Party obviously supports keeping this facility open. Its policy is to dump toxic waste within 100 kilometres of the city, yet it has not identified any site. I call on the minister to urge the EPA to fully investigate the concerns raised by the local community as soon as possible, and I urge the minister, through the EPA, to monitor the health of the Moonee Ponds Creek, monitor the health of plants around that area and ensure that this dump is closed. It was promised that it would be closed in 2003, yet Cleanaway constantly pushed that date out. I call on the minister to take urgent action to fully investigate the concerns raised by the local community.

Seniors: driver licence assessments

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Transport, and I trust he will be in the house to respond. I refer to the renewal of the drivers licences of older people. I have had representations recently from older people who have had difficulty in renewing their drivers licences because of excessive problems with accessing occupational therapists driver assessment reports.

I understand that these driver assessment reports by occupational therapists are often necessary where doctors have made referrals regarding the medical conditions attached to driver licence renewals. What we have found in country areas is a lack of occupational therapists who can make these appropriate assessments. In the Rural City of Wangaratta we have a situation where a person seeking an assessment has to have an occupational therapist brought into the city. More recently, in the latter part of last year, I had it brought to my attention that it is costing $400 to have an occupational therapist undertake this report.

I raised this matter in writing with the chief executive of VicRoads, and in a response I received from him in the latter part of last year he detailed the situation in relation to medical reviews and testing for licence renewals. He merely made the comment that it is the responsibility of the driver to secure this report through an accredited occupational therapist. He went on to say:

> VicRoads has no discretion over fees, including travelling costs, charged by the OT.

The difficulty we have with older people is where the person is a pensioner with limited funds and has difficulty paying the occupational therapist to do the report, and if they do not get their licence they need to go back again for a further assessment.

After I received that response from VicRoads I wrote the minister a letter dated 25 January, bringing to his attention the difficulties we are experiencing in the Rural City of Wangaratta and saying, importantly, that I had had further representations that the charges being imposed by this occupational therapist were as high as $700. VicRoads and the government have a

responsibility to take this matter on immediately, address the issues involved and see what we can do to assist people, particularly in country areas, who need to have an occupational therapist's report so there is a reasonable charge for the therapist and there are no travelling costs involved. That is apparently one of the issues involved in raising the charge as high as $700. The minister needs to act on this immediately. I seek his support in seeing that this is taken on board and corrective action is undertaken to support older people so they can receive licence renewals into the future.

Access for All Abilities program: Coburg

Ms CAMPBELL (Pascoe Vale) — I raise a matter for the Minister for Sport and Recreation in another place. The action I seek is funding under the minor facilities fund to allow an Access for All Abilities playground in what we affectionately call Harmony Park in the city of Moreland.

Harmony Park was formerly the Coburg Technical School, which later became Kangan Batman TAFE. It is in Gaffney Street, North Coburg, and is ideally situated for an Access for All Abilities playground. The southern portion of this block contains the Coburg North Primary School. What is of particular interest is that in the north-west corner it incorporates the Coburg Special Development School. The potential benefits to both schools are enormous as an Access for All Abilities playground is a channel of natural integration.

We had a public meeting in April 2003, when over 70 residents joined me in unanimously voicing their desire for parkland on the old school site. Enthusiasm for an Access for All Abilities playground has been high over the past three years as we have patiently worked through a plan for this site. I have undertaken to firmly, strongly and clearly advocate for an Access for All Abilities playground. A wonderful submission was put by the Friends of Harmony Park to the community cabinet when it was held in Moreland.

There is no children's playground within walking distance of this large section of the Moreland population in North Coburg. The recent establishment of a skate park on the site has been a fantastic success. It has seen many people gravitate to the park, including families and small children who would greatly benefit from an Access for All Abilities playground.

The Access for All Abilities playground has been strongly advocated for by the Friends of Harmony Park and I want to congratulate those who have worked over the past three years to progress the park as a really healthy place for recreation and enjoyment. I acknowledge Cherry and Mike Horan, Harry Kyriakou, Jennifer McNeill, Lynne Pryor, Mervyn Robbins, Eugene Byrne, Marilyn Moore, Noel Paul, Maria Stratford, Emily Taylor, Margaret Todarello and Jenny Lobato. They have been instrumental in progressing this wonderful project. I also congratulate Eamonn Fennessy from Moreland council who is one of the many people at Moreland council working to make this Access for All Abilities playground a reality. I ask the minister to fund the application.

Responses

Mr BATCHELOR (Minister for Transport) — The member for Shepparton raised with me the upgrade of the Peter Ross-Edwards Causeway. The member knows that that type of project will be delivered by this government, because it has a policy of developing and growing the whole of Victoria and it is just as interested in road safety issues in electorates such as that of the member for Shepparton as it is in electorates in the metropolitan area. In the 2004–05 budget, which is a manifestation of that, the Bracks government announced it would upgrade the 3.3-kilometre length of the Midland Highway between Shepparton and Mooroopna — the Mooroopna causeway, or the Peter Ross-Edwards Causeway.

As the member is well aware — in fact she acknowledged it in her contribution tonight — this is an involved and complicated project. Six bridges need to be widened, and we do not have the option of just closing down the existing roadway to carry out the works. They have to be undertaken with as little disruption as possible so that traffic can keep flowing. The six bridges need to be widened to provide a consistent lane width of 3.5 metres and to improve the intersection and access to the Kidstown facility.

VicRoads has worked very hard on getting out the detailed documentation on this project, and I think in late November last year it received construction tenders from a number of contractors. They are now being assessed by VicRoads as part of the assessment phase of the project. The project has a number of phases, and the assessment of tenders is an important and early phase of the total project.

I can advise the member for Shepparton and her constituents that because this is a complex project the assessment process is lengthy, particularly as some contractors who have placed tenders before us have provided a series of alternative proposals, and we are required by law to properly evaluate each of those tenders to ensure that all tenderers are given equal opportunity to be successful in winning the bid. It is

crucial to ensure that the successful contractor is able to deliver a quality product which will minimise traffic disruptions — the member for Shepparton would expect nothing less — and that is what we are working on at the moment. I expect that VicRoads will be in a position shortly to advise who is the preferred contractor.

Once the process of assessing the contracts that are already before VicRoads has been resolved — around the middle of this year — works will be able to commence. In the meantime service relocation works will soon commence near Mooroopna. Again, that is a preliminary activity that must be undertaken. All these preliminary or early parts of the total project are already under way, but we hope that the most visibly identifiable part of the works — the on-road construction activity — will be undertaken during the latter part of this year.

The member for Ferntree Gully raised a matter that is of great interest to her constituents. The member is a tireless worker and is seeking to improve public transport in her electorate. I know that in the east of Melbourne in particular, public transport is highly appreciated. It is highly valued by the residents and most of the local members of Parliament, I suppose with the exception of one, and that just happens to be the only person is out there who is a member of the Liberal Party in this house.

Mr Kotsiras interjected.

Mr BATCHELOR — Kim Wells is his name; that's right. He is the only member out that way.

Mr Kotsiras — Have you been out there?

Mr BATCHELOR — Many times — I was out there on Sunday, in fact. I did not see you out there.

Mr Kotsiras interjected.

The ACTING SPEAKER (Ms Barker) — Order! The member for Bulleen! The minister should ignore interjections.

Mr BATCHELOR — The member for Bulleen was not out there. On Sunday I was out in the eastern suburbs inspecting improved infrastructure, but the member for Bulleen was nowhere to be seen and neither was the member for Scoresby.

I return to my response to the member for Ferntree Gully. We are talking about improvements to public transport facilities that will be of great benefit to the area. In time the SmartBus route that runs between Ringwood and Frankston will become part of a much larger orbital bus route stretching from the Melbourne Airport to Keilor, across to Epping, through Eltham and then through Ringwood to Frankston. Along the Ringwood–Frankston section a key feature of this SmartBus program will be the construction of 4980 metres of exclusive bus lane on a red asphalt section along Stud Road. This will facilitate the SmartBus getting through intersections much quicker and competing successfully with other vehicles out on the road.

The member for Ferntree Gully understands the importance of these dedicated bus lanes — in stark contrast to the opposition, it would seem. She rightly condemns the opposition's stand, with its intention to ban dedicated bus lanes not only in the east of Melbourne but right across the metropolitan area. This is a disgraceful policy of the Liberal Party. I condemn the Liberal Party for its anti-public-transport stand and its call for legislation to ban new bus lanes on Stud Road. These dedicated bus lanes have proven to be extremely useful in helping transport users beat the traffic congestion, particularly the traffic congestion that is so well known out in the east.

The Liberal shadow Minister for Police and Emergency Services, the member for Scoresby, has argued publicly for legislation to ban the use of dedicated bus lanes in place of the existing traffic lanes on Stud Road. I have news for the member for Scoresby. Once again, he has demonstrated that he is entirely out of touch with his electorate and out of touch with what is actually going to happen. The extra bus lanes on Stud Road will be constructed on the road shoulders, so no lanes of traffic are going to be lost. This is just another smear campaign initiated by the Liberal Party in the manner of its transport spokesman, who has a history of making false accusations.

This successful idea has been trialled elsewhere. If we were to use legislation to ban these bus lanes, as has been suggested by the Liberal Party, it would decimate the successful Skybus service that operates along the Tullamarine Freeway and uses the shoulders of some sections of the freeway to its advantage and to the advantage of the people who use public transport. If we were to adopt this policy, it would seriously disadvantage not only the people of the east but also the international tourists who come to Melbourne, and it would make Melbourne the laughing-stock among all the tourists who come here. Everyone needs to understand that this is the official Liberal Party policy, and it stands condemned for this anti-public-transport stand.

The member for Evelyn has raised with me an issue about road safety in her electorate, particularly at the York Road–Wray Crescent intersection in Mount Evelyn. I know from first-hand experience that the member for Evelyn is very hardworking. She is appreciated by her community and is very well connected, and I am not surprised that she seeks to raise these sorts of issues with me in the adjournment debate. This is an issue that is important not only to the member for Evelyn but to all the people of Mount Evelyn and the rest of the area that she represents.

Road safety is an important matter for this government. It has the Arrive Alive! strategy, which is on target to reduce the road toll by 20 per cent. For the last three years we have produced the lowest road tolls of any three successive or adjoining years in Victoria's history directly as a result of the Arrive Alive! strategy, and the initiatives that the member for Evelyn is raising tonight are the sorts of initiatives that we like to fund under our Arrive Alive! strategy.

This intersection is difficult not only for motorists to negotiate but also from a pedestrian's point of view. When you add to this the significance of the nearby Warburton rail trail and the Country Fire Authority fire station, you have a situation where the provision of pedestrian signals to assist people crossing York Road and to enable egress from the CFA station is well worth investigating.

I am thankful to the member for Evelyn for raising this matter, in particular her reference to the Warburton rail trail and the needs of the many people who use this facility. It has not been designed for use just by cyclists; there are pedestrians as well. It is a very important area for family activities, and all these groups want to be able to cross York Road as safely as possible. I will have this site investigated to see whether signals are ranked high enough on the priority listing that they can be considered for installation there for the benefit of users not only from Mount Evelyn but from the wider community who appreciate the advantages and benefits of the Warburton rail trail.

The member for South Barwon raised with me the need for traffic signals to be installed at the intersection of Hoylake Avenue and the Great Ocean Road in Jan Juc. As the member for South Barwon pointed out, approval was given for traffic signals to be installed at this intersection back in 2001, but a community groundswell, led by a member for Geelong Province in the other place, convinced VicRoads and me that those signals should be installed at the adjacent Duffields Road intersection rather than at Hoylake Avenue. We listened to the community and we listened to our active local members. We got advice from the local council, the local community and the local members of Parliament, and Duffields Road was chosen as the preferred location for the installation of traffic lights at that time. But as the member for — —

Honourable members interjecting.

The ACTING SPEAKER (Ms Barker) — Order! I am sure the member for South Barwon would like to be able to listen to the minister's reply. I ask the members for South-West Coast and Mulgrave to stop yelling across the chamber.

Mr BATCHELOR — As the member for South Barwon has pointed out, the signals at Duffields Road have been a great success for the people of this area, for those who live in Jan Juc and for those who want to drive along Duffields Road to the council chambers, the new schools and the other facilities that have been built at the other end in the Torquay area. The traffic lights also assist those people using the Great Ocean Road. It is a piece of local infrastructure upgrade that is truly appreciated by visitors to the area as well as the local community.

I return to Hoylake Avenue. This intersection is again for the people using the Great Ocean Road, but particularly for pedestrians trying to cross at that point. There are still, according to the member for South Barwon, issues of safety and local access. They are important issues to him, to his local community and to this government, so I will ask VicRoads to investigate the Hoylake Avenue intersection to see if signals may be provided there as well as those that we have already provided at nearby Duffields Road. I will get back to the member for South Barwon with the details of that investigation so he can inform his community. I thank him for raising that matter with me.

The member for Murray Valley raised with me an issue in relation to occupational therapy driver assessments and the cost of those in his electorate. It is important to understand that, under the Road Safety Act, VicRoads has the responsibility to ensure that all licence-holders are fit to drive. Part of this process is a requirement for some drivers to undergo an occupational therapy driving assessment to determine their suitability either to drive or to continue to drive.

When a licence-holder suffers a cognitive impairment or physical disability, occupational therapists are most appropriately qualified for making the required informed assessment of a person's ability to drive safely. These assessments provide a wide range of

options to continue driving, such as imposing a local area or day-time-driving-only restriction and possibly vehicle modifications.

VicRoads does not have the qualifications to conduct medical assessments of drivers with cognitive or physical disabilities and therefore VicRoads relies on appropriately qualified professionals such as doctors, eyesight specialists and occupational therapists for on-road driving assessments. It is equally important to understand that VicRoads has no discretion over the fees charged by occupational therapists in this process of driver assessment, just as the government does not have any control over a number of other professional services that are provided in other areas of everyday life.

Occupational therapists are health professionals who have a longstanding reputation for being involved in rehabilitation. It is within this context that they become involved in the process of evaluating and facilitating the return to driving. The occupational therapists either practise as private therapists or are hospital based. It is true that a greater number of therapists practice in the Melbourne and metropolitan areas. Due to fewer occupational therapists practising in regional areas, there is a need for metropolitan-based therapists to travel to country Victoria for these regional appointments. This travel requirement increases the cost of assessments due to travel time and the costs involved.

It is a complex matter that requires the use of trained professional people who set their own fees, but the use of occupational therapists to undertake driving assessments is a more preferred form of dealing with older drivers and assessing whether they can continue to drive than forcing compulsory licence testing on them, as has been suggested by some members of the community. In fact in 2003 the parliamentary Road Safety Committee conducted an inquiry into road safety for older road users. Although the costs of occupational therapy driving assessments was raised as an issue, the all-party parliamentary committee made no specific recommendations on this matter.

The member for South-West Coast raised a matter for the Minister for State and Regional Development and I will pass that on to him.

The member for Sandringham raised a matter for the attention of the Minister for Victorian Communities.

The member for Bulleen raised a matter for the Minister for Aboriginal Affairs in the other place.

The member for Yuroke raised a matter for the Minister for Environment.

The member for Pascoe Vale raised a matter for the Minister for Sport and Recreation in the other place.

I will have all those matters passed on to the respective ministers.

The ACTING SPEAKER (Ms Barker) — Order! The house is now adjourned.

House adjourned 10.49 p.m.