PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

31 October 2002

(extract from Book 4)

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By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

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Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	The Hon. Gavin Jennings, MLC

Legislative Assembly Committees

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Standing Orders Committee — Mr Speaker, Ms Barker, Mr Jasper, Mr Langdon, Mr McArthur, Mrs Maddigan and Mr Perton.

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Environment and Natural Resources Committee — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mrs Fyffe, Ms Lindell and Mr Seitz.

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Road Safety Committee — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

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Heads of Parliamentary Departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

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Library — Librarian: Mr B. J. Davidson

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Director, Infrastructure Services: Mr G. C. Spurr

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. ALEX ANDRIANOPOULOS

Deputy Speaker and Chairman of Committees: Mrs J. M. MADDIGAN

Temporary Chairmen of Committees: Ms Barker, Ms Davies, Mr Jasper, Mr Kilgour, Mr Loney, Mr Lupton, Mr Nardella, Mrs Peulich, Mr Phillips, Mr Plowman, Mr Richardson, Mr Savage, Mr Seitz

Leader of the Parliamentary Labor Party and Premier:
The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr R. K. B. DOYLE (from 20 August 2002)
The Hon. D. V. NAPTHINE (to 20 August 2002)

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD (from 20 August 2002)
The Hon. LOUISE ASHER (to 20 August 2002)

Leader of the Parliamentary National Party:
Mr P. J. RYAN

Deputy Leader of the Parliamentary National Party:
Mr B. E. H. STEGGALL

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Leighton, Mr Michael Andrew	Preston	ALP
Allen, Ms Denise Margret [4]	Benalla	ALP	Lenders, Mr John Johannes Joseph	Dandenong North	ALP
Andrianopoulos, Mr Alex	Mill Park	ALP	Lim, Mr Hong Muy	Clayton	ALP
Asher, Ms Louise	Brighton	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Ashley, Mr Gordon Wetzel	Bayswater	LP	Loney, Mr Peter James	Geelong North	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lupton, Mr Hurtle Reginald, OAM, JP	Knox	LP
Barker, Ms Ann Patricia	Oakleigh	ALP	McArthur, Mr Stephen James	Monbulk	LP
Batchelor, Mr Peter	Thomastown	ALP	McCall, Ms Andrea Lea	Frankston	LP
Beattie, Ms Elizabeth Jean	Tullamarine	ALP	McIntosh, Mr Andrew John	Kew	LP
Bracks, Mr Stephen Phillip	Williamstown	ALP	Maclellan, Mr Robert Roy Cameron	Pakenham	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	McNamara, Mr Patrick John [3]	Benalla	NP
Burke, Ms Leonie Therese	Prahran	LP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Maughan, Mr Noel John	Rodney	NP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maxfield, Mr Ian John	Narracan	ALP
Carli, Mr Carlo	Coburg	ALP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Clark, Mr Robert William	Box Hill	LP	Mulder, Mr Terence Wynn	Polwarth	LP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Napthine, Dr Denis Vincent	Portland	LP
Davies, Ms Susan Margaret	Gippsland West	Ind	Nardella, Mr Donato Antonio	Melton	ALP
Dean, Dr Robert Logan	Berwick	LP	Overington, Ms Karen Marie	Ballarat West	ALP
Delahunty, Mr Hugh Francis	Wimmera	NP	Pandazopoulos, Mr John	Dandenong	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Paterson, Mr Alister Irvine	South Barwon	LP
Dixon, Mr Martin Francis	Dromana	LP	Perton, Mr Victor John	Doncaster	LP
Doyle, Robert Keith Bennett	Malvern	LP	Peulich, Mrs Inga	Bentleigh	LP
Duncan, Ms Joanne Therese	Gisborne	ALP	Phillips, Mr Wayne	Eltham	LP
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Fyffe, Mrs Christine Ann	Evelyn	LP	Plowman, Mr Antony Fulton	Benambra	LP
Garbutt, Ms Sherryl Maree	Bundoora	ALP	Richardson, Mr John Ingles	Forest Hill	LP
Gillett, Ms Mary Jane	Werribee	ALP	Robinson, Mr Anthony Gerard Peter	Mitcham	ALP
Haermeyer, Mr André	Yan Yean	ALP	Rowe, Mr Gary James	Cranbourne	LP
Hamilton, Mr Keith Graeme	Morwell	ALP	Ryan, Mr Peter Julian	Gippsland South	NP
Hardman, Mr Benedict Paul	Seymour	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Helper, Mr Jochen	Ripon	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Springvale	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Ernest Ross	Glen Waverley	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Spry, Mr Garry Howard	Bellarine	LP
Hulls, Mr Rob Justin	Niddrie	ALP	Steggall, Mr Barry Edward Hector	Swan Hill	NP
Ingram, Mr Craig	Gippsland East	Ind	Stensholt, Mr Robert Einar [2]	Burwood	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	NP	Thompson, Mr Murray Hamilton	Sandringham	LP
Kennett, Mr Jeffrey Gibb [1]	Burwood	LP	Thwaites, Mr Johnstone William	Albert Park	ALP
Kilgour, Mr Donald	Shepparton	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Kosky, Ms Lynne Janice	Altona	ALP	Viney, Mr Matthew Shaw	Frankston East	ALP
Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

CONTENTS

THURSDAY, 31 OCTOBER 2002

Thursday, 31 October 2002

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.38 a.m. and read the prayer.

PETITIONS

The Clerk — I have received the following petitions for presentation to Parliament:

Royal Park Psychiatric Hospital site

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

The humble petition of the Royal Park Protection Group Inc. and the undersigned citizens of the state of Victoria sheweth that in view of the fact the government proposes to construct the 2006 Commonwealth Games village on the 'Parkville site' (that is, the former Royal Park Psychiatric Hospital and adjacent sites) your petitioners therefore pray that the 2006 Commonwealth Games village be located on an appropriate site, not in Parkville; that the parkland surrounding the former Royal Park Psychiatric Hospital and adjacent sites be reintegrated into Royal Park; and that the heritage hospital buildings be restored for a comprehensive mental health centre for training/education, rehabilitation and research.

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

By Mr BAILLIEU (Hawthorn) (452 signatures)

Royal Park Psychiatric Hospital site

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

The humble petition of the Royal Park Protection Group Inc. and the undersigned citizens of the state of Victoria sheweth that in view of the fact that the government has gazetted the former Royal Park Psychiatric Hospital site as a construction site and is apparently now proposing that it be developed for residential housing (not the 2006 Commonwealth Games village as previously announced) your petitioners therefore pray that the parkland surrounding the Royal Park hospital be reintegrated into Royal Park and the heritage hospital buildings be restored for future use as a comprehensive mental health centre for training/education, rehabilitation and research.

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

By Mr BAILLIEU (Hawthorn) (1180 signatures)

Laid on table.

Ordered that petitions be considered next day on motion of Mr BAILLIEU (Hawthorn).

AUDITOR-GENERAL'S REPORTS

Response by Minister for Finance

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

That there be presented to this house the response to the Auditor-General's reports issued during 2001–02.

Motion agreed to.

Laid on table.

Ordered to be printed.

HEALTH SERVICES COMMISSIONER

Annual report

Mr THWAITES (Minister for Health) — By leave, I move:

That there be presented to this house the report of the Health Services Commissioner for 2001–02.

Motion agreed to.

Laid on table.

SURF COAST SHIRE COUNCIL

Inspector's report

Mr CAMERON (Minister for Local Government) — By leave, I move:

That there be presented to this house the report on the investigation into Surf Coast Shire Council by Mr Merv Whelan, inspector of municipal administration.

Motion agreed to.

Laid on table.

Ordered to be printed.

PARLIAMENTARY DEPARTMENTS

Annual reports

Mrs MADDIGAN (Essendon) — By leave, I move:

That there be presented to this house the reports of the Department of the Legislative Assembly, the Department of the Parliamentary Library, the Department of Parliamentary Debates and the Joint Services Department for 2001–02.

Motion agreed to.

Laid on table.

PRIVILEGES COMMITTEE

Right of reply

Mr LONEY (Geelong North) presented report on right of reply of Mr Steve Luby, together with appendix.

Laid on table.

Ordered to be printed.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Public service: review

Mr LONEY (Geelong North) presented report, together with appendices.

Laid on table.

Ordered to be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Electronic democracy

Ms BEATTIE (Tullamarine) presented report, together with appendix.

Laid on table.

Ordered to be printed.

Anzac Day

Ms BEATTIE (Tullamarine) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

ENVIRONMENT AND NATURAL RESOURCES COMMITTEE

Fishing: charter industry

Mr SEITZ (Keilor) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed

DRUGS AND CRIME PREVENTION COMMITTEE

Crime: trends

Mr COOPER (Mornington) presented report, together with appendices, extract from proceedings, minority report and minutes of evidence.

Laid on table.

Ordered that report, appendices, extract from proceedings and minority report be printed.

Mr Loney — On a point of order, Mr Speaker, I would like to draw your attention to an article that appeared in the *Herald Sun* this morning that purports to quote directly from a report of a parliamentary committee that was not tabled in the house until this morning. The newspaper report actually states that the report will not be tabled in the house until today. So the *Herald Sun* knew at the time that it printed the article that this report had not been presented to the Parliament.

I believe this is a serious matter of parliamentary procedure and one that should be taken seriously. The house is entitled to believe that parliamentary committee reports will first be presented to the Parliament, not to media outlets for some advantage or other that a particular member or party may see.

Mr Speaker, I would request that you initiate an investigation into how the *Herald Sun* obtained the matter of that particular parliamentary committee report before the Parliament did.

The SPEAKER — Order! In relation to the matters raised by the honourable member for Geelong North, the practice has always been that for such incidents, if I can call them that, the committee itself make inquiries and then make recommendations to the Presiding Officer accordingly. However, as the honourable member has now taken a point of order requesting the Chair to act, I will have the matter examined and make a more detailed ruling to the house at a later stage.

PAPERS

Laid on table by Clerk:

Adult, Community and Further Education Board — Report for the year 2001–02

Albury-Wodonga Development Corporation — Report for the year 2001–02

Audit Act 1994 — Report on the Finances of the State of Victoria, 2001–02 — Ordered to be printed

Auditor-General — Performance Audit Report on Community dental services — Ordered to be printed

Australian Grand Prix Corporation — Report for the year 2001–02

Ballarat Health Service — Report for the year 2001–02

Corangamite Catchment Management Authority — Report for the year 2001–02

Docklands Authority — Report for the year 2001–02

East Gippsland Catchment Management Authority — Report for the year 2001–02

Education and Training, Department of — Report for the year 2001–02

Emerald Tourist Railway Board — Report for the year 2001–02

Emergency Services Superannuation Scheme — Report for the year 2001–02

Environment Conservation Council — Report for the period 1 July 2001 to 31 December 2001

Equal Opportunity Commission — Report for the year 2001–02 — Ordered to be printed

Essential Services Commission — Report for the year 2001–02

Financial Management Act 1994:

Reports from the Minister for Agriculture that he had received the 2001–02 annual reports of:

Murray Valley Wine Grape Industry Development Committee

Victorian Broiler Industry Negotiation Committee

Victorian Strawberry Industry Development Committee

Report from the Minister for Environment and Conservation that she had received the 2001–02 annual report of the Shrine of Remembrance

Freedom of Information Act 1982 — Report of the Attorney-General on the operation of the Act for the year 2001–02

Gambling Research Panel — Report for the year 2001–02

Gascor Pty Ltd — Report for the year 2001–02

Glenelg Hopkins Catchment Management Authority — Report for the year 2001–02 (three papers)

Gippsland and Southern Rural Water Authority — Report for the year 2001–02 (two papers)

Goulburn Broken Catchment Management Authority — Report for the year 2001–02

Goulburn-Murray Water Authority — Report for the year 2001–02 (two papers)

Government Superannuation Office — Report for the year 2001–02

Greyhound Racing Victoria — Report for the year 2001–02

Harness Racing Board — Report for the year 2001–02

Hastings Port (Holding) Corporation — Report for the year 2001–02

Human Services, Department of — Report for the year 2001–02

Infrastructure, Department of — Report for the year 2001–02

Innovation, Industry and Regional Development, Department of — Report for the year 2001–02

Justice, Department of — Report for the year 2001–02

Latrobe Regional Hospital Pty Ltd — Report for the year 2001–02

Legal Ombudsman — Report of the Office for the year 2001–02 — Ordered to be printed

Legal Practitioners Liability Committee — Report for the year 2001–02

Mallee Catchment Management Authority — Report for the year 2001–02

Marine Board of Victoria — Report for the period ended 6 February 2002

Melbourne City Link Authority — Report for period ended 28 February 2002

Melbourne Convention and Exhibition Trust — Report for the year 2001–02

Melbourne Port Corporation — Report for the year 2001–02

Melbourne Water Corporation — Report for the year 2001–02

Members of Parliament (Register of Interests) Act 1978:

Summary of Returns — June 2002 and Summary of Variations Notified between 6 June and 30 September 2002 — Ordered to be printed

Cumulative Summary of Returns 30 September 2002 — Ordered to be printed

National Parks Act — Report on the working of the Act for the year 2001–02

North Central Catchment Management Authority — Report for the year 2001–02

North East Catchment Management Authority — Report for the year 2001–02

Overseas Projects Corporation of Victoria — Report for the year 2001–02 (two papers)

Port Phillip and Westernport Catchment and Land Protection Board — Report for the year 2001–02

Public Transport Corporation — Report for the year 2001–02

Residential Tenancies Bond Authority — Report for the year 2001–02

Roads Corporation (VicRoads) — Report for the year 2001–02

Rural Finance Act 1988 — Direction by the Treasurer to the Rural Finance Corporation to establish, operate and administer a scheme of assistance for persons carrying on farming in Victoria whose properties are affected by the pipelining of the Normanville stock and domestic earthen channel fill system

Spencer Street Station Authority — Report for the year 2001–02 (two papers)

State Electricity Commission of Victoria — Report for the year 2001–02

State Superannuation Fund — Report for the year 2001–02

State Trustees Limited — Report for the year 2001–02 (together with Financial Statements of the Common Funds) (two papers)

Statutory Rules under the following Acts:

Casino Control Act 1991 — SR No 103

Fair Trading Act 1999 — SR No 98

Health Act 1958 — SR No 97

Magistrates' Court Act 1989 — SR No 96

Mineral Resources Development Act 1990 — SR No 99

Occupational Health and Safety Act 1985 — SR No 104

Subordinate Legislation Act 1994 — SR Nos 100, 101, 102

Subordinate Legislation Act 1994 —

Minister's exception certificates in relation to Statutory Rule Nos 100, 101, 102

Minister's exemption certificates in relation to Statutory Rule No 103

Sunraysia Rural Water Authority — Report of the year 2001–02

Tourism, Sport and the Commonwealth Games, Department of — Report for the year 2001–02

Transport Accident Commission — Report of the year 2001–02

Tricontinental Holdings Limited — Report for the year 2001

Victoria Legal Aid — Report for the year 2001–02

Victorian Channels Authority — Report for the year 2001–02

Victorian Curriculum and Assessment Authority — Report for the year 2001–02

Victorian Electoral Commission — Report for the year 2001–02

Victorian Environmental Assessment Council — Report for the period 1 January 2002 to 30 June 2002

Victorian Institute of Forensic Medicine — Report for the year 2001–02

Victorian Law Reform Commission — Report for the year 2001–02 — Ordered to be printed

Victorian Learning and Employment Skills Commission — Report for the year 2001–02

Victorian Medical Consortium Pty Ltd — Report for the year 2001–02

Victorian Privacy Commissioner — Report of the Office for the year 2001–02 — Ordered to be printed

Victorian Qualifications Authority — Report for the year 2001–02

Victorian Rail Track (VicTrack) — Report for the year 2001–02 (two papers)

Victorian WorkCover Authority — Report of the year 2001–02

Wimmera Catchment Management Authority — Report for the year 2001–02

Wimmera-Mallee Rural Water Authority — Report for the year 2001–02 (two papers).

BUSINESS OF THE HOUSE

Adjournment

Mr BATCHELOR (Minister for Transport) — This is the most anticipated motion in the house at the moment! I move:

That the house, at its rising, adjourn until Wednesday, 6 November.

I would point out, Honourable Speaker, that that parliamentary week would include — —

Honourable members interjecting.

The SPEAKER — Order! The minister, speaking to his motion.

Mr BATCHELOR — That parliamentary week would have a Friday sitting day — Friday, 8 November — for the benefit of honourable members.

Motion agreed to.

MEMBERS STATEMENTS

Grace McKellar Centre, Geelong

Mr PATERSON (South Barwon) — The sod-turning last week at the Grace McKellar Centre was a sham and an insult to Geelong. Three long years after winning power, the Bracks Labor government turned up in Geelong to turn the first sod on a project the Australian Labor Party claimed was a priority. By the end of the financial year, Labor will have budgeted to spend only a paltry $6.3 million on a project estimated to cost about $97 million.

If a three-year delay is how Labor treats its priorities then other projects have absolutely no hope at all under this lazy state government. At the last election the Labor Party pretended to be concerned about the Grace McKellar Centre, but it got into government and just twiddled its thumbs. Labor's specialty seems to be opening previous Liberal-funded projects like the Belmont Community Health Centre. Labor's other specialty is announcing facilities like the Torquay Country Fire Authority and ambulance station but then leaving town and leaving the project site empty.

The Australian Labor Party circus moves around Victoria but there are not many people laughing anymore. As the election draws nearer a procession of Bracks government ministers head for Geelong to make it look like they are doing something. Even on Labor's supposed $19 million commitment to the Grace McKellar Centre, by June 2003 Labor will still have held back about two-thirds of the money. A Liberal government will get on with the job.

Cohuna Secondary College

Mr MAUGHAN (Rodney) — Cohuna Secondary College currently runs a highly successful instrumental program which is at risk of being compromised next year because of a lack of government funding.

At the beginning of the current school year Cohuna Secondary College was allocated an extra 0.2 equivalent full-time staff worth about $10 000 per annum as part of an allocation of five full-time positions for the whole of the Loddon–Campaspe–Mallee region. The college was able to employ a young graduate who has been an outstanding success and has brought, through music, a new energy and enthusiasm to the school. Music tuition has grown, students have developed another range of skills, participation in the school's concert band has increased and a jazz ensemble has been formed.

The extra funding was, however, for one year only and if additional funding cannot be found this very successful program will be compromised next year. Good instrumental music teachers are not easy to secure or retain. Cohuna Secondary College has a first-class teacher who has made a great contribution to the sense of community, enthusiasm and commitment to learning within the school, and the college obviously wishes to continue with this highly successful program next year.

I appeal to the minister to ensure that sufficient resources are provided to ensure that this very successful music program is able to continue at the Cohuna Secondary College.

Northern Bullants Football Club

Mr LEIGHTON (Preston) — I welcome the discussions between the Northern Bullants Football Club and the Carlton Football Club. These discussions are about an alignment under which the Northern Bullants would become Carlton's Victorian Football League (VFL) side. If these talks come to fruition it will be a win-win situation for both clubs.

The committee of the Northern Bullants Football Club is to be congratulated for ensuring that the Bullants in any alignment or merger will maintain its name, jumper and playing location. The alignment will make the Bullants stronger with 7, 8 or 9 Carlton players available each week. The current Bullants team is a young side and will benefit from the experience of playing with the Carlton footballers. The Bullants players will also benefit from access to Carlton Football Club facilities and coaching staff. The Bullants have tried to develop youth in the area and this alignment will assist them in continuing to do so even more successfully. Carlton Football Club will also benefit as it does not currently have a VFL side and will mean those players who are not in the senior side or who are coming back after being injured will have a team to play in.

The Bullants had a promising season and opened their new club rooms during the year. This alignment will allow the club to go on to greater and better things, and I wish the Bullants well for next season.

Frankston: bulky goods precinct

Ms McCALL (Frankston) — It grieves me to have to stand here again and talk about the dysfunctionality of the Frankston City Council. Time and time again I hear complaints from people in the community that they are poorly represented by the members of this council. Council elections will be held next March, and

I am urging all members of the Frankston community to rethink the role of their seven ward councillors.

In particular I focus on a project known as the bulky goods precinct, which is on McMahon's Road, towards the boundaries of the current Frankston electorate. It has been a very successful project for the people of Frankston and employs local people, but there is a level of uncertainty for those who live in houses not far from the precinct. Nearly three years ago they received offers from a developer to purchase their properties with a view to developing stage 2 of the precinct.

Regrettably the Frankston City Council has failed to move on planning permission, the developer has failed to come back to the home owners and there is a huge level of uncertainty and discomfort amongst people in that area, many of whom have lived there for 25 years. They are concerned as to whether their properties will be compulsorily purchased by a developer or whether the contract will just fall over and they will be left with nothing but a car park around them. This is another example of Frankston City Council failing to represent its community.

Glengala and Sunvale primary schools

Mr LANGUILLER (Sunshine) — I place on record my congratulations to Glengala Primary School and Sunvale Primary School. Last week I attended the culmination of their civic week. They concentrated on discussing issues such as democracy, value systems, Australian traditions and their commitment to those things.

It was fascinating to see, three years after the Bracks government came into office, that Glengala and Sunvale primary schools have significantly improved their literacy and numeracy rates. It was noted by parents, teachers and students that three years ago they had 15 students to one computer but that three years later they now have 5 students to one computer.

The students shared with me what they understood to be the meaning of democracy. They said that it meant they could come to school and enjoy it, that their teachers would be happy with them, that they would have teachers aides to look after them, that they could have dreams and opportunities in the future and that they could go home to a parent who is employed. They confirmed my belief that the Labor Party is committed to democracy because it understands what education is all about.

Omeo Highway and Benambra–Corryong Road: upgrade

Mr INGRAM (Gippsland East) — I draw to the attention of the house the revised Vicroads draft report dated October 2001 entitled the *Omeo Highway and Benambra–Corryong Road Economic Evaluation Study* and the minister's comments in the house and in discussions with me that the report is not the final version and that the minister is not satisfied with some of the economic assessments in the draft. As the revised draft is now 12 months old one is inclined to ask why the final report has not been released, considering the importance of these roads to the areas involved.

Honourable members will note the interest in the Bogong High Plains Road that has been expressed recently because of the dispute between the Alpine shire and Parks Victoria, which has closed the road. This is a very popular summer high plains route. The minister must ensure that the final report is completed and released as soon as possible so the communities involved will gain the benefits of economic improvements from the upgrade of those roads.

The executive summary of the report estimates that $30 million would be injected into the regional economy of that area each year. That is something the areas desperately need. It also highlights the increase in tourism traffic that would come from the sealing of those roads. I would welcome the action as soon as possible — and I look forward to seeing everyone on Wednesday of next week!

Lysterfield Road, Lysterfield: safety

Mr LUPTON (Knox) — I bring to the attention of honourable members my concern and the concern of the people of Ferntree Gully and Lysterfield about Lysterfield Road. Lysterfield Road has been the scene of a number of deaths and horrific accidents, but regrettably, although approved by the statewide black spot program committee back in March, no funding has come forward.

I have written six letters to the minister since that time and have not received the courtesy of one response. This is the same minister who has overseen the unacceptable blow-out of some hundreds of millions of dollars on the Eastern Freeway and the Scoresby freeway. It appears that people who use Lysterfield Road are going to suffer the same inconsistencies and uncaring attitudes that the people of the eastern suburbs have suffered because of the Eastern and Scoresby freeways.

I ask that the minister get off his backside and try to do something in response to the correspondence that has been sent to him by the honourable member for Monbulk, the City of Knox and me. This is a very real concern about a dangerous road that is claiming too many lives and causing too many serious accidents. The minister cannot continue to bury his head in the sand. Seeing that the black spot committee recommended funding back in March, I believe it is appropriate for the minister to make an announcement very soon, otherwise a Liberal government will have to do it for him.

Sydenham: name change

Mr SEITZ (Keilor) — I rise to place on public record my support for the name of the township Sydenham. A recent article in the *Brimbank Leader* is headed 'Say goodbye to Sydenham?'. To abolish the name of Sydenham would be like abolishing the name of the Anzacs, because the people of Sydenham provided volunteer soldiers in the first and second world wars.

Sydenham has a prior history as a township in association with the other old neighbouring town of St Albans. When subdivisions came into the area people started using catchy real estate names to sell and promote the area, so the name of Sydenham is slowly disappearing. However, people are looking for roots in the history of settlement of the district.

Service providers such as the fire brigade, the ambulance service and other government departments need to know the region or area they are working in. I am pleased to say that the Bracks government in its recent fact sheet uses the header 'Sydenham Transit City' to describe the Sydenham area, along with all the various real estate area names surrounding it.

It is a vitally important issue, and at this point I am asking that Olwen Ford, a western suburbs historian quoted in the *Brimbank Leader* report, join me in forming a historical society for Sydenham.

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

Snowy River: water releases

Mr ASHLEY (Bayswater) — On 27 August the premiers of Australia's two big states got themselves a little wet opening valves to send 38 gigalitres of water down the Snowy and away from the Murray River system. On the same day Yass was just one of a number of shires in New South Wales to be declared drought areas. This declaration signified that the headwaters which feed Australia's most significant river system were in a critical condition. It implied that the autumn and winter snows and rains across the vast Kosciusko catchment had failed and that the whole Murray system was in peril.

The decision the two premiers implemented on that fateful day, though prospectively valid and politically correct, was appallingly timed and recklessly implemented. Without any certainty of downstream water savings, it amounted to a wanton act of folly and was palpably against the national interest. Not only did they accede to the removal of water from vital agricultural and horticultural pursuits, they deprived the Murray system of a precious environmental supplement at the beginning of the season in which the river was already failing to reach the sea.

In a time of hard choices the two premiers have sacrificed the macro-environmental dimension for the micro. They have backed a single river against an entire basin. And in this house two members continue to sit cosily side by side pretending that the interests of their electorates are not immediately and diametrically opposed, that in a period of potentially horrendous drought every megalitre trickling towards Orbost will somehow have no deleterious impact upon the fortunes of Mildura — —

The SPEAKER — Order! The honourable member's time has expired. The honourable member for Ivanhoe has 45 seconds.

Banyule Housing Support Group

Mr LANGDON (Ivanhoe) — Last Sunday I had the great pleasure of attending the 29th annual general meeting of the Banyule Housing Support Group, formerly known as the Heidelberg Emergency Housing Group. This group is a unique example of how local government, state government, local churches and communities can work together. For example, it has six houses — one from the local council, four from the Office of Housing and one of its own. This is a great combination, and it gets a lot of support from St Martin of Tours parish church and the local community — receiving, for example, bread from Bakers Delight down the road.

I commend to the house two of the longstanding members of the committee, Barry FitzGerald and Kathryn Haberman, and the whole organisation and its various committee members for their work.

LOCAL GOVERNMENT (UPDATE) BILL

Second reading

Debate resumed from 17 October; motion of Mr CAMERON (Minister for Local Government).

Government amendments circulated by Mr HAMILTON (Minister for Agriculture) pursuant to sessional orders.

Ms BURKE (Prahran) — Whilst I am pleased to make comments on the Local Government (Update) Bill, I would also like to voice my disappointment at the Bracks government's failure to utilise the opportunity for greater consultation with the community. There have been constructive changes for municipalities in Victoria, but I have a clear feeling from the community and ratepayers associations that they feel they were not included. In particular, I am concerned with the lack of consultation undertaken on this bill, and that is why we were pleased that the bill was held over from the autumn sitting to the spring sitting.

The irony is that the bill is an attempt to improve the accountability and transparency of local government. Whilst the bill itself was not open to discussion, its effect is certainly not lost on me. The legislation is the result of a top-heavy consultation approach. Prior to the generation of the bill, extensive consultation was undertaken to determine the needs of the sector and its ratepayers. Once the bill was available, however, much of the purported consultation style of the Bracks government was nowhere to be seen.

Of the councils that managed to get their hands on a copy of the bill, a great number wrote to me expressing dismay that many of the issues integral to local government had been overlooked while other matters that had never been canvassed took their place. The government seems to be in the habit of asking many questions. Although this in itself is a wonderful consultation style, we need to know what people want from the municipalities of Victoria, which means asking everybody. While the Bracks government has been committed to asking many questions, in the process consuming much money and time, it does not seem to act.

Wisely, neither the minister nor his colleagues have ever made a statement as to what they will do to answer these questions. I say 'wisely' because whilst they have always promised to listen, they have certainly never promised to act on anything. It seems that the consultation process became too hard for the minister so he stopped listening.

The local government sector told the minister that it would like to set up a system whereby all 78 municipalities have their elections on the same day every three years. They told the minister that the conflicts that occurred in the provision of local laws were sometimes confusing and that it would help if they had clear guidelines on how to deal with such anomalies. They expressed their concerns about various aspects of the rating and valuation system, and they thought it needed to be assessed.

They also advised the minister on their concerns about adverse possession, because many precious parklands were being adversely acquired by neighbours at a massive rate — but nothing has happened. Perhaps the minister could point out to me where these concerns are addressed in the bill. I await his response, but I do not know if we will receive it in time. Those issues are not in the bill and will have to be addressed in the future.

The minister asked councils what they thought of the issues, and the sector responded, but they feel they have been ignored in some cases. The minister has foreshadowed an amendment on proportional representation, which the opposition will not support. A number of amendments were moved in the other place, with which we are satisfied, and we believe no more amendments are needed.

The minister has often referred to the bill as a tidying-up bill. The local government sector in Victoria is extremely proud of its efforts, and so it should be. Local government has been a shining light across Australia, and it continues to have that reputation overseas as well, but that does not happen by standing still. Life has to move on, and changes and problems need to be addressed on a daily basis, not just once in a parliamentary session.

The Liberal Party has no intention of either further amending or obstructing the passage of the bill. We are pleased with the changes made by our colleagues in the other place, and we support the sentiments of the sector that the expedient passage of the bill will enable councils to more effectively and efficiently implement the procedural changes it contains.

While I feel the bill received a significant degree of attention during the committee stage in the other place, there remain a few points that I would like to touch on. Of particular concern is the manner in which some of the more prescriptive alterations to the existing act often seem to tie in with the outstanding issues of individual municipalities — which in some cases affect all 78 of them. Without naming the individual councils involved, I point out that many of the bill's provisions

seem to be targeted as problems that could have been resolved by other means and not by legislation.

Whilst I have no problem with the correction of dated or inefficient legislation, I feel this bill unnecessarily punishes those councils that are operating extremely well for the mistakes of a rogue few.

Most of the councils have been appropriately utilising the special rates and charges provisions of the act — and this is a very good example of what I am talking about — but one has not, and the remaining 77 councils are now facing overly prescriptive legislation because of the mismanagement of that one council. The great majority of councils were being responsible in utilising pecuniary interest requirements but one was not, and now rural councils with necessarily strong ties to their communities are having to excuse themselves from taking part in important decisions.

If you are a councillor in a rural municipality you are involved in everything, but that does not necessarily mean you will make money out of it or be too close to the subject; that is just the nature of rural communities. One council abused that legislation pertaining to confidential documents, and now 77 councils must be subjected to overcompensating restrictions.

It is imperative that we acknowledge that Victoria is composed of 78 individual and unique municipalities — some metropolitan, some interface and some rural, but all distinct entities that must be treated as such. A one-size-fits-all approach has historically proved to be inadequate when dealing with matters of local importance, and simply using the big stick of legislation is no longer enough. We must look to coordinate approaches so as to bring to light the structural and operational deficiencies currently being faced by the sector. It is not enough to tell municipalities to stop; we need to work with them and find out how to improve the situation.

I now move on to the matter of councillor oaths of allegiance. I must admit that this particular section of the bill has caused both me and my colleagues in both the Liberal and National parties some confusion. Upon my initial reading of the proposed change the impression I gained was that this change would provide newly elected councillors with a choice between taking the oath of office — a declaration to the community they serve — or the oath of allegiance — a declaration to the Queen. This seemed to provide a sensible alternative for those who did not wish to declare their allegiance to the Queen. It was not until the Minister for Sport and Recreation in the other place was questioned on the matter that I discovered that new councillors must swear the oath of office and then may additionally swear the oath of allegiance.

Irrespective of one's feelings about the nature of the monarchy, it seems highly unfair that those individuals who desire to declare their allegiance solely to the monarchy will not have the option of doing so. This has been an enormous issue in rural and regional Victoria, where councillors are adamant that they should be able to decide for themselves to whom they swear an oath, and I agree with that.

Choice of the individual is what it is all about. The two options should be available to all new councillors, and neither oath should hold priority over the other if instituting a mandatory requirement.

I am also concerned about the manner in which the code of conduct provisions have been set up. I agree that councillors should be required to act according to a code of ethics, and I am pleased to note that the majority of Victorian municipalities have already subscribed to a code endorsed by the Municipal Association of Victoria. My concern lies in the fact that there exists no uniformity in the code of conduct provisions proposed by the government, which risks creating a situation in which we will be presented with 78 divergent codes across Victoria, which would invariably range from consistent and responsible at best to unenforceable and ineffective at worst.

Unless a code of conduct is enshrined in legislation it will be incredibly difficult to ensure the achievement of appropriate behavioural codes across the state. It seems to me that the government lacks the courage of its convictions. It supports the concept but it is unwilling to bite the bullet when it comes to proposing a constructive way of fixing the problem.

This bill is peppered with similarly inadequate provisions. Parts of the bill seem rushed and grossly under-researched — in particular, the government's desire to introduce proportional representation as the preferred method of vote tabulation for municipalities across Victoria. This is a laughable and transparent attempt by the Bracks Labor government to gain some party-political advantage. Were the bill to have proceeded in its original form, the local government minister would have ensured that this provision was implemented in time for the coming 2003 council elections, whilst the remaining changes to the electoral provisions would not have come into effect until well after that time. Why implement one section of the changed electoral provisions unless it was to gain some degree of advantage?

The information provided to councils pertaining to this clause was considered to be as brief as it was misleading. It ignored the intricacies and the implications of divergent systems and seemed rushed and ill prepared.

The comments generated by the minister's office chose not to mention the fact that under an exhaustively preferential system in which two members must be elected, both the first and second preference votes are equivalent to two primary votes for the respective candidates. The government shows its contempt for municipal voters by failing to acknowledge that voters may well be well informed and capable of choosing to direct their own preferences rather than following the advice of a how-to-vote card.

My biggest concern about the proposed change is that for a government that seems willing to conduct a review at the drop of a hat — it is now up to about 800 or so reviews — there has to date been no comprehensive review of the existing voting system. There has been no examination, review, evaluation, assessment or investigation of the system to speak of — in fact, I doubt if anyone has even taken the time to have a really good look at it.

This proposed amendment to the bill was a hasty and ill-prepared alteration to an already adequately functioning system for the purpose of political gain, and, like many other things associated with this government, it was disappointing. I am pleased to see that the amendment to omit this clause was successfully passed by a majority in the other place.

The final point I wish to make is in relation to the alteration of the existing provisions of the electoral representation boundary review. An overwhelming majority of councils have approached me in recent months to voice their opposition to the requirement that they submit their boundaries to external determination. It seems odd that while the Minister for Local Government is more than happy to extend a constitutional recognition to local government as an independently operating level of governance, he does not extend the same level of recognition to local government's capacity to be responsible for determining its own municipal structures. Councils have expressed concern that not only will this change result in decreased autonomy, but it will have a yet to be determined impact in terms of the actual cost.

As I am conscious of the time I will move to a few other subjects in the bill and then allow other members to speak; I know we have a few on our side. I was pleased to see that the Minister for Local Government did not remove rate capping. While I do not think it is necessary to have rate capping over the whole of Victoria, individual rate capping is most definitely needed. Between 1999 and 2001 municipal rates increased at an enormous rate. The Australian Bureau of Statistics study showed that the increase in rates was $213 million across Victoria in that time.

Communities and ratepayers on fixed incomes cannot continue to have that spiralling increase in rates; hence the Liberal Party's policy of capping rates at the consumer price index plus 2 per cent, and establishing a rate board to look at the problems, what is happening in local government and why municipalities have to continue to increase their rates. Some councils which are supposed to be leaders in the community have imposed increases as high as 18 per cent while other increases have been 15 per cent, 12 per cent and 10 per cent. Municipalities cannot continue to make those increases — something needs to be done. If a council has an embedded debt, the minister should work with the council to work through that issue. If a council in rural Victoria is responsible for large pieces of land and a small population, that issue must be addressed in a different manner. The community cannot continue to pay for inefficiency and lack of attention to real issues.

There are many matters in local government that are not addressed in this bill. I have mentioned a few. This is probably not a bad time, as we get to the end of a parliamentary term, to mention that local government itself is feeling that it is slipping back to the old days. While change does not have to be dramatic, it continues to be necessary at all times. I wish this bill a good passage and state once again that the opposition will not be agreeing to the government's amendments.

Mr DELAHUNTY (Wimmera) — I have pleasure in rising on behalf of the National Party to speak on this local government bill. I must say at the outset that my colleague the Honourable Jeanette Powell in another place is the National Party's spokesman on this issue. She has done an enormous amount of work, particularly with country councils right across Victoria, in relation to this bill which has had a long gestation in getting to this stage.

As we know, the title of the bill is the Local Government (Update) Bill. It has many purposes, but I want to focus on four of them. The bill amends the Local Government Act 1989 to facilitate recognition of the place of local government by including a preamble under clause 3 and a charter under clause 5.

Another purpose of the bill is to improve the accountability and transparency of local government.

That should always be the aim of any government. The third purpose of the bill is to improve the electoral processes and the functioning of local government. The honourable member for Prahran has covered that fairly well, but I will make some comments about it in my presentation. Another issue I want to cover is that the bill amends the Constitution Act 1975 to further facilitate recognition of local government.

Can I say from the outset that I have been a councillor and a commissioner. I have had nearly 10 years involvement in local government. It was a great time in my life. It is an important tier of government, one which works with the federal and state governments as well as fellow local councils from Victoria and interstate. I was very proud to represent the communities I was elected and appointed to. It was a great learning experience — you learn very quickly that you can please some of the people some of the time but not all of the people all of the time.

Local government is a very important part of government, particularly because it is the closest to the people. In most communities, particularly the country communities we in the National Party represent, everyone knows their local councillors. They are the closest to the people.

Mr Hamilton — They know their local member as well.

Mr DELAHUNTY — In country Victoria they also know their local member. As the Minister for Agriculture has highlighted, that does not happen in the urban areas of Melbourne. I have some good friends who have moved down here. They are very educated people and I have asked them who their local member of Parliament is — amazingly they do not know. That goes back to the point that with country members of Parliament not only are their constituents looking at the party the member represents but they are also looking for strong personal representation, and they get that from the National Party.

We should all be open to ways of improving how the system of local government works in relation to public accountability, the collection of rates, the use of public resources, working with communities and, importantly, working with the other levels of government. At the end of the day, local government comes under the jurisdiction of the state government and it is important that local councils be able to work cooperatively with whatever governments we may have to get the best outcomes for their communities.

As I said, the Honourable Jeanette Powell has done a lot of work on this bill and I have worked with her closely. We think there are improvements in the bill and the National Party will not be opposing this legislation today.

The bill formalises local government within the Australian system of government. I know that in my days in local government, and since, councils right across Victoria have been looking for more recognition of the important work they do in working with their communities. We in the National Party do not have any problems supporting that.

I will talk about the background to this legislation. It is interesting that the Minister for Local Government, who operates out of the Legislative Assembly, did not have the fortitude or whatever it needed to first bring the bill into this house; instead it was first introduced into the Legislative Council.

In November 2000 the government announced a process to update the Local Government Act. Its primary focus was to solve the concerns with the existing act. No doubt there are always ways to improve the operations of any government sector, but in this case we are talking about local government. The government set up a web site, and submissions were invited. In June 2001 a consultation paper was prepared, and councils and technical working groups were formed and met with the government and the department to go through a lot of the issues raised. The deadline for submissions was August 2001, and I am led to believe that about 170 were received.

On 16 May the bill was introduced into the Legislative Council. That was a surprise to everyone, because the Minister for Local Government, the minister who has carriage of the bill, operates in this house — but he was not able, for whatever reason, to bring it into this house. My colleague the Honourable Bill Baxter highlighted some glaring errors in the second-reading speech made by the Minister for Sport and Recreation in another place. Even though it had taken two years to get the bill to that stage, there were still glaring errors with the second-reading speech. At least the minister read the right speech!

At that stage debate on the bill was adjourned until June. That was appropriate: many of the councils the National Party spoke with asked for that because they had not seen the bill and following the consultation process there had been many changes to it. Councils are an important sector of the community, and they had asked for many changes. The National Party also asked

the government for time so that the errors in the second-reading speech and the bill could be fixed.

The bill finally went back to the Legislative Council for debate on 9 October, with 22 government amendments. There were also some opposition amendments. Here was a government that at first was keen to crash and burn and push the bill through the Legislative Council with the glaring errors that were highlighted in the second-reading speech. As I said, after the lengthy consultation period the government still brought in 22 amendments.

The National Party circulated the bill and second-reading speech across country Victoria. As the honourable member for Prahran highlighted, there are 78 councils in Victoria. The National Party contacted and had discussions with the 47 which make up the rural and regional councils of Victoria, as well as the Victorian Local Governance Association and the Municipal Association of Victoria. It received comments from many of them, including the VLGA and the MAV. One of my colleagues did some media work on television and radio and also wrote letters to newspaper editors to try to create more awareness of this important bill in the general community.

The Honourable Jeanette Powell and I met with many councils in country Victoria, and I will highlight a couple of the many written responses we received. The West Wimmera shire is one of the larger shires in my electorate in western Victoria, but it is also one of the most sparsely populated. That council was happy with most parts of the bill, but it was opposed to proportional representation. The Southern Grampians Shire Council wants concurrent elections. About one-third of state councils held elections last year, and the rest of the councils will hold elections in March 2003. The Southern Grampians shire believes that creates problems and would like to see concurrent elections across Victoria. The government has not addressed that issue, even though it has the ideal opportunity while updating the Local Government Act.

The Hindmarsh shire is another of the great Wimmera shires that I represent which had a number of concerns, but because of the time I will not go through all of them. The Rural City of Horsham was opposed to proportional representation — —

Mr Carli — Surprise, surprise! What about fair elections? What about democracy?

Mr DELAHUNTY — This is great democracy. We now have the exhaustive preferential system. If you want be elected and it is an unsubdivided council, you have to get the support of 50 per cent plus 1 of the people. Proportional representation does not give that. It depends on the number of councillors and what proportion you need, but you could have 80 per cent of the people voting against a person and yet have that person elected to a council. That person will then administer the council and deliver the services to those communities, but I think the — —

Mr Carli interjected.

Mr DELAHUNTY — That is right, because you have to get 50 per cent plus 1. That is the fairest system. I know there are things that proportional representation addresses, but despite the evidence presented by the government there was not enough support for it in the representations received by the National Party — and the National Party represents rural and regional Victoria.

The Glenelg Shire Council was very thankful that the debate was adjourned because of the support of the Liberal and National parties. The council said there were many things in the bill brought before the Parliament that were not — —

Mr Vogels interjected.

The ACTING SPEAKER (Mr Lupton) — Order!

Mr DELAHUNTY — He is too big a bloke, he cannot hide! The Glenelg Shire Council said that there were many things in the bill that were not in the consultation paper, and it was concerned, as were many other councils, that it had not been given information about the bill. I can assure the honourable member for Coburg that the VLGA supported proportional representation — —

Mr Carli interjected.

Mr DELAHUNTY — That is right. The City of Whittlesea Ratepayers Association was concerned about things like rates and special charges and I will come back to those later. In its submission the Municipal Association of Victoria was concerned about issues in the bill that were not in the discussion paper, but interestingly enough, it supported proportional representation.

The National Party consulted with many: the Surf Coast Ratepayers Association, the City of Whittlesea Ratepayers Association, Brenda Murray from Paynesville, Linette Treasure, Harvey Barnes — these are some of the people who gave us their thoughts, and on behalf of the National Party I thank them for their input.

We sent out letters, copies of the bill and the second-reading speech and had many comments sent in. I also had discussions with many, particularly the councils of West Wimmera, Southern Grampians and Glenelg. The Honourable Jeanette Powell and I, along with the honourable member for Gippsland South, the Leader of the National Party, were involved in some of those discussions and one of the key issues raised was nonfeasance insurance — support that councils had lost because of the determination in the Brodie case in New South Wales.

I am pleased to say that because of the initiative of the leader of the party, the National Party presented a private members bill — and guess what, the Labor Party finally took up the cudgels and copied that bill almost word for word! I am pleased that the bill will pass through the Legislative Assembly. It will give some protection to the councils who told me that the determination in the Brodie case would mean that most country councils would have to put on at least one more staff member to do risk assessment across the council area and that would take away dollars necessary for infrastructure in those municipalities.

I come to the bill, and it is an extensive bill. This is the updated version following passage through the Legislative Council. When it was introduced in the other place it was 116 pages long, and following the changes made in that house it has now gone up to 118 pages. It is an extensive document, and I will not go through every clause but I will highlight some of them.

Clause 5 includes a local government charter that defines the purposes and functions of councils, and they are many and widespread. The old days of delivering the three Rs — roads, rates and rubbish — are long gone. Councils are now responsible for the delivery of up to 90 services. Some have been directly initiated and some are delivered on behalf of the federal and state governments, but the responsibilities are wide ranging. Those elected to local government have a great responsibility, and I wish all the best to those who will put their hands up in the next couple of months and go through the process to ascertain whether they are prepared to take on the challenge of being involved with local government.

Clause 10 amends the Constitution Act 1975 to give recognition to local government and safeguard its democratic processes. Again, as is highlighted through the bill, the minister still has the power to stand down councils or — as he did with the Melbourne City Council — sack them. I will come back to that later. Even though the second-reading speech and the bill provide for the safeguarding of democratic processes, people need to be reminded that in the state of Victoria councils still come under the jurisdiction of the Minister for Local Government and that he has some auxiliary powers to deal with — as one Labor Party member said to me today — those unruly councils.

I am interested to see what he does after those comments — —

Mr Carli interjected.

Mr DELAHUNTY — The Minister for Local Government in this government has sacked councillors — so again, it has happened.

I go to clause 11, which provides for the suspension of councillors by the Governor in Council on the recommendation of the minister on certain specific grounds. As yet we do not have a definition of those specific grounds, and members of the National Party would love to know what they are. As I highlighted earlier, the Minister for Local Government has done it before with the Melbourne City Council, even though it had gone through a process. The reality is that he was not happy with the council and wanted to get rid of it, so he went through an unnecessary and costly process, which was not right, and sacked that council.

Clause 18 inserts a new division 1A. The new provisions are a set of basic rules of conduct for councillors and members of special committees. Often people come into the chamber or watch question time on TV and many school students, teachers and other people from the community comment about the behaviour of members of Parliament. They are right. I do not think any of us should be proud of our behaviour. I know the media might like it — —

Mr Hulls — Speak for yourself!

Mr DELAHUNTY — The Attorney-General is a good example. He rides a cheeky horse sometimes, but I am sure he would get comments back from people who would not be happy with the way some honourable members carry on. We do not want to make it too quiet; we need to have a bit of interaction. I sometimes enjoy the interactions in the chamber — it is a good bit of theatre — but last night's adjournment was a prime example. The Acting Speaker was in the chamber at the time. It was not good for democracy in this state or for the recognition of the people within this chamber or members of parliaments across Australia. If a code of conduct is appropriate for the way councillors operate, it should also be considered for parliamentarians. I would support it after what I have seen in the three years I have been in this Parliament.

Do not get me wrong — some of the interjections are good and healthy. I do not want to sterilise the place, but the way it has been going, particularly last night on the adjournment, is not good. If we went into a council meeting and saw that happen we would be disgusted and disappointed, and that is the reason we have these code of conduct provisions in the bill.

The honourable member for Prahran highlighted the fact that the code of conduct covers a couple of things and that while there is no uniformity in the proposal put forward by the government the rules could include such things as councillors acting honestly, exercising reasonable care and diligence, not making improper use of their position and not making improper use of information. That has been illustrated in this chamber where ministers have been accused of making improper use of information. The code of conduct will be included in procedures to resolve disputes between councillors.

Mr Carli interjected.

Mr DELAHUNTY — The honourable member for Coburg and I feel we may be able to use the code in this place. At the end of the day, if laws are to be imposed on local government we should also look at a code of conduct for the way we behave in this place. I am very disappointed at some of the things that have happened in the three years I have been a member, and more particularly what occurred in the adjournment debate last night.

Clause 23 amends sections 91 and 93 of the Local Government Act to ensure transparency in council meetings and decision making. It also requires resolutions to be clear and sets minimum standards for the minutes. It will be interesting to see how this works. As honourable members know, many councils put up motions from the floor, with not too many being put through in written form. It will be very difficult for the recorders to ensure that the minutes are drawn up in the manner set out under the Local Government Act. I am not sure if it is proposed to have a pro forma, but again that would take away some of the flexibility that I think is needed. Some guidelines need to be put in place to assist councils in this matter.

New section 95, which is referred to in clause 24, establishes principles of conduct for council staff, which is to be commended. Their conduct is now to be equivalent to those covered by the Public Sector Management and Employment Act.

New section 3(1) of the Local Government Act refers to the substitution of a new definition for 'senior officer', so that the term now includes managers who report directly to the chief executive officer, irrespective of their level of remuneration. Many different titles are employed in many councils across the state, whether they be 'manager', 'general manager' and so on. It is important that there is a clear definition of 'senior officer', particularly for those who report to the chief executive officer. They must now operate under new guidelines, which is important.

Some of the principles will include acting impartially, acting with integrity and avoiding conflicts of interest. As the honourable member for Prahran highlighted, and I think all of us would agree, in country areas many constituents liaise closely with councils and their staff. Sometimes it is very difficult to work in those areas because of the close relationships.

However, they also must accept accountability for the results of their recommendations to the councils and, importantly, provide responsive service. With faxes and emails we get swamped with correspondence that requires a quick response, which is hard for us all. Can I go on and cover — —

Mr Stensholt — So long as you are quick.

Mr DELAHUNTY — No way — it may be my last chance! I will not go through all of part 4 of the bill, which covers electoral matters, because there are 40-odd clauses. Clause 35 clarifies the persons who are entitled to vote. It is important for both the government and local councils to ensure that once the bill has passed through the Parliament all this information goes out via education programs to inform and to clarify just who is entitled to vote. For the sake of democracy, everyone who is entitled to vote should have that opportunity.

New division 9, which includes new section 62, changes the Local Government Act to cover the disclosure of campaign donations in council elections. Donations to the value of $200 or more must be included. All honourable members would agree with that.

Clause 63, which inserts new section 219, was covered by the honourable member for Prahran. This new section provides for regular and independent reviews of electoral representation, including boundaries and the number of councils. This review must now take place every six years, and councils will be required to appoint an independent commissioner to conduct this review.

The Shire of North Grampians is going through that process at the moment. Since the council restructure there have been two wards — the northern ward and

southern ward — with four councillors in the southern ward and three in the northern ward. With the shift in population we have seen under the state government, one councillor will need to move from the northern ward to the southern ward, making five councillors in the southern ward and two in the northern ward. Neither the council nor the community is happy about that, and ongoing discussions are taking place with the Minister for Local Government. There is not a lot of time for that decision to be made. At the end of the day the community will need to be informed in the lead-up to the council elections in March.

That situation highlights what is happening with the redistribution of state electoral boundaries. As I have said many times, there are 88 members in this chamber, 70 of whom come from Melbourne, Ballarat, Bendigo and Geelong and only 18 from country Victoria. It is important to recognise that the honourable member for Prahran, who is in the chamber, represents the smallest electorate in the state area wise, being about 13 square kilometres.

Mr Hulls — How big is yours?

Mr DELAHUNTY — I am glad the Attorney-General is listening: mine is 27 308 square kilometres. Following the redistribution the electorate for which I am putting my hand up, Lowan, is 26 per cent bigger, at 34 000 square kilometres.

Honourable members interjecting.

Mr DELAHUNTY — I will be there! It is half the size of Ireland and the same size as Taiwan, which has 22 million people. Guess what? The biggest electorate gets 26 per cent bigger and the smallest electorate of Prahran goes from 13 square kilometres down to 12.29! Yes, it is all a matter of numbers. The reality is that to service those large electorates we probably need a bigger allocation from the government to get us a helicopter.

Mr Stensholt interjected.

Mr DELAHUNTY — The honourable member for Burwood supports giving country members a helicopter! This process will have to happen every six years. Some concerns have been raised by councils in rural areas about what input they will have. But again, I always say that sometimes when you are too close to it there is not the independence that is probably needed to get the best outcome. I hope the government will allow councils to have good input into that. That is all I want to cover in relation to the clauses.

One of the key things in the old act was the requirement for councils to automatically enrol people who occupy rateable properties. This created some problems for councils. The process in the bill means councils will have to advertise, people on these properties will have to enrol by application and their enrolment will only be valid for the term of the council. At that stage the council will have to write to all those people and inform them that there is another election coming up and ask them to re-enrol. If they do not respond they will be automatically dropped off the voting roll. It is important that that take place. Most of the councils I have spoken to think it is a much better system than the one we have at the moment.

The oath of allegiance has been discussed. Many councils across Victoria were very concerned, particularly when they read the fine print in relation to this. At the moment people have a choice, but this government has taken away that choice and made it an oath of office. It will be up to those councils to make sure new councillors are informed by the chief executive officer and others that if they want to make an oath of allegiance they have to ask to do so. It is not a choice; they have to ask. The old system where they had a choice was much better.

Mr Hulls interjected.

Mr DELAHUNTY — They will not be given a choice; they have to be informed about it. They will not be given a choice, as the current act says, between an oath of office and an oath of allegiance. This one — —

Mr Savage interjected.

Mr DELAHUNTY — That's the truth, I am sorry. I would be interested to hear the comments of the honourable member for Mildura. My understanding is — —

Mr Savage interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Wimmera should ignore interjections.

Mr DELAHUNTY — I covered proportional representation earlier. The National Party was opposed to proportional representation following consultation right across this area.

Mr Carli interjected.

Mr DELAHUNTY — In relation to proportional representation, we have talked about it with a lot of

councils across our area. If we are going to represent the people of Victoria, the majority of people across — —

Mr Savage — It is optional.

Mr DELAHUNTY — It is a pity the honourable member for Mildura has just walked into the chamber, because I do not want to have to repeat the list of all the letters and correspondence and the councils we discussed it with. There was some support for proportional representation, there is no doubt about that, but the overwhelming majority in my electorate said they were against it.

In finishing my presentation, I highlight that it is important that councils across Victoria, as was highlighted in the debate on the Planning and Environment (Metropolitan Green Wedge Protection) Bill — —

Mr Savage interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member will have his opportunity to contribute to the debate.

Mr DELAHUNTY — One of the things that has been highlighted, particularly with the green wedges legislation which is being debated at the moment, is that it is important that all councils have a farm rate. It is up to them what that rate will be. It is important that all councils, particularly with the concerns being raised by the Victorian Farmers Federation and many other landowners across rural and regional Victoria, have a farm rate. It is up to the councils to make the choice of what that is.

I also want to highlight the issue of temporary roads. It is in the bill and there was much discussion in the Legislative Council in relation to this matter. Under the act there will be some requirement — I do not think I need to go through it all at this stage — ensuring that councils will be able to collect a certain amount of money. That was included in the bill on the basis that it benefited those people whom we supported. The National Party thought there was another good opportunity, which was debated in the other house but unfortunately did not get up, to include temporary roads. The Legislative Council was prepared to provide for a process through which local councils could build roads of a temporary nature. It was passed in the Legislative Council because the National Party supports the view that if councils and the people along those roads want to build roads of a temporary nature — for example, a bitumen road which would take away problems caused by corrugations, dust and the like — the councils should be able to do that. The National Party supports that as another option for councils. We are disappointed that it will not go through.

I think I have covered all the issues I want to cover in relation to this bill. We in the National Party are not opposed to the bill that has come into the chamber today. With those few comments I wish the bill a speedy passage.

Mr CARLI (Coburg) — I rise to speak in support of this important bill. It modernises local government. It is an important piece of reform for a government that is promoting reform. It also follows a process of wide consultation. Initially it went out in November 2000 as a series of ideas to modernise the Local Government Act. There has been enormous consultation: there have been web sites, meetings, submissions and a whole raft of other activities.

I find it extraordinary that the honourable member for Prahran has the cheek to get up in this house and suggest that there has been some failing in terms of consultation. The honourable member for Prahran, who was actively involved in the sacking of local government and the destruction of local democracy, now says that there probably was a lack of consultation. She took no heed of what local government had to say. She did not have discussions with local councils when she either sacked them or was part of moves to sack them and introduce commissars.

The honourable member for Wimmera was one of those commissars, but he has spoken about democracy in this house. These are two members who were responsible in the 1990s for the destruction of local democracy and the sacking of local councils. They took no heed of what was said by local government but have had the cheek to get up in this house and question a government that has spent two years discussing this issue with local government, with local communities and with interested stakeholders. I am dumbfounded by their ability to get up and make these statements in this house after what they did — and with the blood that is on their hands, it is extraordinary that they can come in here and talk about local democracy.

When proportional representation was raised the honourable member for Wimmera suggested that was fine, that any number of candidates can run so long as they get 50 per cent plus 1. It is fine so long as there is a tight ticket, a National Party ticket, and everyone else is eliminated. In councils all over the state good candidates have topped the poll, got over 40 per cent of the vote in their own right, but they have not been elected. It is extraordinary.

The bill proposes that proportional representation should be one of the methods of election. There is a series of methods of election. The opposition wants to defend a system that is meant to maintain a conservative dominance in country Victoria. The opposition is clearly not consistent because when legislation was introduced proposing proportional representation for the Melbourne City Council, guess what? The opposition parties supported it. They are not consistent. It is not that they oppose proportional representation for the City of Melbourne; they probably would not oppose it for the City of Moreland or the City of Darebin where the current system favours the Labor Party. We admit that the current system favours us in a whole raft of inner city and middle city councils.

The opposition wants to maintain a conservative dominance in country Victoria by what I consider to be essentially electoral fraud. That is not surprising given the blood on the hands of the previous speakers, and not surprising given what we saw under the previous government in its treatment of local government and local democracy.

I do not want to go through the various items proposed by this legislation because the bill is very wide. It goes from small details to issues around financial management, and I do not want to go through that. Previous speakers have tried to do that, and certainly in the upper house debate honourable members went through the details. I want to talk about the substantive issues. The fundamental change is that the Victorian constitution will recognise the role of local government. For people like me who have worked in local government — I have not been a councillor but have worked in local government — that is important and is something that has been sought by local government. It is a symbolic change, and it is particularly important given what happened in the 1990s with the complete sacking of all councils bar one — that was Queenscliffe.

It is important to recognise that the constitution will contain a formal statement about the role of local government, recognising it as a tier of government. It will be a recognition of democratically elected councils. Honourable members should note those words, 'democratically elected councils', because that is something we did not see in the 1990s when there were commissars throughout the state.

This constitutional defence for local government is important. The constitution will recognise that there are three tiers of government. The government believes local government cannot be treated as something that is expendable, that can be knocked over and sacked at the whim of the government of the day.

It is also important to note that while the minister will retain the power to suspend councillors or a council, that power has been constrained. Suspensions can only be sought where there is a serious failure by councils to provide good government or where a council has acted unlawfully in a serious respect. The reality is that the power of the minister to intervene — and the honourable member for Wimmera made a lot of suggestions that Labor should go around sacking councils, and he named a few councils that might be sacked — will be severely constrained. It will be seen as bad governance; it will be serious unlawful behaviour by that council. It is important to recognise the fundamental shift that has been recommended.

Another issue of major importance that needs to be restated is that of councillors' obligations. The bill proposes that all councils should establish codes of conduct so that there are procedures for conflicts of interest and processes to resolve disputes between councillors. It is important that councils are in control of that.

I note the suggestion of the honourable member for Prahran that there will be a proliferation of codes of conduct. Of course there will be a proliferation; there happen to be 78 councils, so clearly there will be 78 different codes of conduct. But it is important that councils have responsibility for that and that they establish codes that are appropriate so that they can resolve some of the conflicts that emerge in local government, particularly personality conflicts that can emerge when a small number of people are involved.

The issue of disclosure of interest currently applies to pecuniary interests. The government believes that should include non-pecuniary interests. There should be a disclosure if there is a clear conflict of interest. That can only be in the interests of ratepayers and democracy.

I do not want to labour the points about the overall impact and the overall reforms undertaken. The bill is wide spanning. It covers everything from issues about the oath of allegiance, which previous speakers tried to suggest meant the government was anti-monarchist. Clearly it is not; it is about choice and about giving councils the ability to make their own decisions.

Mr Delahunty interjected.

Mr CARLI — It is funny but the moment I say councils should be able to make their own decisions, the honourable member for Wimmera laughs! He

laughs because he believes councils are the playthings of state governments. Every time I mention that they should be in control of their own affairs, the honourable member for Wimmera laughs.

I am pleased to say that they are responsible for their own dealings. This reinforces it; it reinforces issues of transparency; it reinforces good financial management; it reinforces good governance, and I think it bodes well for democracy in Victoria because not only are we recognising the role of local government as a third tier, we are empowering local government as that third tier.

Mr VOGELS (Warrnambool) — I am pleased to have the opportunity to speak on the Local Government (Update) Bill. Listening to what the honourable member for Coburg said, and having read the bill, I think it is basically a bit of window-dressing. Nothing in this bill does anything. As a former councillor at Corangamite shire for a few years I believe I actually understand a bit about local government.

This legislation has been in the making since about 1999. One of the things local government was looking for was to get some real recognition of its existence enshrined in the constitution. I know that is difficult, but this bill does nothing. It will be mentioned in the preamble and things like that, but basically it does not address that issue at all.

Each council will be required to have a code of conduct. As we know, there are 78 councils. I would have thought you would enshrine a model code of conduct for every council, and each council would have its own by-laws as a separate entity which would enshrine what they want to achieve in their local municipalities, rather than having 78 different by-laws or sets of codes which no-one would be able to follow.

The opposition obviously does not support proportional representation in local government. We believe it will add nothing to councils, and the preferential voting system we have had for many years has worked very well. You have only to look at the Australian Senate to see what a shemozzle proportional representation brings, so the Liberal Party will not be supporting that.

As I said, rural councils are very happy with the voting system they have at the present. What they would like would be to have all the councils lined up so that every three years in March on a certain date there is an election, which sets some certainty.

Mr Cameron interjected.

Mr VOGELS — I actually love the country; that is why I live there.

Mr Cameron interjected.

Mr VOGELS — Well, he is an idiot! That is why I am pleased to see he is standing again; he is known as The Easybeat around Warrnambool. It is amazing that the government keeps talking about fixed four-year terms for state governments and yet for councils — —

An honourable member interjected.

Mr VOGELS — Councils would love to have it. They would like three-year terms set in concrete. Because they do not line up, some elections are this year and some are next year, and it gets confusing.

I would like to talk about special rates charges and temporary road schemes. In rural Victoria it is not unusual for a council to insist on a special rate to attract a business or to ask for a financial contribution towards road construction. Both these options can be abused so it needs to be carefully monitored, but it makes sense. Sometimes you find a business or a quarry wants to open up down the road, which will have an enormous impact on the traffic volume on that road, so it is not unfair to ask them to make some initial contribution to the road construction or upgrade. However, it should be a one-off and not recurrent. The same can be said for special rates and charges. Often to attract a business or a major company to a country town you have to have special rates and charges to get them there in the first place. That might go for two or three years and then they get back into the system.

I know everybody wants to speed things up, so I will conclude. If we are really genuine about local government, this bill should give to local councils a revenue stream they can rely on. Perhaps a percentage of the GST, which flows to the states, could then flow on to local councils so they have built-in revenue which keeps increasing — —

Mr Hulls interjected.

Mr VOGELS — The Attorney-General is in government. I cannot do it, but Labor can. In 1974 the percentage of state government funding to local government was 15 per cent.

Mr Cameron interjected.

The ACTING SPEAKER (Mr Kilgour) — Order! The Minister for Local Government will have his opportunity when closing the debate.

Mr VOGELS — That is now down to 7 per cent, so it is less than half. In the last 25 years the contribution from state government to local councils has more than

halved. The amount of cost shifting that has gone on, especially under the Bracks government, towards councils is enormous. Every time this government thinks of a weird idea to foist onto the people of Victoria it makes sure local councils have to have the inspectors and do the checking and are faced with the bill. So obviously if you have sellers of smokes to under-age kids you have to go around checking. If you can fine the people you keep the revenue. It is ludicrous. The costs are enormous, the income is very small.

In conclusion, this bill is a bit of window-dressing. It is obviously a big promise — I think the minister promised we would have some changes during this term of government. We are obviously going to an election fairly shortly so, as I said, this is a bit of window-dressing. I am looking forward to the election because down our way those in the Labor Party are easybeats — not a problem!

Mr SAVAGE (Mildura) — I rise to support this bill. I thought some of the comments made by the honourable member for Warrnambool were relevant; councils do need an income stream that is able to deliver the services. We see the rot that started back in 1995 when councils were sacked and rates were capped at 20 per cent, and we are still living with that legacy to this day. The income streams of councils have not changed. Councils still need great assistance.

I support this bill because it has the very important component in it of proportional representation, which is an option, not a compulsory form of voting. It is there for the councils to decide whether they want it. If they have an non-subdivided municipality it is choice, it is democracy, and I cannot under any circumstances see why that should not be allowed unless Parliament wishes to control the outcome, and it does that by refusing to allow proportional representation.

I am rather amazed that the Nationals have chosen to be a very strong opponent of it, because for the last three years they have been whingeing and whining in my ear that the current election arrangements for the Mildura Rural City Council have resulted in a gang of four controlling the council. They have been complaining about that process ever since the councillors were elected, led by Cr Ann Cox. If the Nationals do not like the system, why do they not allow some choice of voting system in the Local Government Act? There is an element of hypocrisy there, and I cannot understand the reasoning about it.

I support the amendments before the house, which will be included in the bill to allow choice. Let's hope the upper house considers it in a way that allows it to be acted upon.

There were significant responses from councils, including strong support for this type of proportional voting in unsubdivided wards. Mildura is the largest council in Victoria, and under the current arrangements there is no representation from Murrayville, Ouyen and the southern sector. It is all based on the population centres around Mildura. Being an unsubdivided municipality, if they were changed there would be a greater chance for representation from those southern areas, if the council so chose.

I also support the amendment which I suppose could be called the Cox amendment, where if you have a husband and wife on a council one of them should not be precluded from voting to elect the mayor on the basis that they might get some pecuniary benefit. I congratulate the minister for including that. It is a realistic change to the act, as the uncertainty that went through the council when this first came up some three years ago was very unproductive. This amendment will clarify that.

There are a number of issues in the bill which I will not detail because the house has a time problem, but I am pleased to see that the preamble recognises local government as a distinct and democratically elected tier of government responsible to the community for its performance and functions.

Being a former councillor, I have never forgotten the unpleasant experience of being sacked by the Kennett government —

Honourable members interjecting.

Mr SAVAGE — Sacked! The only people who should be able to sack me are the people who elected me to this place or the communities that I represent. I do not understand how the Liberal Party can come into this place and talk about democracy and never, ever reflect on the fact that that was a grave mistake. The sacking of councillors is still talked about in places like Buloke and Mildura to this day. That legacy is out there, and the people of Buloke especially have never forgotten the stupidity of those decisions.

Mr Carli — As long as they don't forgive!

Mr SAVAGE — Well, I can't answer that. We will see.

I will not detail any further changes in the bill, other than to say that I support it and strongly support the choice of proportional representation. We are not

saying it is compulsory or mandatory; we are saying it is a choice. What is wrong with choice? If it supports the City of Melbourne Bill, why can the National Party not support this? What is the fear about? Is this about a fear that it will flow on to the upper house and give the people of Victoria more democratic representation? I do not see the fear being realised in that way. There should be a choice of proportional representation for democratically run elections. I commend the bill to the house.

Mr PLOWMAN (Benambra) — I speak against the issue that the honourable member for Mildura raised — that is, proportional representation — on the basis that particularly in smaller country councils you can get small lobby groups that can actually — —

Mr Carli — It's a choice! It's a choice!

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Coburg is out of his place and is disorderly.

Mr PLOWMAN — I have to admit to a degree of apathy about council elections. You can have small pressure groups that would end up running some of these councils, which would not be in their best interests. In the main, country councils do a magnificent job looking after their responsibilities. I am a strong believer in the representation that we have seen throughout our country areas, and their record speaks for itself. Although I agree with the honourable member for Mildura that in the main we should offer choice to people, in this case it is a choice that — again, quoting the words of the honourable member for Warrnambool — not only in the Senate but in the New Zealand Parliament those responsible now regret ever introducing. So I would certainly speak against the proposal for proportional representation.

I raise two issues. The first, which is of enormous concern to me, is that this government will not be able to deal with a local government issue that is dear to my heart if the Parliament is prorogued this weekend. The Albury-Wodonga Agreement (Repeal) Bill, which is on the notice paper, is of importance to my local municipality. Clearly a decision was made in 1995 to wind up the corporation. That was endorsed in principle by both states at a meeting of the ministerial council in 1997, and two years after the repeal bill was passed by the commonwealth and the state of New South Wales this Victorian government has still done nothing to push this legislation through. Two years later! As a result we have an amount of money, $3.6 million, which is available to Victoria which should come back into our community. I will push very hard for those funds to come back into the community of Wodonga, because they are Victorian funds designated for use in Wodonga. The longer the government puts off making a decision on this, the longer funds which rightly belong in Victoria and which should rightly be designated to Wodonga will not be utilised. I suggest that this government is lax in its responsibility in bringing forward that legislation and not having it enacted before the end of this Parliament.

There is one other issue I would like to touch on in respect of local government in my area, and that is the closure of the Bogong High Plains Road which is a decision made by the Alpine Shire Council because it was forced into it. Again, this government will not take up the responsibility of resolving the issue. We have people in businesses throughout the high plains, Gippsland and north-eastern Victoria who are desperate to use that road, and the road is still closed. It is up to this government, which has the responsibility for opening it, to do so.

Everyone knows that we are facing one of the most serious fire seasons in the bush and forest country in Victoria in the lifetime of anyone sitting in this place. The Bogong High Plains Road is blocked. If there is a fire it could lead to a tragedy if people cannot get through to it. It is up to this government to do something about it. It is a local government issue. It is for the Minister for Local Government or the Minister for Transport to resolve the issue. If a tragedy occurs it will be on the heads of members of this government.

Mr STENSHOLT (Burwood) — I rise to commend this bill on local government, which will apply, as has already been mentioned by the honourable member for Coburg, to 78 councils. I particularly commend it because of the elements of good governance in it. At the last election members of this government stood on restoring democracy in Victoria. It is good to see that in clause 3, 'Insertion of preamble', the Parliament:

> … recognises that local government is a distinct and essential tier of the Australian system of government …

It goes on to refer to 'democratically elected' persons. Of course, this is why the government has introduced a new clause to bring in proportional representation. The bill has other aspects of good governance such as codes of conduct and other arrangements for the proper conduct of local government.

I am very surprised that the policies of interference are still being propounded by the Liberal Party in respect of local government. For example, I was very surprised to learn that members of the Liberal Party are not in

favour of simple democracy. I notice that the Liberal Party has circulated a document headed *We Believe*, which says about local communities that local decisions are best taken at that level. Despite that, what do we have? The other day we had the Leader of the Opposition in Camberwell in the City of Boroondara announcing the Liberal Party's new policy of interference with local government. The Liberal Party is looking to cap rates — to set a ceiling on rates.

What do people think about this in the City of Boroondara? Let me tell the house what a failed Liberal Party candidate for preselection for Burwood thinks about it:

> The opposition's proposal does little more than restrict the ability of local governments to respond to local needs and priorities.

In other words, it goes against the Liberal Party's philosophy and what its members believe in.

What does another councillor think? He actually wrote a letter — which has been well publicised — to the Leader of the Opposition. The letter from Cr Dennis Whelan of the City of Boroondara says:

> To me this is without doubt the most opportunistic and self-serving statement that it has been my misfortune to read in many years.

I should add that the letter also says he bears no particular allegiance to any one party. It continues:

> It was the Liberal government who not so long ago capped rate rises causing councils now to find themselves in the position of having to carry the burden and wear the odium of public opinion.

The letter goes on to say:

> I am concerned that you have put your signature to such a document; just how do you intend to cover the costs of providing communities …

Members of the Liberal Party want to interfere again, just as we heard from the honourable member for Mildura: they sacked the councils in their interference. They just cannot keep their fingers out of it. They cannot accept, as the bill accepts, that it is essential to have a framework that provides for councils to be accountable to their local communities. Members of Liberal parties do not like communities; they actually like the big end of town. That is why members of the Liberal Party are opposing the proportional representation amendment here.

Members of the government support our councils, proportional representation and good governance in our state, and we support this bill.

Mr SPRY (Bellarine) — In speaking on the bill I want to concentrate on one particular aspect. It concerns the amendments about special rates and charges that were introduced by negotiation in the upper house — forced, actually, on the government by the Liberal Party. These amendments affect ratepayers right across Victoria but especially ratepayers in rural areas who live along unmade roads. An example in my area is Scotchmans Road, which might be familiar to some members of this chamber. There are some major tourist attractions in the area, including the world-renowned Scotchman's Hill Winery and Stoneacres Nursery and Restaurant further along the road, as well as several rural residential properties. The people on those properties enjoy them enormously. They vary in size from small to large acreages and they are very important aspects of the ambience of that part of the Bellarine Peninsula.

Scotchmans Road is a dirt road, so when it gets wet it is quite slippery and dangerous. There is quite a bit of traffic using that road. It also has very pronounced bumps and hollows. As you travel along it you are just as likely to come to the top of a hill and face traffic coming from the other direction. There is no question in my mind and the minds of people who live in the area and tourists who use that road that it is a dangerous road that needs making. The question is: who pays for it?

Mr Hulls — Your microphone is not working.

The ACTING SPEAKER (Mr Kilgour) — Order! I agree with the Attorney-General; the correct microphone is not on. I ask the honourable member for Bellarine to move to the microphone on his left.

Mr SPRY — I would prefer to move to my right, but I will move to my left on this occasion! Mr Acting Speaker, thank you for the advice.

As I was saying a moment ago, the question is: who pays for this particular road, which is a rural road with not many owners living along it? Will passage of the bill mean that every rural road that has very few residences adjoining it can now be made at the expense of adjoining owners?

I suggest that in places like Bannockburn or Swan Bay Road in my own electorate that if you had two or three owners on a stretch of road that covers 5 to 10 kilometres it would be totally unfair to ask the adjoining landowners or beneficiaries to pay for the entire construction of the road. That is what the Local Government Act allows. Some attention should be given to this issue in the future, to ensure that particular

aspect of the act is addressed and not abused by local government.

Back to the question of who pays. Successive governments have been prevailed upon to declare Scotchmans Road a tourist road. However, particular criteria have to be fulfilled and agreed to by Vicroads before a road can be declared a tourist road and Scotchmans Road does not yet carry sufficient traffic to meet that criteria and therefore is ineligible for public funding.

Another aspect of this is that the City of Greater Geelong has something like $8.4 million from the federal government's Roads to Recovery funding to spend over a four-year period, but has opted in the case of Scotchmans Road to settle for a special rates scheme to be levied on the adjoining landowners. That is grossly unfair. The majority of the people affected are outraged by having to pay for this road themselves. I would have thought the local ward councillor could have lobbied much harder on the behalf of her ratepayers in Scotchmans Road to ensure that public funding was made available from the Roads to Recovery fund to pay for that section of the road. As I said before, there is no question in my mind that Scotchmans Road should be made, but it is a question of who pays for it.

The ratepayers living along the road had their hopes raised when they read a press release from the Victorian Farmers Federation which states:

> Strong lobbying by the VFF resulted in amendments to require councils to gain written approval from a majority of affected ratepayers for special charge schemes to seal existing roads.

Sadly, my checking has revealed that that statement is not accurate. What the VFF was referring to is that when a figure that amounted to more than two-thirds of the cost of making the road was to be charged to the adjoining landowners council would have to obtain the approval of the majority of the people affected. That was the amendment that was pushed through the upper house on Wednesday, 9 October, after pressure from the Liberal Party in particular.

In conclusion, at least the amendments that were forced through the upper house by the Liberal Party will give some relief to the people I refer to and that will be appreciated if, indeed, this scheme progresses despite local ratepayers' strident objections.

Mr LONEY (Geelong North) — I wish to make a few brief remarks about the Local Government (Update) Bill. I begin by echoing the sentiments of the honourable member for Bellarine that indeed the City of Greater Geelong is a central business district-centric council that does not pay a great deal of attention at all to its outer areas. I concur with the sentiments of the honourable member along those lines.

Mr Spry interjected.

Mr LONEY — It must have come about because for the first time the honourable member has moved to the left!

The bill contains a number of significant provisions that are worthy of comment, and I will refer to some of them that I have found of particular interest. I refer firstly to the provisions about conflict of interest. They are excellent provisions that will be introduced into the Local Government Act. For some years we have had the situation where councillors must declare a pecuniary interest in relation to a matter. Although they do not have to leave the discussions or debate, they do not take part in the vote. However, councillors have not had to deal with conflicts of interest. In this case, new provisions are being introduced that will require councillors to declare or reveal a conflict of interest or a potential conflict of interest in relation to matters they are discussing and considering. That is an appropriate and worthwhile provision that will bring local government into good governance practices.

Similarly, my comments apply to the requirements under the legislation regarding councillors codes of conduct. The bill proposes that all councillors should adopt codes of conduct that include the rules of conduct and then the procedures to be followed regarding conflicts of interest, the processes used to resolve disputes between councillors and other matters that the council considers appropriate. Further, councils will be required to review their codes following each general election. Those provisions are absolutely correct and should be included within the codes of conduct.

This legislation will go further. These amendments to the Local Government Act will change implicit requirements. Currently the rules of conduct are implied rather than stated. This legislation will make them explicit.

The bill requires that councillors and members of committees must act honestly, must exercise reasonable care and diligence, must not make improper use of their position and must not make improper use of information. If a councillor is found to have breached those provisions and is convicted of a related offence, he or she can be penalised with a fine of up to $10 000. There are substantial penalties in place in that regard.

I believe these code of conduct provisions are good and worthy of introduction and will, as I say, go towards ensuring good governance of councils. I am quite interested in these because we must make clear within these rules — and it certainly is clear in the legislation — that the intent of the code of conduct provisions is to resolve matters between councillors. It is appropriate that this is clarified.

In recent times in my area, the City of Greater Geelong, we have seen the current code of conduct being used by staff as a bludgeon against councillors — that is, council staff lodging code of conduct matters against elected councillors. It is entirely inappropriate and is quite a wrong use of code of conduct provisions which could be held to be behaviour by council staff that is intimidating or threatening to elected councillors. I am pleased that the bill makes clear that the code of conduct provisions are processes to resolve disputes between councillors and are not able to be used by council staff, in effect, to try to threaten, intimidate and bludgeon councillors.

I am particularly interested in the significant provisions relating to confidential information. The current act includes a prohibition against disclosure of confidential information but does not provide any clear guidance as to what information is considered to be confidential information or, in my view more appropriately, what information should be considered to be confidential. The bill contains procedures around the declaration of confidential information. I come from the basic point of view that ratepayers should generally have access to information about the operation of their council as a matter of course and that confidentiality should not be used as a mechanism purely designed to deny to ratepayers what might be embarrassing information about council operations.

These confidential information provisions are very important. It is proposed that information can become confidential in one of a number of ways provided it satisfies the existing criteria for closing a meeting to the public. There will be two tests, if you like. One of the ways in which information can become confidential is by its being designated confidential by the chief executive officer (CEO), but there is a very important proviso in the bill — namely, that it can only remain confidential for 50 days, unless the council then resolves to make it confidential. The rule that if information is to be declared confidential it should be done so by resolution of the council and not by the act of an officer of the council demonstrates a very important principle at work there.

Information may also be designated confidential by a resolution of the council without having to have had a direction or an act of the CEO. Information will become confidential if it is part of a matter considered in closed council.

Mr Ingram interjected.

Mr LONEY — That's right. Importantly, once made confidential that information does not have to remain confidential. The council may, at any time, resolve to remove that confidentiality.

The spelling out of those procedures, particularly for elected councillors so that they clearly understand their role in regard to confidential information, how it is to be made confidential and how they can take off the confidential tag, is very important. This clearly spells out that the elected councillors will have a proper and paramount role.

I also point out that the legislation will require that all council decisions, except those made in certain specified confidential categories under the act, must be made in open meetings.

It goes on to propose that council resolutions recorded in the public minutes must be clear in their intent. At various times a number of us have tried to look at council minutes to find out what occurred. At times the minutes may as well have been written in Egyptian hieroglyphics for all we could work out about the conduct of that particular council meeting. The intention must be clear and the minutes must include reports provided to the meeting to assist in the decision-making process. That is another important aspect — that reports used by councillors to make decisions will be available as part of the minutes and people will be able to see them. They are very worthwhile and commendable provisions in the bill.

I also want to remark about the public accountability aspects of this legislation and the reporting framework resulting from it, because it introduces a whole new range of reporting framework criteria for councils. Those frameworks, like the conflict of interest and code of conduct provisions, go to bringing the governance of councils into the 21st century.

Under this bill it is proposed that corporate plans, which will be renamed council plans, must be developed after each council election. There are two aspects to that. Firstly, you get a refresher about what the council wants to do; but secondly, what you also get from that is that new councillors get to be involved and have a say in what is going to happen during the term of the council they are on. That is a significant provision.

Under this legislation council plans will have to describe the objectives and strategies of the council for at least the next three years as well as include a strategic resource plan. It is proposed under the legislation that there must be public consultation in the preparation of those plans. These moves are clearly about better governance.

On the subject of budgets, those of us who look at budget documents see clearly that most council budgets are of a different nature from the budget documents we would expect to see under a national or state government. The bill proposes that council budgets should also become significant documents that include the description of the activities and initiatives that have been undertaken during the year and for which funding has been allocated. Anyone should be able to go to those budget papers and see precisely what it is that the council is saying it will do and whether it has allocated money to it.

It is also proposed that budgets should describe how the activities funded in a budget will contribute to the achievement of the objectives in the council plan. They must link in with that document the council has had to devise with public consultation to enable it to say, 'This is what our council is about'. It is further proposed that budgets identify the targets and measures that will show the extent to which these strategic activities are achieved during the year. Personally I believe that is a terrific step forward. The inclusion of targets and performance measures in council budget documents is a significant step. We do not see it in too many of them at the moment; some councils are doing it, and I say very well done to those councils that are doing it at the moment, but this is a great step forward. It will help ratepayers understand what councils are trying to achieve.

It is also proposed under the bill that the annual report of a council should include performance statements that report on the council's achievements against the key targets and measures identified in the budget. These performance statements must be audited by the Auditor-General. Again, these are significant governance issues and ones that strongly aim to ensure proper accountability processes within local government.

I note that of recent times the City of Greater Geelong held a breakfast when it launched its annual report for the community. That was a worthwhile thing to do. I would like to see its annual report continue to improve as a document in the way the legislation will specify, but its step to publicly report is worth while, and I hope the City of Greater Geelong keeps doing that.

I will briefly comment on a couple of other matters. The first concerns election campaign donations. The bill proposes that candidates for local government election be required to disclose within 60 days of the election 'any campaign donations of other specified value'. Those returns would become public documents. Essentially that provision puts candidates for councils on the same level as candidates for national and state parliaments. The disclosure of campaign donations is another accountability and governance mechanism. I certainly support that measure. I think it is a very good part of the legislation, and I look forward to seeing that implemented.

The other issue I want to comment on briefly concerns the striking of special charges under the bill. Special charges have been used in a somewhat ad hoc and arbitrary manner for many years; I note the earlier contribution of the honourable member for Bellarine on this issue.

There are significant problems about the way in which they are struck. I recall a couple of years ago in the City of Greater Geelong one which related to High Street, Belmont, and charges on traders out there, which essentially had the effect of requiring that all traders became members of the High Street Traders Association — the levy was in fact equivalent to the membership fee of that organisation. The special charge was for marketing purposes for High Street.

That is not an appropriate way to use the special charge. It is fairly arbitrary, and it should be up to the retailer to decide whether to be a member of a retailers organisation, not up to the council or up to an organisation using the council to compulsorily put retailers in that organisation. Special charges have been used in that way, and quite anomalous situations arise out of that.

The amendments the bill makes in relation to special charges will require changes to the criteria so that councils can levy special charges only in proportion to the share of benefits for the people who pay the charges. That is something I commend. There are significant changes — —

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

Mr INGRAM (Gippsland East) — It is a privilege to get up on this bill. Until just a second ago I thought there was an agreement for speakers to go on for only a short while, but the last speaker seemed to expire his time. I am not too sure why that happened.

The Local Government (Update) Bill is an extremely important piece of legislation that brings about a range of changes to the Local Government Act. I will focus on just a few of the issues that have been raised. I know the government has gone through a fairly exhaustive consultation process in getting the views of councils, ratepayer organisations and a lot of other interested people.

First of all, local government is one of the most important levels of government because it is where members of the community can have real input into day-to-day decisions and it impacts on most of their activities in day-to-day life. One of the most disappointing things that has happened with this bill is that in the upper house — you have to ask why it was introduced in the upper house — it got slightly adulterated, and an extremely important area of the bill was removed. I severely condemn the Liberal and National parties' position on the changes to the voting structure of local government. It is about time their members talked to some of the councils with unsubdivided municipalities or subdivided municipalities that have wards with two, three or more elected representatives. The simple fact is that exhaustive preferential voting, which seems to be the model of choice for the conservative parties in this place, can be manipulated by political parties or by groups of individuals.

Mr Hamilton — Groups of Independents, even!

Mr INGRAM — Groups of Independents, if they so desired — although we don't get our grubby, sticky fingers all over local government like the political parties tend to do at times.

I am not saying that it always happens or that local government is always manipulated when wards are subdivided, but the fact that it can be done means it is not in the best interests of government. If a lot of voters knew when voting that it had all been orchestrated before they went to the polls they would be aghast. The simple fact is that when you have group tickets — as you have under the exhaustive preferential system — that potentially gets rid of the best or most popular candidate because he cannot get the support of that bloc. Whether that is the result of manipulation by one of the political parties or within the council — they basically organise to get rid of a councillor or candidate — it is not in the best interests of democracy. That is why I strongly support the inclusion of proportional representation, as do the vast majority of local government organisations, local councils and ratepayer groups.

Just about anyone who has an interest in this says, 'We want to get rid of exhaustive preferential'. I know there are some councils that say, 'We would like to have this'. But those provisions do not get rid of that opportunity; they just say that unless you make arrangements otherwise, proportional representation is the model of choice. I strongly say that we need to put them back in. I would like to think the Liberal and National parties will support that, because that is the wish of the people, it is the wish of local government — —

Mr Hamilton — They've seen the light!

Mr INGRAM — They have seen the light, have they?

This needs to go through this Parliament, and I would like to think that next week when Parliament resumes this can go through the upper house, but with all the speculation that goes around this place it looks like it is not quite on the agenda. This needs to be in place for the next local government elections, and there is no guarantee if it does not pass through this place. I do not know why we are even debating legislation if everyone is hell bent on going to an election this year without passing crucial bits of legislation needed by our councils.

There are a couple of other issues I would like to raise. Clause 62 of the bill looks at the declaration of donations and puts a limit on them. This proposal was based on the comparable provisions that were included in the Electoral Bill before the political parties in the place got their grubby fingers on that and removed all the accountability measures. The government came out with very strong statements at the time like, 'We will introduce accountability measures and we will introduce taxpayer-funded election campaigns but only if we get the accountability measures'.

We got the violation by the political parties of the taxpayers purse to the tune of $1.20 a vote in both houses, but when the bill went through all the accountability measures disappeared through a backdoor deal.

I fully support the declaration of expenses, because it is important that people know that those donating money to political campaigns, no matter at what level of government, are required to make declarations up front. I do not think any honourable member would argue that that is not important, so it is hypocritical that we should pass such provisions in local government legislation and expect local councillors to have that scrutiny yet not require the same scrutiny of ourselves. We do not

need to change the provisions here, but we do need to go back and look at the electoral legislation to make sure the same scrutiny is applied to all members in this place.

Clause 28 inserts new section 126 to require a council to prepare within nine months of an election a plan that includes its strategic objectives for the next three years. When I was elected to the seat of Gippsland East the East Gippsland Shire Council had a planning and development strategy that had gone through a quite lengthy consultation process and had had a huge amount of work done on it by all the agencies in the area. I did not get a copy of that report until last year. I think it is important that such plans be developed and, more importantly, that they be used. I think a lot of the newly elected councillors did not know about it.

In other words, everyone goes through the effort of producing those documents and outlining their 5-year and 10-year plans for the area, including information on the essential infrastructure and how we are going to go about managing it, and the relationships between different organisations. But it is also important that it is all adhered to. New section 126 is therefore important. I know that the East Gippsland Shire Council has that facility, but new councillors coming in need to review it and then either endorse it or change it slightly.

Also, when people are voting they need the opportunity to ask their councillors to tell them up front about those things before they go to the poll. When that happens we have accountability and more certainty, because everyone knows what the candidates' agendas are.

Concerns have been raised with me by ratepayers associations, and I was asked to move amendments to the bill, but unfortunately the scope of the bill would not allow us to do that. In previous legislation there was a facility whereby when 10 per cent of ratepayers within a municipality or a ward signed a petition and presented it to a council that council was required to act on it, and if the council did not want to take that action, it had to call a binding referendum. That provision has disappeared, and there are people out there who would like to see that kind of scrutiny back in local government.

When things are really unpopular within a municipality there needs to be some check on the council. I recognise, however, that that would be outside the scope of the bill and that it is not something you can just do on the spur of the moment because it needs an amount of consultation. Nevertheless, people out there believe that is one measure that needs to be introduced into the act. There are further issues to do with scrutiny and accountability and the power to enforce. I know there are some good provisions in the bill, but there is still concern that the legislation does not go far enough in that important direction.

Another issue regularly raised with me is the need for more open meetings. Too much of council business is done behind closed doors, and all people usually see in open council meetings is the voting and superficial discussions. That needs to be changed so that ratepayers understand exactly what is going on, why decisions are made and who is really pushing for those decisions.

I stress again the importance of both the safe passage of the bill and agreement on the various provisions contained in it. In particular I ask all honourable members to strongly support the right of proportional representation as the preferred model. That is what councillors want, what councils want, what ratepayers want, what the voters out there want — —

Mr Spry — And what the member for Gippsland wants!

Mr INGRAM — No, that is what the member for Gippsland East wants!

It is a more democratic system, and I believe the only reason some honourable members are opposed to it is that if they are seen to be supporting proportional representation for local council elections they will be asked, 'Why not support it in the upper house?'. Theirs is a poor argument.

Recently when we passed legislation through this place to reform the Melbourne City Council everyone agreed that we should have proportional representation, plus above-the-line voting and all sorts of other things to reform the power structures there. Proportional representation is an opportunity for the best candidates and more diverse candidates to get elected, and I believe it should be reinstated.

Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).

Debate adjourned until later this day.

RETAIL LEASES BILL

Section 85 statement

Mr BRUMBY (Minister for State and Regional Development) (*By leave*) — I wish to make the following statement under section 85(5) of the Constitution Act 1975 of the reasons why it is the intention of the Retail Leases Bill to alter or vary that

section in lieu of the statement in the second-reading speech made in relation to this bill on 10 October 2002. Clause 98 of the bill states that it is the intention of section 89(4) to alter or vary section 85 of the Constitution Act 1975. Section 89(4) restricts the jurisdiction of the Supreme Court in regard to retail tenancy disputes so that disputes, with some exceptions, can generally only be justiciable before the Victorian Civil and Administrative Tribunal. This ensures that parties in dispute have access to a low-cost and timely forum to resolve disputes. A similar provision applies in the Retail Tenancies Reform Act 1998.

PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

Second reading

Debate resumed from 30 October; motion of Ms DELAHUNTY (Minister for Planning).

Mr HONEYWOOD (Warrandyte) — Last night I left off my contribution on this very important piece of legislation noting that this legislation to protect the green wedges has the unanimous support of the parliamentary Liberal Party, that this carries on from the legacy of Sir Rupert Hamer who introduced the green wedges under a Liberal government in the 1970s and that for the past three decades the Liberal Party has had a consistent policy of ensuring we protect the diversity of lifestyle choices across the Melbourne metropolitan area, and indeed right across Victoria.

I also mentioned the fact that the Minister for Planning does not have the seniority within her government to get this legislation passed prior to the election. It is appalling that the hard work of volunteer groups which have done so much in terms of putting the case for this legislation will now be pushed to one side because the Minister for Planning could not persuade her government to bring this bill forward earlier this week. Here we are on the last day of sitting for the lower house with an election about to be called and this legislation will not get to the upper house because, as you know, Mr Acting Speaker, Parliament does not sit when an election is on. Therefore we will have to come back and debate this all over again. This will leave the volunteer groups sitting out there wondering what is going on for some months simply because the Minister for Planning did not have the clout within her government to bring this legislation forward earlier. The scheduling of this government's legislation is absolutely outrageous. It has promised so much when it comes to environment protection and votes, but it has window-dressed with this bill and will not get it through the Parliament.

Having said that, I am very much reminded of the need for this legislation because only two evenings ago the Manningham City Council in my electorate did yet another backflip on planning protection. Two months ago the same council voted overwhelmingly — seven votes to one — to provide further protection to the unique Warrandyte green wedge. That move was applauded by the entire community because right across Victoria this was a signal that when it chose to do so, local government could consult with the community — in this case the council employed leading consultants to conduct an objective analysis of the issue of planning in the non-urban area — and then vote to reflect the needs and aspirations of those who want to protect green wedges, in this case in Warrandyte.

Having had a vote of seven to one, two nights ago a major subdivision plan, supported by the so-called Park Orchards Progress Association and put forward by Hansen Partnership, was put up seeking to carve up a significant area of the Warrandyte green wedge. Whereas two months ago seven councillors voted to protect the green wedge for all time, on Tuesday we had a four-all vote — four councillors voted in favour of this major subdivision and four voted against it. It was only the casting vote of the very conscientious supporter of the green wedge, Geoff Gough, that ensured that the council's policy on the green wedge was kept true. Two years of the most incredibly intensive consultation and the employment of consultants would have been for naught if we had had a reversal two nights ago. One can but wonder what the motivation was for certain councillors to change their position from being pro-environment to being pro-development and what may have taken place in terms of, shall we say, incentives and conversations over the past two months. I will leave it at that.

Every green wedge is different; each has its particular environmental features and each has merits that are worthy of support. If we are going to be true to the needs of future generations, we should not have one bland urban landscape across all of Melbourne. We should respect the right of future generations to choose different lifestyles. I only have to look at the area of Templestowe — adjacent to the Warrandyte and Park Orchards townships — to see the importance of this. In Templestowe many people like to construct homes that do not have much by way of camouflage planting but rather stand out quite stark on the landscape.

That suits some people, but anybody who lives in Warrandyte prefers to camouflage their home, they prefer to hide it behind bushland. These people make a lifestyle choice. Often they could afford to live much closer to the city but they put up with poor public transport and what is often a real shortage of government services because they want to live in a non-urban setting which is unique in Melbourne. They want to live in a historic gold mining town environment that ensures their children can enjoy a country lifestyle in a wonderful natural bushland setting within the metropolitan area.

Having said all of that, I would like to make mention of something with which I am sure all honourable members would agree. The Minister for Agriculture has served this Parliament well since 1988 when we came into the Parliament together. I would like to put on the record, in case I do not have the opportunity to do so later, that it has been a pleasure to work with Keith and the contribution he has made. He has been a very conscientious and passionate advocate on a number of issues that are very important to him including vocational education and Aboriginal affairs. I think all honourable members would agree with me that Keith Hamilton can finish his career knowing well that he has the respect of all parliamentarians.

As we are talking about green wedge legislation I would like to put on record my personal regard for the honourable member for Pakenham. Some years ago there was a situation in my electorate, the details of which were known only by the honourable member for Pakenham and me until now, but I do not mind revealing it today to highlight the attributes of the honourable member for Pakenham. A number of developers decided that Phil Honeywood was not sufficiently pro-development and they wanted to create the Templestowe effect in Warrandyte by carving up the 20-acre minimum lot sizes into 1-acre allotments and knocking down the bushland setting so they could have the Templestowe wealth and mansion effect with the rampant lions at the gate. These people knew the rules, they knew you could not subdivide below 20 acres but they purchased land for an average of $400 000 a lot with a home on it and thought they could get about $300 000 per 1-acre allotment if only they had a local member of Parliament who would change the planning rules and ensure that the government of the day allowed the carving up of these 20-acre green wedge allotments into 1-acre allotments.

Those people know who they are. They deliberately joined Liberal Party branches in the area and sought to get rid of the local sitting member — in this case, me — to get a more pro-development member. I am proud to say that at a very memorable party meeting in my electorate the Honourable Rob Maclellan stood up in front of a very vitriolic group of people and informed them in no uncertain terms that they could do what they liked to Phil Honeywood, but at the end of the day Rob Maclellan had been a minister in the Hamer government that brought in the green wedges and the Kennett government was determined that there would be no changes to green wedges in the future.

I thank him for that act of unselfish behaviour in coming out to address the combined branch meeting. Those branch members of course soon resigned their positions. They were Johnny-come-latelies; they joined the branches for one reason only and left after less than 12 months because they did not get the big dollars that they had hoped to achieve.

I thank the honourable member for Pakenham for his strong personal support, for his commitment to the green wedges and, importantly, for the mentoring role he has played over 30 years in this place to many colleagues from the parliamentary Liberal Party. He has been a very wise counsel to consult. He really has been the father of this house, and I am sure I speak on behalf of all honourable members when I wish him well in the future in what I am sure will be a very active retirement.

The other colleague I want to mention is the honourable member for Forest Hill. His commitment to the environment is well known. John Richardson has been a wonderful mentor to many colleagues in this place. He has served the Parliament for over 25 years, coming in in 1976. He will be sorely missed for his dry wit and incredible humour that has made this place more enjoyable. That generation of members of Parliament, the honourable members for Glen Waverley, Forest Hill and Pakenham, and also members such as the honourable member for Bellarine, have brought a wonderful sense of humour to this chamber which is often lacking in the new generation of politicians. We tend to be professional politicians, if that is the right term. We tend to be task driven and often do not have that laconic approach to life that the older generation brought to the Victorian Parliament.

I wish well all honourable members who are retiring. Today will be their last opportunity to make contributions, and even though from time to time we have the heat of battle between political parties, at the end of the day we know that we have families and lives that have similar challenges. In the strange life that we lead in the madhouse of politics, at the end of the day we can still smile and get on with life together.

Mr STENSHOLT (Burwood) — I wish to say a few words in support of the Planning and Environment (Metropolitan Green Wedge Protection) Bill, but first I thank the Deputy Leader of the Opposition for his kind words about the Minister for Agriculture.

The bill is a sensible one. It provides continued protection for the green wedge and a regime for any changes that might be considered in the future. Obviously most honourable members would prefer that we maintain our green wedges, the lungs of Melbourne, and ensure that we have the best possible amenity for the most livable city in the world. While I am on the inner rather than the outer side of Melbourne, I appreciate that my electorate has open space that can be utilised. Open space is important in my area.

I note that the term 'green wedge' seems to be adopted even for small areas. I have used it myself in my local area when talking about the Gardiner's Creek green wedge, trying to maximise and maintain the open space in that particular corridor or indeed in other parts of my area like Wattle Park. It is important that we maintain those areas. I am cognisant that during the time of the last Liberal government about 44 or 45 open spaces were lost to residents of the City of Whitehorse. I am happy to lead activities to maintain smaller green wedges in that locality.

I was surprised the other day that the honourable member for Hawthorn seemed to wish to almost immediately build a student activity centre on the Gardiner's Creek green wedge. I was disappointed about what he seemed to be rushing toward — —

Mr Baillieu — On a point of order, Mr Acting Speaker, the honourable member for Burwood is clearly misrepresenting what I said, and he knows he is misrepresenting — —

The ACTING SPEAKER (Mr Savage) — Order! That is not a point of order. The honourable member for Hawthorn should take his seat.

Mr STENSHOLT — Unlike the honourable member for Hawthorn I support the maximisation of green areas in my locality and in the wider Melbourne area. I support the bill and I commend it to the house.

Mr McARTHUR (Monbulk) — In the time that is available to me I want to make some comments about how this legislation will apply in my electorate and the surrounding areas and make a few brief comments about the issue of green wedges in general.

In principle there is broad public support for the notion of green wedges. If you wander into the dining room or lounge room of any house in suburban Melbourne and ask, 'Is the green wedge a good idea?', most people will say, 'Yes, of course it is', and they will not go much further than that. But they are attracted to the notion and the principle of green wedges because they understand it adds to the broad scope of the environmental protection around the metropolitan area and provides greater amenity and a greater range of landscapes for people in metropolitan Melbourne. In practice, of course, the management of green wedges can be substantially different.

I refer to the effects the legislation will have on my electorate of Monbulk. The Premier announced the proposed green wedge legislation in Monbulk, or on the boundary of Monbulk and the new seat of Gembrook in the Birdsland Reserve, which is already well protected under existing legislation and its management will not be affected one iota by the green wedge legislation. Planning in the Yarra Valley and the Dandenongs is already protected in legislation. That was done in this place in 1994, from memory in November, when the then Minister for Planning, the honourable member for Pakenham, introduced legislation to give legislative protection to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan. That protection can be found in sections 46A, 46B, 46C, 46D, 46E, 46F and 46G of the Planning and Environment Act.

When that legislation was introduced in 1994 the honourable member for Pakenham, supported by a number of other Liberal Party members in this place including me, stood up and urged the Parliament to support the legislation on the basis that it provided sound and sensible legislative protection for the regional strategy plan. Among other things it provided that no minister could approve an amendment to a planning scheme which was inconsistent with the regional strategy plan and that works carried out by government departments, councils or agencies could not be carried out if they were inconsistent with the requirements of the regional strategy plan.

That legislation provided for amendments to the regional strategy plan, subject to their being approved by both houses of Parliament. Remarkably there are similar requirements in the bill currently being debated, which claims to prevent subdivision of the Yarra Valley and the Dandenong Ranges even though that is already prevented by the regional strategy plan. However, it proposes to prevent further subdivision of green wedge land. The minister said in her second-reading speech that it does not prevent well-thought-out subdivision; it simply raises the high jump bar a little by requiring such an amendment to be approved by both houses of Parliament.

Let's look at some of the clauses. As the honourable member for Hawthorn pointed out, green wedge land is not defined at all. The legislation simply says that green wedge land lies between two lines: the first line, the inner line, is the urban growth boundary as it was on 8 October 2002; the outer line is the extreme limit of the municipalities described in proposed section 39A. Those are the fringe metropolitan councils. So green wedge land is all land lying between the urban growth boundary as at 8 October 2002 and the fringe boundary of those metropolitan councils. That is all the definition includes. It does not describe it as any quality of land — such as private land, reserve land or anything like that. It is just all land between those two lines.

Then the bill proposes that a minister cannot approve any municipal planning scheme amendment which has the impact of lessening the subdivision controls on land in that area. It is absolutely silent on issues about change of use or intensification of use. It simply raises the high jump bar on further subdivision or lessening of subdivision controls. It provides for that by allowing such a thing to occur if both houses of Parliament approve it. In essence, this bill repeats exactly what is in broad terms in the Planning and Environment Act by way of amendments introduced by the honourable member for Pakenham in 1994.

The Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan has a number of significant advantages over this bill. It is far more detailed. It looks at broad planning concepts, at future needs and at past practices, and it has some broad-brush approaches to strategic planning in that area. This bill does none of that. It has none of those refinements or considerations. It is simply a broad-brush approach which says if you are going to lessen the subdivision controls then you have to gain the approval of both houses of Parliament.

In terms of my electorate, the legislation does not change matters one iota. It is worth looking at the government's approach to the township of Boronia, which is only 1.5 kilometres away from the urban growth boundary. In *Melbourne 2030* the township of Boronia, which is 1.5 to 2 kilometres from this urban growth boundary, is identified — and I refer to page 32 of *Melbourne 2030* — as a major activity centre. What is a major activity centre? A major activity centre has similar characteristics to principal activity centres. Principal activity centres have the potential to grow and support intensive housing developments, and major activity centres are locations for high-density housing.

So just 1 to 1.5 kilometres from the urban growth boundary and an area where you cannot subdivide any further we have Boronia where, according to the government, there will be high-rise developments clustered around the township centre and the railway station. So within spitting distance of an area where you cannot subdivide, we will have Prahran-style and Richmond-style high-rises according to the government's *Melbourne 2030* vision.

Mr Wynne interjected.

Mr McARTHUR — The honourable member for Richmond is shaking his head. I understand he had something to do with this *Melbourne 2030* vision. He should read it, because his own document refers to Boronia as a major activity centre. He should look at the urban growth boundary that his minister gazetted on 8 October. It is within spitting distance of Boronia's township.

There are two contrasting and conflicting approaches of the Labor government to the outer east of Melbourne. In one area you can have high-rise development, despite the wishes of the locals. I can guarantee the honourable member for Richmond that no resident in Boronia wants high-rise development in their town. Plenty of them have spoken to me about it. None are applying for it; none want to live in it or next door to it. That is one problem for the government in its approach to the outer east of Melbourne.

The second problem is that across that boundary of the urban growth zone the government says there will be no further subdivision unless both houses of Parliament approve. I do not object to that approach. It is one I supported in the house in 1994. It is interesting to note — and the Minister for Agriculture was here, as was the honourable member for Keilor — that the Labor Party voted against that proposal in 1994. It opposed the entrenchment of the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan in the Planning and Environment Act, and I have the divisions here from *Hansard* to show it. The Minister for Agriculture voted no and the honourable member for Keilor voted no. None of the other government members were here then, but they would have voted no too. The honourable member for Melton, then an honourable member for Melbourne North Province in the other place, voted no in the other place when the bill was debated there on 30 November or 1 December.

In 1994 the Labor Party thought that entrenchment in the Planning and Environment Act was a bad thing, but it is a good thing in 2002. I am not sure where Damascus was on that road in between, but I have a sneaking suspicion that this legislation, given it may not pass the upper house before an election is called — and if the honourable member for Warrandyte is right, it

will be called on Monday — is more about the Labor Party preserving Greens preferences than protecting green wedges. It is more about the Labor Party shoring up Greens preferences in Richmond, Melbourne, Coburg and Northcote, than it is about protecting the Dandenongs or the Yarra Valley.

It is a remarkable backflip for the Labor Party, which voted against this concept in 1994. The then honourable member for Richmond, Demetri Dollis — and government members might remember him well; after all they had a lot to do with his demise — protested loudly about this idea of entrenching the regional strategy plan in the Planning and Environment Act, and it is there for all to read.

I ask honourable members to have a look at sections 46A to 46F, because it is there. You voted against it last time, and you are asking us to support it this time. We are happy to support it, because after all it was our idea.

An Honourable Member — It was not.

Mr McARTHUR — It was our idea! We have been down this path before, and it is on the record. The honourable member for Pakenham moved it, I spoke in favour of it, we all voted for it and you lot voted against it. Members opposite spoke against it, divided on it and voted against it in this place and in the other place. Sometime between then and now they have woken up to the fact that they need Green preferences, and that is what this bill is about protecting. It is not about protecting the Dandenongs and it is not about protecting the Yarra Valley; it is about protecting their miserable hides. That is all it is for!

If the bill did something better for the environment I would be much happier about supporting it, but it is simply a carbon copy of what we did eight years ago — that is all. It provides no practical benefit for the environment over and above what is already there in the legislation. Although I am happy to support the bill, it will provide no greater protection for the Dandenongs or the Yarra Valley than we provided eight years ago. I am sorry to see that Labor has not learnt much in that time.

Ms DAVIES (Gippsland West) — The Planning and Environment (Metropolitan Green Wedge) Protection Bill 2002 follows the introduction of Melbourne 2030, the metropolitan planning strategy, in October this year. The purported aim of this legislation is to put in place some additional interim planning delays and controls on land which is described as 'green wedge land' in metropolitan fringe areas. I note that the councils in these sorts of areas, particularly Cardinia, prefer the term 'interface' as opposed to 'fringe' when having their municipalities referred to, and I suggest that in the future government legislation could start using that term.

As an interim measure this legislation supposedly means that proposed amendments to planning schemes in the rural areas of those interface shires will have to go through both houses of Parliament. It is not a prohibition on changes to planning schemes, but both houses as well as the minister will need to approve the amendments. The aim is apparently to delay speedy changes to amendments and to encourage public discussion of them rather than to restrict or prohibit them.

The second-reading speech refers to this bill as a quick interim measure pending consultation on more enduring arrangements which will form part of the implementation of Melbourne 2030. It also states that the government intends to introduce the legislation needed to implement 2030 next year after appropriate consultation to decide specific boundaries and land management details.

Defining green wedges in the simplistic way this bill does is clearly not appropriate as anything more than an interim measure. The amendment I circulated in this house aimed to put a sunset clause in this interim bill to demonstrate in practice that it would be an interim measure. I believe a year is quite adequate to allow sufficient discussion. I do not believe it is appropriate to allow that discussion to go on for another whole term of Parliament, and the government's refusal to consider 'less than two years' is unnecessarily delaying. We need to be careful about allowing too much time for the shelf-sitting of proposed legislation rather than making immediate and concentrated efforts to get the nitty-gritty properly negotiated.

Simplistically defining the rural areas of Cardinia shire as green wedges that are to be protected from development is not appropriate. Real and significant effort is needed to discuss with the local communities concerned the positive and negative aspects of being in a growth corridor. Some small townships are crying out for extra house blocks within their areas to make sure that they become more viable, that their schools have enough kids and that the shops have more people going there regularly.

Other communities along the growth corridor are concerned about inappropriate subdivisions and development. For example, up at Maryknoll there is a community which has a very interesting past history,

and all the blocks are 2 acres each. There are now proposals to add another subdivision with much smaller blocks, and that is causing considerable community concern. The local people like the way their community is structured. So we really need to get on and get involved in those very concentrated and detailed negotiations and discussions as soon as possible.

I would also suggest that a real effort should be put into preventing a total ribbon development along the Princes Highway, or the Princes Freeway, as it will become. If you have a look at the maps you can see it is obvious that the metropolitan strategy has created a long ribbon development. I do not believe we need green wedges; instead we need a whole green corridor. There is no reason why we cannot ensure through planning schemes that we do not end up with kilometres and kilometres of ribbon development and that although we actually have nodes of development around townships such as Pakenham, before and after those townships we have attractive green areas of land left alone so it does not look like we are travelling through the suburbs for kilometre after kilometre. I therefore urge the minister to make sure that during the time the detailed negotiations are happening the focus is on not just green wedges but also green corridors that break up the existing growth corridors.

I urge the minister to truly ensure that this is interim legislation and to get on with the detail as soon as possible. With those reservations, I support the bill.

Mr COOPER (Mornington) — I will be brief in my contribution. As the honourable member for Hawthorn said, this bill, which is supported by the Liberal Party, mirrors the legislation which the Liberal Party brought in. As the house will be aware, when the Liberal Party was in government it brought in legislation to protect the Yarra Valley, and that legislation has worked very well. It is also a fact that in August 1999 the Liberal Party promised that after the 1999 election it would bring in legislation to protect the Mornington Peninsula in the same way that the Yarra Valley has been protected so successfully. The Labor Party, prior to the 1999 election, mirrored that promise, and it is a matter of regret that since it came to government after the election of 1999 it has done nothing to honour that promise about protecting the Mornington Peninsula — until now, on the eve of another election.

The problem I have is not with this legislation, which my colleagues and I support and support quite strongly. The problem I have is that this legislation exposes the disjointed planning policies of the Bracks government. We had a situation where the green wedge commitment was announced and Labor candidates went out, as they did on the Mornington Peninsula, and stood there proudly, having their photographs taken and saying, 'Here is the end of development! Isn't it wonderful?', and everybody said, 'Yes, it is wonderful!'.

A few days later the Minister for Planning releases the metropolitan planning strategy, which says that there are going to be 22 000 more residential units on the Mornington Peninsula — not in Frankston, excluding Frankston — but including, as the Premier admitted on radio, some high rise. All of them will be intensive development.

You cannot have your cake and eat it too. If the government wants to protect places like the Mornington Peninsula with its green wedge policy it cannot a week later come out with a plan to dump 22 000 residential units on the Mornington Peninsula. This is a disjointed policy; they want to have it both ways, but they cannot. The minister is saying the government has a policy that is going to protect green wedges That is great; that is fine. We support that and we think that is good. But she cannot then come out with the Melbourne 2030 strategy and ride roughshod over the top of it by saying she is going to put 22 000 more residential units into the Mornington Peninsula.

The people of the peninsula in particular, and I suggest right around Melbourne where the metropolitan strategy impacts, will be saying, 'What is in your mind that you would want to do this?'. That is certainly the question being asked by those people. They are saying, 'We do not want intensive development on the Mornington Peninsula. We believe the "house full" sign should go up. We believe the green wedges should be protected. That is what we want'. And the government has not reacted to that. We have instances of individual intensive developments in which the minister and the government point-blank refuse to become involved, to the chagrin and anger of the people who are going to be impacted upon by those developments.

While we are saying on this side of the house that this is worthwhile and supportable legislation, we do question, with a very big question mark, the metropolitan strategy and its impact upon the green wedge legislation.

Finally, this bill would be more meaningful if it were not going to die with the announcement by the Premier on Monday of a general election. That is what is going to happen; we all know that. Therefore we are debating a bill that will have no impact whatsoever until a new Parliament is elected and hopefully this legislation will be reintroduced. We are now going through a meaningless process, and it is a bit of a shame. The government should have kept the commitment it made

just before the last election. It fiddled around, mucked about and ignored this necessary legislation for three years. Now it is brought in on the eve of another election. That is simply not good enough.

The ACTING SPEAKER (Mr Seitz) — Order! Just before I call the honourable member for Richmond I advise the honourable member for Hawthorn that when he walks past the table he is to conform with the forms of the house.

Mr Baillieu — I am very much mindful of it.

The ACTING SPEAKER (Mr Seitz) — Order! The Chair has observed it, and I am reminding him he should acquaint himself with the forms of the house and the politeness due to the Chair. Perhaps he should look to the Opposition Whip to explain it to him.

Mr WYNNE (Richmond) — I will make a brief contribution. I too rise to support the Planning and Environment (Metropolitan Green Wedge Protection) Bill and thank the opposition for its support for this important legislation. It goes to delineate and protect the boundaries of 12 green wedge zones which are part of the most precious environmental areas in the state. In that context I submit that this is part of a broader strategy of this state government to look out over the next 30 years to see the future shape of Melbourne and its housing provision.

This bill is under the stewardship of the Minister for Planning. It is by any measure a visionary document. It looks at how we are to live 30 years on and in what form of housing we are going to live and the needs we will have for public transport, education and social infrastructure. In that context it is important to acknowledge that this government has understood that the present unsustainable level of urban development cannot be maintained. It is irresponsible, economically and socially, to extend out willy-nilly in an uncontrolled way. The urban growth boundaries the government has established clearly indicate that we must stop and contain development to ensure that we have a sustainable environment long term.

We understand the absolutely critical importance of the green wedges in that context, and it is appropriate to acknowledge that it was in fact the previous Liberal government that enacted much of the green wedge protection, but planning should be very much bipartisan. Labor members, particularly the minister, wanted to ensure that we took a bipartisan approach to this green wedge legislation. It is interim legislation and further consultation is required. The government is absolutely committed to that consultation with relevant councils as indicated in clause 39A of the bill.

The state government is interested in planning and how people will live in the future. It is interested to ensure that Melbourne is a sustainable city in which life can be enjoyed equally by all members of society, a city that ensures jobs, public transport, education and health services in the places where people live. It means, of course, that we will live in different forms of housing over the next 30 years. We all understand that — the demographics have clearly started to indicate it — but there is no doubt that this document, *Melbourne 2030*, which is the basis of our planning strategy for the next 30 years, will stand the test of time. This legislation which protects our green wedges is a fundamental aspect of that strategy. I commend the bill to the house.

Business interrupted pursuant to sessional orders.

Sitting suspended 1.00 p.m. until 2.03 p.m.

QUESTIONS WITHOUT NOTICE

Government: financial management

Mr DOYLE (Leader of the Opposition) — I refer the Premier to the Auditor-General's report on the state of Victoria's finances for 2001–02 and I ask: does the Premier believe it is sustainable to increase spending by $1.5 billion a year when revenue is growing by only $1.1 billion a year?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. Isn't it great to have an Auditor-General back?

Honourable members interjecting.

Mr BRACKS — We have an Auditor-General. The reality is that if the Kennett government had happened to be returned we would have no Auditor-General in Victoria!

I want to congratulate the Auditor-General on his current report, an excellent report which shows — and I will quote from the Auditor-General's report — that the Bracks government had:

> … achieved its short-term financial objectives and was progressing towards achievement of its broadly stated longer term financial objectives.

I concur completely and so does Moody's and so does Standard and Poor's, and I congratulate the Auditor-General on his work.

Victorians. Bright Ideas. Brilliant Future.

Mrs MADDIGAN (Essendon) — Will the Premier please advise the house of the latest initiatives the government is implementing to boost research and development, technology and innovation in Victoria and so drive greater growth and even more jobs?

Mr BRACKS (Premier) — I thank the honourable member for Essendon for her question. Today I was very pleased, with the Minister for Innovation and the Minister for Information and Communication Technology, to commit to a second generation, a second wave, of funding for science, technology and innovation.

We have committed to a further $310 million over the next five years to give certainty and security to our research and development sector in Victoria so that the very good gains we have had over the last three years can be continued into the future.

Mr Perton interjected.

Mr BRACKS — I welcome the endorsement from the honourable member for Doncaster. I welcome the support.

With the measures already in place, it will mean effectively that $900 million worth of innovation initiatives have been taken by this government — the biggest by any jurisdiction anywhere in the country.

The innovation statement, entitled *Victorians. Bright Ideas. Brilliant Future.*, includes $50 million for regional research and development; it includes $30 million for business research and development; it includes $10 million for a new information and communications technology research and development centre; it includes $5 million additional to encourage more students to do science in our schools; and it also has $200 million for competitive research grants for science, technology and innovation.

The areas and categories we will be pursuing in Victoria are the areas we have identified over the last three years. They include biotechnology, information and communications technology, design, advanced manufacturing and environmental technologies. I am very pleased that we have had significant endorsement of this policy, of this statement, of this new plan for Victoria and this new $310 million. That support includes Professor Adrienne Clarke, the biotechnology ambassador to our state; it includes Peter Laver, who is the chair of the Victorian Learning and Employment Skills Commission; it includes Dr Terry Cutler from Cutler and Company; and it includes John Vines, the chief executive officer of the Association of Professional Engineers, Scientists and Managers, Australia.

These new jobs are the jobs of the future which will be generated out of science, technology and innovation. They are the future of Victoria. I am very pleased that we have this certainty and security in research and development over the next five years.

Election: date

Mr RYAN (Leader of the National Party) — My question is to the Premier, and I ask: is the Premier intending to call an early election on Monday, and if so, why?

Mr BRACKS (Premier) — I thank the Leader of the National Party for his question. One thing about the National Party leader, he always asks the question that no-one else will directly ask, and I congratulate him on that. As soon as he asked that question, behind me a chorus of MPs, including our ministers, said, 'Please, we want to know as well!'.

Under our constitution, an election can be held any time within the next 12 months. That is the case, and no decision has been made yet.

Community services: staffing

Ms OVERINGTON (Ballarat West) — Will the Minister for Community Services inform the house of what action the government has taken to restore disability and child protection services and explain the impact of public sector staff cuts on these and other community services?

Ms PIKE (Minister for Community Services) — I thank the honourable member for her question. Since coming to office the Bracks government has increased all key services for people with a disability. That was the plan, and that is what we have delivered. We have shared supported accommodation places up by 1100; we have in-home support packages up by 1000; and we have adult day and support services up by 1861. You cannot do that without workers, and that is why there are around 300 more direct-care public sector workers. What do these staff do? They clothe, feed and support people with a disability in their everyday lives. It is extra workers who deliver these extra services, and that is what we have restored. We have restored extra workers into a system that was so desperately cut.

There are also an additional 167 child protection workers compared with three years ago, and an extra 60 just in this year. As we know, child protection

workers are involved in everyday work protecting children from abuse and neglect. It is a very stressful job, and the community understands this. Jobs in child protection and disability services are very demanding and stressful. It is hard enough without the opposition threatening their very existence.

You do not have to be a great intellect to know that you need extra workers to restore services, and you need extra services because the demands are growing. The Bracks government has increased the number of child protection workers to increase the capacity of the public sector to do its part in protecting Victoria's most vulnerable children. Job cuts in child protection and in disability services would be an absolute disaster.

Here we go again! Less workers, less staff and less services. It is the same over and over again. But of course it is not Captain Jeff this time, it is Rear Admiral Robert. I thank the opposition for revealing its promises to the people of Victoria and for revealing its plans to take Victoria back to the future by cutting public sector jobs.

Government: financial management

Dr DEAN (Berwick) — I refer the Premier to the fact that the Treasury recently wrote $515 million off the last financial year's operating surplus after losing $1.1 billion on overseas investments and to the fact that the 2001–02 financial report shows a loss of $348 million on overseas markets in the three months from June to September this year, and I ask: what is the Treasury's estimate for this current financial year's loss, given that at this rate of loss Victoria will go into deficit?

Mr BRACKS (Premier) — I thank the shadow Treasurer for his question. My early comment would be, 'Bring back the honourable member for Box Hill!'. He at least understands the accounts and the structure of them, and he at least understands accrual accounting, which the honourable member for Berwick does not understand.

The budget is in surplus on every calculation — cash, GFS (government finance statistics) and operating — and the forward estimates, which have been examined by Standard and Poor's and Moody's, also confirm that the surplus will be maintained. That is why they have confirmed the AAA credit rating. They believe, and they are quite correct, that the government has the right financial settings, has made the right adjustments and has the right insulation to ensure that any market condition overseas can be catered for in the domestic accounts.

Dr Dean — On a point of order, Mr Speaker, on the matter of relevance, the question was straightforward: having lost $348 million in three months, what is the Premier's estimate of the loss for the current financial year? The Premier either knows or does not know, and I am asking him to answer the question.

The SPEAKER — Order! I am not prepared to uphold the earlier part of the point of order raised by the honourable member, because I believe the Premier was being relevant in answering the question. There is no point of order.

Mr BRACKS — Mr Speaker, I thank you for your ruling. I reiterate that the we have accounted for the downturn in international markets, and in accounting for that we have produced an operating, a GFS and a cash surplus. That has been confirmed by the Auditor-General, confirmed by Standard and Poor's and confirmed by Moody's.

Dr Dean interjected.

Mr BRACKS — Please take a crash course in economics!

The SPEAKER — Order! The Premier, addressing his remarks through the Chair.

Mr BRACKS — On all those calculations the budget is in surplus, and we are one of only two jurisdictions in Australia which has such a surplus. Not only that, the forward estimates have been assessed by Standard and Poor's and Moody's — the very thing the shadow minister was talking about — and those assessments have given us a AAA rating, confirming the surplus as being in a sound and strong position.

Education: staffing

Mr HARDMAN (Seymour) — Will the Minister for Education and Training inform the house of how the government is rebuilding Victoria's education system by hiring more teachers and staff, especially for students in need, and explain the impact of public sector staff cuts on the essential services these people provide?

Ms KOSKY (Minister for Education and Training) — As most honourable members interested in education are aware, we have put an additional $2.75 billion into education in the state. We have put over 3000 teachers and staff back into the system since coming to office, and from the beginning of next year we will have over 900 extra teachers in addition to those 3000 extra teachers and staff.

We are getting better results on behalf of all students. We are focused on ensuring that all students are catered for within our government school system, and that means providing extra assistance for those students who need help to meet the state government's goals and targets.

We have invested over $22 million in support for students with a disability. I repeat, $22 million! That results in the employment of 200 student welfare coordinators in secondary schools and 100 nurses in government schools. We are putting that investment in to make sure that the students in need get that extra attention. However, they are not the only staff — —

An honourable member interjected.

Ms KOSKY — That is right, it is not enough. They are not the only staff we have put back into the schools. We provide psychologists, social workers and a range of people who provide extra support to students in our schools. They are known as student support services officers. They provide psychology support, social work and speech pathology and include guidance officers visiting teachers and curriculum consultants. These are very important positions in our education system. Some 510 of these staff are public servants. Of these 510 positions, currently 61 are vacant. Once they are filled staff will start work at the beginning of next year.

However, under the great plan of the opposition those 61 vacant positions would not be filled, would they, because they are public service positions. There would be less students receiving support — that is, students with language or speech difficulties, with emotional or psychological difficulties or with disabilities. Around 1800 students would miss out as a result of this ridiculous proposal by the opposition, developed probably in 5 minutes last night.

This is a code for sacking staff. It is a code for sacking teachers, support staff and those people who provide extra support for students who, under the Bracks government, have started to see really positive educational outcomes.

On learning of the Deputy Leader of the Opposition's ill-fated press conference last week in Maryborough — —

Mr Honeywood — On a point of order, Mr Speaker, if the minister wants to make light of the Monash shooting, let her do so, but I would hope that the Monash tragedy was more important — —

Honourable members interjecting.

The SPEAKER — Order! Far too much noise is being made by the government benches. The Deputy Leader of the Opposition, on a point of order.

Mr Honeywood — Mr Speaker, I have made my point of order.

The SPEAKER — Order! The honourable member was clearly not taking a point of order but attempting to make a point in debate. The Minister for Education and Training, concluding her answer.

Ms KOSKY — I think the Deputy Leader of the Opposition might need some assistance with his hearing. I said 'Maryborough'. It concerned a visit that he made to Maryborough last week. On finding out about this ill-fated visit to Maryborough, the Eye column in the *Herald Sun* reported that he was red faced. I would be red faced too if I had put up a proposal — —

The SPEAKER — Order! The minister should come back to answering the question.

Ms KOSKY — I am. I would be red faced as well if I had to support a proposal that meant cutting public servants who provide absolutely important support for students in our schools. We will not do that, but the opposition clearly will.

VCAT: freedom of information decision

Mr McINTOSH (Kew) — I refer the Premier to a decision handed down by the Victorian Civil and Administrative Tribunal last Friday regarding an opposition freedom of information request. The tribunal ruled that documents be withheld solely — solely! — on the basis of police evidence that if released there was a likelihood that the Construction, Forestry, Mining and Energy Union would intimidate witnesses placing them in fear of their lives and safety. What has the government done and what does it propose to do to enforce the rule of law in Victorian workplaces?

Mr BRACKS (Premier) — There is one thing I can say for the honourable member for Kew: he is consistent! Certainly on the question of the rule of law, part of the rule of law is decisions by the independent tribunal, the Victorian Civil and Administrative Tribunal (VCAT). We will follow to the letter of the law the decisions of the independent tribunal — —

Mr Perton interjected.

The SPEAKER — Order! I ask the honourable member for Doncaster to cease interjecting forthwith.

Mr BRACKS — Thank you, Mr Speaker. We will follow to the letter of the law the independent decisions of VCAT as an independent tribunal determining matters impartially, fairly and independently.

Hospitals: staffing

Mr TREZISE (Geelong) — Will the Minister for Health advise the house how the government is rebuilding our health system by hiring more nurses and other health workers, and explain the impact of public sector staff cuts on the essential services these people provide?

Mr THWAITES (Minister for Health) — I thank the honourable member for Geelong for his question. This morning the shadow Treasurer let the cat out of the bag when he indicated that there would be a public sector freeze and that when public servants left they would not be replaced.

The Bracks government was elected to repair the damage from the last public service cuts. The last time that the Liberal government took action like this — to have a freeze, to slash the public sector — we saw the results. We saw schools close, and we saw hospitals close. The Bracks government has turned that around with 3300 extra nurses, more doctors and more health workers. What is the result? Waiting lists are coming down. We are getting a better quality of care. We can now have a health system that we are proud of, a health system that is treating 100 000 more patients than in the last year of the Kennett government.

The problem that the opposition has is caused by its unsustainable tax cuts.

Dr Dean — On a point of order, Mr Speaker, as you know, question time should not be used to debate questions. Quite clearly the minister is debating the question, and it only invites response along the lines that he wishes to stand and debate and misrepresent a policy which he knows applies only to bureaucrats and not to others in the public sector. He knows that, and everyone else knows that. For him to get up and debate something which is patently untrue, and which he knows to be untrue, is a classic example of this government's behaviour.

Mr THWAITES — On the point of order, Mr Speaker, I was asked to explain the impact of public sector staff cuts on essential services. For the shadow Treasurer to get up and now try to advise the house which public servants are to be cut — which the opposition in general refuses to do — is a matter of debate; it is not a point of order. I, by contrast, have been directly answering the question: what is the effect of public sector cuts on health services?

The SPEAKER — Order! I am not prepared to uphold the point of order raised by the honourable member for Berwick.

Mr THWAITES — We are committed to restoring confidence in our health system with 3300 extra nurses. But it is not just about nurses. The other side seems to want to create two tiers of public sector workers.

Mr Perton — On a point of order, Mr Speaker, on this occasion the minister is clearly debating the question. Your rulings over recent months have clearly indicated the minister is entitled to answer a question relating to government administration but is not entitled to use question time to debate policy. That is properly a matter for a ministerial statement, it is properly a matter for an election debate, but it is not a matter for a pre-election question time. This is exactly analogous to the ruling you made yesterday against the Treasurer to prevent him from continuing to answer a question in exactly the same vein.

The SPEAKER — Order! I am not prepared to uphold the point of order raised by the honourable member for Doncaster in regard to the Minister for Health debating the question. I am not of that opinion.

Mr THWAITES — It is not just about nurses but also about a whole range of other public sector staff who play a critical role in delivering quality health care. They are the cleaners, hundreds of whom had been sacked when we came into office. We are employing additional cleaners to make our hospitals cleaner. It is also across in the Department of Human Services. Most of the direct care staff are in areas such as disability work and child protection. These people provide a vital service to the people who are most in need.

The Leader of the Opposition is saying that we have put on thousands. We have put on thousands, and we are proud of it. We have put on thousands of workers. We have put on thousands of nurses, thousands of teachers, more than a thousand police and many extra child protection workers. We are able to do that because we have a balanced financial plan. We have not made unsustainable tax promises. We have not made $3.5 billion of promises for which we cannot say where the money will come from. As a government we are restoring confidence, and we are not going to go back to the old days of slashing the public — —

Dr Dean — On a point of order, Mr Speaker, again on the point of debating, if the minister wants to talk about the 17 000 extra bureaucrats he has put on in

three years, who have cost us $1 billion, that is one thing, but if he wants to hold up pieces of paper and debate the public sector, that is something else.

The SPEAKER — Order! I do not uphold the point of order raised by the honourable member for Berwick. The minister was providing information about what his government has done in this area. However, I point out to the minister that in the sessional orders there is a requirement for succinctness. I ask him to conclude his answer.

Mr Mulder — On a point of order, Mr Speaker, the minister is obviously quoting from today's *Age,* and I suggest he continue on and quote from the page that refers to the Treasurer's stance in wanting to sell off Victoria's water supply to the best buyer.

The SPEAKER — Order! There is no point of order. The Minister for Health, concluding his answer.

Mr THWAITES — I was going to conclude with the well-known Greek phrase — Καλος πρόεδρος! [*Good President*!] — and I will withdraw on that basis.

Police: confidential records

Mr WELLS (Wantirna) — I refer the Minister for Police and Emergency Services to his comment on 23 October that he accesses police files every day and ask on whom he has sought information, in what form, and whether he will immediately release the names of those whose confidential details have been provided.

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member is asking me to provide details of confidential police files to the house. I will not do it.

Government: financial management

Ms ALLAN (Bendigo East) — I ask the Treasurer to update the house on the latest good economic news for Victoria's economy and explain how the government's responsible economic management is delivering a strong economy and substantially improved community services and infrastructure across all of Victoria.

Mr BRUMBY (Treasurer) — I am pleased to inform the house that new economic data released today by the Australian Bureau of Statistics confirms once again that Victoria is Australia's leading economy. Today the ABS released the building approvals data for the September quarter, and it shows $13.9 billion dollars of building approvals in Victoria over the last year, the highest of any state in Australia — higher than New South Wales with more than our population — and 25 per cent higher than last year, with huge increases in the regions. Country Victoria under the Bracks government just keeps on building.

Look at these figures. In the last quarter north-western Victoria was up 21 per cent to $128 million, north-central was up 24 per cent to $145 million, and Gippsland was up 30 per cent to $130 million. These are the sorts of increases that used to occur over a period of a decade; under the Bracks government they are occurring on an annual basis. Over the last year country Victoria recorded $2.8 billion dollars of approvals, while in the last full year of the former Kennett government it recorded $1.8 billion, an increase of 33 per cent since the election of the Bracks government.

The fact of the matter is that the Bracks government is leading on all the key indicators. We have the lowest unemployment of all of the states, the fastest economic growth in four years, business investment is up 8 per cent over the last year, and people are moving to Victoria from every state in Australia. Remember the days when we used to lose 30 000 people a year out of Victoria? Now they are coming back to Victoria.

Honourable members interjecting.

The SPEAKER — Order! The chamber is again getting too loud.

Mr BRUMBY — The honourable member for Berwick is going back to private practice. Are you going back to private practice?

The SPEAKER — Order! The Treasurer, addressing his remarks through the Chair.

Mr BRUMBY — We have achieved these things because we have had responsible financial management.

What would it take to ruin these extraordinarily strong economic results? What would destroy them? What would destroy them is $3.5 billion of unfunded election commitments and five separate tax promises. And I will tell you what else would kill growth in this state. If you cut back the public sector under the opposition's policies, in three years time schools, hospitals and police will be cut by 20 per cent. That is the policy we saw run out in the paper today.

The Bracks government is delivering for the whole of Victoria. Wherever you go across the state the Bracks government is delivering. Take Mornington for

example. The government provided $612 000 to upgrade the intersection of the Nepean Highway and Craigie Road, $2.7 million for Kunyung Primary School for major upgrades, $1.47 million for Mount Eliza Secondary College for major upgrades and almost $160 000 to fund extensions for the Mornington Life Saving Club.

If you want a full list of all the good things the Bracks government is doing in Mornington, look at the newsletter of the honourable member for Mornington! You can go through the list: Kunyung Primary School, Mornington Life Saving club, volunteer marine rescue, Mornington pier, the skateboard park — it goes on and on.

Mr Ryan — On a point of order, Mr Speaker, I raise with you your direction that ministers be succinct. By my timing the Treasurer has now exceeded 4½ minutes and I ask you to have him conclude his answer.

The SPEAKER — Order! I ask the Treasurer to conclude his answer.

Mr BRUMBY — I am drawing my answer to a close.

Mr Cooper — On a point of order, Mr Speaker, I would like to appeal to you — —

Mr Hulls — Say thank you!

The SPEAKER — Order! The Attorney-General is not helping proceedings.

Mr Cooper — Mr Speaker, I would like to appeal to you to give the Treasurer more time — I would like him to read my entire newsletter.

The SPEAKER — Order! I will not accept the honourable member for Mornington's case. There is no point of order.

Mr BRUMBY — We know why the honourable member for Mornington is happy. For seven years he could not achieve anything in his electorate; the only time anything has been done is in the three years of the Bracks government. The honourable member could not achieve anything in government. The only time he has been able to achieve is in opposition, and that is where he is going to stay for many years to come!

The SPEAKER — Order! The time for questions without notice has expired, and a minimum number of questions has been answered.

PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

Second reading

Debate resumed.

Mr LUPTON (Knox) — I rise to speak on the Planning and Environment (Metropolitan Green Wedge Protection) Bill. I will confine my remarks to the City of Knox and the way the bill affects that area. One thing which concerns me in relation to this legislation is the fact that there is no provision in this so-called green wedge to preserve the western face of the Dandenong Ranges — that area which overlooks Melbourne. That particular area has slowly seen the development of housing right up the face and is becoming extremely crowded. At no stage in the development of the legislation before the house has there been any attempt to protect that face of the Dandenong Ranges. The City of Knox has expressed a great deal of concern about this vital part of our heritage being defaced.

Some years ago there was an attempt to buy the land back and turn it into a national park. The eastern boundary of the Knox electorate runs onto the national park and it is a bit of a shame that this legislation has made no attempt to meld the residential development with the national park. I know that the people in the Knox area, and indeed the green movement, would appreciate it if the green wedge was extended to cover the western face of the Dandenong Ranges.

The City of Knox has written to me in relation to this bill and I would like to draw to the attention of the house two issues. The letter states:

> The draft urban growth boundary is based on current zoning and needs to be reviewed in the context of council's current policies and strategies including the draft Knox urban design framework, the draft Rowville–Lysterfield integrated local plan and the new planning controls proposed for the Dandenong foothills.

It is quite apparent that the Minister for Planning has given no consideration to looking at these three items. The Rowville–Lysterfield area is extremely fragile. When he was Minister for Planning the honourable member for Pakenham made some attempt to provide reasonable sites for development and protect the area, but this legislation is not doing anything towards that.

The second point the City of Knox brought to my attention was:

> The strategy Melbourne 2030 does not adequately address the significant issue of 'transitional' areas abutting the green wedges. For example, the residential zoned land in Boronia

> and Ferntree Gully next to the Dandenong Ranges National Park. Appropriate management of development in these areas is critical, not only to protect local neighbourhood character but from a metropolitan perspective, to protect the visual and environmental qualities of the abutting 'green wedge'.

As I said, there has been no attempt to protect that particular place and not addressing that problem shows a lack of foresight on the part of this minister. The Dandenong Ranges in that area, particularly The Basin, is one of the most fire-prone areas in the world. A number of bushfires have started in that area, particularly one in 1962. This legislation has made no attempt to address those matters. Indeed, it will allow residential development to creep even further up the hills.

I turn now to the fact that under the legislation additional housing will be permitted in various parts of the municipality; I am again referring to the electorate of Knox. I am talking about the areas of Boronia, Mountain Gate and Studfield. The current population of Knox is about 143 000; the way it is growing it has probably increased to 145 500 since I started talking. There are 53 473 homes in the municipality. On the proposal brought down by the government — and I am talking conservatively now — it could be anticipated that between 13 000 and 14 000 additional dwellings will be erected within the boundaries of the City of Knox. That amounts to a bit more than a 25 per cent increase in residential housing.

I have what I believe is a very real concern: when you extrapolate those figures over the whole of the metropolitan area, they extend out to an enormous amount of housing and I am concerned about the infrastructure needed to support such residential development. In the Knox area alone we are already having trouble because of the large amount of multi-use development — putting two houses on one block, et cetera. The infrastructure is having difficulty catering for the additional stormwater, sewerage et cetera, and this will only get worse. If we are looking at increasing the number of dwellings in the City of Knox by some 13 000 or 14 000 I believe we are looking at a long-term problem.

Some years ago some problems were caused by the development on the western face of the Dandenong Ranges and in The Basin area. We had heavy rain and it was all channelled into one set of large drains. We had a situation in Boronia Road, in the vicinity of what is now Zagames, where the amount of water that rushed down the hill and could not get out the other end was sufficient to blow all the manhole covers off the road leading to the old Boronia railway crossing. Apart from the fact that this was extremely dangerous, it caused a great deal of flooding in neighbouring properties. The temporary measure installed was to build a retarding basin to hold the water until the outlet drains could allow it to disperse in some sort of regulated manner.

Residential development since that time has increased even further. I have a real concern that the infrastructure in and around the area will not be able to cater for it. The sewerage lines that have been constructed were not designed for the current development, and the proposed addition of thousands of houses can only make things worse. I do not believe there has been any attempt by the minister to address those issues.

The lack of infrastructure and planning is becoming a real concern. There will be additional costs because of the number of roads that will also need to be built, and everybody knows road maintenance eventually falls back onto local councils at some time. The fact is that out in Knox, which is some 30-odd kilometres from the Melbourne central business district, we are looking at the development of high-rise residential homes, something that nobody imagined would take place out there. I find it totally inappropriate. While I appreciate that everybody wants to come to Knox because it is a great place to live, I do not believe anybody wants the type of high-rise, high-density residential development which will take place under this proposal.

The figures I used were guesstimates. I am being conservative when I say 12 000 or 13 000 houses. Boronia, which probably has a population of 40 000 to 45 000, is zoned or designated for high-rise residential development, and there is no doubt that the large influx of people coming in there will put a great strain on many things such as infrastructure. The shopping centre will probably boom, but the other infrastructure, which is buried underground, will certainly suffer.

The concept behind the bill is good. We should plan for the green wedges and preserve them, but I am concerned that the minister has not gone far enough here and looked at the face of the Dandenong Ranges. This area should be protected. I hope at some future time a government will come back and revisit this to try to save the face of the Dandenong Ranges, maybe by introducing buyback proposals again, so this important part of Melbourne's history and scenic areas will be preserved for future generations.

Debate adjourned on motion of Ms DUNCAN (Gisborne).

Debate adjourned until later this day.

RETAIL LEASES BILL

Second reading

Debate resumed from 30 October; motion of Mr BRUMBY (Minister for State and Regional Development).

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second reading of this bill requires to be passed by an absolute majority.

Mr STENSHOLT (Burwood) — I support the bill and record that I do not support the amendments to be proposed in committee by the honourable member for Bentleigh.

The bill has the support of retailers in my area. I conduct extensive consultations with those retailers on a regular basis, be they in Ashburton or Ashwood, or Maling Road, Canterbury, or Camberwell. There are many successful strip shopping centres in my area. I have lobbied government ministers hard on behalf of all the retailers in my area, particularly over land tax and removing it from the outgoings in lease arrangements.

The bill contains many other provisions. However, I wish to record my extreme concern over the amendments dealing with retail leases that were circulated with virtually no notice yesterday by the Liberal Party. There was no consultation with the retail associations, who have expressed alarm because they will have a disastrous impact on retail shopping strips not only in my electorate but throughout Victoria.

The intention of the amendments is to exclude services, but the wording is typical of the Liberal Party. The amendments have been worded so that large-scale centres and services are excluded, so the ordinary small traders are forgotten yet again. This will result in the reforms proposed by the bill being unavailable to retail shopping strips — for example, in Camberwell, which is one of the most successful strip shopping centres in Melbourne, or indeed in Ashburton, Ashwood or Maling Road, Canterbury. The effect would be to totally exclude services in that area.

Every strip shopping centre has hairdressers, but they would be excluded by the proposed amendments. While centres such as Westfield would be exempt, the strip shopping centres would not. I am talking about beauty therapists, key cutters, fast photo processors and drycleaners, all of whom are part of our strip shopping centres. The Liberal Party does not look after small businesses. It has forgotten about them again, because it did not consult on the amendments before circulating them. It has forgotten one of the prime rules — that subordinate legislation cannot overrule principal legislation.

As I said, this is another example of the Liberal Party forgetting small business and not looking after ordinary traders in strip shopping centres. The government is looking after them, and it has considered their needs — unlike the Liberal Party. That is why I support this bill but reject the amendments.

Debate adjourned on motion of Mr SPRY (Bellarine).

Debate adjourned until later this day.

ESTATE AGENTS AND SALE OF LAND ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 30 October; motion of Ms CAMPBELL (Minister for Consumer Affairs).

Mr SPRY (Bellarine) — As usual, the shadow Attorney-General covered most of the salient points when he made his contribution to the debate on this legislation yesterday. He highlighted the positive elements of the bill — and there are a few — so I do not wish to pursue those issues again.

However well-intentioned, some elements of this legislation are destined to change the face of real estate transactions in this state for the worse. I refer in particular to clause 3, which directly affects the auction system. Melbourne is renowned as the auction capital of not just Australia but the entire world. The system that has evolved in Victoria, with particular focus on Melbourne, is acclaimed worldwide and recognised as such.

The auction system depends on one key factor in establishing the value of property. It is a recognised legal definition and it is referred to as the Spencer principle, as some members of this house may or may not know. That principle is in essence that the value of a property is a figure which is acceptable to a willing buyer and a willing seller.

Madam Deputy Speaker, I failed to declare a possible pecuniary interest in this bill. As a former practising real estate agent I still hold a licence, but I hasten to assure you I do not intend to use it when I retire from this place. However, I do have to acknowledge that point.

As a former real estate agent I am a strong supporter of the current auction system in Victoria, and I am critical of the government, which introduced legislation that seeks to radically alter that system. At best the government's proposals will confer some marginal benefits on buyers. At worst these proposals will destroy the auction system as we know it in Victoria. It should be recognised that like the share market there will be times when property buyers are favoured and also times when property sellers are favoured. It is a measure of the government's immaturity that it should rush in and try to artificially restore the balance at a particular time in the natural cycle of bull and bear property markets. In the current bull property market this government should be indexing stamp duty — a scandalous inequity imposing a grave burden on property buyers which the Bracks Labor government has conveniently ignored.

I will quote a passage from yesterday's *Herald Sun* editorial:

> Victorian stamp duty on homes is as much as 50 per cent higher than on the same priced house in Sydney.

The Bracks Labor government should more appropriately address that instead of fiddling around the edges of an auction system that is working perfectly well in this state.

Back to the auction system itself. Auctions are a great Saturday pastime for thousands of Victorians with a stake in property — and that is almost all of us. The drama, the theatre of the auction will be lost and it will become a dull, colourless exercise in what will amount to no more than public negotiation carried out on the site. The great competitive element of auction will be totally emasculated.

I am reminded of a time some years ago when my family was auctioning a property in South Australia near Adelaide, at a place called Gawler. It was positively embarrassing. The auctioneer, who was a well-intentioned and very honourable man, did not choose to start the auction off, as most auctions are started off, with a vendor bid just to get the thing going. He peered over the top of his glasses, looked around, and said, 'No bid, no offer. No bid, no offer'.

Ms Asher — Give us a demo!

Mr SPRY — I would love to — well, I am. Instead of actually taking a bid and starting the thing off, it fell like a — —

Mr Baillieu — You are on the market!

Mr SPRY — I am on the market all the time! It fell like a lead balloon and collapsed on the ground with nothing around it. It was embarrassing. It was embarrassing for the people there and it was particularly embarrassing for us as the vendors, and it could have been easily avoided simply by the auctioneer taking a vendor bid — whether he declared it or not is totally irrelevant — and getting the thing going. Surely that is what the market is all about. That is what the people come to see. They want to see the drama; they enjoy the drama of an auction. Most people, although they might not be bidding at the first or second auction or however many they attend, eventually learn how the system works, and when they are ready to buy a house they can confidently bid at an auction. So that great Saturday pastime for thousands of Victorians is sadly threatened.

How will this brave new commercial encumbrance work in fact? Will the government spies who attend auctions looking for breaches of the act interrupt proceedings all of a sudden when the auction is mid-stride to query a bid? Is that what they will do? Will these authorised officers insist on vetting telephone bids? Will they seek to rip the telephone out of the hand of someone who is taking a bid — an increasingly common practice for people who are unable to attend in person? What an absolute farce this government is seeking to impose on the people of Victoria by fiddling with a perfectly good auction system.

In trying to protect buyers from being run up by an auctioneer, the government is espousing what amounts to an unworkable solution. Madam Deputy Speaker, I remind you once again that I have been in the industry, I have conducted auctions and I know exactly how the system works, unlike almost every other person in this building.

I go back to where I started. For a successful sale an agent needs a willing buyer and a willing seller. Instead of tying people up in a legislative straitjacket as this legislation seeks to do, governments should be acknowledging that people — as the original speaker for the opposition mentioned — have a bit of commonsense, something the government apparently does not acknowledge or even wish to acknowledge. People will set limits on how much they can spend and they will probably do that on the advice of their financiers, and they will fail to stick to those limits at their own peril.

As far as agents are concerned, any auctioneer who makes bids on behalf of a vendor or who accepts so-called dummy bids anywhere near a figure which he

or she considers to be the selling price of a property should be regarded as an absolute fool. If they start taking bids beyond what is a reasonable expectation of the value of the property they are likely to be left with the property. They will not only make a fool of themselves, they will make a fool of their real estate company, and that company will not survive very long if that practice is continued. The market will find them out, and the consequences will bear back on that individual auctioneer and on his or her company.

In the extreme elements of the bill we see another case of a Labor government trying to engineer commercial outcomes in the disguise of consumer protection. Once again unfortunately the Liberal Party, because of its numbers in the upper house, finds itself in the position of expressing grave misgivings about a piece of busy-body legislation which will inhibit the natural ebb and flow of commercial activity. Some parts of the legislation are too flawed to even attempt to amend.

When as anticipated it is finally discovered that the new provisions are unworkable, this will have to be re-addressed, set to rights and put straight; but if this legislation goes through, let's hope the system is not totally destroyed in the meantime.

For the reasons I gave earlier, we will not obstruct the passage of the bill, although we are sorely tempted to do so. As I said, any amendments would have to be too complex to have any effect at all, but I would like the house to be warned that this bill is fundamentally flawed. I am speaking from experience. As I said earlier in my brief contribution, this legislation will destroy the auction system in Victoria as we know it, and that would be a sad indictment of the Labor government as it tries to pass this piece of legislation through the houses of Parliament in Victoria.

Mr BAILLIEU (Hawthorn) — I want to speak only very briefly, and the honourable member for Bellarine has made a number of points in line what with what I want to say.

The Victorian auction system is a cultural icon, and it would be foolish to think of it as anything but. The rest of Australia views it with envy; the rest of the world views it with both curiosity and envy. It is based on evolution and is a system which has been fair and transparent, and the marketplace depends on fairness and transparency and well-informed participants, both buyers and sellers — and that is what the auction system has been for ever so many years. I no longer have an involvement with the real state industry but certainly I did for 20 years.

The Victorian public regards the auction system as a cultural icon and one that we ought to be proud of. It seems that this bill will not proceed because, like all the other legislation before us, it will evaporate on Monday when the Premier calls an election. So the green wedges bill will also evaporate and the Retail Leases Bill will evaporate. But the tragedy is that if this bill proceeds, real estate agents will choose not to conduct auctions. That is the simple choice. Why would you have two-year conditional sales, which is one of the effects of the bill? Why would you move to have less transparency, less fairness and less equity and a less-informed marketplace? It would be a tragedy to see the Victorian auction system diminished in any way, and it would certainly be a tragedy to see it lost.

Ms ASHER (Brighton) — The motivation behind this bill is admirable, and many elements of it represent a step forward. However, I have a number of concerns, centring in particular on two aspects. The first is the requirement that agents offer a single figure value. The Real Estate Institute of Victoria (REIV) has written to me and possibly to most members of Parliament indicating its concern about the difficulty of pinpointing single figures in estimating the values of properties in either static or rising markets.

I refer to correspondence sent to me by Ann Forsyth, a director and licensed estate agent of Duffy Forsyth and Co., located in Church Street, Brighton:

> I believe it would be more desirable to require a price range of 15 per cent (valuers are allowed a tolerance of 10 per cent) plus three comparable sales that support that price range.

She makes the comment that she certainly understands what the government is trying to do, but the requirement for a single figure value is way beyond what is expected of valuers and extremely difficult for estate agents to comply with. I urge the minister to reflect on those concerns.

The other issue that concerns me is the declaration of the vendor's reserve price. Again the REIV has made a number of comments on this, which I am sure all honourable members would have read. The REIV makes the very valid point that the government should also be concerned with the interests of vendors who are also consumers. It is the vendors who are concerned to get the maximum possible price for their properties. In its letter of 24 October the REIV goes on to say:

> In most cases, the reserve is not finalised nor stated by vendors prior to the auction as vendors may prefer to first assess the progress of the auctions.

That is a very reasonable point to make. In the correspondence sent to me from Duffy Forsyth and Co. in Brighton the same point is made:

> The initial reserve is frequently varied. Surely this is a vendor's right to set a figure at which they are prepared to sell their property at any time.

These concerns should be taken into account by the government. A property is probably the most important asset someone purchases in their life. For most working Victorians it is in fact their only means of capital gain, so it is in every home owner's interests to maximise it. The impact on vendors and consumers of the demand to disclose the reserve price may require a little more thought.

There are a number of additional concerns that estate agents in my electorate have conveyed to me. One in particular is the alteration in the cooling-off period, which on private sales was previously capped at $250 000. Now this will be removed. In the electorate of Brighton, if someone is going to buy a $1 million property you have to ask why there should be a cooling-off period. In fact in parts of my electorate properties cost a lot more than $1 million. Whilst I favour the concept of a cooling-off period at the lower end of the market, I fail to understand why you would remove a consumer protection mechanism at the upper end. Perhaps the minister might make some comments on this.

Real estate agents in my electorate have made the point that the removal of this cap will introduce uncertainty into the upper end of the property market. Again, I am unable to come to grips with why the government would want to bring in protection mechanisms for the upper end of the market. I can understand cooling off protection for the lower end, but not for the upper end — and more importantly, neither can the real estate agents in my electorate.

A number of other issues have been raised with me, such as estate agents' representatives not being aware of agents rebates and how they would be approached. The Privacy Act has also been mentioned. Privacy legislation is used time and again, rightly or wrongly, to block the release of all sorts of information. Again, Duffy Forsyth and Co. would like an explanation from the minister of how the requirement to disclose estimated selling prices to purchasers sits with federal privacy legislation. I would be grateful if she could provide that response for my constituent.

The other day I received a publication in the mail called *A Consumer Affair*. It is a document put out by the Minister for Consumer Affairs, who is now at the table, with a message from her together with a very glam photo. It is dated spring 2002 and makes reference to a survey apparently conducted by the minister's department in the August *Consumer Pulse Survey*. The survey team conducted interviews across a range of auctions held in Melbourne.

In terms of the results of the survey, according to this document 68 per cent of buyers and sellers surveyed by the minister's own department felt they were confident in the auction process, compared with 29 per cent who were not. Indeed, on documentation provided by the minister herself, there is widespread satisfaction with the auction system. I certainly understand community frustration at significant underquoting. I am not for a moment saying that does not occur, because it clearly does. I understand the concept of taking bids out of trees and people's problems with that. But I also again strongly support the vendor's right to reserve bids, to make bids on their own property.

One of the issues of real importance as we debate this bill is that the auction system works in Melbourne. Auctions are quick compared with private sales, which can often drag on with inspections and so on. The auction mechanism is certain, and it does exhibit market forces in action. I would urge the minister to consider some of the points raised by my constituents because I, too, whilst acknowledging that there are some admirable elements in this bill, am very, very concerned that the bill may impact adversely on the auction system in Melbourne.

Ms CAMPBELL (Minister for Consumer Affairs) — I want to thank the following members for their contributions: the honourable members for Doncaster, Rodney, Richmond, Bellarine, Hawthorn and Brighton.

It has been a fascinating exercise to listen to the honourable member for Doncaster, first of all, basically walking on hot coals during this debate. He has been unable to articulate a logical reason why the opposition has come to its point of view on this bill. In fact he has not even declared which way the opposition will vote on this particular bill.

This bill is important legislation for ethical estate agents; it is important legislation for a fair, open and transparent real estate industry; and it is really important for consumers, be they vendors or purchasers. The importance of this legislation is well known to each and every member of Parliament who has had brought to their attention examples of estate agent practices that worry their constituents, be they vendors, estate agents or purchasers.

I would like to briefly go through some of the arguments that have been presented today and last night. The first related to the issue of rebates. The honourable member for Doncaster claimed rebates are part of the real estate industry and something we should accept as a community. In fact in the Kennett era rebates were to be outlawed. In the proposed Estate Agents Act 1999, introduced by Jan Wade, the previous Attorney-General, rebates, discounts and commissions for outgoings were to be outlawed.

The government's legislation emphasises again the importance of estate agents knowing and understanding that advertising is for the consumer, in this case the vendor, to get the best possible price for their property. If, for argument's sake, they allocate $10 000 or $5000 for advertising, it is fair and reasonable to expect that $10 000 or $5000 worth of advertising is provided to the consumer, in this case the vendor. It is really important that vendors know that if they sign up for significant amounts of money they are going to receive advertising to that effect.

I want to quote from an email circulated by Mr Rodney Morley to estate agents in this state. He was lamenting the fact that this legislation — I might add he was referring to previous legislation introduced by the Kennett government — was going to prohibit rebates. Why was he concerned? He told other estate agents in his email:

> … this alone will cost many of us hundreds of thousands of dollars a year in our incomes.

Real estate agents are acting for their clients. They should be — and the vast majority of them are — acting to get the very best price for their vendor's property. To claim that this legislation is ill founded because it will undermine estate agents' incomes, and in this case 'hundreds of thousands of dollars' in income, is in my view lamentable.

The honourable member for Doncaster also complained that the consultation process was designed to achieve a predetermined outcome, evidence of which he claimed is that the current bill is different from the exposure draft. That is the very purpose of an exposure draft. He lacks logic when he says that an amended bill reflects a predetermined outcome. In fact the government has provided to interested parties a comparison of the exposure draft and the bill as introduced.

In relation to dummy bidding the exposure draft provided that vendor bids can be made by the auctioneer, the vendor or a person bidding on behalf of the vendor. After stakeholder comment the bill that is before this Parliament prohibits vendor bids except by the auctioneer.

As a result of comments by consumers, estate agents and vendors the government has included a variation in rebates. The original bill provided that rebate statements were required to be given prior to consumers signing the authority or engagement. There was a requirement that an estate agent keep a rebate register. Estate agents told us that was far too complex and was onerous, so the bill was amended to now provide for rebates so long as they are passed on to the consumer, the person who is paying the commission to the estate agent.

In relation to licensing of corporations, the original exposure draft had a reduction in the number of licensed directors from 50 per cent of the directors to one director. We have heard comments by stakeholders. Now this bill provides that all directors of a licensed corporation will be required to meet the probity requirements that must be met in order to obtain a licence.

In the exposure draft there was no provision for continuing professional development. Members of the industry told us it would improve competency and standards of conduct, so the bill before the house provides that the director may require estate agents and agents' representatives to undertake specific training and professional development activities.

Logic is absolutely absent from the honourable member for Doncaster's contribution in relation to consultation. He said there was inadequate consultation with industry groups such as the Real Estate Institute of Victoria. In fact, extensive consultation had occurred with the REIV, the Estate Agents Council and the Law Institute of Victoria, as evidenced by the large number of changes in the bill before the house.

Mr Perton — On a point of order, Deputy Speaker, the minister is reading from a document, and I ask that that document be tabled.

The DEPUTY SPEAKER — Order! Is the minister reading or using her notes?

Ms CAMPBELL — I am referring to notes that outline the illogicality of the previous contributors' comments to the house.

The DEPUTY SPEAKER — Order! There is no point of order. The minister is reading from her notes.

Ms CAMPBELL — The honourable member for Doncaster also claimed that consumers do not want the

bill. Well, Honourable Deputy Speaker, consumers do want the bill. In fact there have been more emails to Consumer Affairs Victoria and me on this than on any other topic.

Mr Perton interjected.

Ms CAMPBELL — Each and every single one of the people sending them is happy to have them tabled.

Mr Perton interjected.

The DEPUTY SPEAKER — Order! It is inappropriate for the honourable member for Doncaster to come into the house and immediately start interjecting.

Ms CAMPBELL — I am happy to table each and every one of these numerous — —

Mr Perton interjected.

Ms CAMPBELL — The honourable member for Doncaster does not want them tabled.

Mr Perton interjected.

The DEPUTY SPEAKER — Order! The honourable member for Doncaster!

Ms CAMPBELL — I will happily refer to any one of those particular emails that have come through.

Mr Perton interjected.

The DEPUTY SPEAKER — Order! It is inappropriate for the honourable member for Doncaster to come into the house and immediately interject in that manner.

Mr Perton interjected.

The DEPUTY SPEAKER — Order! I remind the honourable member for Doncaster that the Chair is on her feet. I ask him to accept the normal behaviour of this house, and if he is unable to do so I shall call the Speaker.

Ms CAMPBELL — I have received numerous emails and faxes and we have wholehearted support from the industry and consumers, whether they are vendors or purchasers. Consumers want this bill and formal submissions have been received. The Consumer Affairs Victoria survey referred to by the honourable member for Brighton showed that consumers were engaged in auction practices and to a large extent — 70 per cent of them — they said they were happy to purchase at auction. But the honourable member failed to note from the survey that consumers had come to expect that dummy bidding would occur, and that is important for the house to recognise.

The honourable member also said that from her point of view people purchasing houses in areas outside her electorate of Brighton could have a cooling-off period for a private sale but that she did not think it should apply in Brighton. That is absolutely fascinating logic. If a person is purchasing by private sale it is important — —

Mr Perton — On a point of order, Madam Deputy Speaker, the minister took exception to statements made that were similar in nature to that which she now makes. The minister is deliberately misleading the house and being deceptive. I ask you in the interests of the standards of the house to call her to order.

The DEPUTY SPEAKER — Order! There is no point of order. If the honourable member wishes to continue along that line it would have to be by substantive motion.

Ms CAMPBELL — The honourable member for Brighton also said that $1 million purchases in Brighton should not be subject to a cooling-off period. Whether a person is purchasing in Brighton, Doncaster or West Heidelberg, they are still consumers and still have rights. It is really important from the point of view of consumers and ethical real estate agents that the bill be passed. It is essential that there is transparency. For Parliament to dismiss the concerns of consumers who might be purchasing — —

Mr Perton interjected.

The DEPUTY SPEAKER — Order! I have already asked the honourable member for Doncaster to behave in a manner that one would expect from an experienced member of Parliament. I ask him to cease interjecting in that way.

Ms CAMPBELL — I am sure the legislation will be not only recognised as important by the vast majority of people outside this house but, from the correspondence I have received, emulated in other states. The underquoting and overquoting, which is well publicised in Victoria, will be addressed as a result of the passing of this legislation. Underquoting encourages people to attend auctions and waste their time. While honourable members opposite might consider it theatre at auctions, the vast majority of Victorians believe it is the most significant investment they make, whether they are a purchaser or a vendor. The legislation is important and it will be applauded by consumers and

ethical estate agents in this state and far beyond. I commend the bill to the house.

House divided on motion:

Ayes, 80

Allan, Ms	Lenders, Mr
Allen, Ms	Lim, Mr
Asher, Ms	Lindell, Ms
Ashley, Mr	Loney, Mr
Baillieu, Mr	Lupton, Mr
Barker, Ms	McArthur, Mr
Batchelor, Mr	McCall, Ms
Beattie, Ms	McIntosh, Mr
Bracks, Mr	Maclellan, Mr
Brumby, Mr	Maddigan, Mrs
Burke, Ms	Maxfield, Mr
Cameron, Mr	Mildenhall, Mr
Campbell, Ms	Mulder, Mr
Carli, Mr	Napthine, Dr
Clark, Mr	Nardella, Mr
Cooper, Mr	Overington, Ms
Davies, Ms	Pandazopoulos, Mr
Delahunty, Ms	Paterson, Mr
Dixon, Mr	Perton, Mr
Doyle, Mr	Peulich, Mrs
Duncan, Ms	Phillips, Mr
Elliott, Mrs	Pike, Ms
Fyffe, Mrs	Plowman, Mr
Garbutt, Ms	Richardson, Mr
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Rowe, Mr
Hamilton, Mr	Savage, Mr
Hardman, Mr	Seitz, Mr
Helper, Mr	Shardey, Mrs
Holding, Mr	Smith, Mr (*Teller*)
Honeywood, Mr	Spry, Mr
Howard, Mr	Stensholt, Mr
Hulls, Mr	Thompson, Mr
Ingram, Mr	Thwaites, Mr
Kosky, Ms	Trezise, Mr
Kotsiras, Mr	Viney, Mr
Langdon, Mr (*Teller*)	Vogels, Mr
Languiller, Mr	Wells, Mr
Leigh, Mr	Wilson, Mr
Leighton, Mr	Wynne, Mr

Noes, 6

Delahunty, Mr (*Teller*)	Maughan, Mr (*Teller*)
Jasper, Mr	Ryan, Mr
Kilgour, Mr	Steggall, Mr

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

OUTWORKERS (IMPROVED PROTECTION) BILL

Second reading

Debate resumed from 30 October; motion of Mr LENDERS (Minister for Industrial Relations); and Mr McINTOSH's amendment:

> That all the words after 'That' be omitted with the view of inserting in place thereof 'this house refuses to read this bill a second time until employer and employee stakeholders have been consulted on the amendments foreshadowed by the government to provide for the application of the federal Clothing Trades Award to Victorian outworkers in that industry'.

Mrs PEULICH (Bentleigh) — I am happy to speak on the Outworkers (Improved Protection) Bill and support the opposition's reasoned amendment.

This bill has absolutely nothing to do with the protection of the interests of outworkers. This is all to do with unionising a sector that has never been heavily unionised by a nearly bankrupt union — the Victorian branch of the Textile, Clothing and Footwear Union. This is its attempt to get on to the public teat.

Mr Maxfield — Why do you hate union workers?

Mrs PEULICH — Let me tell you.

Mr Maxfield interjected.

The DEPUTY SPEAKER — Order! The honourable member for Narracan!

Mrs PEULICH — As a migrant to this country some 30 years ago, having a father who was a former auditor-general with a double degree who had to work as a tyre moulder at Dunlop and a mother who was a qualified chef who had to work in a cannery, I know what it means to have to start from the bottom.

An honourable member interjected.

The DEPUTY SPEAKER — Order! The honourable member will cease interjecting.

Mrs PEULICH — I am aware of very few members of the Labor Party, of the Textile, Clothing and Footwear Union of Australia (TCFUA) or of the Fair Wear campaign who actually know outworkers and care about what a job means to them. I will tell you what it means to them. Outworkers are those who start at the bottom of the ladder. The Liberal Party would like to help and protect them, but not with this absolutely deplorable and blatant grab for government funding for a union and blatant rolling over to a union,

forfeiting the interests of outworkers, destroying their jobs and creating a piece of legislation that would make every single genuine outworker shake with fear at the possibility of TCFUA officers knocking on their door demanding entry into their home — which is where most of the work is done — having the right to interview anyone who is connected with outwork, and having the right to interview their children. This is deplorable and every single outworker in Victoria ought to condemn the Labor government for throwing them onto the scrap heap.

This will destroy the work of outworkers. These are very vulnerable women who are desperate to find some form of employment. In most cases these women have very little education and very little language, and in many instances they have small children and are desperate to find ways of earning an income while juggling it with family responsibilities. Many of them, of course, are recently arrived migrants. My own former sister-in-law was an outworker. Most of her family were outworkers. I have spoken to these people; I know what outwork means. The prospect of having a member of the TCFUA knocking on their door during their work hours with the sort of authority that this bill enshrines would make them shudder with fear. This is the industrial Stasi being supported, promoted, facilitated and funded by the Bracks Labor government — and let me tell you it is not on!

The Liberal Party wants to help outworkers. That is why members of the opposition, as well as the Honourable Jeanette Powell, did not vote down an all-party committee report which was truncated by the government without the committee making a single site visit in Victoria, without speaking to a single outworker who was prepared to give a surname — —

Mr Maxfield interjected.

The DEPUTY SPEAKER — Order! The honourable member for Narracan will cease interjecting.

Mrs PEULICH — It was truncated after the expenditure probably of some $300 000 to $400 000 of Victorian taxpayers' money that could have been better spent promoting the interests of and providing services to outworkers than going through an absolute farce and having a Premier feigning interest in the welfare of outworkers and then truncating a report even before a single witness was spoken to in Victoria for the purposes of the final report.

It was a disgrace, and I am ashamed that the Parliament of Victoria, which represents everyone, has been misused in this absolutely blatant political way. There was no doubt from day one that the only object of the entire enterprise was to produce a piece of legislation which mirrored that in New South Wales and introduced a code, initially voluntary and subsequently mandatory, based along the lines that the names and addresses of anyone who worked in this area be provided to the union movement — the industrial Stasi.

I will fight the rights of the industrial Stasi to my very last breath, and even if it means members of the TCFUA and Trades Hall Council mounting the strongest campaign, throwing in hundreds of thousands of dollars into the seat of Bentleigh in the next election I will defend outworkers. The minority report shows quite clearly that enormous opportunities were missed by this Labor-dominated committee — opportunities to find genuine ways to help outworkers, to skill them better, to make sure they have greater opportunities and to run small businesses if they want.

When evidence was given by Pamela Curr, the opponent of a very good member, the honourable member for Coburg, I asked her whether there were any outworkers on her campaign committee, which uses some incredible tactics like stripping in retail shops to get attention and all sorts of antibusiness practices. She said not a single outworker was on the campaign committee. She could not claim that a single outworker was in the organisation. I think that is deplorable.

This legislation is doomed to fail because it replicates the New South Wales legislation. I will read the conclusion after one year of that state's legislative reform. Briefing paper 3 of 2002 of the New South Wales parliamentary library research service by Roza Lozusic entitled *Outworkers* states:

> There have been consistent efforts made over the past decade to raise public and media awareness of the problem of outworker working conditions. The problem has been recognised and is continuing to be addressed by a variety of stakeholders (including the TCFUA, retailers, manufacturers, Fair Wear and others) and legislators. Attempts to solve the problem have been difficult, and these have largely stemmed from outwork existing on the fringes of the formal economy. Legislative attempts to address the working conditions of outworkers have been limited, and as noted by Penfold currently 'legal protection is insufficient in these circumstances, and more is needed if a practical protection is to be afforded. It is necessary, therefore, to look beyond the legal framework for ways to address the problems of outworker exploitation'.

This government is not about promoting the interests of outworkers; it is about adopting policy that will see their jobs disappear. It is about putting a last nail in the coffin of a clothing manufacturing industry that is

clinging on by its fingernails — that has all but one nail in its coffin. This type of reform will see very important work performed by those women who start at the bottom of the ladder disappear, and their only options will be to go on the dole — the scrap heap of the Labor Party's misguided legislative and pro-union policies.

We also have evidence from some very large businesses, evidence that was given to the committee, that they support any legislation that will get rid of outworkers because it means less competition. There is no doubt that this legislation is anti-outworkers and anti-small business, and the Labor Party should be condemned for it.

Mr NARDELLA (Melton) — The house has just heard the case put by the honourable member for Bentleigh, a member of the Family and Community Development Committee. The honourable member did not go to New South Wales with the committee; she attended only two of the site visits in Victoria; and she just would not get involved in the committee. The inquiry ran over a 12-month period during which time the honourable member put together a minority report full of untruths in which she showed that her ideological position is to keep stomping on and putting down outworkers and people in very low-paid positions. That is the position of the honourable member for Bentleigh and of the Liberal Party in Victoria.

The honourable member for Kew in his address to the house demonstrated his lack of understanding of working people and people of low socioeconomic background. The people we went to see time and time again, both here and in New South Wales, were outworkers who were being exploited and who needed some assistance to make sure their situation could improve. They wanted to have their skills improved, be put into a career structure, and be able to develop a better life for themselves and their families.

This legislation attacks poverty, long working hours, not being paid on time and not being paid at all — the very things the Labor Party stands for and attacks. It demonstrates the Liberal Party's ideological position on this matter.

It was a 12-month inquiry and the honourable member for Bentleigh tried at every opportunity to stop the inquiry. She was destructive within the inquiry and reached a position where she put in a minority report that is full of untruths — —

Mrs Peulich — On a point of order, Deputy Speaker, the honourable member for Melton may have inadvertently misled the house. In fact, I drove the early parts of the inquiry because the chairman appointed by the government was so hopeless!

The DEPUTY SPEAKER — Order! There is no point of order.

Mr NARDELLA — Here is another demonstration, Honourable Deputy Speaker. When we went up to New South Wales both the honourable member for Bentleigh and the Honourable Jeanette Powell boycotted the trip because we were investigating on behalf of Parliament the alternatives for outworkers in Victoria and whether the New South Wales alternative was a good one. However, the honourable member for Bentleigh and the Honourable Jeanette Powell took the unprincipled step of boycotting the trip, not going on it, not seeing the situation in New South Wales, not talking to the taxation office, not talking to the fair trade council but staying at home and not doing their work.

What the honourable member then did was take a trip to Queensland because her son was up there. She was prepared to do that and not do the right thing by the Parliament — —

Business interrupted pursuant to sessional orders.

The DEPUTY SPEAKER — Order! The time has come for me to interrupt business.

Amendment negatived.

Motion agreed to.

Read second time.

Circulated amendments

Circulated government amendments as follows agreed to:

1. Clause 1, after line 5 insert —

   "( ) to apply the federal Clothing Trades Award to Victorian outworkers in that industry,".

2. Clause 3, after line 10 insert —

   '"**applied Clothing Trades Award**" means the Federal Award as applied to outworkers by section 6;

   "**Board of Reference**" means the Board of Reference for outworkers established by section 12;

   "**clothing work**" means packing, processing or working on articles or materials in the clothing industry;'.

3. Clause 3, lines 14 to 16, omit all words and expressions on these lines.

4. Clause 3, line 19, omit "16" and insert "24".

5. Clause 3, after line 21 insert —

> '"**employer**" has the meaning given by section 5(b);
>
> "**Federal Award**" means the Clothing Trades Award 1999 made by order of the Federal Commission on 29 November 1999;
>
> "**Federal Commission**" means the Australian Industrial Relations Commission;'.

6. Clause 3, after line 31 insert —

> '"**interested organisation**" means an organisation that is not a registered organisation but that is representative of a significant number of employers;'.

7. Clause 3, lines 33 and 34, omit "15 of the **Federal Awards (Uniform System) Act 2002**" and insert "40".

8. Clause 3, page 3, after line 17 insert —

> '"**peak body**" means a body that is representative of a significant number of organisations representing employers or outworkers;
>
> "**registered employer**" means a person who is registered as an employer under Division 3 of Part 2;
>
> "**registered organisation**" means an organisation registered under the Workplace Relations Act 1996 of the Commonwealth;'.

9. Clause 3, page 3, line 23, omit "**1984**." and insert "**1984**;".

10. Clause 3, page 3, after line 23 insert —

> '"**Tribunal**" means Victorian Civil and Administrative Tribunal established by the **Victorian Civil and Administrative Tribunal Act 1998.**'.

11. Clause 4, lines 6 and 7, omit paragraph (a) and insert —

> "( ) this Act;".

12. Clause 4, line 13, omit "(c)." and insert "(c);".

13. Clause 4, after line 13 insert —

> "( ) the applied Clothing Trades Award.".

14. Page 4, after line 29 insert —

> "**Division 2 — Applied Clothing Trades Award**".

15. Division heading preceding clause 6, omit "**2**" and insert "**4**".

16. Clause 6, line 21, omit "7" and insert "15".

17. Clause 8, line 23, omit "7" and insert "15".

18. Clause 8, line 24, omit "10" and insert "18".

19. Clause 8, page 7, line 13, omit "9" and insert "17".

20. Clause 9, line 18, omit "8" and insert "16".

21. Clause 10, lines 2 and 3, omit "36 and 37 of the **Federal Awards (Uniform System) Act 2002**" and insert "65 and 66".

22. Clause 10, line 7, omit "8" and insert "16".

23. Clause 11, lines 18 to 21, omit paragraph (a).

24. Clause 11, line 24, omit "8" and insert "16".

25. Clause 11, line 25, omit "9" and insert "17".

26. Clause 11, line 27, omit "8" and insert "16".

27. Clause 12, line 31, omit "***6 to 11***" and insert "***14 to 19***".

28. Clause 12, line 32, omit "6 to 11" and insert "14 to 19".

29. Clause 12, page 9, line 2, omit "a common rule order" and insert "the applied Clothing Trades Award".

30. Clause 12, page 9, lines 4 to 6, omit "36 of the **Federal Awards (Uniform System) Act 2002** instead of making an unpaid remuneration claim under section 7" and insert "65 instead of making an unpaid remuneration claim under section 15".

31. Clause 12, page 9, line 7, omit "9(3)" and insert "17(3)".

32. Clause 13, page 10, lines 3 and 4, omit "36 and 37 of the **Federal Awards (Uniform System) Act 2002**" and insert "65 and 66".

33. Clause 14, line 7, omit "***13***" and insert "***21***".

34. Clause 14, line 8, omit "13" and insert "21".

35. Clause 14, line 20, omit "13" and insert "21".

36. Clause 15, line 26, omit "***13***" and insert "***21***".

37. Clause 15, line 27, omit "13" and insert "21".

38. Clause 15, page 11, line 1, omit "13" and insert "21".

39. Clause 15, page 11, line 5, omit "any common rule order" and insert "the applied Clothing Trades Award".

40. Clause 23, page 18, line 3, omit "21" and insert "29".

41. Clause 26, page 19, lines 2 to 4, omit "a common rule order, the provisions of the common rule order that are applicable to outworkers" and insert "the applied Clothing Trades Award, the provisions of the applied Clothing Trades Award".

42. Clause 31, omit this clause.

43. Clause 32, lines 20 and 21, omit "a common rule order" and insert "the regulations".

44. Clause 33, lines 7 and 8, omit "to which a common rule order applies".

45. Clause 33, line 11, omit "outwork".

46. Clause 33, lines 13 and 14, omit "a common rule order" and insert "the regulations".

47. Clause 34, line 16, omit "33" and insert "43".

48. Clause 34, line 24, omit "an outwork" and insert "a".

49. Clause 34, line 26, omit "a common rule order" and insert "the regulations".

50. Clause 35, line 5, omit "an outwork" and insert "a".

51. Clause 35, lines 6 and 7, omit "a common rule order" and insert "the regulations".

52. Clause 37, omit this clause.

53. Clause 38, line 8, omit "41" and insert "51".

54. Clause 38, lines 15 and 16, omit "this Act, relevant industrial legislation or a common rule order" and insert "relevant industrial legislation".

55. Clause 39, lines 11 to 13, omit "this Act, relevant industrial legislation or any common rule order that applies to any such outworker" and insert "relevant industrial legislation".

56. Clause 40, line 10, omit "39(5)" and insert "49(5)".

57. Division heading preceding clause 45, before "**Offences**" and insert "**Other**".

58 Clause 45, line 25, omit "34 or 35" and insert "44 or 45".

59. Clause 46, after line 26 insert —

> "( ) Nothing in sub-section (1) affects the application of section 105 of the **Victorian Civil and Administrative Tribunal Act 1998**.".

60. Division heading preceding clause 47, omit "**and Evidence**" and insert ", **Evidence and Recovery of Money**".

61. Clause 49, line 12, omit "48(1)(a)(iii)" and insert "61(1)(a)(iii)".

62. Clause 49, line 14, omit "48(1)(b)" and insert "61(1)(b)".

63. Clause 50, omit this clause.

64. Page 37, after line 4 insert —

> "**PART 6 — AMENDMENT OF VICTORIAN CIVIL AND ADMINISTRATIVE TRIBUNAL ACT 1998**".

NEW CLAUSES

65. Insert the following new clauses to follow clause 5 —

> "**AA.** ***Modified Federal Award applies to Victorian outworkers***
>
> (1) The Federal Award, as varied by the Federal Commission from time to time, applies to outworkers as a law of Victoria subject to —
>
> (a) the modifications set out in this section; and
>
> (b) any condition, exception or limitation specified by the Tribunal under section 8.
>
> (2) Provisions of the following kind that are contained in the Federal Award do not apply to outworkers under this Act —
>
> (a) anti-discrimination provisions (clause 3);
>
> (b) the commencement date and period of operation (clause 5);
>
> (c) coverage of the award (clause 6);
>
> (d) parties bound by the award (clause 7);
>
> (e) persons, organisations, industries and employers exempted from coverage (clause 8);
>
> (f) the relationship with other awards (clause 9);
>
> (g) enterprise flexibility provisions (clause 10);
>
> (h) agreements regarding facilitative provisions (clause 11);
>
> (i) dispute resolution procedures and consultative mechanisms (clauses 12 and 13);
>
> (j) provisions for the employment of apprentices (clauses 20 and 20A);
>
> (k) provisions regarding the supported wages system (being the Commonwealth Government system to promote employment for people who cannot work at full award wages because of a disability) (clause 31);
>
> (l) provisions for claiming payment from an employer (clauses 46.5 and 47.23);
>
> (m) provisions for the referral of matters to the Federal Commission (clause 46.8);
>
> (n) provisions for the registration of employers and provisions prohibiting the employment of outworkers without such registration (clauses 47.1, 47.2 and 48);
>
> (o) provisions limiting the number of outworkers a person may employ (clause 47.5);

(p) provisions for the appointment of Boards of Reference (clause 49).

Note: The Federal Award provides for further exclusions from the award in relation to outworkers (see clauses 47.20.1 and 47.20.2).

(3) A reference in sub-section (2) to a clause of the Federal Award is a reference to the Federal Award as varied to 23 May 2002. If the Federal Award is varied after that day with the result that the provisions referred to in a paragraph in sub-section (2) are contained in a different clause, the reference to the clause in that paragraph is taken to be a reference to the different clause.

(4) For the purposes of the applied Clothing Trades Award —

(a) a reference in the Federal Award to a registered employer is taken to be a reference to a registered employer within the meaning of this Act;

(b) a reference in the Federal Award to a requirement to apply for registration under clause 48 of the Federal Award is taken to be a reference to a requirement to apply for registration under Division 3 of Part 2 of this Act;

(c) a reference in clause 46 of the Federal Award to the Industrial Registrar is taken to be a reference to the Board of Reference within the meaning of this Act.

BB. ***Effect of applied Clothing Trades Award***

(1) The applied Clothing Trades Award has the effect of binding all employers and outworkers so that their employment relationship is governed by the provisions of the applied Clothing Trades Award.

(2) The applied Clothing Trades Award also has the effect of binding all persons engaged in the clothing industry who contract for clothing work to be performed outside their factory or workshop.

(3) A provision of a contract of employment is of no effect to the extent that it provides a condition of employment that is less favourable to an outworker than that applicable under the applied Clothing Trades Award.

(4) An employer or other person engaged in the clothing industry must not contravene a provision of the applied Clothing Trades Award that applies to the employer or other person.

Penalty: 120 penalty units.

(5) This section is subject to section 8.

CC. ***Conditions, exceptions or limitations***

(1) An employer may apply to the Tribunal for an order specifying a condition, exception or limitation on the applied Clothing Trades Award as it applies to the employer or outworkers engaged by the employer.

(2) An application can only be made on the ground that the applied Clothing Trades Award imposes a financial obligation on the employer and the employer does not have the capacity to meet that obligation.

(3) On an application under sub-section (1), the Tribunal may make an order specifying a condition, exception or limitation on the applied Clothing Trades Award as it applies to the applicant or outworkers engaged by the applicant if the Tribunal is satisfied that the ground for the application is made out.

(4) In determining whether the ground for the application is made out, the Tribunal must have regard to any statement of principles by, and any relevant decision of, the Federal Commission with respect to economic incapacity.

Division 3 — Registration of Employers

DD. ***Registration of employers***

(1) A person engaged in the clothing industry who is not a registered employer must not —

(a) engage an outworker; or

(b) enter into, or purport to enter into, a contract to have clothing work performed outside the person's factory or workshop.

(2) A person engaged in the clothing industry must not give another person work to be performed if the first person knows or has reason to know —

(a) that the work may be performed outside the other person's factory or workshop; and

(b) that the other person is not a registered employer.

(3) On application by a person, the Board of Reference may register the person as an employer for a period of 12 months.

(4) An application for registration must specify the place where the applicant proposes to keep all documents that relate to the contracting out of clothing work (including the terms and conditions or contracts of employment of outworkers).

(5) The Board of Reference —

(a) must allocate a registration number to a registered employer; and

(b) may impose any conditions it considers appropriate on the registration of a person as an employer.

(6) The Board of Reference may cancel the registration of a registered employer if the Board is

satisfied that the registered employer has failed to comply with a condition of registration.

(7) The Board of Reference may renew a registered employer's registration from time to time on application by the registered employer.

(8) The Board of Reference must keep a register of registered employers.

EE. ***Notice of registration***

(1) As soon as practicable after registration and each renewal of registration, a registered employer must publish a notice in a newspaper generally circulating in Victoria stating —

(a) that the person is a registered employer of outworkers; and

(b) the person's name and registration number.

(2) A registered employer is not required to publish a notice under sub-section (1) if the Board of Reference, on application by the registered employer, grants the registered employer an exemption from sub-section (1).

FF. ***Approval to engage more than 10 outworkers***

(1) A person must not have more than 10 outworkers working for the person at any one time unless the person has the consent of the Board of Reference.

(2) The Board of Reference may consent to a person having a specified number of outworkers, greater than 10, working for the person at any one time.

GG. ***Board of Reference***

(1) A Board of Reference for outworkers is established.

(2) The Board of Reference has the functions conferred on it by or under this Act.

(3) In particular, and without limiting sub-section (2), the Board of Reference has the following functions —

(a) to consider applications for registration as an employer of outworkers;

(b) to keep a register of employers of outworkers;

(c) to consider applications to engage more than 10 outworkers;

(d) to consider applications for exemption of the requirement to publish a notice under section 10(1).

HH. ***Membership and procedure***

(1) The Board of Reference consists of the following 5 part-time members appointed by the Secretary —

(a) a chairperson;

(b) 2 people nominated by the Textile, Clothing and Footwear Union of Australia (Victorian Branch);

(c) 1 person nominated by the Australian Industry Group, Victorian Branch;

(d) 1 person nominated by the Victorian Employers' Chamber of Commerce and Industry.

(2) the terms and conditions of members are as determined from time to time by the Secretary.

(3) A member may appoint a substitute to act for him or her at any time that he or she is unable to act as member.

(4) The quorum of the Board of Reference is the chairperson, one member appointed under sub-section (1)(b) and one of the members appointed under sub-section (1)(c) or (d).

(5) A question arising at a meeting of the Board of Reference is determined by a majority of votes and the chairperson does not have a deliberative vote but, in the case of an equality of votes, has a casting vote.

(6) Subject to this section, the Board of Reference may regulate its own procedure.".

66. Insert the following new clauses before clause 32 —

"**II.** ***What are the functions of information services officers?***

(1) The primary function of information services officers is to provide information about the operation of this Act to employers, outworkers, others engaged in the clothing industry and other interested members of the community.

(2) Information services officers also have the function of ensuring compliance with this Act and the regulations, and any other functions conferred by or under this Act or the regulations.

JJ. ***Appointment of information services officers***

The Minister may, by instrument, appoint as an information services officer for the purposes of this Act a person employed under Part 3 of the **Public Sector Management and Employment Act 1998** who, in the Minister's opinion —

(a) is competent to perform the functions and exercise the powers of an information services officer; and

(b) is of good repute, having regard to character, honesty and integrity; and

(c) agrees in writing to perform the functions of an information services officer in accordance with such criteria as are established from time to time by the Minister.

KK. ***Identity cards***

(1) Each information services officer must be issued with an identity card in the form approved by the Minister.

(2) The identity card must bear a photograph and the signature of the information services officer.

(3) An information services officer must produce his or her identity card for inspection —

(a) before exercising a power under this Part other than a requirement made by post, fax, e-mail or other electronic communication; and

(b) at any time during the exercise of a power under this Part, if asked to do so.

Penalty: 10 penalty units.".

67. Insert the following new clause to follow clause 36 —

"**LL.** ***Confidentiality***

(1) An information services officer must not, except to the extent necessary to carry out the officer's functions, give to any other person, whether directly or indirectly, any information acquired by the officer in carrying out those functions.

Penalty: 60 penalty units.

(2) Sub-section (1) does not apply to the giving of information —

(a) to a court or tribunal in the course of legal proceedings; or

(b) pursuant to an order of a court or tribunal; or

(c) to the extent reasonably required to enable the investigation or the enforcement of a law of Victoria or of any other State or Territory or of the Commonwealth; or

(d) with the written authority of the Minister; or

(e) with the written authority of the person to whom the information relates.".

68. Insert the following new clauses before clause 45 —

"**MM.** ***Prohibition of victimisation***

(1) An employer must not victimise an outworker.

Penalty: 120 penalty units.

(2) An employer victimises an outworker if the employer subjects or threatens to subject the outworker to any detriment because the outworker, or a person associated with the outworker, has —

(a) claimed a benefit or exercised a power or right that he or she is entitled to claim or exercise under this Act or the regulations; or

(b) brought, or otherwise participated in, a proceeding under this Act or the regulations; or

(c) informed any person of an alleged contravention of this Act or the regulations by any person.

(3) In this section —

"**outworker**" includes a prospective outworker;

"**employer**" includes a prospective employer.

NN. ***Employers' registration***

A person (including a registered employer) must not fail, without reasonable excuse, to comply with Division 3 of Part 2.

Penalty: 10 penalty units.'.

69. Insert the following new clause to follow clause 46 —

"**OO.** ***Impersonating information services officers***

A person must not impersonate an information services officer.

Penalty: 60 penalty units.".

70. Insert the following new clauses to follow clause 51 —

"**PP.** ***Reverse onus of proof in certain cases***

In a prosecution against an employer for failing to pay an outworker an amount owed to the outworker under a contract of employment if —

(a) the outworker is dead; and

(b) the employer alleges that the period shown in the charge as being the period of continuous employment of the outworker with the employer is wrong —

the employer bears the onus of proving the allegation.

QQ. ***Recovery of money owed***

(1) An outworker who is owed any money by an employer under this Act or any other Act, or under any contract of employment, may take proceedings in the Industrial Division of the Magistrates' Court to recover the money owing. The debt must arise out of the employment relationship.

(2) The proceedings must be started within 6 years after the outworker's entitlement to the money arising.

(3) Before proceedings may be started under this section, the employer must be given a written demand for the money owed.

(4) If the Court is satisfied that the employer —

(a) had reasonable notice of the outworker's claim; and

(b) had no reasonable grounds on which to dispute the claim; and

(c) in the circumstances should have paid the claim without the need for proceedings being taken to establish the validity of the claim —

the Court may order the employer to pay interest to the outworker on top of any other amount to which the outworker is entitled.

(5) The interest must not be greater than the rate fixed under section 2 of the **Penalty Interest Rates Act 1983** that applies at the time the Court makes the order.

(6) If a claim is made under this section by an outworker's personal representative, sub-sections (4) and (5) apply despite anything to the contrary in section 29 of the **Administration and Probate Act 1958.**

RR. ***Court may order payment of arrears on finding of guilt***

(1) If the Industrial Division of the Magistrates' Court finds an employer guilty of an offence relating to the underpayment of an outworker, the Court may order the employer to pay the outworker any amount that the outworker was underpaid and that is still owed to the outworker, in addition to imposing a penalty for the offence.

(2) However, under this section the Court may only order the employer to pay an amount in respect of a period of up to 6 years.

(3) Sub-sections (4), (5) and (6) of section 65 apply to this section.

(4) An order under this section may be enforced as if it were an order made by the Court in a civil proceeding. However, if any amount remains to be paid after all reasonable means of civil enforcement have been tried, the order may be enforced as if it were a fine imposed by the Court.

(5) Nothing in this section limits an outworker's rights under section 15 or 65, and nothing in either of those sections limits the power of the Court under this section.

SS. ***Representation in Magistrates' Court proceedings***

(1) An outworker may be represented in any proceeding referred to in section 65 or 66 by a person who is an employee or agent of —

(a) a registered organisation of which the outworker is a member or eligible to become a member; or

(b) a peak body of which an organisation representing the outworker is a member.

(2) An employer may be represented in any proceeding referred to in section 65 or 66 by a person who is an employee or agent of —

(a) a registered organisation of which the employer is a member or eligible to become a member; or

(b) an interested organisation of which the employer is a member or eligible to become a member; or

(c) a peak body of which an organisation representing the employer is a member.".

71. Insert the following new clause before the schedule —

'**TT.** ***Amendment of Schedule 1***

In Schedule 1 to the **Victorian Civil and Administrative Tribunal Act 1998**, after Part 15 insert —

"**PART 15AA — OUTWORKERS (IMPROVED PROTECTION) ACT 2002**

51AA. ***Constitution of Tribunal***

In a proceeding under the **Outworkers (Improved Protection) Act 2002** the Tribunal is to be constituted by —

(a) one member who, in the opinion of the President, has knowledge of, or experience in, industrial relations matters; or

(b) if it is constituted by more than one member, at least one member who, in the opinion of the President, has knowledge of, or experience in, industrial relations matters.

51AB. ***Intervention by Minister***

The Minister administering the **Outworkers (Improved Protection) Act 2002** may intervene in a proceeding under that Act at any time before the Tribunal has finished hearing it.

51AC. ***Unincorporated associations can be parties***

(1) Section 61(1) does not apply to a proceeding under the **Outworkers (Improved Protection) Act 2002.**

(2) An unincorporated association that is a party to a proceeding under the **Outworkers (Improved Protection) Act 2002** has the same right to representation in the proceeding as a body corporate.

51AD. ***Representation***

In addition to any right of representation under section 62, a party to a proceeding under the **Outworkers (Improved Protection) Act 2002** may be represented by an employee or agent of —

(a) a registered organisation or interested organisation of which the party is a member or eligible to become a member; or

(b) a peak body of which an organisation representing the employee is a member.".'.

AMENDMENT OF SCHEDULE

72. Page 38, line 2, omit "19" and insert "27".

73. Page 38, line 25, omit "17(1)(b)" and insert "25(1)(b)".

AMENDMENT OF LONG TITLE

74. Long title, after "industry," insert "to apply the federal Clothing Trades Award to Victorian outworkers in that industry,".

75. Long title, after "Victoria" insert ", to make consequential amendments to the **Victorian Civil and Administrative Tribunal Act 1998**".

Remaining stages

Passed remaining stages.

RETAIL LEASES BILL

Second reading

Debate resumed from earlier this day; motion of Mr BRUMBY (Minister for State and Regional Development).

The DEPUTY SPEAKER — Order! As the required statement of intent has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second and third readings of the bill are required to be passed by an absolute majority. As there are less than 45 members present in the house, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read second time.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

LOCAL GOVERNMENT (UPDATE) BILL

Second reading

Debate resumed from earlier this day; motion of Mr CAMERON (Minister for Local Government).

The SPEAKER — Order! I am of the opinion that the second and third readings of this bill are required to be passed by an absolute majority**.**

Motion agreed to by absolute majority.

Read second time.

The SPEAKER — Order! The question is that the circulated government amendments be agreed to.

House divided on question:

Ayes, 46

Allan, Ms	Kosky, Ms
Allen, Ms	Langdon, Mr (*Teller*)
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lenders, Mr
Bracks, Mr	Lim, Mr
Brumby, Mr	Lindell, Ms
Cameron, Mr	Loney, Mr
Campbell, Ms	Maddigan, Mrs
Carli, Mr	Maxfield, Mr
Davies, Ms	Mildenhall, Mr
Delahunty, Ms	Nardella, Mr
Duncan, Ms	Overington, Ms
Garbutt, Ms	Pandazopoulos, Mr
Gillett, Ms	Pike, Ms
Haermeyer, Mr	Robinson, Mr
Hamilton, Mr	Savage, Mr
Hardman, Mr	Seitz, Mr
Helper, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Howard, Mr	Trezise, Mr (*Teller*)
Hulls, Mr	Viney, Mr
Ingram, Mr	Wynne, Mr

Noes, 41

Asher, Ms	Maclellan, Mr
Ashley, Mr	Maughan, Mr (*Teller*)
Baillieu, Mr	Mulder, Mr
Burke, Ms	Napthine, Dr
Clark, Mr	Paterson, Mr
Cooper, Mr	Perton, Mr
Dean, Dr	Peulich, Mrs
Delahunty, Mr	Phillips, Mr
Dixon, Mr	Plowman, Mr
Doyle, Mr	Richardson, Mr
Elliott, Mrs	Rowe, Mr
Fyffe, Mrs	Ryan, Mr
Honeywood, Mr	Shardey, Mrs
Jasper, Mr	Smith, Mr (*Teller*)
Kilgour, Mr	Spry, Mr
Kotsiras, Mr	Steggall, Mr
Leigh, Mr	Thompson, Mr
Lupton, Mr	Vogels, Mr
McArthur, Mr	Wells, Mr

McCall, Ms Wilson, Mr
McIntosh, Mr

Question agreed to.

Circulated government amendments as follows agreed to:

1. Clause 89, page 115, line 27, omit "89" and insert "90".

NEW CLAUSE

2. Insert the following new clause to follow clause 55 —

'**AA.** ***Proportional representation***

(1) At the end of section 42 of the **Local Government Act 1989** insert —

"(2) Unless an Order in Council is in force under sub-section (5), Part 4A of Schedule 3 applies to determine the result —

(a) where 2 or more Councillors are to be elected; or

(b) in an election of Councillors to represent the municipal district of the Council as a whole.

(3) Subject to sub-section (4), a Council may apply to the Minister for an Order in Council to be made that Part 4 of Schedule 3 applies to determine the result —

(a) where 2 or more Councillors are to be elected; or

(b) in an election of Councillors to represent the municipal district of the Council as a whole.

(4) A person has a right to make a submission under section 223 on an application under sub-section (3).

(5) If the Minister approves an application under sub-section (3), the Governor in Council may, on the recommendation of the Minister, make an Order in Council directing that the result for a ward or municipal district of a Council specified in the Order in Council is to be determined in accordance with sub-section (3).

(6) Subject to sub-section (7), a Council may apply to the Minister for an Order in Council under sub-section (5) to be revoked.

(7) A person has a right to make a submission under section 223 on an application under sub-section (6).

(8) If the Minister approves an application under sub-section (6), the Governor in Council may, on the recommendation of the Minister, make an Order in Council revoking an Order in Council made under sub-section (5).".

(2) In Schedule 3 of the **Local Government Act 1989** —

(a) for the heading to Part 4 **substitute** —

"**PART 4 — RESULT WHERE SECTION 42(3) APPLIES**";

(b) clause 11(1) is **repealed**;

(c) for the heading to Part 4A **substitute** —

"**PART 4A — RESULT WHERE SECTION 42(2) APPLIES**";

(d) clause 11A is **repealed**.'.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

Second reading

Debate resumed from earlier this day; motion of Ms DELAHUNTY (Minister for Planning).

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

PAPERS

Laid on table by Clerk:

Australian Food Industry Science Centre — Report for the year 2001–02

Barwon Region Water Authority — Report for the year 2001–02

Central Gippsland Region Water Authority — Report for the year 2001–02

Country Fire Authority — Report for the year 2001–02

East Gippsland Region Water Authority — Report for the year 2001–02 (two papers)

Financial Management Act 1994 — Reports from the Minister for Environment and Conservation that she had received the 2001–02 annual reports of the:

Alpine Resorts Coordinating Council

Casey's Weir and Major Creek Rural Water Authority

Yarra Bend Park Trust

Glenelg Region Water Authority — Report for the year 2001–02

Grampians Region Water Authority — Report for the year 2001–02 (three papers)

Lower Murray Region Water Authority — Report for the year 2001–02

Melbourne and Olympic Parks Trust — Report for the year 2001–02

Melbourne Cricket Ground Trust — Report for the year ended 31 March 2002

Metropolitan Fire and Emergency Services Board — Report for the year 2001–02

North East Water Authority — Report for the year 2001–02 (two papers)

Royal Botanic Gardens Board — Report for the year 2001–02

South Gippsland Region Water Authority — Report for the year 2001–02

South West Water Authority — Report for the year 2001–02

State Sport Centres Trust — Report for the year 2001–02

Victorian Institute of Sport Trust — Report for the year 2001–02 (two papers)

Victorian Managed Insurance Authority — Report for the year 2001–02

West Gippsland Catchment Management Authority — Report for the year 2001–02

Westernport Region Water Authority — Report for the year 2001–02 (two papers)

Western Region Water Authority — Report for the year 2001–02 (two papers).

PROJECT DEVELOPMENT AND CONSTRUCTION MANAGEMENT (FURTHER AMENDMENT) BILL

Second reading

Mr BATCHELOR (Minister for Major Projects) — I move:

That this bill be now read a second time.

The bill amends the Project Development and Construction Management Act 1994 to —

make express provision for the amendment and revocation of nomination and application orders, to facilitate the transfer of projects between facilitating agencies in the future;

abolish the Secretary to the Department of Innovation, Industry and Regional Development as a body corporate; and

confirm the transfer of certain nominated projects to the Secretary to the Department of Infrastructure.

The bill also amends the Commonwealth Games Arrangements Act 2001 to constitute the Secretary to the Department of Tourism, Sport and the Commonwealth Games as a body corporate with appropriate powers and functions.

The amendments proposed in the bill are largely machinery in nature. The bill introduces a new provision to enable nomination orders and application orders to be amended or revoked. This will enable changes to be made to the management of a major project if required during the course of a project, including transfer of projects from one facilitating agency to another, where required.

The bill repeals the provisions of the Project Development and Construction Management Act which relate to the establishment and functions of the body corporate known as the Secretary to the Department of Innovation, Industry and Regional Development. The Department of Innovation, Industry and Regional Development no longer has a role in major project management, as these functions are carried out by the Department of Infrastructure and, in the case of projects for the Commonwealth Games, by the Department of Tourism, Sport and the Commonwealth Games.

Over the past three years $800 million of project work has been delivered under this act, and it is forecast that a further $650 million will be developed in the next five years. The instruments established under the act form the core administrative processes for key state development projects and are critical to the government's forward program.

The bill also amends the Commonwealth Games Arrangements Act 2001 to establish the Secretary to the Department of Tourism, Sport and the Commonwealth Games as a body corporate for the purposes of managing Commonwealth Games projects. This is a minor consequential change reflecting the establishment of the separate Department of Tourism,

Sport and the Commonwealth Games to provide a focus for projects associated with the preparations for the Commonwealth Games in March 2006. The amendment will overcome administrative and project management difficulties which have been experienced to date because the Secretary of the Department of Tourism, Sport and the Commonwealth Games is presently not a body corporate.

The 2006 Commonwealth Games are scheduled to be held in Melbourne from 15 March to 26 March 2006. The Commonwealth Games is an important sporting event for Victoria. The 2006 Commonwealth Games will be the largest sporting event to have been staged in Melbourne since the 1956 Olympics, with 72 countries and 4500 athletes expected to take part. Disciplines in all of the 16 sports will be contested within close proximity to the city centre, making the games easily accessible. For the first time the entire MCG–Melbourne Park precinct will be integrated and coordinated into a sport and cultural precinct stretching to Southbank and Federation Square — right on the city's doorstep. The amendments in the bill will ensure the smooth delivery of the major projects required for the Commonwealth Games.

I commend the bill to the house.

Debate adjourned on motion of Mr BAILLIEU (Hawthorn).

Debate adjourned until Thursday, 14 November.

SOUTHERN AND EASTERN INTEGRATED TRANSPORT AUTHORITY BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

That this bill be now read a second time.

The bill establishes the Southern and Eastern Integrated Transport Authority and provides that authority with functions and powers to enable it to oversee and facilitate, on behalf of the state, the delivery of the southern and eastern integrated transport project. This implements the government decision to establish a special purpose statutory authority to oversee and facilitate the delivery of the project.

The project joins together the Scoresby freeway project and the Eastern Freeway project into one project under the government's Partnerships Victoria policy. The project involves the development of an integrated transport corridor and will include a continuous freeway link of about 39 kilometres between the Eastern Freeway and the Frankston Freeway, connecting Melbourne's eastern and south-eastern suburbs. The project will incorporate tunnels under the Mullum Mullum Creek and will include a connection to the Ringwood bypass.

The project will vastly improve the connections between major industrial areas, the ports, the airport, major freight routes and other industrial precincts.

This bill establishes the authority which will oversee delivery of the project. The establishment of a separate authority will enhance the project, strengthening focus on the complex legal, commercial and technical-engineering issues inherent in delivering a project of this size and complexity under a Partnerships Victoria framework.

By using the Partnerships Victoria framework, the government is seeking the best deal for taxpayers by optimising the risk to the private sector and encouraging innovative design and operational solutions so as to deliver the best-value-for-money outcome.

Coordination of the delivery of such a vast and complex project is best done through one organisation. For example, this will ensure that the tunnel sections and the rest of the project are delivered in coordinated time frames, thus avoiding severe traffic congestion in the Ringwood area.

The authority will comprise a board of between three to five members, appointed by the Governor in Council. It will have a chief executive officer and be able to engage staff.

The bill confers on the authority powers and functions to enable it to facilitate the delivery of the project. These include facilitation and coordination of the project; engagement with the private sector from the bid phase onwards; negotiation and management of contracts and facilitation; and coordination of consultation with statutory bodies, agencies and other persons affected by the delivery or operation of the project.

Separate project-specific legislation will be introduced next year to complement finalisation of contractual arrangements with the private sector.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGH (Mordialloc).

Mr BATCHELOR (Minister for Transport) — I move:

That the debate be adjourned until Thursday, 14 November.

Mr LEIGH (Mordialloc) — The opposition was ready to debate this bill today. Unfortunately in this government's internal chaos the cost of this project has gone up to anywhere from $1.8 billion to $2 billion. Things are in such a bad state that this is just a stunt, as part of the Premier's desperate attempt to call an election on Monday, to cover the shenanigans that have gone on. For three years nothing has happened with these projects. It is a disgrace.

The opposition would like a commitment from the government that it will definitely be back here in two weeks to debate the bill. I do not think this minister is prepared to get up here today and mislead the house by saying that in two weeks from this day we will debate it. I ask the minister whether he is prepared to stand up and give us an actual date that he is prepared to honour — and if he does not honour it, will he resign?

Motion agreed to and debate adjourned until Thursday, 14 November.

Mr Leigh — On a point of order, Acting Speaker. The house should note that the minister was unprepared to accept the opposition's challenge to put it on the record. You guys have lied and you have been caught out. We will never see this bill. Your government is dead, and you know it!

Honourable members interjecting.

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

UNIVERSITY ACTS (AMENDMENT) BILL

Second reading

Ms KOSKY (Minister for Education and Training) — I move:

That this bill be now read a second time.

The main purpose of this bill is to introduce measures to improve the quality of higher education in Victoria through the strengthening of the governance arrangements in our universities.

In 2001 Victoria's eight publicly funded universities, together with the national Australian Catholic University campuses, had over 148 000 students studying for almost 984 different undergraduate awards. In addition, there were more than 47 000 postgraduate students.

Of these, there were almost 36 300 overseas students enrolled in our universities either here in Victoria or in their own country. This was an increase of 14.5 per cent over the previous year. These students represent 18.5 per cent of all such students undertaking Australian university studies.

Our universities are a fundamental component of this state's education system and also to our economy.

It is essential that they continue to be true to their core business of teaching, learning and research and at the same time are equipped to take the best possible advantage of emerging opportunities for commercial activities.

Our Victorian universities enjoy well-earned reputations for the high quality of the higher education that they offer to all students. It is essential that the public continue to have complete confidence in our universities.

In December 2001 I established a review of university governance to examine the accountability of Victoria's universities.

The review was undertaken in response to concerns expressed by the state Auditor-General regarding the role and accountability of university councils to effectively manage their subsidiary companies.

The review canvassed a wide range of matters with key stakeholders including the universities, relevant unions and associations. Discussions were held with the Victorian Ombudsman and the Victorian Auditor-General and his staff. Stakeholders and the general public were given an opportunity to comment on an issues paper and on the review report.

The review was completed in May 2002, and in accepting the report the government made a number of decisions in regard to:

strengthening the control of university councils of their own commercial operations;

student grievance procedures being strengthened and published by universities, including information about the right and procedures for submitting complaints to the Victorian Ombudsman; and

the government legislating to remove any doubt in the ability of the Auditor-General to audit our universities' overseas commercial entities.

The implementation of the government's decisions will result in a strengthening of university governance, particularly in regard to commercial activities.

This bill implements the legislative amendments that flow from those decisions.

Each of the Victorian universities is governed by their own act of Parliament. The Victorian College of the Arts that is affiliated with the University of Melbourne also has enabling legislation.

The Victorian College of the Arts is included because of the similarity in governance arrangements to that of the universities.

Amendments will be made to these enabling acts so that they contain common provisions.

The Australian Catholic University expressed a readiness to be included in any proposed legislative change. However, the complexities surrounding any proposed changes due to its unique legal status and operation in three states and a territory make it difficult to consider amending legislation relevant to that university.

The proposed bill ensures that where required the Victorian universities and the Victorian College of the arts enabling acts will:

include an object that the university is to serve the public interest by promoting critical inquiry;

declare that council members have a duty to act in the best interests of the university as a whole, having regard to the university's objects;

provide consistent provisions for protection against conflicts of interest of council members;

provide for the remuneration of council members who are 'external' to the university;

be amended so that the role of the university visitor is ceremonial only; and

remove any doubt in the mandate of the Auditor-General to audit companies that are controlled by Victorian universities but are established overseas.

While there is commonality between the universities and Victorian College of the Arts acts, there are differences that reflect each institutions' historical development and the communities they serve.

The Melbourne University Act 1958 does not include objects for the university, whereas the act for each of the other universities does. This bill incorporates objects for Melbourne university. The proposed objects reflect the University of Melbourne's international standing and commitment to the principles of excellence, access and equity.

The inclusion of an object in each of the university and Victorian College of the Arts acts that specifies that the institution is to serve the public interest by promoting critical inquiry.

This will ensure that institutions remain focused on their traditional academic roles at a time when there is increasing pressure on them to expand their commercial activities.

This bill removes any doubt as to where a council member's primary obligations lie. Council members must act solely in the interest of the university or the Victorian College of the Arts taken as a whole having regard to its objects.

Any perception of council members having a conflict of interest undermines the public's confidence in council decision making. This concern is well addressed in a number of acts but not in all. Thus there is a need to ensure that there is consistency across the enabling acts as to conflict of interest and to disclosure. To enable this, an amendment or amendments will be made to the university enabling acts.

All university and Victorian College of the Arts acts will be amended to provide for remuneration of council members 'external' to the institution at a rate set by Governor in Council. This provision should broaden the experience available to councils and will enable those who have been previously unable to participate as council members to do so.

There is no doubt that this amendment will be received differently in each institution and so it will be left to the respective councils to seek my approval to remunerate those members who wish to receive such payment. It is not intended to remunerate any person who is an employee of council, or is an employee of the Crown or who otherwise may have their regular employment jeopardised should remuneration be offered.

One of the concerns raised by the Victorian Auditor-General was the lack of clarity as to his responsibility to audit the overseas operations of our universities. This bill clarifies the Auditor-General's right to audit such activities by providing for the Auditor-General to have the same right to audit and investigate overseas operations of universities as he

currently has for each university's activities here in Australia.

Each of our universities has a visitor who has the same role and responsibilities in the university. The university enabling acts specify that the Victorian Governor is the visitor.

While the visitor's role is largely ceremonial it also includes the responsibility to determine complaints from students and staff that have not been able to be resolved within the university. This avenue of appeal is rarely used and there is little evidence to suggest that this situation is likely to change.

In actual fact students and staff with grievances at university decisions are usually satisfied by the university's own appeal mechanisms. Where this is not the case the aggrieved person has recourse to the Victorian Ombudsman and where it has jurisdiction, to the Victorian Civil Administrative Appeals Tribunal.

The provision in this bill to restrict the powers of the visitor to being only ceremonial recognises the modern role of a visitor in universities without effectively limiting the appeal avenues for university students and staff.

In addition to the legislative amendments required to implement the government's decisions on the review of university governance, this opportunity is being taken to make amendments to university and Victorian College of the Arts acts to provide for each university to recover administrative costs, paid from trust funds for the administration of those funds. While the number of trusts administered by universities differs between them, where there are a large number of trusts the associated administrative costs can be significant.

This is particularly so for the University of Melbourne which has over 700 trusts to administer on a daily basis. The cost of administering these trusts is considerable and this together with the large number of trusts the university needs to manage has led the government to agree to the university's request to provide for it to recoup up to 5 per cent of the annual income derived from the trusts it administers. The universities will only have access to this 5 per cent commission in administering trusts and they will not be able to charge anything above this 5 per cent.

This provision recognises the unique position of the University of Melbourne in regard to the number of trusts it administers. The provision is extended to the other universities and the Victorian College of the Arts so that these enabling acts continue to have common provisions.

I commend the bill to the house.

Mr Honeywood — I am more than happy to debate this straight away if the minister would like.

The ACTING SPEAKER (Ms Barker) — Order! Is the Deputy Leader of the Opposition going to move that the debate be adjourned?

Mr HONEYWOOD (Warrandyte) — I move:

That the bill be debated forthwith.

Motion negatived.

Debate adjourned on motion of Mr HONEYWOOD (Warrandyte).

Debate adjourned until Thursday, 14 November.

MELBOURNE (FLINDERS STREET LAND) BILL

Second reading

Ms GARBUTT (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

The Yarra River is perhaps the most significant natural feature of the city of Melbourne, around which the built structure of the city has developed from the days when Robert Hoddle envisaged the grand boulevards which provide the north–south axis of the city, linking the north and south banks of the river. Honourable members cannot fail to be aware of the remarkable rejuvenation which has occurred on the south bank of the Yarra River, truly opening up this precinct for use and enjoyment. Extending further to the east of the central activity zone, the Bracks government and the Melbourne City Council have in partnership developed Birrarung Marr, an entirely new park which recognises through its naming the indigenous occupants of the area.

The Yarra River Precinct Plan recognises the importance of the river to the city and sets out the vision for its further development. This plan identifies the north bank of the river as a priority for action, given its relative underdevelopment compared with the south bank.

Redevelopment of the western end of Flinders Street is one of the most significant initiatives in revitalising the western end of the city by improving urban amenity, public transport and pedestrian access. The Bracks government wants to enhance qualities which the city is

already recognised as possessing, in terms of being livable, attractive and safe.

The measure before the house is a step towards this vision. In May 2002, the Premier announced that in partnership with the Melbourne City Council, it was intended to seek expressions of interest for development of the former fish market site which lies to the south of Flinders Street, between Spencer and King streets, with another smaller secondary site on the opposite side of King Street, to the north of the Melbourne Aquarium. In association with this project, the present Flinders Street overpass would be removed, thereby facilitating greater access to not only this site but also to sites on the northern side of Flinders Street.

In August 2002, the Department of Infrastructure sought preliminary expressions of interest in developing the site. These have been received and are currently being evaluated.

In order to give certainty to a preferred developer as the project progresses, existing encumbrances on the land need to be lifted. The government has chosen to introduce legislation to accomplish this at this early stage of the process in order to facilitate negotiations with potential developers.

The land is presently Crown land permanently reserved and is vested in the City of Melbourne. The city uses part of the site for storing impounded vehicles and also operates a car parking facility on other parts of the site.

The City of Melbourne is supportive of the redevelopment project and the need for this legislation. The government recognises that the City of Melbourne's revenues will be affected by the project. The government and City of Melbourne have agreed to jointly negotiate a financial strategy for the project that recognises and compensates the city for these revenue impacts.

Commencement of the act is on a date to be proclaimed. The City of Melbourne will continue to enjoy its current rights and entitlements over both sites until the Act is proclaimed. The act will be proclaimed after an acceptable development proposal is received and agreed to. If an acceptable development proposal is not received and agreed to, the legislation will automatically repeal on 31 December 2004 leaving the present land status in favour of the City of Melbourne in place.

Development of these sites provides an opportunity to connect the river, Batman Park and the southern edge of the city to benefit all of us through enhancement of a presently neglected area.

I commend the bill to the house.

Mr BAILLIEU (Hawthorn) — I move:

That the bill be debated forthwith.

Motion negatived.

Debate adjourned on motion of Mr BAILLIEU (Hawthorn).

Debate adjourned until Thursday, 14 November.

FIREARMS (TRAFFICKING) BILL

Second reading

Mr HAERMEYER (Minister for Police and Emergency Services) — I move:

That this bill be now read a second time.

In the aftermath of the Port Arthur incident in April 1996, the Australasian Police Ministers Council (APMC) entered into the National Firearms Agreement. Under that agreement broadly uniform regimes for the regulation and licensing of firearms were put in place in all states and territories. On 17 July 2002 the APMC endorsed further principles to better detect and deter the illegal trade in unregistered firearms and to form the basis of a nationwide strategy against firearms trafficking when it agreed the Firearms Trafficking Policy Agreement.

The Firearms (Trafficking) Bill 2002 will implement that agreement for Victoria and provide more effective tools for Victoria Police to detect and deter the possession and sale of unregistered firearms.

The bill will not only make it more difficult for criminals to access firearms in Victoria, but will help to maintain the principle of uniformity essential to the efficacy of the national agreement.

In response to the recent tragic shootings at Monash University, Australian government leaders agreed to develop a plan to significantly restrict access to hand guns sought for target shooting. The heads of government requested that the APMC develop detailed proposals for a national approach to hand gun control measures. The APMC will meet on 5 November 2002, and it is likely that further national reform measures will be developed after that meeting.

This bill will give effect to a range of changes to the Firearms Act 1996 to:

increase penalties and introduce new offences relating to the illegal disposal and acquisition of firearms — especially with respect to hand guns;

introduce a new penalty for a subsequent finding of guilt for possession of an unregistered firearm;

introduce new interstate trafficking provisions;

introduce a new requirement for dealer licence applicants to disclose their close associates to the Chief Commissioner of Police and for certain information about those close associates, including a full set of their fingerprints, to be provided to the Chief Commissioner of Police; and

allow some hand guns, which may not be possessed other than for very strictly controlled purposes, to be prescribed in regulations to be category E hand guns.

The bill will amend the definitions of 'acquire' and 'dispose' so that they are sufficiently inclusive to ensure that the act covers situations where the transaction takes place outside Victoria and a person attempts to then bring the firearm into Victoria.

Such a provision will help prevent the bringing into Victoria of illegal and unregistered firearms via any means. It will also help to strengthen sections 95 and 99 of the act, which seek to ensure that any transaction involving the purchase of a firearm under the act takes place in person and through a licensed firearms dealer.

Category E hand guns

The bill will remove some classes of hand guns from the ordinary class of hand guns and create new restrictions on those hand guns that are not appropriate or desirable for possession by ordinary law-abiding firearms owners. The new category E hand gun category will consist of models of hand guns that are prescribed in regulations so that they are not readily available to people who have a hand gun licence. The bill broadly equates those hand guns to the category E long-arm licence category in the act.

A person who wishes to possess one of these hand guns will need to be able to demonstrate a compelling reason why they need to possess one. This will be over and above the genuine reason regime established by the national firearms agreement. The maximum penalties for a breach of the controls on category E hand guns will mostly be the same as those for category E long-arms, which, owing to the nature of these firearms, are the most severe in the Firearms Act. The chief commissioner will also be able to place any conditions on a category E hand gun licence that she or he considers to be appropriate in the circumstances. However, in recognition of the serious risks to public safety posed by hand guns, some of the penalties are significantly increased by the bill.

In creating the new category, the government is not proposing to prohibit the use of hand guns for law enforcement or for accredited international target shooting events such as the Olympic or Commonwealth Games. Of course if a particular model of hand gun is proposed to be allocated to this new licence category it will be subject both to a regulatory impact statement under the Subordinate Legislation Act 1994 and to proper public consultation before it can be included in the new category.

The bill makes a number of technical amendments to give effect to the category E hand gun licence category.

Increasing the penalties for the illegal possession, carriage or use of firearms

Experience has shown that simply apprehending the final buyers and sellers of unregistered firearms has little or no long-term impact on the trade in prohibited firearms. In order to effectively reduce the number of unregistered firearms in circulation, it is necessary to both identify and eradicate the source from which these firearms flow to the black market and to introduce harsh penalties as a deterrent to repeat offending.

The possession, carriage and use of unregistered firearms is a very serious matter because it flies in the face of the national agreement by subverting the licensing and registration system which was the cornerstone of that agreement. Unregistered firearms, and particularly unregistered hand guns, are the firearms of choice of firearms traffickers.

It is because the trade and use of unregistered firearms is so serious that the government is significantly increasing the maximum penalties for possession, carriage and use of unregistered firearms in the act. Possession of an unregistered general category hand gun will attract a maximum penalty of seven years imprisonment, and acquiring or disposing of a general category hand gun other than through a licensed firearms dealer will attract a maximum penalty of five years imprisonment. Where the hand gun is a category E hand gun, unregistered possession will attract a maximum penalty of 14 years imprisonment and acquiring or disposing of the category E hand gun other than through a licensed firearms dealer will attract a maximum penalty of 10 years imprisonment.

In addition to these penalties, any person who is in possession of a trafficable quantity — which is

specified to be 10 or more — of unregistered firearms without having notified the Chief Commissioner of Police that the unregistered firearms require registration will commit an offence and be subject to a maximum penalty of 10 years imprisonment or 1200 penalty units. A person who finances a trafficking operation will face maximum penalties of 600 penalty units or seven years imprisonment. Introducing this provision will take away any protection that the current form of the law may afford to criminals operating behind the scenes in arranging and financing firearms transactions that are contrary to the act.

The bill also introduces a subsequent offence penalty provision to better differentiate between those persons who organise and profit from the trade in unregistered firearms and those who commit one offence against the act in a random manner. The bill provides for the maximum penalty for a subsequent offence to be 10 years imprisonment in the case of a general category hand gun and 17 years imprisonment in the case of a category E hand gun.

Improving recording provisions with respect to firearms

The registration and licensing of firearms can only be effective where the firearm bears a unique identification or serial number and can therefore be effectively monitored by police. A number of firearms are manufactured without serial numbers. This loophole can give traffickers a significant opportunity to divert firearms from the legal firearms market.

To prevent this opportunity the bill includes a provision that will ensure that a registrable firearm that does not bear a unique identification mark cannot be registered until a unique identification mark has been stamped onto the firearm. Engraving a unique identification mark is not considered satisfactory as it can be easily removed for criminal purposes.

The removal of serial numbers makes it almost impossible for police to monitor the movement of firearms or to determine the correct make of the firearm. It is a key technique used by firearms traffickers and criminals in an attempt to avoid detection. The technique lessens the value of a firearm for a genuine collector and makes legal resale extremely difficult.

The present maximum penalty for obliterating a serial number is 240 penalty units or four years imprisonment. To reflect the seriousness of this action, the bill increases the maximum penalty to 600 penalty units or seven years imprisonment.

The bill also makes it an offence to possess a firearm on which the serial number has been defaced or altered. As this is one of the key techniques of the firearms trafficker, it will attract a substantial maximum penalty of 240 penalty units or four years imprisonment.

The bill will also improve the recording provisions with respect to firearms in several other ways.

The bill creates an obligation in the act to ensure that a person must seek the permission of the Chief Commissioner of Police before that person may alter the licence category of a firearm, and a person must advise the Chief Commissioner of Police within seven days if he or she alters the calibre of a firearm within the same licence category. These provisions will apply in all circumstances other than where the alteration of a calibre is provided for in the original manufacture of the firearm, for example, competition hand guns with interchangeable barrels.

The close associates of firearms dealers

The bill will amend the Firearms Act 1996 to introduce a requirement for licensed firearms dealers to disclose their close associates when applying for a firearms dealer licence. The intent of this proposal is to ensure that the holder of a firearms dealer licence is the actual person primarily responsible for the management of the firearms business named in the licence and is not merely a front person. It will ensure that prohibited persons cannot use front people to continue to do what they are prohibited from doing themselves.

It is also designed to strengthen the existing act by ensuring that anyone who has a financial interest in the assets or capital of a firearms dealership or participates in the management of a firearms dealership is fit and proper to do so.

The Firearms Act 1996 currently requires a person with a firearms dealers licence and any person that works in a firearms dealership to provide a full set of their fingerprints with the licence application. It is proposed to extend the requirement to disclose the full name and address of any close associate to requiring a full set of fingerprints from any close associate. This requirement will ensure that the requirement to disclose the people managing and working in a firearms dealership is consistent with the requirements imposed on applicants and any employees of the applicants that currently exist under the act.

The bill provides for the Chief Commissioner of Police to receive information about the close associate held by other law enforcement agencies in Australia or overseas in circumstances where it is not possible to obtain a full

set of that person's fingerprints. It is expected that, in practice, this provision will be utilised only where a full set of fingerprints cannot be obtained from a close associate who is resident in a foreign country.

A person whose close associates are not fit and proper persons should not be able to hold a firearms dealer licence. Where the close associates of a dealer or dealer applicant are not fit and proper persons, the chief commissioner must not issue a firearms dealer licence.

Other trafficking offences

It is proposed to better prevent the manipulation of the licensing and registration system by increasing the scope of trafficking-related activities that are recognised as illegal under Victorian law. The bill also makes a person a prohibited person if the person has been convicted of a conspiracy offence anywhere in Australia within the past 10 years. This means that any person who is imprisoned for an offence against sections 321 or 321A of the Crimes Act 1958 in Victoria, or against an equivalent provision in any other state or territory or the commonwealth, cannot have a firearms licence for 10 years after they are released from prison.

In addition to these provisions, the firearms policy trafficking agreement requires that the commonwealth government introduce a cross-border firearms trafficking offence with a substantial maximum penalty. Together the states and territories and the commonwealth have launched a concerted attack on firearms traffickers.

The bill also proposes a number of other minor and technical amendments to give effect to the policy outlined above.

The amendments will not affect the interests of law-abiding firearms owners and dealers. However, they will enhance community safety by assisting police to better detect firearms traffickers and to deter firearms trafficking.

I commend the bill to the house.

Debate adjourned on motion of Mr WELLS (Wantirna).

Debate adjourned until Thursday, 14 November.

FAIR TRADING (AMENDMENT) BILL

Second reading

Ms CAMPBELL (Minister for Consumer Affairs) — I move:

That this bill be now read a second time.

The Fair Trading Act 1999 is the primary instrument of consumer protection in Victoria. The bill before the house will transform the act into the most advanced consumer protection legislation of any state or territory, and will make for a fairer Victorian marketplace and more confident consumers.

Specifically, it implements recommendations of the Fair Trading Review Reference Panel in its report to me of June 2002. The reference panel was formed in early 2001 when the government ordered a review of the act, primarily to ascertain whether it adequately addressed the needs of vulnerable consumers.

Further, several proposals for amendment of the act had already arisen from various sources. In particular, additional consumer protection measures, based on provisions in other states' Fair Trading Acts, had been proposed.

The reference panel consisted of consumer, industry, academic and legal representatives, and was chaired by the honourable member for Burwood, Bob Stensholt, MP. With the assistance of Consumer Affairs Victoria, the reference panel formulated an issues paper, which went out for public consultation from December 2001 until February 2002.

Submissions were received from the Australian Banking Industry Ombudsman, the Australian Direct Marketing Association, the Brimbank Community Centre, the Business Licensing Authority, Coles Myer Ltd, the consumer affairs division of the commonwealth Treasury, the Consumer Credit Legal Service, the Consumer and Tenancy Advice Service (Northern), the Direct Selling Association of Australia, the Energy and Water Ombudsman Victoria, the Financial and Consumer Rights Council, the Law Institute of Victoria, the Migrant Resource Centre (North West Region), the Office of Fair Trading, Queensland, the Springvale Community Aid and Advice Bureau, Urban Promotions Pty Ltd, and the Victorian Employers Chamber of Commerce and Industry.

The reference panel considered the submissions and produced recommendations for changes to the act in a report presented to me on 18 June 2002.

Most of the reference panel's proposals for amendment of the act have been accepted and are reflected in the bill, and the government records its appreciation for the efforts of the panel and of the honourable member for Burwood in producing the issues paper and the report.

A remarkable consensus was achieved across a broad range of issues.

This bill:

(a) states explicitly that one of the purposes of the act is to protect consumers;

(b) gives new powers for the director of Consumer Affairs Victoria —

to require traders to substantiate product claims, particularly to be used in areas where consumers are vulnerable to quick-fix claims, such as baldness cures, weight-loss solutions, and introduction agencies;

to make public warnings about rogue traders;

to suspend business licences or registrations of rogue traders where the director (or the Business Licensing Authority) believes that there are grounds for disciplinary action and substantial harm will be suffered by consumers if urgent action is not taken;

to obtain cease-trading injunctions against rogue traders;

to issue show cause notices to rogue traders as to why they should be allowed to continue trading, which could be used, for example, if a trader failed to respond or inadequately responded to a substantiation notice; and

to require a person to furnish information, produce documents, or give sworn answers to the director, in line with the power given to the Australian Competition and Consumer Commission under the Trade Practices Act 1974;

(c) increases the maximum penalties for most of the main offences under the act from $60 000 for companies and $24 000 for individuals to $120 000 for companies and $60 000 for individuals, primarily to maintain the ratio, established when the Fair Trading Act commenced in 1999, between Fair Trading Act maxima and the maxima under part 5 of the Trade Practices Act 1974 for analogous offences;

(d) provides for infringement notices for appropriate offences;

(e) prohibits unfair terms in consumer contracts, along the lines of similar United Kingdom legislation but with a further provision enabling the government to prescribe certain unfair terms in general consumer contracts;

(f) requires consumer contracts to be in plain English and enabling the director to apply to the Victorian Civil and Administrative Tribunal for an order prohibiting a trader from using a non-complying provision in its contracts;

(g) provides for a cooling-off right for telemarketing sales, because —

some door-to-door traders have turned to telemarketing to avoid the cooling-off right applicable to those sales;

a telemarketing sale is typically done by credit card during the conversation;

consumers can be put under similar sales pressure in telemarketing as in door-to-door sales;

vulnerable consumers can have as much difficulty resisting a telemarketer as a door-to-door seller;

consumers buy without seeing the product; and

like door-to-door selling, telemarketing is a trader-initiated selling method;

(h) limits the hours of door-to-door selling to 9.00 a.m. to 8.00 p.m. on weekdays, 9.00 a.m. to 5.00 p.m. on Saturdays, and not at all on Sundays and public holidays;

(i) limits the duration of a door-to-door visit to one hour;

(j) requires door-to-door sellers to explain the visit limits to consumers;

(k) expands the cooling-off right to 10 days, and to six months if the mandatory cooling-off notice is not given to consumers;

(l) requires the cooling-off notice to be conspicuously displayed on the contract;

(m) remedies the situation where door-to-door traders pressure vulnerable consumers into accepting unnecessary or unwanted services by prohibiting them from requiring or accepting payment for services performed during the cooling-off period and requiring

them to apply to the tribunal for the imposition of a reasonable charge for services supplied under a cancelled contract, provided they show that no breach of the act was involved in the sale;

(n) extends the door-to-door provisions of the act to include sales seminars where consumers are bussed to the trader's premises by the trader and are therefore in a captive situation.

The bill also amends the act to:

(a) change the name of Consumer and Business Affairs Victoria and the director;

(b) regularise the position of certain product safety ban orders;

(c) streamline the provisions enabling the director to undertake proceedings on behalf of consumers under the act and the Domestic Building Contracts Act 1995;

(d) provide for a sharing of the burden of proof between prosecutor and defendant in pyramid selling scheme prosecutions;

(e) enable Consumer Affairs Victoria inspectors to make applications to the court to retain material seized under a warrant or court order;

(f) improve the provisions of the act regulating lay-by agreements;

(g) close a loophole in the definition of 'unsolicited goods';

(h) require traders to provide receipts and to provide itemised bills on request

(i) broaden the application of the referral selling provisions to all persons involved in promoting the scheme, not just the supplier;

(j) allow people suing traders who have avoided registering their business name to obtain any details of the trader that may be held by Consumer Affairs Victoria;

(k) tighten the exemptions to the anti-blower provisions of the act that require publishers to obtain the prior written consent of advertisers;

(l) tighten the provisions of the act that require traders to insert their names and addresses in their advertisements;

(m) repeal the Small Claims Act 1973 and transfer the special procedures for small claims to the act;

(n) expand the tribunal's powers to resolve fair trading disputes (which are to be renamed 'consumer and trader disputes' to better indicate the broad nature of the jurisdiction) by enabling it to —

(i) declare that a debt is not owing;

(ii) order a party to do or refrain from doing a thing;

(iii) deal with small personal injuries claims attendant on a consumer and trader dispute; and

(iv) enable the tribunal to transfer a consumer and trader dispute to a court;

(o) expand the extra-territorial reach of the act to the maximum extent, particularly so as to catch activities of interstate Internet traders operating into Victoria;

(p) remove unnecessary restrictions on access to the ancillary remedies under the act, and clarify who is a 'person involved in a contravention' of the act, and how the state of mind and the agency of a corporation is established for the purposes of civil proceedings; and

(q) clarify that the director's powers to deal with breaches of the act also extend to other legislation administered by Consumer Affairs Victoria.

Section 85 statements

Clause 70 of the bill amends section 164 of the Fair Trading Act 1999 and states that it is the intention of section 112A to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section.

Clause 55 of the bill inserts a new section 112A into the Fair Trading Act. Section 112A provides that where a consumer who is in dispute with a trader over a small claim makes an application to the tribunal to hear the claim and lodges the amount in dispute with the tribunal, the tribunal has exclusive jurisdiction over the claim and that any proceedings by the trader in a court in respect of the claim be dismissed. This is to ensure

that in repealing the Small Claims Act 1973 and transferring its small claim procedure to the Fair Trading Act the tribunal is retained as the only forum for dealing with claims that would formerly have been made to it under the Small Claims Act 1973. That act also has a procedure for a consumer to lodge the amount in dispute with the tribunal.

The reason why the tribunal is made the only forum able to deal with small claims is because it is intended to have an informal, low-cost procedure to deal with such claims, without, for instance, the expense involved in having legal representation. It is considered critical to keep costs at a minimum to ensure that the benefit of any judgment is not effectively rendered useless by the costs involved. That intention is frustrated if small claims can be taken to the courts.

Clause 81(2) of the bill amends section 15 of the Administrative Law Act 1978 and states that it is the intention of section 4(3) of the Administrative Law Act 1978, as amended by clause 81(1) of the bill to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section.

Clause 81(1) amends section 4(3) of the Administrative Law Act 1978 to provide that limitations on applications for review in that provision will apply to small claims under part 9 of the act in the same way as they applied to small claims under the Small Claims Act 1973, which is to be repealed. Section 4(3) of the Administrative Law Act requires the Supreme Court to refuse an application for review unless it is satisfied that the applicant has made out a prima facie case for relief on the ground that the tribunal had no jurisdiction in relation to the matter, or there had been a denial of natural justice to a party in the proceeding before the tribunal.

The reason why the grounds for review in small claims are limited to a lack of jurisdiction or a denial of natural justice, and why an applicant must make out a prima facie case for review, is to ensure that the benefits obtained by having an informal, low-cost procedure to deal with such claims are not effectively defeated by allowing room for disproportionately expensive applications to the Supreme Court that are used to frighten the other party into giving up its order.

I commend the bill to the house.

Ms McCALL (Frankston) — I would like to have moved an amendment to deal with this forthwith, but despite the long list of people who have been consulted there may be some others who have not been. I am happy to move:

That the debate be now adjourned.

Motion agreed to and debate adjourned.

Debate adjourned until Thursday, 14 November.

SUMMARY OFFENCES (OFFENSIVE BEHAVIOUR) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Summary Offences (Offensive Behaviour) Bill 2002 reflects the government's commitment to deliver more effective sanctions to specifically target the disruptive behaviour of sex tourists in St Kilda.

For many years now street prostitution has been a problem in St Kilda. At any hour of any day, street prostitution can be found in residential streets. Sex tourists — those who travel specifically to St Kilda to cruise the streets and observe, abuse and harass sex workers and residents alike — throw objects from their cars, make obscene gestures, yell abuse, litter, sideswipe parked cars and, occasionally, resort to violence. These illegal acts are reprehensible in any community, but in St Kilda they serve to compound the harms associated with street prostitution.

Street prostitution and the nuisance behaviour associated with it cause considerable distress to members of the Port Phillip community, in addition to causing significant harm to sex workers themselves. In response to community concern about street prostitution in St Kilda, in March 2001 I established the Attorney-General's Street Prostitution Advisory Group. The advisory group was chaired by the Parliamentary Secretary for Justice and member for Richmond, Richard Wynne, MP, and contained representatives from the Liberal and National parties, Victoria Police, the City of Port Phillip, local residents and traders, health, welfare and outreach workers and street sex workers.

Together the advisory group — in consultation with the Port Phillip community — considered ways to address the unacceptable situation in the City of Port Phillip. In its final report released in June 2002, the advisory group provided the government with a range of recommendations, some of which are currently being further developed within the group. Building upon the

work of the advisory group, the government, through this bill, implements one of the key recommendations arising from its final report.

That recommendation proposed the introduction of a new offence that could be enforced by an infringement notice and addressed the offensive and nuisance behaviour of sex tourists. This recommendation arose from the concerns of residents and street sex workers who face regular abuse and harassment from such people.

The bill will introduce a new offence into the Summary Offences Act 1966 that will target people who use offensive words or gestures in a public place from a motor vehicle. The offence will only apply in declared areas. These areas will be declared by the Attorney-General and must be areas where street prostitution is prevalent.

The offence is punishable by an infringement notice, or on-the-spot fine, which may only be issued by Victoria Police and will carry a penalty of $100. However, if a person elects to challenge the charge, it will be heard in the Magistrates Court and they will face a higher maximum penalty of $500.

The offence will be one of strict liability. This means that it will not be necessary to prove that the defendant intended that their words or gestures were offensive. The offence will be committed once the offensive words are uttered or the offensive gesture is committed. The offensive words or gestures must be used or made within the view or hearing of another person in a public place. Furthermore, their words or gestures must be likely to offend a reasonable person.

The new offence is tightly restricted so as to target a specific problem in St Kilda. It will equip Victoria Police with an effective and immediate enforcement tool to be used in policing the nuisance behaviour associated with street prostitution. The bill will reduce the harm caused to residents and street sex workers and help to provide a safer and better environment for those who work and live in St Kilda.

I commend this bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 14 November.

CONFISCATION (AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Victoria's asset confiscation regime should operate to ensure that those who engage in criminal activity do not profit from that activity. The Confiscation Act 1997 replaced the Crimes (Confiscation of Profits) Act 1986 and introduced a new and expanded asset confiscation regime. It is four years since the Confiscation Act commenced operation in July 1998. Despite the breadth and nature of the changes introduced by that act, it has already become apparent that:

some offenders are conducting their criminal activities in such a way as to deliberately avoid confiscation proceedings, and are thereby retaining their criminal profits;

some offenders deliberately hide their criminal profits and police have difficulty in tracking down these profits; and

improvements can be made to the manner in which restrained and confiscated property is managed.

The Confiscation (Amendment) Bill addresses these issues and reflects the government's commitment to strengthen and toughen the Confiscation Act in order to provide a more effective asset confiscation regime for Victoria.

Key features of the bill

I now turn to some of the key aspects of the bill.

The proposed bill will make significant amendments in the following key areas of asset confiscation:

automatic forfeiture;

tainted property substitution declarations;

investigation and information gathering for confiscation proceedings; and

management of seized, restrained and forfeited property.

Changes to automatic forfeiture

If a person is convicted of an offence, they may be subject to forfeiture or automatic forfeiture proceedings under the Confiscation Act.

Forfeiture is available where a person is convicted of any indictable offence or certain summary offences. If the prosecution proves on the balance of probabilities that property is tainted (either used in or derived from the offence), the court can order that the property be forfeited to the state. This forfeiture process ensures that the offender is stripped of any profit made from committing the offence.

However, sometimes the offence of which the person is convicted is just the tip of the iceberg in terms of their criminal activities. For this type of offender, losing the profits from one criminal offence may have little impact because the offender has considerable assets from other criminal activities. The process of automatic forfeiture is effective in dealing with this type of offender.

Where automatic forfeiture applies, all property belonging to the defendant may be subject to automatic forfeiture. This includes any property in which the defendant has an interest, or over which the defendant has effective control, and gifts made by the defendant at any time to any person.

The Director of Public Prosecutions can initiate automatic forfeiture by applying to the court for an order to restrain property within 48 hours of the expected laying of criminal charges. If the defendant is convicted, the restrained property is automatically forfeited to the state 60 days after conviction. Property can be excluded from the restraining order if the defendant can prove on the balance of probabilities that it was lawfully acquired and not derived from unlawful activity (for example, a house inherited by the defendant).

This procedure can be very effective in removing the criminal profits from an offender who is involved in many criminal activities. Currently, automatic forfeiture is available in relation to:

drug trafficking and other offences involving a commercial quantity of drugs (for example, 500 grams of dilute heroin); and

a limited number of dishonesty offences (for example, obtaining property by deception) where the value of the property involved was $100 000 or more.

These thresholds are relatively high compared to other jurisdictions. It is therefore proposed that they be reduced as follows:

drug trafficking involving an automatic forfeiture quantity of drugs (for example, 30 grams of dilute heroin); and

a wide range of dishonesty offences where the value of the property involved was $50 000 or more where one offence is charged, and $75 000 or more where more than one offence is charged.

At the joint parliamentary sitting held on 21 March 2001 Parliament was informed about, and debated, the effects of drugs in our society and additional strategies which could be developed to effectively address the wide-ranging pervasive effects of drugs. The importance of a comprehensive drug strategy was discussed. Whilst there is a clear need for effective prevention, education and treatment strategies and services, it is also essential to stem the supply of drugs.

In 2001 this government introduced new offences for drug trafficking in a large commercial quantity of drugs. That offence carries a maximum penalty of life imprisonment. Whilst maximum penalties are an important component in deterring people from committing crimes, ensuring that offenders will not profit from their crimes is also essential.

Some high-level drug traffickers never personally traffic in a commercial quantity. Instead, they arrange for others to do this for them, making it difficult to convict them of an offence which accurately reflects their criminal activities. However, sometimes they will traffic in smaller amounts personally. In addition, there are drug traffickers who make significant profits by trafficking in amounts that are less than a commercial quantity.

Such offenders are already subject to forfeiture proceedings. However, by lowering the threshold for the application of automatic forfeiture from 500 grams of heroin to 30 grams of heroin, these offenders will now be subject to automatic forfeiture. Victoria Police indicate that trafficking in 30 grams of heroin equates to approximately 300 street-level deals of heroin. Anyone convicted of trafficking in such quantities may now be required to prove that their property was lawfully acquired and was not used for any unlawful purposes. Stripping such offenders of the profits from all of their criminal activity, and not just from the offence of which they have been convicted, will act as a powerful deterrent.

The automatic forfeiture threshold has been set at 30 grams in the case of heroin, rather than 3 grams, for instance, because the new provisions are intended to apply only to those people who are involved in the drug

trade for profit reasons. There are unfortunately many people who are addicted to drugs, and who traffic in drugs simply to support their own addiction. Such people should not be subject to automatic forfeiture. Rather, for them the focus must be upon rehabilitation. Such offenders may be eligible for a drug treatment order from the drug court, which was recently established by this government.

It is essential that the government's comprehensive drug strategy have punitive, deterrent and rehabilitative components which are targeted at the appropriate types of drug traffickers. Only through a strategy of this nature will effective inroads be made into addressing the scourge of drugs in our community.

The automatic forfeiture processes have also been significantly expanded in the areas of white-collar crime. Under the system introduced by the previous government, automatic forfeiture only applied to a few white-collar offences and did not even cover common dishonesty offences like theft.

This government believes that it is important to tackle the whole range of criminals who cause harm in our society in a consistently tough but fair manner. We all know of instances of offenders who prey on people by telling them about a great new investment opportunity only to steal all of their life savings. This causes great distress and economic loss for the victims of these crimes. The bill demonstrates that this government does not treat white-collar criminals any differently from other criminals, and demonstrates this government's respect for the victims of all crimes.

Tainted property substitution declarations

Some offenders are now aware of the provisions of the Confiscation Act as it relates to tainted property. Property that is used in the commission of a crime is tainted property. Tainted property is usually forfeited to the state. For instance, if a bank robber's own car is used in the commission of the bank robbery it will be forfeited to the state. However, where the tainted property is owned by an innocent third person, the property will not be forfeited. Accordingly, if a bank robber steals another person's car and uses that car in the bank robbery, that car will not be forfeited to the state, even though it was used in the commission of the robbery. Instead, the car will be returned to its rightful owner.

It is now increasingly common for offenders to use rental premises to cultivate large hydroponic cannabis crops, rather than using their own premises, which may become subject to forfeiture. In addition, Victoria Police indicate that drug traffickers are more frequently using rental cars to conduct unlawful activities while using their own cars for personal use.

The bill addresses this by creating a new process known as tainted property substitution. Where a court is satisfied that tainted property is not available for forfeiture, the court may order that any property of the same nature or description in which the offender has an interest may be substituted for the actual tainted property. The property that is declared to be substituted for the tainted property is then treated as if it were the tainted property.

The prosecution may then apply for the forfeiture of that property. To ensure that the defendant does not dissipate assets prior to such a declaration being made, a restraining order may be obtained in respect of the property. A restraining order may be made because the property sought to be restrained is property in which the defendant has an interest, for which application will be made for forfeiture (following a substitution declaration by a court). These new provisions will prevent the exploitation of current provisions, which are designed to protect the legitimate interests of third parties.

Investigation and information gathering

Expanding the definition of 'financial institution'

The Confiscation Act currently provides that monitoring orders may be obtained in relation to a financial institution. This enables information to be gathered by police about the transactions that a person is conducting through a particular account. A financial institution is currently defined so that it primarily applies to banks, building societies and credit unions. It is also possible that a person may, for instance, seek to deposit their criminal profits in an account held with the TAB or a casino. By broadening the definition of financial institution to cover these situations, police will be able to apply for monitoring orders in relation to these accounts.

Information notices

Many offenders disperse their criminal profits in different accounts in different financial institutions. The bill will allow police to issue information notices to financial institutions. An information notice will require a financial institution to provide information about whether an individual who is the subject of a confiscation investigation holds an account with that institution, and if so, the balance of that account.

Once this information is obtained, police can determine whether further action should be taken in relation to the

individual concerned. This will provide a powerful investigative tool that will enable confiscation investigations and forfeiture proceedings to be conducted more quickly. A similar power will also be provided to the Asset Confiscation Office in the Department of Justice (as a prescribed person) to enable it to perform its role of enforcing pecuniary penalty orders made under the Confiscation Act.

Section 85 statement

I wish to make a statement under section 85(5) of the Constitution Act 1975 as to the reasons why section 118L, as inserted by clause 29 of the bill, alters or varies section 85 of that act by limiting the jurisdiction of the Supreme Court.

Clause 36 inserts a new subsection (2) in section 145 of the Confiscation Act, which states that it is the intention of section 118L to alter or vary section 85 of the Constitution Act 1975.

Section 118L provides that no civil proceeding lies against a financial institution or an officer, employee or agent of the institution acting in the course of that person's duties, in relation to any action taken or information given by the institution or person in compliance with an information notice. It is the intention of section 118L to limit the jurisdiction of the Supreme Court, so that civil actions cannot be brought against financial institutions that comply with information notices issued by Victoria Police or the Asset Confiscation Office in the Department of Justice (as a prescribed person).

The reason for the limitation of the Supreme Court's jurisdiction is that, without such an immunity, by assisting the state in investigating and enforcing matters under the Confiscation Act, financial institutions and their officers could be exposed to significant civil liability for breach of obligations to account holders, such as the obligation to maintain confidentiality.

Freezing orders

It is now possible to quickly transfer large sums of money overseas and out of reach of law enforcement agencies, without even going into a bank. Under the Confiscation Act, a restraining order is usually used to prevent the suspected proceeds of crime from being dissipated. However, to enable police to act as quickly as possible prior to a suspect learning about a police investigation, the bill gives police the power to apply for a court order to freeze the funds in an account before a restraining order is obtained. The court may attach any conditions it considers appropriate when making the freezing order.

Because of the serious consequences of freezing the funds in a person's account, it is essential that a court make this decision. However, because of the need to act quickly, considerable flexibility has been introduced to enable the court to be informed and its order to take effect as quickly as possible.

An application for a freezing order may be made over the telephone, by fax or by any other method acceptable to the court. A freezing order takes effect immediately upon it being given to a financial institution. Because of the potential impact of a freezing order, it will only last for a period of 72 hours. While a further freezing order on the same account cannot be made, the period of 72 hours may be extended in limited circumstances. Where an application is being made for a restraining order in respect of the money in the account, the freezing order may be extended until the application for the restraining order is determined.

It will be an offence punishable by a fine of up to $120 000 for a financial institution to allow any funds to be withdrawn from a frozen account contrary to the conditions of the freezing order. However, this will not prevent the financial institution from making withdrawals from the account for the purposes of meeting the institution's statutory liabilities.

Declarations

Confiscation proceedings concern property in which a defendant has an interest. However, often other people (such as the defendant's spouse or a bank) will also have an interest in that same property. Currently, police are not always aware of interests in property other than those of the defendant. As a result, if the defendant does not tell the third party that confiscation proceedings which affect that person's property are on foot, and the police do not know about the third party's interests, the proceedings may be conducted without key information.

This can result in third parties only becoming aware of court orders affecting their property when the state takes action to seize or sell the property. Sometimes, a third party will not become aware of confiscation proceedings until the property is forfeited to the state and sold. Whilst the act enables the third party to be compensated in such circumstances, a preferable approach is for the court and the state to be fully informed about these interests prior to any court orders being made.

The bill will require a person served with a restraining order to provide police with the details of every other person that he or she knows has an interest in the

restrained property. Police will then be required to give each identified person notice of the restraining order. This will ensure that innocent third parties with an interest in restrained property are made aware of confiscation processes at an early stage. It will better protect third party interests and allow proceedings to be conducted simultaneously, where appropriate.

Information sharing

There are three agencies in Victoria with primary responsibility for administering the asset confiscation regime — Victoria Police, the asset confiscation office in the Department of Justice (the ACO) and the Director of Public Prosecutions (the DPP). In broad terms, responsibilities are divided between the three agencies along the following lines:

Victoria Police conducts investigations, gathers information and seizes property;

the ACO manages assets and enforces confiscation orders; and

the prosecution (either Victoria Police or the DPP) conducts confiscation proceedings in court (for example, for restraining orders and forfeiture of property).

These three agencies have played these key roles since the new confiscation regime was introduced in July 1998. To ensure that the confiscation regime works as effectively as possible, the bill will allow law enforcement agencies such as Victoria Police and the DPP to provide information to another law enforcement agency such as the ACO and its staff for the purposes of confiscation proceedings.

This will assist the ACO with its function of managing assets and enforcing confiscation orders. For example, information gathered by Victoria Police during an investigation for the purposes of an application for a restraining order may be necessary for the ACO's management of restrained property and the enforcement of forfeiture orders.

Property management

Before it is forfeited to the state, property is often held under the Confiscation Act by virtue of it having been seized under warrant or restrained under a restraining order. Forfeiture proceedings commence after conviction, and automatic forfeiture does not occur until after conviction. It is not uncommon for large drug trafficking cases to take two years to be determined. Until a determination is made, seized and restrained property needs to be managed so that it does not lose its value — either for the owner of the property if the property is ultimately not forfeited, or for the state if the property is forfeited. This can be particularly important in cases where forfeited property is sought to be used to help compensate victims of crime.

The ACO was established to manage seized and restrained assets under the Confiscation Act and to enforce confiscation orders. However, the ACO does not have adequate powers to fulfil these functions. The bill will address this by:

creating a mechanism for the transfer to the ACO of responsibilities in relation to property from law enforcement agencies who are responsible for seized and restrained property;

giving the ACO powers to manage seized and restrained property, for example, to enter premises under warrant to inspect property and arrange for its valuation;

enabling the court to order that work be carried out on restrained property to assist in maintaining the property; and

enabling the Secretary to the Department of Justice to ask a person to produce documents in relation to seized or restrained property to allow appropriate steps to be taken to manage the property (for example, by obtaining adequate insurance for the property).

The bill will also enable the Secretary to the Department of Justice to delegate to the ACO (in connection with its responsibility for property management) the power to request the production of documents in relation to seized or restrained property.

A number of provisions in the bill give powers to a prescribed person. For these purposes, it is intended to prescribe the director of the ACO (and in some cases also the staff of the ACO) on the basis of the ACO's responsibility for property management under the Confiscation Act. The director and staff of the ACO are already prescribed for the purposes of a number of provisions in the act.

These amendments will allow the ACO to manage seized and restrained property on behalf of the state in an accountable, professional and commercial manner and prevent the diminution in value of the property.

The power to seize property

The Confiscation Act currently enables a police officer to seize tainted or forfeited property from any premises under a search warrant. This does not provide police with the power to seize property that is not in or on premises. For instance, a car parked in a street is not on any premises. The bill will enable police to obtain a court order for the seizure of tainted or forfeited property from a public place. This will be another valuable tool for police.

Police often seize property pursuant to a warrant under section 465 of the Crimes Act 1958 or section 81 of the Drugs, Poisons and Controlled Substances Act 1981. These warrants are issued by the courts to enable police to seize property that may provide evidence of the commission of a crime. If police seize this property and it is held for the purposes of providing evidence, that property cannot be held once it is no longer required for such purposes.

However, sometimes the seized property is also required for confiscation proceedings. Police are then confronted with the situation of either having to apply for a warrant under the Confiscation Act to seize property which is already in police possession so that it can be held under the authority of that act or returning the property to the defendant.

The bill addresses this situation by providing police with the power to apply to the court for a direction or a declaration that property seized under section 465 of the Crimes Act or section 81 of the Drugs, Poisons and Controlled Substances Act may be held as if it had been seized under section 79 of the Confiscation Act. To provide maximum flexibility a court may make this direction or declaration either:

at the time a warrant is issued under the Crimes Act or the Drugs, Poisons and Controlled Substances Act; or

at the time police return to court for directions concerning property seized under the Crimes Act or the Drugs, Poisons and Controlled Substances Act; or

within seven days of the property no longer being required for evidentiary purposes.

Conclusion

This bill introduces significant reforms to the confiscation regime in this state. It provides significant new powers and simplifies procedures to assist police in ensuring that confiscation is a powerful deterrent to those considering engaging in criminal activities and to strip the criminal profits obtained by those who are not deterred from the outset. It will ensure that those responsible for crime, and particularly drug traffickers, are dealt with severely.

It is another important and substantial step in this government's commitment to provide a safer Victoria through tough new confiscation powers.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 14 November.

PERSONAL INJURIES PROCEDURES BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill is the next step in the government's response to the problems in the insurance industry that have the potential to impact upon the health and wellbeing of the Victorian economy and community.

The government has already taken steps to ensure that insurance is available and affordable to all Victorians. The government passed the Wrongs and Other Acts (Public Liability Insurance Reform) Act 2002 on 16 October 2002. That act will tackle insurance problems by using a variety of policy instruments to pursue economic and social objectives. The government is also amending the Limitation of Actions Act 1958 to reduce the limitations period from six to three years in claims for personal injury by competent adults.

The bill I am introducing today goes further in reducing the legal costs associated with personal injury and death claims by introducing an early dispute resolution process which will require the parties to clarify the issues and think closely about the merit of their claim and defence prior to the issue of legal proceedings.

This bill requires that before legal proceedings are commenced, the parties must:

provide a notice of claim and response which outlines the particulars of claim and any possible defence;

be subject to a suspension of the limitations period whilst parties are engaged in the pre-litigation procedures;

exchange all information and documents relating to the claim;

engage in a compulsory conference to clarify issues and attempt to resolve the matter; and

exchange mandatory offers of settlement.

In addition to these pre-litigation procedures, the parties will be subject to costs thresholds which restrict the legal costs recoverable in a proceeding.

There are certain time frames within which the parties must comply with these procedures.

These measures promote the early resolution of claims by requiring the parties to consider their claim and possible defence closely in order to assess whether settlement would be a more cost-effective solution and to the benefit of the parties. Parties will be required to undertake these procedures and will be unable to issue legal proceedings without certifying that they have complied with these procedures.

The reason for requiring early notification of claims and exchange of information is to ensure that respondents and insurers have greater certainty as to their future level of risk. This promotes greater accuracy in the premium-setting process. Furthermore, if early notification of claim is not required, respondents and insurers may be unaware of potential claims for several years, which may make it difficult to defend any proceedings.

Pre-litigation procedures which include cost thresholds are an added incentive to settle a claim. Costs thresholds operate in a similar manner to offers of compromise in that costs do not automatically go to a successful claimant if he or she has previously rejected a more generous offer of settlement. Costs thresholds are a de facto threshold in that they do not prevent those with minor injuries from pursuing a claim against those whose negligence caused their injury; rather they act as a disincentive to issuing proceedings to those who do not accept reasonable offers of settlement.

In effect the bill negates the automatic assumption of an award of costs to a successful claimant where an award is less than the mandatory final offer made to them by the respondent. This only affects awards of damages up to $50 000. Most claims for personal injuries or death are for less than $50 000. The costs thresholds are two tiered. Where damages awarded are less than $30 000, a claimant cannot recover costs from the defendant as a matter of course, and a maximum of $2500 may be awarded for legal costs where the claim is between $30 000 and $50 000.

This bill enacts reforms which balance the needs of claimants and those of defendants and insurers. It encourages parties to a claim to closely consider the merit of their claim and the prospects of success prior to incurring the expenses associated with issuing legal proceedings. It meets the government's commitments to act in the interests of the people of Victoria and ensures continuity and certainty of insurance cover.

I commend the bill to the house.

Debate adjourned on motion of Mr PERTON (Doncaster).

Debate adjourned until Thursday, 14 November.

Remaining business postponed on motion of Mr HULLS (Attorney-General).

ADJOURNMENT

Mr HULLS (Attorney-General) — I move:

That the house do now adjourn.

Planning: activity centres review

Ms BURKE (Prahran) — I refer the Minister for Planning to the report of the review of activity centres, which studied policy and centres of activity in metropolitan Melbourne and Geelong. The key concerns were conserving land and encouraging less dependence on cars, changing economic, social and environmental forces and some changes in population.

Activity centre policy is really no stranger to the electorate of Prahran. It is a tool that has been used for many years in Chapel Street. I am concerned because the electorate I serve, Prahran, is the smallest electorate in the state, and the population density is fairly evident to anyone who travels down Chapel Street, Malvern Road or even Toorak Road. The high-rises in the ministry of housing areas and on the Como site, the old Jack Chia site, are examples of how we need to move on from the activity centres and into what is really needed in the area. It lacks open space because of the population density, and that has not been taken into consideration as much as it should. It certainly does not need any more high-rise buildings.

The other area of great concern is the need for well-planned and well-designed aged care facilities.

Every suburb in the state is going to need an aged care facility, and they work very well in activity centres. But the problem is that this activity centre review has not recognised that the area of South Yarra and Prahran, which it talks about, and even Toorak Village, does not need more high-rises; it does not need more entertainment centres. They are clashing with the area. We now need to improve the quality of life and have mixes of land use that actually work well together.

I call on the minister not only to look at the activity centres of the future but also to consider the activity centres that have been settled for some time. Activity centres in Victoria have been talked about for 50 years. Prahran, South Yarra and Toorak do not need to be intense high-rise activity centres for the future. The quality and ambience of those areas should be improved for the people who live there. The areas that have moved from industrial to residential zoning need more beautification and more avenues of trees to take away the concrete look. They are the issues that are important. This study has not looked at the real issues of what those communities will need in the future. I ask the minister to re-evaluate it.

Road safety: rural and regional Victoria

Ms DUNCAN (Gisborne) — I ask the Minister for Transport to take action to ensure that rural Victoria sees the same sorts of benefits in terms of road safety and the reduction in the road toll that metropolitan Melbourne has seen. In recent times a number of strategies have been introduced by the Bracks government to try to bring down the road toll, but equally importantly to decrease road injury and the severity of injuries that are sustained. There have been some dramatic improvements in that area as a result of a number of strategies introduced by the government.

In terms of the road toll, for example, in the past 12 months there has been a dramatic reduction in the number of deaths on roads in metropolitan Melbourne. To mid-October the level of deaths was at a record low, with a 24 per cent reduction compared with the corresponding period in 2001. That is a fabulous outcome. There has also been a reduction in the number of pedestrian deaths and injuries as a result of some of the Bracks government's strategies.

Unfortunately we are not seeing the same sorts of reductions in the road toll in country Victoria that we have seen around metropolitan Melbourne. Certainly in my area over the past few years there have been some horrendous accidents on our roads, and honourable members would be familiar with many of them. In many ways the problems have been addressed in rural Victoria. In my electorate there has been a dramatic increase in black spot funding, and that has been of great benefit as well. There is a particularly nasty bridge in my electorate, and I am pleased to say that the government has allocated funds for it.

Honourable members interjecting.

Ms DUNCAN — We do not need our Liberal candidate to provide the funds. This government has already provided the funds for that project. It is a particularly bad section of road, and I am pleased with the amount of money the government has spent on black spot funding in my electorate. I ask that the Bracks government remain diligent on this issue. The 50 kilometre speed — —

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

Water: Goulburn Valley allocations

Mr KILGOUR (Shepparton) — I refer the Minister for Environment and Conservation to 6800 water customers, particularly in the Goulburn Valley, who will not be receiving their full allocation of water this season, despite being billed $32 million for that water. At the moment there is a 1-in-100-year drought in the Goulburn Valley and in the Wimmera–Mallee system. Never before in the history of the authority has it delivered less than full water entitlements, even though in the last few years it has delivered only 100 per cent as against previous years of up to 200 per cent of water. This year's allocation now stands at 47 per cent. At best it might creep up to somewhere near 60 per cent if we happen to have unusually high summer rains over December, January or February.

It really is crunch time for families. They have reduced their cow numbers on dairy farms; they have paid big money for increasingly scarce fodder; and they are searching for virtually non-existent agistment in southern Victoria. The fruit orchardists also have problems. They will be growing crops and have almost half-grown fruit on the trees when they will be running out of water.

I call on the minister to ensure these people are not forgotten. I call on the minister to ensure that the government will pick up the last payment of 25 per cent of water rates, which will amount to around $8 million in the Goulburn system, and as a matter of equity it would need to be around $2.5 million — —

Ms Allen interjected.

Mr KILGOUR — The honourable member for Benalla laughs; isn't that typical! Of course, the $10 million absolutely pales into insignificance when compared with the millions of dollars being splashed around by the Bracks government: $77 million for the Melbourne Cricket Ground — what for? To satisfy the building unions. What about the Eastern Freeway, the Scoresby freeway and the Pakenham bypass? It can spend money on them. So what about the 6800 customers who will have to pay for water they do not receive? The minister should ensure that these people are not left high and dry without water in their tanks and having to pay for water they have not received. I would appreciate it if the minister could take a good look into this situation and ensure that these irrigators are looked after.

While I am on my feet, given that we may have an announcement on Monday that ensures I will not speak in this Parliament again, could I take this opportunity to thank everyone for their friendship and camaraderie. I have spent a very interesting and enjoyable 11 years in this Parliament, and I wish everybody all the very best for the coming election, which I believe will be announced next week.

I thank you, Mr Speaker, for the part you have played in this Parliament.

Multicultural affairs: crime prevention strategies

Ms BARKER (Oakleigh) — I wish to raise an issue regarding our culturally diverse communities and their opportunity to participate in crime prevention and deal with emergency calls and incidents of crime. I ask the Minister assisting the Premier on Multicultural Affairs to take action to ensure that these opportunities are made available to these communities.

Many honourable members will know that in the Oakleigh electorate I am proud to represent a large Greek community, many of whom have lived in our area for a considerable period of time. They have, for example, established the Oakleigh Soccer Club, which this year will celebrate its 30th anniversary. I am also pleased to represent a large Italian community and a very rapidly growing Russian community. Also based in the electorate of Oakleigh is the South Central Migrant Resource Centre — —

An Honourable Member — Where are the Irish?

Ms BARKER — I am Irish, so shut up!

The SPEAKER — Order! The honourable member for Oakleigh should refrain from responding to interjections.

Ms BARKER — I do apologise, Mr Speaker. The South Central Migrant Resource Centre does excellent work, not only with communities that have been there for long time but also with many of the new communities coming to Australia. We also have, as do many other honourable members, Neighbourhood Watch, which is still strong and active.

However, in our area we find that the older members of the Greek and Italian communities and other migrant communities do not interact with Neighbourhood Watch. I understand that is because many of those who are older read only in their own language. However, these people actively participate in their communities, so I believe they need the opportunity to be involved in crime prevention strategies such as Neighbourhood Watch.

The other activity in the area is the senior citizens register, which is coordinated by the Oakleigh police. It was set up initially by Senior Sergeant Mike Jenkins, a fantastic police officer, and it is run by volunteers now that Senior Constable June Plant has retired. The ability for Neighbourhood Watch to tap into the information these people need to register with this important service in languages they understand would give them a better opportunity to interact.

The other thing we all know is that when in an emergency you have to ring 000 it is a very distressing time, but there is still a procedure to follow. For newly arrived communities, particularly for older people who do not have a great grasp of the English language and who are in an emergency situation — —

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

Schools: speed zones

Mr DIXON (Dromana) — I raise a matter with the Minister for Transport regarding school speed zones. Will the minister implement the findings of the review of school speed zones that he set up a couple of years ago? Currently Victoria takes an unbelievably piecemeal approach to speed zones. You can drive past schools between 3 o'clock and 4 o'clock in the afternoon at 40, 50, 60, 70, 90 or even 100 kilometres per hour. In fact in my electorate there is a school on the intersection of two 100-kilometre-an-hour roads, and other than a warning sign that says 'School ahead' there is no sign requiring a reduction in speed at any

time, day or night. It is that which has prompted me to start pushing for school speed zones

I have been raising this matter for a couple of years now, and each time I have written to the Minister for Transport, especially regarding Boneo Primary School and recently two other schools in my electorate on busy 60-kilometre-per-hour roads, he has eventually written back and said that a review of school speed zones is going on and that no individual decisions will be made until the whole review is completed. But it has been going for two years, and I think that is long enough. A safe speed outside a school depends on the lobbying power of the local council, the local member or the school council, so it is a ludicrous situation. As I said, it is piecemeal, and because it is not consistent it is therefore dangerous.

When I was on the all-party Road Safety Committee we went up to south-east Queensland, which has a very stringent and consistent policy on school speed zones. It has consistent signage and consistent hours, and everyone knows what the rules and regulations are outside schools. That is what we should have in Victoria, and I do not think it should be too hard to achieve. We are not saying that every school should have a limit of 40 kilometres per hour, specially if the school is in a 100-kilometre-per-hour zone. Perhaps that ought to be reduced to 60 kilometres per hour, but it should be consistent. Certainly the 60-kilometre zones should be reduced down to 40 kilometres per hour during school hours, when the traffic is very busy.

That has worked very well in that area, and I know it works well in some municipalities in New South Wales. What we really need is a statewide approach to this so people know that between 3 o'clock and 4 o'clock the speed zone outside a school will be the same everywhere. I ask the minister to implement these findings. It should not have taken two years to do it. It is not too hard, and the safety of our children is at risk here. Finally, Mr Speaker, my parting words to you are, 'Καλη τυχη' [*Good luck*].

Tourism: Benalla

Ms ALLEN (Benalla) — I raise with the Minister for Tourism the very important issue of the effect of the drought on tourism businesses in Victoria, particularly in my electorate. I want the minister to take action to ensure that tourism operators not only in my electorate but right across country Victoria are able to continue to promote their businesses during this time of drought.

Tourist operators around Lake Eildon have been doing it very tough because of the drought and the lack of water in the lake, particularly around the Mansfield–Bonnie Doon side. Caravan parks, tour operators and houseboat operators have all felt the effects of the dwindling number of tourists in the area over spring as the drought continues and the level of the lake continues to fall. However, there are many other things to do and see around these areas, including visiting some of the best wineries and bed and breakfasts in the state. There are many adventure tourism activities to participate in, including abseiling, horseriding and hot-air ballooning.

Tomorrow evening I will be opening the Mountain Country Festival in Mansfield, which will continue over the weekend, including a grand parade on Saturday morning through the main street. It will be a very exciting weekend, with many activities, including the market, to participate in. On the Eildon side of the lake there are still 32 kilometres of watery expanse for houseboating and water skiing. It is vitally important to get a positive message out to all Victorians urging them to take their holidays in these areas in order to help these operators continue to exist in viable tourist destinations. I urge the minister to take action to ensure that the tourism operators around Eildon and Mansfield are able to attract tourists — local or from interstate or overseas — to one of the most beautiful areas in the state, with its myriad wonderful tourism experiences.

I would also like to take this opportunity to thank Mr Speaker, Alexander Andrianopoulos, for all his help, guidance and understanding during the past two and a half years. I wish him well with his future career.

Melbourne 2030 strategy

Mr LEIGH (Mordialloc) — I raise with the Minister for Planning what the government proposes to do in the southern suburbs under the Melbourne 2030 strategy of the Bracks administration. The government proposes to turn us into St Kilda or, in fact, worse, inner Melbourne — like Brunswick, or wherever, as Mr Mike Hild said. Tonight I am aware that it is proposed to put the Nylex site in Mentone up for sale. I understand that some individuals have already contacted the council expressing interest in applying for a six-storey development on that particular site. So local residents understand the height I am talking about, that is two storeys higher than the current four-storey tax building which is up the road in Cheltenham.

This is the beginning of a monumental disaster for the Nylex site. The government is proposing similar arrangements for the Mordialloc railway station area, the spastic centre site in the electorate of the honourable member for Carrum and a number of other spots. All our railway stations are under threat by this because if

you put four or five storeys up you get sea views, and that means many millions of dollars to developers. It does not matter whether you happen to be Liberal or Labor in our area; in the past I have always supported nothing other than two-storey development on the foreshore. That continues to be my view of what should happen to our area, and I certainly do not support this nutty concept that is being proposed.

The residents of the Mentone area who now face the sale of the Nylex site have my absolute assurance that I will be doing everything I can to take the matter up with the government. I am tonight calling on the Minister for Planning — that part-time minister — to get into this house in the government's final days — final because of a desperate Premier who wants to run to the people to escape his destiny, which is to be out of this place. I ask her to tell the people of the southern suburbs that she does not intend to inflict St Kilda on us in the manner in which she has proposed. I am not unhappy about how they live in St Kilda. Good luck to them! However, we did not move to the southern suburbs to live like that. As Mr Mike Hild said, 'We would face the same pain as the inner suburbs of Melbourne'. Well, I do not want the pain. I do not want the high-rise. Neither does the Liberal Party.

I call on that lazy Minister for Planning who cannot make decisions to come into the house tonight and put the position of the government. Is she proposing to destroy our way of life? Is she?

An Honourable Member — The answer is yes!

Mr LEIGH — What a disgrace! All I can say is that from my point of view, if the election is called, the sooner we get people like Kevin Chamberlin in here representing the real Labor Party rather than those goons on that side of the chamber, the better off we will all be.

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

Geelong: Pako Festa

Mr TREZISE (Geelong) — I raise an issue for the action of the Minister assisting the Premier on Multicultural Affairs. It relates to the Pako Festa. For the information of the house the Pako Festa is a magnificent, community-based festival that celebrates Geelong as a multicultural community. It was first held in Geelong in 1983 and hence next year, 2003, will be its 21st anniversary. The festa will be commencing on 1 February 2003 and will be expanded out to a three-week festival.

Such a festa, especially over such an extended period of time requires funding, and therefore the action I am seeking is for the minister to consider the provision of further funding for this great community event. The Victorian Multicultural Commission has committed $5000 to next year's festa. Whilst the City of Greater Geelong is contributing $60 000, around half of that is taken up with fees and costs that go to the council and also public liability insurance. As can be seen very clearly, to run a festival such as the Pako Festa requires significant funding.

As far as I am concerned, and I am sure the other honourable members who represent the Geelong area, including the honourable member for South Barwon, who is listening intently about the Pako Festa, will understand how much this funding is required. The Pako Festa promotes a sense of shared purpose and cultural and artistic diversity within the Geelong community. I was very pleased earlier this year that the Premier, on a visit to Geelong, recognised the importance of the Pako Festa by first launching the Pako Festa 2003. We had a great afternoon and all the groups and organisations involved enjoyed the festivities. From my recollection the minister led the Pako Festa 2002.

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

Members: valedictions

Mr SMITH (Glen Waverley) — I call on the Premier to allocate time for retiring members to make valedictory observations. It has been an honour and a great privilege to represent the constituents of Glen Waverley, and the local Glen Waverley Liberal organisation whose representative I have been for the past 17½ years.

An Honourable Member — And a good one, too!

Mr SMITH — The seat was abolished in the latest redistribution so I have the added distinction of being the only member ever for Glen Waverley. I thank you, Mr Speaker, and all honourable members for their comradeship over this very lengthy period. I would also like to thank the attendants, particularly Warren Smith; the library staff, particularly Bruce Davidson; the dining room staff, including John Isherwood, Linda Bowman-Powell and Curtis Sinfield; and the Joint Services section, including Steven Aird and Graeme Spurr, Hilton Barr and Vittoria Novella, for the incredible support we have had over that period — and finally, my wife, Sarah, and my family.

I wish members well for the future, particularly Robert Doyle and the Liberal Party, and I trust that God whom we acknowledge through the Holy Trinity will bring great wisdom to honourable members and the institution of Parliament in order to give better democratic government to all people. I will miss being in this place. I will miss the comradeship — —

Mr Nardella — And we'll miss you!

Mr SMITH — I'll bet! I hope I can contribute to the state in other ways, no matter how small. I wish I had more time. Again I urge the Premier to ensure that retiring members do get a chance to make some observations on the place. When you have been in this place for a long time there are certain phases you will have gone through. You come in with great expectations, then you suddenly get brought down to earth as to what you really are — you are part of a team, and the team effort is really what it has all been about. As I look around I see the various colleagues who are here with us at the moment, and think of those who have gone before and into other endeavours. But the main thing is that from a place like this there is an enrichment, a privilege, that few in the community are able to have.

You, Mr Speaker, and I came into Parliament at the same time, as did the honourable member for Mornington. I mention other colleagues such as the honourable member for Pakenham, the honourable member for Bellarine and my neighbour, the honourable member for Forest Hill. We have all had a close relationship in that period, and it is something we are going to miss. We have been lucky to have had the opportunity to have ever been here.

Sir, I wish you well. Γεια σου! [*Goodbye!*] And good luck to everyone.

Honourable Members — Hear, hear!

Vicroads: land sales

Mrs MADDIGAN (Essendon) — I wish to raise a matter with the Minister for Transport. I would like him to ask Vicroads to investigate its procedures for selling off excess land, and particularly to take into account special circumstances when arriving at an equitable price. I raise this matter in relation to two circumstances which have come my way fairly recently in my electorate.

The first is in connection with residents at 51–53 Streldon Avenue, Strathmore. Vicroads compulsorily acquired land from the back of their properties in 1966. They have been maintaining that property, and in fact it has been fenced almost since that time. The land was originally taken for a road reservation, but Vicroads has now declared that that road will not go ahead. The residents are therefore keen to buy back that land, to be able to incorporate it into their land and build some extensions on their house.

In their discussions Vicroads has agreed to sell them the land but has put a price of $90 000 on it. This seems to be most unjust. As I said, the land was compulsorily acquired from the residents in 1966 — they did not want to sell it. It seems to me that Vicroads has done very nicely from the process. It compulsorily acquired the land for $1500, I think, in 1966. It has not had to maintain it since that time — the residents have. Now Vicroads has come up with the idea of selling it back to them for $90 000. It seems to me that Vicroads does very nicely, but the poor residents are treated quite harshly.

In discussing these sorts of matters with Vicroads it seems to have a very strong policy under which it is unwilling to look at special circumstances such as these. If Vicroads has compulsorily acquired your land against your wishes, it should be a little more generous in coming to an agreement so that you can reacquire that land when Vicroads no longer wants it.

A further instance has come my way fairly recently. There is another piece of Vicroads land very close to the front of a woman's house in North Strathmore. This land is very small and Vicroads is happy to sell it, but it says it is big enough for a housing block and therefore it wants to sell it to her at a normal retail price. However, officers of Moonee Valley City Council have told her that in their view it is too small and they would never grant a planning permit to put a house on it. For Vicroads to claim that a commercial rate has to be paid — which is again up around the $100 000 mark — for land on which no-one can build a house seems to me to once again show that Vicroads is just blindly following policy without taking into account special circumstances.

I ask the minister if he can ask the staff of Vicroads to look at its policies, particularly in relation to the sorts of situations I have outlined, so that people can be dealt with more fairly in relation to excess land that Vicroads no longer requires.

Responses

Mr PANDAZOPOULOS (Minister for Gaming) — The honourable member for Benalla raised with me the wonderful tourism region around Lake Eildon and the high country around Mansfield out to

Bright. She highlighted the effects the drought and the very dry weather conditions for a number of years now have had on that local area. She also pointed out that irrespective of that there are great things to do with tourism in that region. She is absolutely right. If an area is drought affected it does not mean you cannot have a great bush walk in the high country or go horseriding, white water rafting, fishing or four-wheel driving.

Dr Napthine interjected.

Mr PANDAZOPOULOS — No. Here we have the shadow minister for rural and regional development saying, 'You can't go white water rafting in Victoria'. Of course you can! He should get out and about and find out.

Dr Napthine interjected.

Mr PANDAZOPOULOS — No, there are some places in Victoria where you can actually go white water rafting. I ask him to go out there and have a look. No wonder they are irrelevant!

You can also go four-wheel driving around the great state parks around Lake Eildon. As we heard from Lake Eildon tourism operators, you can still ski nonstop for 31 kilometres on Lake Eildon.

I thank the honourable member for raising the issue. I also thank the honourable member for being a member of the tourism drought action group, along with representatives of the tourism industry and the Parliamentary Secretary for Tourism, Sport and the Commonwealth Games. They are planning now because one-quarter of our state is drought affected. The message we are sending is that people can still visit those areas because there are still wonderful tourism things to do. I thank her very much for that work.

She is also aware that the government has announced a $750 000 package to assist in promoting tourism right through the summer in the drought-affected areas from Lake Eildon all the way to Bendigo and out to Mildura to encourage visitors. Every $82 000 tourists spend in a local area preserves or creates one job. That is the message we are wanting to send. If the farmer is not out there putting money through the petrol station or the bakery, hopefully the visitor is. That is the message we are sending.

The honourable member for Benalla is also aware that recently the government launched a 'Great Lake Eildon' tourism ad. Honourable members will be seeing it on TV very soon. The state government initially contributed $50 000 but has increased that by another $15 000 from the tourism drought action money. So the state government contribution to the TV advertising campaign promoting Lake Eildon is $65 000. I thank the Lake Eildon tourism industry for its great work in this area.

The honourable member for Benalla also highlighted adventure tourism. Honourable members know adventure tourism has been doing it tough because of the insurance companies. I am pleased to let the honourable member know that following representations from the Victorian Tourism Operators Association the government is contributing a $60 000 campaign that will flow through right to March to encourage people to participate in the wonderful adventure tourism activities right across our region. Of course, her region is the adventure tourism capital of Victoria. I thank the honourable member very much for raising that issue.

The honourable member for Oakleigh raised a matter for me also, as the Minister assisting the Premier on Multicultural Affairs. She referred to some very important issues relating to the wonderful work the police and the community are doing in Oakleigh and the City of Monash area in crime prevention. I can tell the honourable member that I am very much aware of the wonderful work the police are doing in the Oakleigh area, which has been boosted by the additional resources that the government has offered.

As she said, it is a very culturally diverse area. In the last couple of years, through a joint project with Crime Prevention Victoria, the Victorian Multicultural Commission has jointly funded work on how we can involve our ethnic communities more in crime prevention issues. The multicultural liaison units attached to each region have been doing wonderful work creating links and contacts with our culturally diverse communities in the areas they are located in.

Great opportunities arise as a result of that for involving our culturally diverse community in more crime prevention programs. The research has highlighted a few things, including the fact that many ethnic communities are not very well aware of how the 000 telephone service operates, which is a real issue. I am pleased to announce to the honourable member for Oakleigh that we are doing more in that area to ensure that we have a better profile and greater awareness among communities whose members do not speak English of how to use the 000 service, not only for emergencies but also to report crimes.

I am also pleased to announce to the honourable member for Oakleigh that in a partnership with Adult Multicultural Education Services we are putting

together a package for newly arrived members of ethnic communities, particularly the smaller ethnic communities, through which it will be possible to work with them on arrival as part of the settlement process across Victoria. It will be an opportunity to make them better aware of how they can be involved in crime prevention, that they should not fear the wonderful work the police do and that they are able to report crime.

I am also very pleased to make another announcement to the honourable member for Oakleigh on a matter on which I know she has been lobbying very hard for her community, as has the honourable member for Tullamarine, who has raised it with me in the past. The government, through the Victorian Multicultural Commission and Crime Prevention Victoria, is funding three pilot projects to expand Neighbourhood Watch projects with three communities. The Greek community in the City of Monash will work with the council, Neighbourhood Watch programs and the police to develop a program in the Greek community. The program may be extended to the entire Greek community across Victoria.

I am also pleased to announce to the house that pilot Neighbourhood Watch projects will commence in the City of Hume with the Turkish community and in the City of Darebin with the Arabic community. I thank honourable members for their active involvement. There are great opportunities to expand Neighbourhood Watch programs.

The honourable member for Prahran raised an issue for the Minister for Planning. I note the honourable member for Prahran is not present in the chamber, but I will refer it to the minister.

Mr Leigh — On a point of order, Mr Speaker, the minister is making scurrilous comments about the honourable member for Prahran when ministers do not even bother to come into the chamber. Why would honourable members bother to be present in the chamber when ministers do not attend. No wonder the honourable member for Prahran does not want to participate when the minister is not available. The honourable member has every right to be disgusted.

The SPEAKER — Order! The honourable member for Mordialloc has, once again, taken a point of order when he is attempting to make a point in debate. There is no point of order.

Mr PANDAZOPOULOS — I was reminded by the honourable member for Geelong that he raised a matter for me as the Minister assisting the Premier on Multicultural Affairs regarding the Pako Festa. I am aware of the great work of the Pako Festa. In my capacity as the Minister for Tourism and in my multicultural affairs portfolio I have been working to help grow the festival so that it is not only a great Geelong festival, celebrating Geelong's cultural diversity, but also a tourism event. The festival has received funding in the past from Tourism Victoria. I know it has an application in at the moment and I know it has received support in the past from the Victorian Multicultural Commission which has an expanded major events program.

I am pleased to announce to the house that as it is the 21st birthday of the Pako Festa there is a great opportunity to get the event to grow to its next wonderful stage. I am pleased to announce that the festival's application to the Community Support Fund has been successful and that it will receive a grant of $33 900. Of course it is income derived from gambling revenue that will go to support the 21st anniversary of the Pako Festa. I congratulate the communities, including the Ethnic Community Council of Geelong, on the wonderful work they have been doing over so many years. They know they have received more support from this government through government members of Parliament representing Geelong than the community has ever received under previous governments.

I note the festival is seeking a $50 000 grant from the City of Greater Geelong. I am almost certain that the city will continue to support the event and provide that funding. I thank the honourable member for Geelong and other government members representing Geelong for their wonderful work in lobbying for the Pako Festa and for organising the Premier to go down and visit Geelong to hear first hand of the Community Support Fund application.

The honourable member for Gisborne raised a matter for the Minister for Transport. I will refer the matter to the minister.

Mr Leigh — On a point of order, Mr Speaker, this minister is totally unfair. He has attacked the honourable member for Prahran for not being present in the chamber, but when the honourable member for Gisborne is not present he does not say anything. What is going on!

The SPEAKER — Order! I again remind the honourable member for Mordialloc that he has not raised a point of order. The minister, concluding his answer.

Mr Thompson — On a point of order, Mr Speaker, under standing order 256, concerning the lack of opportunity for the gratias felicitas et vale principle, a number of honourable members in the chamber have been referred to, but people such as the honourable member for Bellarine and the parliamentary librarian, Bruce Davidson, who have served this chamber magnificently over the years, have not had any statement made in the house about their parliamentary service, and it is regrettable that this is the case. I refer also to Johanna in the public gallery, who does not have the opportunity to advance this particular proposition.

The SPEAKER — Order! Under standing order 256(a) I do not uphold the point of order. The minister, concluding his answer.

Mr PANDAZOPOULOS — I am trying to conclude! The honourable member for Shepparton raised a matter for the Minister for Environment and Conservation, and I will pass that on to the minister.

The honourable member for Dromana raised a matter for the Minister for Transport, and I will refer the matter to the minister.

The honourable member for Mordialloc raised a matter for the Minister for Planning, and I will refer that to the minister.

The honourable member for Glen Waverley raised a matter for the Premier, and I will refer that to him. I thank him for his contribution.

The honourable member for Essendon raised a matter for the Minister for Transport, and I will refer that to the minister.

I wish honourable members well during Melbourne Cup week, and I will see them next Wednesday, Thursday and Friday!

The SPEAKER — Order! It has been a most interesting adjournment debate. The Chair has allowed some leniency regarding the matters raised by honourable members. In that spirit, and in keeping with the Greek theme for the day, I say to all members of the house, 'Ευχαριστώ!' [*Thank you!*].

Motion agreed to.

House adjourned 6.23 p.m.