PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Wednesday, 16 November 2005

(extract from Book 8)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

The ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier, Minister for Environment, Minister for Water and Minister for Victorian Communities	The Hon. J. W. Thwaites, MP
Minister for Finance, Minister for Major Projects and Minister for WorkCover and the TAC	The Hon. J. Lenders, MLC
Minister for Education Services and Minister for Employment and Youth Affairs	The Hon. J. M. Allan, MP
Minister for Transport	The Hon. P. Batchelor, MP
Minister for Local Government and Minister for Housing	The Hon. C. C. Broad, MLC
Treasurer, Minister for Innovation and Minister for State and Regional Development	The Hon. J. M. Brumby, MP
Minister for Agriculture	The Hon. R. G. Cameron, MP
Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Community Services and Minister for Children	The Hon. S. M. Garbutt, MP
Minister for Manufacturing and Export, Minister for Financial Services and Minister for Small Business	The Hon. A. Haermeyer, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Planning	The Hon. R. J. Hulls, MP
Minister for Aged Care and Minister for Aboriginal Affairs	The Hon. Gavin Jennings, MLC
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Energy Industries and Minister for Resources	The Hon. T. C. Theophanous, MLC
Minister for Consumer Affairs and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Assembly committees

Privileges Committee — Mr Cooper, Mr Herbert, Mr Honeywood, Ms Lindell, Mr Lupton, Mr Maughan, Mr Nardella, Mr Perton and Mr Stensholt.

Standing Orders Committee — The Speaker, Ms Campbell, Mr Dixon, Mr Helper, Mr Loney, Mr Plowman and Mrs Powell.

Joint committees

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells. (*Council*): The Honourable S. M. Nguyen and Mr Scheffer.

Economic Development Committee — (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson. (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen.

Education and Training Committee — (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton. (*Council*): The Honourables H. E. Buckingham and P. R. Hall.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz. (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell.

Family and Community Development Committee — (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell Mrs Shardey and Mr Wilson. (*Council*): The Honourable D. McL. Davis and Mr Smith.

House Committee — (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan and Mr Smith. (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen.

Law Reform Committee — (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan. (*Council*): The Honourable Richard Dalla-Riva, Ms Hadden and the Honourables J. G. Hilton and David Koch.

Library Committee — (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson. (*Council*): The President, Ms Argondizzo and the Honourables Richard Dalla-Riva, Kaye Darveniza and C. A. Strong.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith. (*Council*): Ms Argondizzo and Mr Somyurek.

Public Accounts and Estimates Committee — (*Assembly*): Ms Campbell, Mr Clark, Ms Green and Mr Merlino. (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, Ms Romanes and Mr Somyurek.

Road Safety Committee — (*Assembly*): Dr Harkness, Mr Langdon, Mr Mulder and Mr Trezise. (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney.

Rural and Regional Services and Development Committee — (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh. (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson. (*Council*): Ms Argondizzo and the Honourable Andrew Brideson.

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JUDY MADDIGAN

Deputy Speaker: Mr P. J. LONEY

Acting Speakers: Ms Barker, Ms Campbell, Mr Cooper, Mr Delahunty, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, Ms Lindell, Mr Nardella, Mr Plowman, Mr Savage, Mr Seitz, Mr Smith and Mr Thompson

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

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD

Leader of The Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Languiller, Mr Telmo Ramon	Derrimut	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Leighton, Mr Michael Andrew	Preston	ALP
Asher, Ms Louise	Brighton	LP	Lim, Mr Hong	Clayton	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Barker, Ms Ann Patricia	Oakleigh	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Batchelor, Mr Peter	Thomastown	ALP	Lockwood, Mr Peter John	Bayswater	ALP
Beard, Ms Dympna Anne	Kilsyth	ALP	Loney, Mr Peter James	Lara	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Lupton, Mr Anthony Gerard	Prahran	ALP
Bracks, Mr Stephen Phillip	Williamstown	ALP	McIntosh, Mr Andrew John	Kew	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	McTaggart, Ms Heather	Evelyn	ALP
Buchanan, Ms Rosalyn	Hastings	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maughan, Mr Noel John	Rodney	Nats
Carli, Mr Carlo	Brunswick	ALP	Maxfield, Mr Ian John	Narracan	ALP
Clark, Mr Robert William	Box Hill	LP	Merlino, Mr James	Monbulk	ALP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Delahunty, Mr Hugh Francis	Lowan	Nats	Munt, Ms Janice Ruth	Mordialloc	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Dixon, Mr Martin Francis	Nepean	LP	Nardella, Mr Donato Antonio	Melton	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Doyle, Mr Robert Keith Bennett	Malvern	LP	Overington, Ms Karen Marie	Ballarat West	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Pandazopoulos, Mr John	Dandenong	ALP
Eckstein, Ms Anne Lore	Ferntree Gully	ALP	Perera, Mr Jude	Cranbourne	ALP
Garbutt, Ms Sherryl Maree	Bundoora	ALP	Perton, Mr Victor John	Doncaster	LP
Gillett, Ms Mary Jane	Tarneit	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Plowman, Mr Antony Fulton	Benambra	LP
Haermeyer, Mr André	Kororoit	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	Nats
Hardman, Mr Benedict Paul	Seymour	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Harkness, Dr Alistair Ross	Frankston	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
Helper, Mr Jochen	Ripon	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Herbert, Mr Steven Ralph	Eltham	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Lyndhurst	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Kenneth Maurice	Bass	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Sykes, Dr William Everett	Benalla	Nats
Hulls, Mr Rob Justin	Niddrie	ALP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Ingram, Mr Craig	Gippsland East	Ind	Thwaites, Mr Johnstone William	Albert Park	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	Nats	Trezise, Mr Ian Douglas	Geelong	ALP
Jenkins, Mr Brendan James	Morwell	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
Kosky, Ms Lynne Janice	Altona	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Kotsiras, Mr Nicholas	Bulleen	LP	Wilson, Mr Dale Lester	Narre Warren South	ALP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wynne, Mr Richard William	Richmond	ALP

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WEDNESDAY, 16 NOVEMBER 2005

Wednesday, 16 November 2005

The SPEAKER (Hon. Judy Maddigan) took the chair at 9.33 a.m. and read the prayer.

RULING BY THE CHAIR

Petitions: attachments

The SPEAKER — Order! Yesterday a point of order was raised with me by the member for Scoresby in relation to some comments made about a petition he tabled in Parliament. Following that the member for South Barwon made a personal explanation to the house, and I would like to repeat what I read to the house so that there is no misunderstanding about what my ruling was.

Attachment to petitions

> Yesterday the member raised a point of order concerning a petition presented on 20 October in the name of the member for Scoresby.

I will not read all the beginning. I will read the part that relates to what the member for Scoresby raised with me:

> In the absence of an earlier ruling setting guidelines, I do not propose to rule the relevant sheets of this petition inadmissible. However, I find it inappropriate that wording of this nature is added either at the top of a petition sheet or by being photocopied on the rear of the sheet.
>
> I advise that petitions submitted in the future for tabling which display wording of a similar nature will be ruled inadmissible and will not be tabled.

Anyone who wants to read the full ruling I gave on that day can look at the *Hansard* of 26 October.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 82 to 89 inclusive and 346 to 351 inclusive will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing before 2 o'clock today, which is a change from the normal 6 o'clock.

NOTICES OF MOTION

Notices of motion given.

Mrs SHARDEY having given notice of motion:

The SPEAKER — Order! I shall allow the first part of that notice of motion. The other four paragraphs are out of order as they are substantive argument in relation to the motion, not the motion itself.

Further notices of motion given.

PETITIONS

Following petitions presented to house:

Racial and religious tolerance: legislation

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws the attention of the house to the decision of the Victorian Civil and Administrative Tribunal in the complaint against Catch the Fire Ministries by the Islamic Council of Victoria, dated 17 December 2004. The decision has highlighted serious flaws in the Racial and Religious Tolerance Act 2001 which restrict the basic rights of freedom of religious discussion.

The petitioners therefore request that the Legislative Assembly of Victoria remove the references to religious vilification in the Racial and Religious Tolerance Act 2001 to allow unencumbered discussion and freedom of speech regarding religion and theology.

By Dr SYKES (Benalla) (329 signatures)

Schools: religious instruction

To the Legislative Assembly of Victoria:

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

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

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

By Mr CLARK (Box Hill) (11 signatures)

Preschools: accessibility

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house that preschool education in Victoria needs urgent reform to ensure every Victorian child can access high quality preschool education.

The petitioners therefore request that the Legislative Assembly of Victoria recognise that preschool is the critical first step of education and move responsibility for preschools to the Department of Education and Training.

By Mr PERERA (Cranbourne) (344 signatures)
Ms BEARD (Kilsyth) (24 signatures)
Ms MORAND (Mount Waverley) (249 signatures)

Rail: Deer Park line

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

The residents and ratepayers of Brimbank City Council and electors of the division of Kororoit draw to the attention of the Legislative Assembly that the Deer Park train line is not electrified as part of the metropolitan service.

We therefore request that the Deer Park train line be electrified as part of the metropolitan service.

By Mr HAERMEYER (Kororoit) (502 signatures)

Rail: Sandringham line

To the Legislative Assembly of Victoria:

The petition of commuters of the Sandringham line railway service draws to the attention of the Parliament the Minister for Transport's failure to train any drivers while M>Train was in receivership and the consequent unreliability of the Sandringham line train service including cancellations, delays, overcrowding, additional costs incurred by delays, frustration and inconvenience.

1. City workers are late for work, students are late for school, higher education students are late for lectures. Commuters who time their arrival for medical or other appointments based on timetable information are late.

2. Last-minute cancellations frustrate many commuters' travel arrangements at destination stations.

3. During 2004 commuters have been left stranded in the biting cold and gale force winds on the Sandringham train station platforms following the cancellation of trains.

Prayer

The petitioners therefore request that the Bracks government instigate immediate action so that Sandringham line commuters are not left stranded on station platforms.

Mr THOMPSON (Sandringham) (109 signatures)

Sandringham and District Memorial Hospital: car parking fees

To the Legislative Assembly of Victoria:

The petition of the residents of the Sandringham electorate draws to the attention of the house the proposal by the Sandringham and District Memorial Hospital and Bayside Health to introduce a range of car parking fees to provide not only for car parking maintenance but also to assist in funding future capital works, equipment demands and improving staff and patient facilities. Residents are concerned that this may result in increased parking in nearby streets by both staff and visitors which will impact on local amenity and quiet enjoyment of their neighbourhood.

Prayer

The petitioners therefore request that the Bracks government provide sufficient funding for the efficient management of the hospital without the impost of these fees which will see hospital employees paying up to $480 a year to subsidise projects which should be funded by the state government.

By Mr THOMPSON (Sandringham) (7 signatures)

Police: Tatura station

To the Legislative Assembly of Victoria:

The petition of the residents of Tatura and the surrounding district draws to the attention of the house the lack of police resources at the Tatura police station. The station has been undermanned for several months and is at crisis point for the community. The police station has had to close on weekends, providing no support to the town during this period.

The petitioners therefore request that the Legislative Assembly of Victoria direct the relative minister to investigate and correct the lack of resources in this busy police station.

By Mrs POWELL (Shepparton) (51 signatures)

Planning: Diamond Creek and Yarrambat land

To the Legislative Assembly:

This petition of citizens of the state of Victoria further draws to immediate, urgent attention of the house that it is understood lands in Ironbark Road and Pioneer Road in metropolitan suburb of Diamond Creek and in Ironbark Road and Pioneer Road in the township of Yarrambat were legislated 'growth' for the past approximately 30 years and not 'green wedge', as implied with the exclusion of these lands from the new urban growth boundary.

This land was included in the 'metropolis' according to the 1961 Town and Country Planning Act, for drainage and sewerage in 1976 (MMBW act 1958) and sections gazetted in the 1970s as both a waterworks district and an urban district (a metropolis, city or populous place) with 1958 Water Act and in the metropolis for water purposes in 1981 by MMBW.

It would have been normal for the trust district to only cover areas that have a compatible urban zone under the planning scheme (e.g., reserved living, residential C, township A, etc.). Hence it appears another planning scheme may have been

applicable to these acreage lands protecting the distinctive urban infrastructure constructed ahead of development. The Plenty investigation area studies in 1974/75 by the Town and Country Planning Board, 1973 Development Areas Act and 1973 Local Government (Land of Subdivision) Act affected the lands.

The new Nillumbik planning scheme (gazetted in the year 2000) inequitably and inappropriately translated these above 'urban' designated lands to that of environmental 'rural' (now rural conservation). Landowners believe that the 'promised' closest fit equitable zone translation should have been residential 1, which would have continued to protect the above distinctive urban infrastructure, associated land use, development rights or otherwise compensation.

It appears that planning decisions may have been made without fair consideration of past information and planning by Diamond Valley Council, State Rivers and Water Supply Commission, Plenty Yarrambat Waterworks Trust and another regional planning authority other than the MMBW. Additionally, acreage landowners paid urban farm rates and other urban rates and charges such as drainage and parks etc.

It appears that decision-making regarding new planning processes may have been based on incorrect and/or incomplete information, e.g., the lands were not in the Melbourne metropolitan planning scheme (MMPS) in 1978, hence understood by landowners should not be in this planning boundary (MMBW) as landscape interest (amendment 21 part A). This 'irregularity', 'anomaly' or perhaps 'error' may have compounded subsequent incorrect decisions and zonings from that time till today.

Prayer

The petitioners hereby request the Legislative Assembly of Victoria to urge the planning minister, the Honourable Mr Hulls, and the Victorian state government to:

1. Include all abovementioned lands in the amended new urban growth boundary in order to recognise previous urban designation, safeguard or return (if re-allocated or planned to be) the urban infrastructure (and capacity) associated urban planning (or otherwise any compensation rights), including rights to utilise the infrastructure that had been paid for directly by residents or bought as valuable assets attached to lands.

2. Ensure equity and justice now for any properties that may have been discriminately treated differently within the legislated urban district with planning or zone changes without notification or proper process. The effect being 'cheap' amenity and financial gain to others at landowners demise.

3. Or further investigate the matter with new information provided to ensure equitable and fair corrections to those affected.

4. Meet with residents to discuss and clarify new evidence.

By Mrs POWELL (Shepparton) (5 signatures)

Tabled.

Ordered that petitions presented by honourable member for Sandringham be considered next day on motion of Mr THOMPSON (Sandringham).

Ordered that petition presented by honourable member for Kilsyth be considered next day on motion of Mr PERTON (Doncaster).

Ordered that petition presented by honourable member for Mount Waverley be considered next day on motion of Mr PERTON (Doncaster).

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

PREMIER'S DRUG PREVENTION COUNCIL

Report 2004–05

Mr BRACKS (Premier), by leave, presented report.

Tabled.

HEALTH SERVICES COMMISSIONER

Report 2004–05

Ms PIKE (Minister for Health), by leave, presented report.

Tabled.

LAW REFORM COMMITTEE

Warrant powers and procedures

Mr HUDSON (Bentleigh) presented report, together with appendices and minutes of evidence.

Tabled.

Ordered that report and appendices be printed.

DOCUMENTS

Tabled by Clerk:

Alexandra District Hospital — Report for the year 2004–05.

Alpine Health — Report for the year 2004–05 (three documents).

Ambulance Service Victoria — Metropolitan Region — Report for the year 2004–05.

Audit Act 1994 — Auditor-General — Report on the Finances of the State of Victoria, 2004–05 — Ordered to be printed.

Austin Health — Report for the year 2004–05 (two documents).

Bairnsdale Regional Health Service — Report for the year 2004–05 (two documents).

Ballarat Health Services — Report for the year 2004–05.

Barwon Health — Report for the year 2004–05.

Bayside Health — Report for the year 2004–05.

Benalla and District Memorial Hospital — Report for the year 2004–05 (two documents).

Bendigo Health Care Group — Report for the year 2004–05.

Calvary Health Care Bethlehem Limited — Report for the year 2004–05.

Casterton Memorial Hospital — Report for the year 2004–05 (five documents).

Central Gippsland Health Service — Report for the year 2004–05 (two documents).

Cobram District Hospital — Report for the year 2004–05 (two documents).

Cohuna District Hospital — Report for the year 2004–05.

Colac Area Health — Report for the year 2004–05 (two documents).

Coleraine District Health Services — Report for the year 2004–05.

Djerriwarrh Health Services — Report for the year 2004–05 (two documents).

Eastern Health — Report for the year 2004–05.

Echuca Regional Health — Report for the year 2004–05.

Fed Square Pty Ltd — Report for the year 2004–05.

Financial Management Act 1994:

Report from the Minister for Environment that he had received the 2004–05 annual report of the Alpine Resorts Co-ordinating Council.

Reports from the Minister for Health that she had received reports for the period 1 January 2004 to 30 June 2005 of the:

Anderson's Creek Cemetery Trust.

Ballaarat General Cemeteries Trust

Bendigo Cemeteries Trust

Cheltenham and Regional Cemeteries Trust

Geelong Cemeteries Trust

Lilydale Memorial Park and Cemeteries Trust

Preston Cemetery Trust

Templestowe Cemetery Trust

Wyndham Cemeteries Trust

Reports from the Minister for Health that she had received the 2004–05 annual reports of the:

Boort District Hospital

Dunmunkle Health Service

Maldon Hospital

Manangatang and District Hospital

Nathalia District Hospital

O'Connell Family Centre

Optometrists Registration Board

Osteopaths Registration Board

Physiotherapists Registration Board

Podiatrists Registration Board

Timboon and District Healthcare Service

Tweddle Child and Family Health Service

Yea and District Memorial Hospital

Goulburn Valley Health — Report for the year 2004–05 (two documents)

Hepburn Health Service — Report for the year 2004–05

Hesse Rural Health Service — Report for the year 2004–05

Heywood Rural Health — Report for the year 2004–05

Infertility Treatment Authority — Report for the year 2004–05

Inglewood and District Health Service — Report for the year 2004–05 (two documents)

Innovation, Industry and Regional Development, Department of — Report for the year 2004–05

Kerang District Health — Report for the year 2004–05

Kooweerup Regional Health Service — Report for the year 2004–05 (two documents)

Kyabram and District Health Services — Report for the year 2004–05 (two documents)

Kyneton District Health Service — Report for the year 2004–05

Lorne Community Hospital — Report for the year 2004–05 (three documents)

McIvor Health and Community Services — Report for the year 2004–05

Mallee Track Health and Community Service — Report for the year 2004–05

Mansfield District Hospital — Report for the year 2004–05 (three documents)

Maryborough District Health Service — Report for the year 2004–05 (two documents)

Melbourne Health — Report for the year 2004–05

Mercy Public Hospitals Incorporated — Report for the year 2004–05 (14 documents)

Moyne Health Services — Report for the year 2004–05

Mt Alexander Hospital — Report for the year 2004–05

Necropolis Springvale, The Trustees of The — Report for the year 2004–05

Northeast Health Wangaratta — Report for the year 2004–05 (two documents)

Numurkah District Health Service — Report for the year 2004–05 (two documents)

Nurses Board — Report for the year 2004–05

Otway Health and Community Services — Report for the year 2004–05

Peninsula Health — Report for the year 2004–05 (two documents)

Peter MacCallum Cancer Centre — Report for the year 2004–05

Planning and Environment Act 1987 — Urban Growth Boundary — Amendments modifying the following Planning Schemes:

Cardinia Planning Scheme — No C81

Casey Planning Scheme — No C85

Hume Planning Scheme — No C66

Melton Planning Scheme — No C51

Whittlesea Planning Scheme — No C83

Wyndham Planning Scheme — No C80

Portland District Health — Report for the year 2004–05

Prince Henry's Institute of Medical Research — Report for the year 2004–05

Queen Elizabeth Centre — Report for the year 2004–05

Radiation Advisory Committee — Report for the year ended 30 September 2005

Regional Development Victoria — Report for the year 2004–05

Robinvale District Health Services — Report for the year 2004–05

Rochester and Elmore District Health Service — Report for the year 2004–05

Royal Children's Hospital — Report for the year 2004–05

Royal Victorian Eye and Ear Hospital — Report for the year 2004–05

Royal Women's Hospital — Report for the year 2004–05

Rural Ambulance Victoria — Report for the year 2004–05

Seymour District Memorial Hospital — Report for the year 2004–05

South West Healthcare — Report for the year 2004–05

Southern Health — Report for the year 2004–05

St Vincent's — Report for the year 2004–05 (four documents)

Statutory Rules under the following Acts:

Non-Emergency Patient Transport Act 2003 — SR No 135

Subordinate Legislation Act 1994 — SR No 134

Transport Act 1983 — SR Nos 136, 137, 138

Stawell Regional Health — Report for the year 2004–05 (two documents)

Subordinate Legislation Act 1994 — Minister's exception certificate in relation to Statutory Rule No 134

Swan Hill District Hospital — Report for the year 2004–05

Tallangatta Health Service — Report for the year 2004–05 (two documents)

Terang and Mortlake Health Service — Report for the year 2004–05

Upper Murray Health and Community Services — Report for the year 2004–05 (two documents)

Victorian Health Promotion Foundation — Report for the year 2004–05

Victorian Industry Participation Policy — Report for the year 2004–05

Victorian Institute of Forensic Mental Health — Report for the year 2004–05

Western District Health Service — Report for the year 2004–05

Western Health — Report for the year 2004–05

Wodonga Regional Health Service — Report for the year 2004–05 (three documents)

Yarrawonga District Health Service — Report for the year 2004–05 (two documents).

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

> That the government business program agreed to by this house on 15 November 2005 be amended by omitting the order of the day, government business, relating to Crimes (Family Violence) (Holding Powers) Bill and adding the motion to ratify the amendments to the Urban Growth Boundary.

Dr Napthine — Family violence doesn't count. Family violence is less important than looking after your mates!

Honourable members interjecting.

The SPEAKER — Order!

Dr Napthine — Looking after your mates is more important than family violence!

Mr Thwaites — Mates? Which mates? Who are you talking about, Denis?

The SPEAKER — Order! I ask the member for South-West Coast to be quiet and remind him again that he is required to cease interjecting when the Speaker is on her feet.

Mr BATCHELOR — It might be important for the house to note that the media are present in the gallery, and the member for South-West Coast is clearly making a leadership bid here.

Honourable members interjecting.

The SPEAKER — Order! The Leader of the House is required to restrict his comments to the matter before the house.

Mr BATCHELOR — This is a change to the government business program — —

Dr Napthine — You're certainly not making a leadership bid!

Mr BATCHELOR — That's right. I admit it. Why don't you admit it? Why don't you fess up.

The SPEAKER — Order! The minister will resume his seat for a moment. I ask the member for South-West Coast to cease interjecting, and I warn the Leader of the House that if he continues to debate issues apart from the matter before the house I will sit him down.

Mr BATCHELOR — This is an amendment to the government business program that is in line with the request the member for Benambra made yesterday to remove — —

Mr Perton — No, it's not. This is an utter disgrace!

The SPEAKER — Order! The member for Doncaster!

Mr BATCHELOR — The request was to remove an item in one of the bills from the government business program. Doing so will enable sufficient time to be provided for the motion and any debate that may be deemed necessary to ratify the amendments that the Minister for Planning has just foreshadowed to the urban growth boundary.

Mr DOYLE (Leader of the Opposition) — Needless to say we oppose this motion by the government.

An honourable member — Why?

Mr DOYLE — I am about to explain why. To be honest the Attorney-General and part-time Minister for Planning knows very well why. Just two days ago the government came into this place with a business program that included an inordinate number of bills, among them bills of some substance including the Crimes (Family Violence) (Holding Powers) Bill, which is a very important bill and one that on Tuesday the government apparently thought was so important that it argued for its inclusion in the government business program.

We were prepared to debate that bill, which we think is very important. I fail to understand how just 48 hours later we have at the 11th hour of the parliamentary sittings a very sneaky and hypocritical attempt by the part-time Minister for Planning to bring in these contentious changes to the urban growth boundary. Despite the fact — —

Mr Cooper interjected.

The SPEAKER — Order! The member for Mornington!

Mr DOYLE — Despite the fact that this has obviously been in preparation in the minister's office for some months — —

Mr Smith — Before Christmas — —

The SPEAKER — Order! the Leader of the Opposition will resume his seat for a moment. I find it

extraordinary that the member for Bass should interject over his own leader. I suggest that the member for Bass be quiet, or I have no doubt the leader will support me in having him removed from the chamber.

Mr DOYLE — I wish I could evince the same surprise, Speaker, but regrettably I cannot. But I am nevertheless always grateful for the help of the member for Bass.

But back to the serious issue of the day: this is hypocrisy from the government. It is something it has kept under wraps; it knew it was going to do it at the 11th hour. If it had had the courage to bring this in as a by-leave motion, we would not have had a debate on it in that form — and we could not have done, because we would have rejected leave for such a motion. It is hypocrisy of the utmost degree to bring this in so that it can be debated on the very last day of parliamentary sittings hidden in a ceremonial sitting in Geelong because the minister does not want to debate it. He does not want this out there and clearly scrutinised.

An honourable member interjected.

Mr DOYLE — Well then why bring it in on the very last day of sitting? Why not have a proper debate, one that is properly prepared for, so that the community can understand these very important changes that are to be made? It seems this is the day when the part-time minister is not having a very happy time, so he brings in at the last moment two major changes — one a developer levy and the other amendments to the urban growth boundary. When he has known for many months that this was going to be announced today, to bring it in here on the second to last day of the sittings for cursory debate tomorrow on the last day of the sittings in Geelong seems to me to do absolutely no credit to the minister, to his office, to the importance of this issue or indeed to this Parliament. It does not offer us the chance to debate it properly and in full.

I think it is interesting that in part of his contribution to the debate the Leader of the House said it would be brought in here for debate and then ratified. That is the way the government goes about things. I suppose that if it has the numbers and is confident it can treat the Parliament with any degree of contempt it likes, it can come in here and introduce such important things at the 11th hour and then simply expect us to wear it. Truth to tell, that is what we are going to have to do, because if the government chooses to use the Parliament and its numbers in that way, and if it chooses to hide from debate rather than having open debate, then there is little this side of the house can do.

But we have to register our protest not just at the way this has been done but at the sneaky way it has been done and the way the government knew about it all the way through this sitting. It had a bill on the business program on Tuesday — the Crimes (Family Violence) (Holding Powers) Bill — yet it is now going to simply toss out this important bill so that the minister at the 11th hour can sneak through these contentious changes without the scrutiny they deserve. Although he may be able to do it on the last day of Parliament — and he will do it on the last day of Parliament in Geelong — that will not stop us from taking this debate up to the government tomorrow. It will not stop us from taking this issue out to the public and explaining that, far from being an open, honest and transparent government, this is the most secretive and manipulative government in our history. This is one more example of exactly that sort of abuse of process.

Yes, we will have the debate tomorrow, but I think members on the other side should hang their heads in shame at what they have done — if they actually understand the manipulation of this Parliament by the executive, which is supposed to be serving this Parliament, and in particular by the part-time Minister for Planning. Although we cannot prevent it from happening, that will not stop us from explaining to people exactly what this government has done, its total lack of transparency and its total hypocrisy in bringing this motion before us today.

Mr HULLS (Attorney-General) — Could I just say a couple of things in relation to the — —

Mr Perton — On a point of order, Speaker — —

The SPEAKER — Order! I know what the member for Doncaster is going to say. The Attorney-General, in fact, did move the motion.

Honourable members interjecting.

The SPEAKER — Order! I beg your pardon, the Leader of the House moved the motion, so the Attorney-General can speak on it.

Mr HULLS — They are trying to silence me. I will not be silenced by this mob! I find it quite extraordinary that on the one hand the Leader of the Opposition says it is absolutely outrageous that a matter such as the Crimes (Family Violence) (Holding Powers) Bill is going to be taken off the notice paper when it is a very important matter that should be debated this session, yet on the other hand the opposition voted against the business program only a couple of days ago. What opposition members are saying is that it is important today but it was not important two days ago when they

voted against it. It is pretty hypocritical that two days ago they did not want to debate it and now they are saying it is so important that it should be debated.

Firstly, in relation to that piece of legislation, I agree with the Leader of the Opposition that it is very important and that it needs to be debated. I have been contacted by the police in relation to that legislation, and they advise me that they need to put in place relevant protocols and practices before the due start-up date on 1 July next year. This bill will certainly not be held up and will be passed, I hope, by both houses well before that date.

Secondly, in relation to the urban growth boundary changes, once the smart growth committees have reported and once there has been substantial consultation by the smart growth committees with community groups — and that includes having developers and the like on these committees — it is absolutely inappropriate to then further delay the government's decision in relation to the urban growth boundary changes. Even the member for Hawthorn would know there is huge potential for land speculation in these matters, huge potential for substantial profits to be made on the back of matters that have not been ratified by Parliament. It is absolutely appropriate that the urban growth boundary changes be ratified as soon as possible. Apart from anything else, in ratifying the urban growth boundary — —

Mr Smith interjected.

The DEPUTY SPEAKER — Order! If the member for Bass wants to participate in the debate he can seek the call.

Mr HULLS — Ratifying the urban growth boundary gives consistency and certainty to all those people who are living in those growth area corridors, and it gives consistency and certainty to local councils and developers who believe it is now appropriate to get on with developing the corridors. The last thing that we as a Parliament should be doing is delaying the ratification of the urban growth boundary. After substantial consultation over a number of years it is time for the recommendations about the boundary changes to be ratified, and it should be done at the earliest possible opportunity.

Mr BAILLIEU (Hawthorn) — This exercise is an absolute sham. This government in engaging in gross deceit of the people of Victoria and of this Parliament.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The member for Hawthorn, without the assistance of the government benches!

Mr BAILLIEU — The Minister for Planning has just been on his feet telling Victorians that the government has only just made the decision about the changes to the urban growth boundary. Only yesterday government members stood in this house, despite the requests of the leader of opposition business, and indicated that there was going to be no such change in the sitting week of the Parliament. This is an exercise in deceit designed to minimise scrutiny of urban growth boundary changes, to limit public consultation to less than 24 hours and to do it in Geelong — albeit a sitting Geelong is fantastic and we are all looking forward to it. But the reality is that it is remote from many of the communities that are going to be involved in these urban growth boundary changes.

The government is seeking to bury these changes in advance of local government elections where there is acute interest in these boundary changes. There will be no scrutiny by local papers before those local government elections, and there will be no scrutiny of candidates standing for local government in regard to the urban growth changes.

Mr Hulls interjected.

Mr BAILLIEU — No, you have known about this — —

The DEPUTY SPEAKER — Order!

Mr BAILLIEU — Forgive me, Deputy Speaker. The minister has known about this for months, and he has sought to leave this until the very last day of sitting, and to do it with less than 24 hours notice. It is staggering.

We have a part-time Minister for Planning in Victoria, and that is an issue which is engaging the planning industry and the community very strongly. The current planning minister's predecessor introduced changes similar to this in November 2003. We said at the time it was totally inadequate that the previous minister gave only two days notice for public consultation. This minister is allowing 24 hours. He knew about it in advance. He has sought to bury this, and that should not be the case. He stands and says, 'This is about avoiding speculation', pretending there has not been speculation about the urban growth boundary, when on radio this morning he talked about the price of land zooming from $33 000 to $479 000. What a joke! He is fabricating this excuse in order to bury this issue and to

deny people in Melbourne and Victoria due consultation on this process. It is a sham, and it stinks!

Mr NARDELLA (Melton) — It is just absolutely amazing how pathetic this opposition is. The honourable — —

Honourable members interjecting.

The DEPUTY SPEAKER — Order! The behaviour of the house since the member for Melton began his contribution is unacceptable. Members will not receive a warning. If that behaviour continues there will be some who will not be able to participate further in this debate.

Mr NARDELLA — After two years of consultation, after having the timetable available and after it had been announced to the public that the decision on the urban growth boundary would be made in November, members of the opposition now come into this house and say, 'No, it is not good enough. We do not know about these things. We do not want to go to Geelong and work as a Parliament'. They want to go to Geelong and swan around and do the numbers for their leadership challenge instead of doing the real work before the house.

It is absolutely imperative that the urban growth boundary and these changes proposed by the government be debated over the course of tomorrow because of the certainty that is required by the industry so it can get on with the job of doing what it needs to do and so the councils and the Parliament can get on with the job they need to do. The Parliament is the appropriate forum for this debate, but opposition members do not want to debate. They want to delay the debate — but to when? They do not know when; they have no clue. The honourable member for Benambra yesterday requested a delay in debating one of the bills and asked that it be taken off the agenda. We listened to him and we pulled that piece of legislation off the program, but opposition members are still not happy.

Mr Perton — On a point of order, Deputy Speaker, this debate is relatively narrow. The member must confine his contribution to why the Crimes (Family Violence) (Holding Powers) Bill should be removed from the government business program and replaced by this corrupt edition of the change to the urban growth corridors.

The DEPUTY SPEAKER — Order! While to some extent the member for Doncaster has raised a point about the limits of this debate, I would suggest that at this stage the member for Melton has not strayed further from the debate than any other speaker today.

Mr NARDELLA — It is relevant that we have listened to the opposition on this matter and have taken the member's request into account. The Parliament, far from being closed, far from not being reported in the press, is actually an open house which is where the debate should occur. The press will be there tomorrow. This is not a closed session; we do not have in-camera sessions. The honourable leader of the — that was a slip of the tongue! The honourable member for Hawthorn will have his opportunity, as well as the current Leader of the Opposition, when this bill is debated tomorrow, as also will one of the other contenders for the leadership crown, the honourable member for South-West Coast.

Ms Beattie interjected.

Mr NARDELLA — No, not the member for Doncaster, as the honourable member for Yuroke suggested.

So it is appropriate; it is an open process. We need to debate this. We are not the Kennett government which would have done this behind closed doors and would have passed legislation that was not open and accountable. The legislation that is going through is open and accountable and will be passed by this Parliament. The process is appropriate. The only thing that is not appropriate is this lazy, good-for-nothing opposition that does not want to debate bills because it is just too hard.

Mr COOPER (Mornington) — This motion moved by the government is about a question of priorities. The priority as far as the government is concerned is that the changes to the urban growth boundary are far more important to it than dealing with legislation which yesterday it saw as being very important — that is, the Crimes (Family Violence) (Holding Powers) Bill. We now have a debate about what is the highest priority on the government's agenda for the final sitting week of this Parliament, and we now know that the urban growth boundary is far more important to this government than family violence is.

I would suggest that when we get to Geelong tomorrow and we are debating legislation on the government's business program that the people of Geelong would be far more interested in a debate on family violence than they would be in a debate on the urban growth boundary, because family violence can occur right now as we are speaking. However, the Minister for Planning would like to tell us that the situation with the urban growth boundary is important. I will get to the point of why it is important to the minister in a moment. Important it well may be, but is family violence less

important? It seems that in the minds of the Minister for Planning and the Leader of the House and those who will vote with them that urban growth boundary changes are far more important. They are going to have a very hard job indeed to convince the people of Victoria about their change in priorities for this final sitting week.

Yesterday, the Leader of the House came in here with his business program and argued, as other members did, including the member for Melton, for that business program. We, through the manager of opposition business, the member for Benambra, said that the business program was too large, and we saw the evidence of that last night when the house was here until 3 o'clock this morning. I know that the Minister for Planning was not aware of that because he was not here, but the rest of us were. We were debating the Health Professions Registration Bill until 3 o'clock this morning. That is why the member for Benambra argued yesterday about the government business program for this week.

But now we have a situation where there has been an overnight change. This morning the Minister for Planning is trying to tell us that suddenly this question of the urban growth boundary has risen from the ground and become an issue of enormous and great importance overnight. We know that is not true. We know where the pressure on the government and on this minister in particular has come from. It has come from inside the Labor Party. It has come from people like David White and others who want to see the urban growth boundary pushed back. This is a corrupt motion. It has been moved because of corrupt actions outside this house. That corruption has now infiltrated well into the bodies of government and cabinet.

If the government wants to pursue the urban growth boundary issue tomorrow and wants to change the government business program, that is up to the government. But why would it have zeroed in on the Crimes (Family Violence) (Holding Powers) Bill? Why would it have done that? The Attorney-General has come up with a doozey today: suddenly there has been query raised by the police. In other words, he is saying the government has gone off half-cocked.

Mr Smith — What a joke!

Mr COOPER — As the member for Bass says, what a joke. In view of my remarks, I wish to now move an amendment. I move:

> That the words 'Crimes (Family Violence) (Holding Powers) Bill' be omitted from the motion with the view of substituting the words 'Workplace Rights Advocate Bill'.

I do so because, if you consulted with the community about what is the most important piece of legislation on the piece of paper we have in front of us now, they would say that the Crimes (Family Violence) (Holding Powers) Bill is far and away more important than the Workplace Rights Advocate Bill. If the government is fair dinkum, it will accept this amendment.

The DEPUTY SPEAKER — Order! The minister has moved an amendment to the government business program, copies of which are in the hands of honourable members. The member for Mornington has moved an amendment to the minister's amendment saying that the words 'Crimes (Family Powers) (Holding Powers) Bill' be omitted with the view of inserting in their place the words 'Workplace Rights Advocate Bill'. The question is:

> That the words proposed by the member for Mornington to be omitted stand part of the question.

House divided on Mr Cooper's omission (members in favour vote no):

Ayes, 53

Barker, Ms	Kosky, Ms
Batchelor, Mr	Langdon, Mr
Beard, Ms	Leighton, Mr
Beattie, Ms	Lim, Mr
Bracks, Mr	Lindell, Ms
Brumby, Mr	Lobato, Ms
Buchanan, Ms	Lockwood, Mr
Campbell, Ms	Lupton, Mr
Carli, Mr	McTaggart, Ms
Crutchfield, Mr	Marshall, Ms
D'Ambrosio, Ms	Maxfield, Mr
Delahunty, Ms	Merlino, Mr
Donnellan, Mr	Morand, Ms
Duncan, Ms	Nardella, Mr
Eckstein, Ms	Neville, Ms
Garbutt, Ms	Overington, Ms
Green, Ms	Pandazopoulos, Mr
Haermeyer, Mr	Perera, Mr
Hardman, Mr	Pike, Ms
Harkness, Dr	Robinson, Mr
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Howard, Mr	Trezise, Mr
Hudson, Mr	Wilson, Mr
Hulls, Mr	Wynne, Mr
Jenkins, Mr	

Noes, 25

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Savage, Mr
Honeywood, Mr	Shardey, Mrs

Ingram, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr

Amendment defeated.

The DEPUTY SPEAKER — Order! The question is:

> That the amendment to the government business program moved by the Leader of the House be agreed to.

House divided on amendment:

Ayes, 53

Barker, Ms
Batchelor, Mr
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Green, Ms
Haermeyer, Mr
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
Lockwood, Mr
Lupton, Mr
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Morand, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 25

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

Amendment agreed to.

Amended motion agreed to.

MEMBERS STATEMENTS

Bass Coast: election candidate

Mr LEIGHTON (Preston) — How the worm turns! On 20 March 1997 the then Liberal member for Glen Waverley, Ross Smith, complained to the Legislative Assembly that a local government candidate was engaging in misleading advertising by using in his campaign a reference that Mr Smith had written for him in support of an application to become a justice of the peace. As Mr Smith said in 1997, there has been a lot of water under the bridge.

Recently I received in the mail advertising from him for his election campaign for Townsend ward, which covers the Inverloch area of Bass Coast shire. Mr Smith's election material breaches the Local Government Act and is misleading. He failed to authorise his material, as required under section 55(1) of the Local Government Act 1989. The Victorian Electoral Commission has now requested that Mr Smith not distribute any more material without the appropriate authorisation and has referred this breach to Local Government Victoria. Mr Smith's statement that his nomination is supported by a former Australian Labor Party mayor of the City of Monash is misleading — —

Mr Perton — On a point of order, Deputy Speaker, there are previous rulings in relation to casting these sorts of aspersions on the character of a former member. It can only be done by way of a substantive motion, and I believe in this case the member should be forced to cease his allegations.

The DEPUTY SPEAKER — Order! I do not believe that to be the case.

Mr LEIGHTON — This statement that his nomination is supported by a former ALP mayor of the City of Monash is misleading, as I am not aware of there being any ALP mayors of the City of Monash.

Mr Perton interjected.

Mr LEIGHTON — Mr Smith should apologise to the voters for his illegal and misleading advertising. He should apologise instead of standing for public office. He should apologise for sacking councils and — —

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

National Youth Week

Mr KOTSIRAS (Bulleen) — Recently the Minister for Employment and Youth Affairs announced a grant program for next year's youth week. National Youth Week, which is supported by the federal government, will run from 1 to 9 April. It has been established to celebrate the achievements of our youth and to recognise their contribution to our society.

National Youth Week is something I strongly support and endorse. However, in order to ensure its success, the Victorian government must work together with all youth rather than organising events without any input from young Victorians. This government is good at organising media events and media stunts to suit its own political agenda rather than meeting the needs of our young people. The Office for Youth and the minister were criticised this year for the way they organised the Rock the Square concert which was held as part of National Youth Week.

I am advised that there was no consultation with regional youth affairs networks and that there was no active role for the networks. I am also advised that money was used for the concert that should have gone to the networks. There was a real problem with the process. The problem was that the concert was organised by the bureaucrats to raise the profile of the minister and to secure votes for the ALP. This is an appalling way to treat our young Victorians.

Keilor: transport initiatives

Mr SEITZ (Keilor) — I rise to thank the Minister for Transport on behalf of the people of my electorate of Keilor and myself for the tremendous work he has done within the electorate of Keilor. There has been the introduction of new bus services to Caroline Springs, Hume and Watergardens; the duplication of Kings Road; the undergrounding of the Taylors Road level crossing; the creation of a pedestrian safety island on Old Calder Highway for the Keilor Lodge people and the elderly in that area; the installation of traffic lights at the Copperfield Drive and Hume Drive intersection; the extension of car parks at Watergardens and Keilor Plains railway stations; the installation of boom gates on Calder Park Drive for the safety of commuters; and the provision of $3.5 million to each of Brimbank and Melton councils for road network improvement.

The minister has shown that he cares about the outer suburbs of Melbourne, has contributed well to the Keilor electorate and has visited the electorate twice in making the announcements. The people of the electorate of Keilor and I are proud of those achievements by the minister and the Bracks government. The government is taking care of the community, providing transport facilities and improving the road network and bus service, which means people will not have any further than 400 metres to walk to the nearest bus stop.

Flying Feathers Film Festival

Dr SYKES (Benalla) — I wish to congratulate the young people of Euroa, Nagambie and Seymour for their wit, creative talent and ability to use modern technology to produce a series of extremely entertaining short films. A couple of weeks ago I joined local young people and their families and friends at the second Flying Feathers Film Festival, the largest regional short film festival in Victoria.

We were entertained by the wacky wit of the film-makers and actors in films such as *Aaron the Builder Man*, *The Trappenator* and *Super Dave*, which were extremely humorous, with local Euroa Secondary College principal, Michael Bell, and one of the maths teachers being on the receiving end of the film-makers' antics. Other films had a more serious theme. These included *The Power to Say No*, *Moon Child*, *Salinity* and *Am I Dead Yet?*. Congratulations to everyone involved in both producing the films and hosting a very enjoyable evening's entertainment.

Bright senior citizens club: 35th anniversary

I also wish to congratulate John Dunkley and the Bright senior citizens club, which celebrated its 35th anniversary last week. Alpine shire mayor, Julie Carroll, and I joined over 50 past and present members of the club for a lunch, a brief history of the club presented by Bright P–12 College students and the presentation of certificates of appreciation to some of the many people who have contributed to the club's success. Well done to all concerned!

George McKenzie Hume

Ms McTAGGART (Evelyn) — I rise today to pay tribute to George McKenzie Hume. George is the president of Caladenia day centre in Mooroolbark in my electorate of Evelyn. Life membership of Caladenia was awarded to George at the recent annual general meeting for his 10 years of loyal and devoted service to this outstanding centre. The Caladenia centre provides for the social and recreational needs of people with dementia as well as frail and isolated older members of our community. The centre also provides advocacy referral and support services for carers. As a member of the Mooroolbark Bowls Club, George has set about

raising funds for Caladenia by organising a tournament and his famous raffles since 1993. Since that time nearly $33 930 has been raised for Caladenia by his efforts.

I met George in 2002 after being elected to Parliament. His warm and friendly nature, as well as his strong commitment to Caladenia, is appreciated and admired by all who know him. George was very proud to give me a tour of the centre on my first visit, and we discovered at our first meeting that he played bowls with my late dad. Dad would often comment to me that George was a lovely bloke.

George joined the committee of management of Caladenia in 1994 and was elected president in 1995. There have been many changes at Caladenia over the last 10 years. George has seen the centre grow from a staff of 4 to 14, and it is now providing more much-needed support and services to the ageing members of our community.

George is to be commended for his work with Caladenia over the last 10 years. Congratulations, George, on receiving life membership of the Caladenia day centre.

Local government: irrigated land

Mr PLOWMAN (Benambra) — As a result of the water resource management legislation being passed in this place, eight municipalities in northern Victoria are facing a loss of up to $6.5 million in rates. This will occur due to the unbundling of water rights and water shares from land. In the past land valuations and the subsequent rates were based on the capital improved value of the land, including the value created by water rights being attached to the land. With the unbundling of water rights, rates will apply to the capital improved value of land alone. Councils cannot use a differential rate for irrigated land, as most farms have non-irrigated areas of land which cannot be rated separately.

The government cannot wait until 1 July 2008, when this part of the legislation will need to be addressed. The Minister for Water has said that councils will be required to fix this mess when it occurs. This clearly is not satisfactory. This mess is not of the shires' making.

The DEPUTY SPEAKER — Order! I point out that the clock was not started.

Mr PLOWMAN — The state government must accept responsibility for the introduction of an alternative rating system. Campaspe shire councillor Neil Repacholi has put forward a proposal under which a surcharge would be attached to every water entitlement, whether it be a water share held by an irrigator, water for the environment or water held by non-users. This would appear to be an equitable solution which would add approximately $1.70 per megalitre to the existing storage charge of $6 to $7 per megalitre. I fully support this proposal. It is an equitable and commonsense approach to the fiasco which has been created by this legislation.

Cranbourne Secondary College: funding

Mr PERERA (Cranbourne) — It is with great pleasure that I rise to state that Cranbourne Secondary College is clearly a winner under the Bracks government's $64 million Leading Schools Fund. Cranbourne Secondary College will receive three full-time and one part-time additional teachers for three years as well as a facilities grant of approximately $486 000 to refurbish and redesign existing classrooms to form four large spaces that can be used to transform its whole-school instruction methods.

Emphasis will initially focus on the transformation of the year 9 learning program to inform the whole-school instructional practice through team teaching, peer observation and coaching. The integration of indoor and outdoor learning environments and flexible, rich learning centres will enable students to negotiate their learning, work in teams, and engage in a range of tasks within the same room.

The announcement complements the Bracks government's 2005 budget announcement of an additional $2.28 million building upgrade for Cranbourne Secondary College. This is another example of the Bracks government's investment in education giving our children the start they need through smaller class sizes and fixing school facilities.

Planning: Gerrigerrup development

Mr BAILLIEU (Hawthorn) — On 14 April, Anne and Andrew Gardiner sought planning approval for two tourist accommodation single-storey units. The units are to be farm-stay-style units on the southern boundary of their farm at 457 Eckersley Road, Gerrigerrup, in western Victoria, about 13 kilometres north-east of Macarthur.

On 1 November, an extraordinary six months later, the Shire of Moyne advised that a delegated determination was still subject to a potential call-in by councillors. It appears that the extraordinary delay in considering the application was the direct result of pressure applied by representatives of Macarthur Wind Farm Pty Ltd (MWF). MWF has proposed a massive 183-turbine

wind farm on a 5500-hectare property to the south of the Gardiners' land.

In a submission to the Moyne shire MWF objected that the proposed units will adversely impact on the proposed wind farm. In an extraordinary display of arrogance MWF has demanded that the Gardiners provide:

> … expert guidance and detailed discussion of the impact the (two unit) proposal may have on drainage, stony rises, flora and fauna (including habitat) and archaeological issues …

And further that:

> … it is doubtful whether the site is capable of accommodating the host farm proposal due to the significant geological environmental constraints.

MWF claim that its neighbours' two-storey farm-stay units will damage the environment but that its own 183 turbines, each around 50 storeys high on massive footings on adjacent land, will not. MWF followed this crude intimidation by seeking to have witnesses at a panel hearing into the wind farm application ruled out.

These standover tactics by MWF demonstrate again the inappropriate conduct of some wind farm proponents and the inequitable power balance being exploited by those developers. That the Macarthur wind farm has divided the local community and not been subject to an environment effects statement makes this conduct not only intimidatory but grossly hypocritical.

Australian Iraqi Forum

Ms D'AMBROSIO (Mill Park) — I wish to inform the house of the work of the Australian Iraqi Forum (AIF) in promoting better understanding of the Iraqi culture and history within the Australian community. I was pleased to accept an invitation from Dr Riadh Al-Mahaidi, president of the Australian Iraqi Forum, and Dr Kamiran Abdouka, the treasurer, who is also a constituent of my electorate of Mill Park, to attend a one-day forum called 'Iraq: past and present' on 4 November at Melbourne University.

The AIF describes itself on its official web site as:

> … a non political not-for-profit organisation for Australian professionals of Iraqi origin regardless of their ethnic, religious and cultural backgrounds and their political affiliations. It is an educational, cultural and technological organisation dedicated to fostering better understanding between the Iraqi and Australian communities by promoting informed discussion of critical issues concerning Iraq and Australia.

True to this self-description the one-day forum was officially opened by Professor Stuart Macintyre, dean of the faculty of arts at Melbourne University. The speakers list comprised other notable academics and dignitaries, including the Honourable Bruce Billson, MP; Mr Ghanim Al Shibli, Iraqi ambassador to Australia; Dr Salma Al-Khudairi; Dr Kairy Majeed; Mr Haval Syan, representative of the Kurdistan regional government in Australia; Hadi Al Qizwini; Dr Tony Ladson, from the department of civil engineering at Monash University; Dr Hossein Ghaditri; Mr Ali Al Hilli; Dr Firas Rasoul; Dr Abdul Hadi Al-Khalili; and Dr Kamiran Abdouka.

I commend the AIF for its efforts to broaden the understanding of all of us on matters which concern modern Iraq and Iraqis within the context of its rich and turbulent history.

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

Prisoners: early release

Mrs SHARDEY (Caulfield) — The issue I raise concerns the decision to release the killers of Arthur Burrows, a 66-year-old homeless man who was burnt to death in his humpy on the banks of the Murray River at Mildura after being taunted. These three young men were each sentenced to five years for Mr Burrows' manslaughter but have been released after serving just two years. When one considers that they were only sentenced last December, one needs to ask just how much rehabilitation could have been achieved in such a short time — a mere 11 months.

Early release is not a right; it needs to be earned. I am extremely concerned that the three men who committed this horrendous crime have all miraculously been deemed fit to serve only that minimum, especially when I learn from juvenile justice workers that one of them has shown absolutely no remorse, has refused to take part in any programs to address his behaviour unless he was offered incentives, and at one time was found to have pornography in his possession.

The community has a right to expect that when young men are released early from juvenile justice centres serious attempts will have been made to rehabilitate them. Given the absolutely chaotic management of this system by the Bracks government, it is hard to believe this is really happening.

Federal legislation: inconsistencies

Mr LANGDON (Ivanhoe) — I would like to draw attention to some inconsistencies in recent federal

government legislation — that is, the anti-terrorism legislation and the workplace relations legislation.

I refer to in article in the *Age* of Friday, 4 November 2005, reporting the fact that the antiterrorism legislation introduced by the Howard federal Liberal government finally recognises the fact that there are same-sex attracted couples in our country and they should have equal rights. Equal rights at this stage? It is quite amazing from the federal government. They can contact their same-sex partner if they are held under suspicion of a terrorist act. If a suspect is detained, they have the right to contact one family member being:

> … the person's spouse, de facto spouse or same-sex partner.

Finally, there is some recognition. However, when it comes to the workplace relations bill this does not apply. I quote from the article:

> But gay couples need not open a second bottle of bubbly over workplace laws, which say carer's leave can be taken to care for a member of your immediate family —

there is a second part —

> or a member of the employee's household.

Those same-sex relationships are considered as a member of an employee's household in that bill but a spouse in the other bill — —

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

Neighbourhood houses: funding

Mr DELAHUNTY (Lowan) — This Bracks government stands condemned for failing to adequately fund neighbourhood houses and learning centres. The neighbourhood house program has been a great success story across country Victoria and, indeed, with four centres in my electorate of Lowan. I have visited and spoken to staff and supporting volunteers at the Nhill, Casterton, Hamilton and Horsham centres who provide excellent opportunities for community interaction, lifelong learning, pathways to education and employment, personal wellbeing and social cohesion. I wish I had time to read an excellent letter from Jennifer Goldsworthy, a volunteer and tutor at Nhill.

All centres have indicated to me that the funding is totally inadequate to allow them to continue to provide a range of services or to meet the growing demand within our country communities. Only this year the government not only transferred neighbourhood houses from the Department of Human Services to local government within the Department for Victorian Communities, which was not accepted well by many of the centres, but it also allocated a meagre $12.4 million over the next four years where the neighbourhood house association believes it should be $84 million over five years. This funding would enable them to continue building more cohesive communities in helping to overcome disadvantage and inequality and also to empower people to take more control over their own lives. Like my colleagues in The Nationals, I support the submission put in by the neighbourhood house association and I call on the government to provide realistic funding for neighbourhood houses and learning centres, particularly those in the Lowan electorate and others in country Victoria.

Rofin Australia Pty Ltd

Ms MUNT (Mordialloc) — I would like to take this opportunity to congratulate a local business in my electorate on receiving both a Victorian export award for innovation excellence and a Victorian export award for innovation excellence accolade. Rofin Australia Pty Ltd of Dingley was honoured for its creation of unique optical devices for forensics, medical and industrial applications. The awards were presented at Government House by both the Governor of Victoria, John Landy, and the Minister for Manufacturing and Export. Nineteen exporters were honoured for their hard work, innovation and dedication and their role as exporting ambassadors for Australia to the world.

Many businesses in my electorate excel in innovation, and we are home to many thriving export industries. They do a great service to our bottom line, our balance of payments and our international reputation. These businesses also provide valuable local employment to our local residents. Rofin Australia as an award winner will now compete as a finalist in the Australian export awards in Sydney on 1 December this year. My congratulations to the staff and management of Rofin Australia and best wishes for 1 December.

Rosebud: foreshore reserve

Mr DIXON (Nepean) — Driving to my office in Rosebud a few weeks ago, I could not believe what I saw: Rosebud foreshore reserve was being transformed. Not only were there teams of workers mowing the extensive reserve but there were workers with whipper-snippers and edgers, instruments never seen before on the foreshore. Soon after new signs were being erected, graffiti-marked walls were being repainted and weeds were being poisoned. In the past few days the same thing has happened all over again.

The reasons for this transformation is that the former manager of the foreshore, Parks Victoria, having been starved of funds by the Bracks government, had let this iconic foreshore go to ruin. It gladly then let the Mornington Peninsula Shire Council take over the management of the foreshore. The shire is to be commended on its efforts. This summer campers will be enjoying an improved amenity and increased safety from fire. A new skate park is also about to be constructed. Camping on Rosebud foreshore is underutilised throughout the year. I urge the Mornington Peninsula Shire Council to increase the marketing of the foreshore to attract the thousands of retired so-called grey nomads who can take advantage of the beautiful Mornington Peninsula in late summer and autumn when the crowds have gone home. An extended camping season would bring great benefit to the Rosebud region as new tourists dollars flow through the community. This is an excellent opportunity to build on an iconic Victorian experience — camping on Rosebud foreshore.

Hastings electorate: achievements

Ms BUCHANAN (Hastings) — The residents and business people of many communities across the Hastings electorate are renowned for their civic spirit. I want to highlight to the house these outstanding individuals who have recently rallied together to progress some very important community building initiatives. To Peter Damon, Sonya Bertram, Tiger Bob O'Connell, Don Mackenzie, Barb Kerby, Mary Madigan, Ron Kane, John Derman, Robert Bell, Keith Luck, Stephen Morris, Lauren Dickson, Faye Murphy, Lynette Wilks, Lynnette Keleher, Mary Budd, Sue Hawke, Derek Moseley, Peter McGrath, Brendan Ball, Dan Garlick, Toni Munday, Geordie Ord, Brian Stahl, Denise and Lyn McCullagh, can I say thank you for each being community champions.

Each of these people works tirelessly and selflessly for the benefit of their communities. Many other local residents were recently acknowledged for their community work via the Queen's baton relay community runner nominations. Congratulations must go to Ian Hales, Barry Smith, Debbie Flintoff-King, Joan Pollock, Philip Cass and Judy Pollock. I want to highlight Somerville resident Julie Cowan for her outstanding work in training rescue dogs which is something she and her team have done for some time now, dedicating a collective 20 000 hours each year to saving lives.

With so much recent deliberate focus on sensationalising some negative community activities, it is pertinent that credit also be given where it is due. I congratulate this great group of people who are actually a positive inspiration to thousands of their fellow residents in the Hastings electorate.

Eltham Primary School: green initiatives

Mr HERBERT (Eltham) — I rise to congratulate the staff and students at Eltham Primary School for work they have done recently to make this school eco-friendly. Eltham primary is a vibrant school that has made a fantastic commitment this year to saving water, recycling and composting. The school community has carefully looked at places around the school where littering and waste occur and has targeted them with exciting green projects. Some of these fantastic projects include recycling bins in every classroom, having rubbish-free lunch days, feature gardens and water catchment at drinking taps. Staff and students have also begun an environment club that meets weekly so everyone has a chance to talk about new ideas and plan ahead. With these great efforts the school has recently won a doing the right thing environmental award, and I congratulate the entire school community on this achievement.

Doing the right thing by the environment starts at the local level, and Eltham primary is a shining example of this. Amazingly, Eltham primary has managed to implement these fantastic initiatives in only two school terms, and the school is looking to expand ways in which it can help our environment in the future. I congratulate principal Julie Askew, staff and students for working so closely together. They are a shining example to our community of how to achieve an eco-friendly future.

Schools: Monbulk electorate

Mr MERLINO (Monbulk) — I would like to take this opportunity to congratulate the three government secondary schools in the Dandenong Ranges — Emerald Secondary College in the electorate of Gembrook, and Monbulk College and Upwey High School in my electorate — on their successful joint application for leading school funding. This initiative will see these schools share six additional teachers for three years and a facilities grant of $1.35 million to build a flexible learning centre at each school. Engaging with year 8 students will be the initial focus of the program, and many teachers across the three schools will be involved in coaching and mentoring programs. This will ensure that this innovative initiative is sustainable.

Applied learning strategies, staff and student leadership programs, and cross-disciplinary teaching approaches

will be a feature of the Every School, Every Classroom program. Principals Wayne Burgess at Emerald, Pam Glover at Monbulk and Greg Hall at Upwey have worked together to produce this cooperative and supportive program that seeks to make learning relevant, interesting and challenging for students and to improve student performance. The nature of this project is no surprise, as cooperation and support are features of the 21-school Dandenong Ranges Network and its clusters.

The member for Gembrook and I worked with the Emerald school cluster earlier this year to ensure its viability. One of the reasons why we were so keen to keep the cluster intact was the close and longstanding working relationship that exists between these hills schools. Another example of successful partnerships is the network's innovation and excellence program to improve the curriculum in the middle years. This latest funding announcement is an endorsement of the work of the schools and local communities in the Dandenong Ranges. Congratulations.

Christian Reformed Church, Casey

Mr WILSON (Narre Warren South) — It was with great pleasure that on Saturday of last week I opened the third annual fete of the Casey Christian Reformed Church. There was an attendance throughout the day of around 1200 people, most coming in the latter part of the morning to listen to Casey's Battle of the Bands winner, Omniana, play and world kickboxing champion, Daniel America, discuss physical fitness and how he prepared for the world title fight he won in June.

Many local businesses supported the church's fete, including Compleat Angler, Hardings, Reece Plumbing, Bellbird Building Supplies and Hardware, Coles, Narre Warren Dry Cleaning, F1 Charcoal Chicken, Four Seasons restaurant, Stockdale and Leggo real estate and many others. The fete had a very large variety of stalls and some delicious international foods. I congratulate the organisers of the fete, which raised approximately $7800 in 5 hours of actual operation, which of course does not include the many hundreds of hours of work done.

The church runs a variety of community programs for young people, and I am very pleased to support them. As well it raises funds for many charitable causes, including tsunami and famine relief and a children's orphanage. I would like to congratulate the Reverend Crosby De Kretser and many parishioners, including Roger and George, for their dedicated work to ensure the success of the fete, and I look forward to an even more enjoyable fete next year.

Industrial relations: federal changes

Ms GREEN (Yan Yean) — Yesterday was a very important day for Victorians, and in fact for all Australians. Around 200 000 Melburnians, along with many thousands more Victorians in regional areas, took to their feet to defend the greatest threat Australian workers have ever faced. As I joined my caucus colleagues I was overcome with a sense of solidarity and comradeship reminiscent of the rallies of the 1990s when we protested against Kennett's threat to Victoria's workers.

Last night I was privileged to have Sharan Burrow, the Australian Council of Trade Unions president, as my guest in Diamond Creek at a public community forum to discuss the threat Howard's industrial relations changes pose to working families in the district. About 100 people filled our small local hall to find out how the changes will impact on individuals and the community generally. These were not a bunch of union officials; they were local mums and dads terrified and angry at the way Howard is throwing away the Australian ideal of a fair go.

The end of collective bargaining in this country will set us apart from other countries in the Organisation for Economic Cooperation and Development. It is antidemocratic, and the International Labour Organisation has condemned it. There was much fear and anger in the hall at Diamond Creek last night, as there was in Federation Square and other meeting spaces around Australia yesterday morning. However, I left the forum with a feeling not of hopelessness but of solidarity and resolve. Victorians will fight these changes, and I stand here today to repeat a warning not only to federal coalition members but also to state Liberal Party members who support these changes: you will all pay at the next state and federal elections.

The DEPUTY SPEAKER — Order! The member for Mulgrave will have 50 seconds.

Wallara Australia

Mr ANDREWS (Mulgrave) — Last Thursday I was delighted to attend a very important event in my local community — the 46th annual presentation to the community at Wallara Australia. This important event was held at the Dandenong RSL and was very well attended. Wallara provides support services, accommodation and employment for people in our community who have a disability. Since 1959 the

dedicated board and staff of Wallara have brought a bright light into the lives of many disabled Victorians and their families.

The annual report was more a celebration than an annual general meeting, with audiovisual presentations and live music. The evening provided an opportunity to reflect on the good work of Wallara over the last 12 months and to acknowledge the dedicated but humble service of now departed Eric Wilson. Eric served on the board of Wallara for 17 years, with 9 as chair. His contribution was eloquently detailed by Max Oldmeadow — a highlight of the evening. I congratulate all at Wallara — staff, clients and board members. Your work is important to all of us, and I look forward to providing support and assistance to Wallara wherever possible in the future.

The DEPUTY SPEAKER — Order! The time for members statements has concluded.

Mr Lupton — On a point of order, Deputy Speaker, I would like to seek some clarification in relation to the disgraceful behaviour exhibited during members statements by the member for Doncaster, who appears perhaps to have evicted himself from the house — —

The DEPUTY SPEAKER — Order! I will hear the member's point of order, but I remind him that under the standing orders of the house reflections cannot be made against members.

Mr Lupton — I just seek clarification about whether the member for Doncaster has evicted himself from the house or whether he has been suspended, and if not, what steps might be taken in order to protect the house from the sort of behaviour that was exhibited by the member for Doncaster during members statements.

The DEPUTY SPEAKER — Order! The member for Doncaster left the chamber. The matters that the member for Prahran raises are in fact matters for members of the house. The behaviour of members in the house is a matter for each individual member to consider, both in the way matters are raised and in the way individual members react to matters raised. There are times when debate in this house becomes passionate on both sides of the chamber, and members will respond with passion to those things.

I might make the point that from the Chair's viewpoint it is probably preferable that members who wish to raise points of order and to do so with passion actually are sure about the points of order they are raising at the time they raise them. That would be of considerable assistance to the Chair. The behaviour of members in the house is a matter for individual members. The Chair can only act in accordance with the standing orders, rules and practices of the house. I guess it is timely that members reflect on the way in which they behave within the chamber.

STATEMENTS ON REPORTS

Road Safety Committee: country road toll

Dr NAPTHINE (South-West Coast) — I wish to speak to the report of the Road Safety Committee in May 2005 on the inquiry into the country road toll. I am particularly concerned because, unfortunately and tragically, in south-west Victoria we have experienced a spate of fatal road accidents this year. Towards the end of October there were 23 deaths on south-west Victorian roads which is the worst for 16 years. I think there is a real need to examine why that has taken place. I think the inquiry into the country road toll identifies some issues that the government should give serious consideration to so it can respond to the increasing road toll in country Victoria. At page 117 the report states:

> The committee found that the most common roadside hazards are trees. While the removal of trees close to roads would be one way to minimise this problem, the committee heard evidence from many councils that this was not always feasible when native trees were involved.

Further, it says at page 118:

> The committee considers the safety of road users should always take precedence over the conservation of native vegetation within road reserves. The safety of users must always take precedence.

I agree with that. The report says further:

> … the committee considers road authorities should be exempt from a planning permit for the clearing of roadside trees and hazardous native vegetation.

Tragically, in western Victoria we are seeing a proliferation not only of road deaths but of signs that say 'Trees close to road' or 'Overhanging branches'. The signs are being put up by VicRoads, local councils and local authorities warning people that trees are close to roads, but no action is being taken to remove those dangerous trees. It is not good enough to simply warn people about those dangers. Action needs to be taken.

I was disappointed in the government's response to a previous Road Safety Committee report which recommended that municipalities and VicRoads be exempt from the native vegetation rules with regard to clearance of hazards along roadsides. The response from the government was that these recommendations

be supported in principle with regard to VicRoads but not supported in regard to municipalities.

I find that totally inadequate. It is saying that on local roads where municipalities are concerned about dangerous trees, dangerous roadside vegetation should be allowed to remain there. That is totally unacceptable, and I urge the government to take on board what the Road Safety Committee said in its most recent report: the safety of people using roads should be paramount. If that means we have to clear some native vegetation, we should do so.

I also note in this report in recommendation 6:

> That the government acknowledge the high level of risk on country roads, including local roads.

Recommendation 21 is:

> That the government increase funding for safety improvements to country roads.

I say, 'Hear, hear!' to that. I must say I was very disappointed that in the so-called provincial package that the government announced recently there was no specific funding to match the Roads to Recovery funding for the country municipalities and country roads, which is of absolutely vital importance. The Roads to Recovery program has been one of the most effective programs in improving road safety and roads and bridges in country Victoria.

The Liberal Party has recognised that in Victoria because it has promised to allocate $127 million to match the federal government's Roads to Recovery funding to provide municipalities throughout the length and breadth of country Victoria with specific funding to improve local roads and bridges. It is disappointing that the city-centric Bracks Labor government that does not listen to local municipalities or local communities can announce a multimillion-dollar package for country Victoria and miss the boat on one of the most important things — that is, funding for local councils to improve local roads and bridges to improve road safety.

In the minute that I have left I wish to raise two specific issues in my electorate which, if resolved, would go a long way to responding to the country road toll inquiry. First, it is absolutely essential that the government implement an immediate plan to duplicate the Henty Highway between Heywood and Portland. There has been a massive increase in truck traffic on that road serving the softwood plantations, the cereal grains and mineral sands industries, and the emerging blue gum industry. There is a massive increase in B-double traffic and other truck traffic on that road carrying livestock, woodchips and grains to the port of Portland so, as I said, it is absolutely vital that the Henty Highway between Portland and Heywood be duplicated for improved economy and, most importantly, for road safety to that area.

Rural and Regional Services and Development Committee: country football

Mr HARDMAN (Seymour) — I rise to speak on the Rural and Regional Services and Development Committee's report on its inquiry into country football. Since the report was released the Bracks government has responded to the recommendations with a funding boost for country football and netball clubs. The country football and netball program has boosted funds to country club facilities by $4 million. It was great that $2 million of that came from the state government and a further $2 million came from the Australian Football League, as recommended by the committee. On top of that, funds will be put in by the clubs and by local councils and committees of management. The Sport and Recreation Victoria minor facilities funds can also be accessed by all the sporting clubs.

It is great to see that the first ten successful clubs from that program have been announced. It proves that the Bracks government is governing for all of Victoria when we note that those clubs are spread across the state, including clubs from Stratford, Swan Hill, Horsham, Warracknabeal, around Camperdown and throughout the state. So there is a really a good spread. All these clubs have been able to utilise the grants to upgrade playing surfaces, pavilions, changing room facilities, lighting and irrigation at their venues.

It is pleasing to see that the Bracks government recognises the benefits that the grants bring to rural communities and the significant needs that exist. It has done that with a boost of $6 million of funds through the provincial statement, which takes the previous amount of $4 million up to $10 million and enables the development of an estimated 250 further projects. That means that just under 400 clubs should be able to get up some improvements out of that $10 million.

Different clubs have different priorities. When we announced the extra $6 million the other day the Seymour football and netball club people told me they would use the funds for new posts that they can take out of the ground. The ground would then be more user friendly at other times of the year when it is being used to host, say, the Seymour Alternative Farming Expo, the agricultural show or cricket. I thought that was a great idea.

When we conducted the inquiry we found that country football and netball clubs were the glue that binds many small communities, but their facilities needed upgrading. In regard to netball, especially, many teams were playing on substandard surfaces, including bitumen, that were not in a good condition. Also, footballers were playing on grounds that were too hard. These issues needed to be addressed.

These grants, plus other grants that we introduced earlier for drought assistance for football clubs, are helping to address these issues by assisting clubs to install irrigation systems, to recycle water where the supplies are low in some of the towns across the state, and to plant drought-resistant grasses. For example, at Seymour a new irrigation system is being installed and the ground surface is being replaced with couch grass, which is good because of its drought tolerance.

Another significant issue was the netball club's changing room facilities. As one witness told the committee, if the club does up the changing room facilities for the netballers it will mean that instead of going home after the game and not coming back for social evenings, players can get changed at the ground, stay around, maybe watch the end of a football game, have dinner that night and take part in the social activities. Such a family-friendly environment would lift the whole spirit of the club. That is a wonderful concept, and I hope clubs will take advantage of such opportunities. Similarly umpires need appropriate but separate changing room facilities, and nowadays there is a need to provide male and female rooms. The pavilions need to be nice places for people to go back to after a game.

This grant will assist a lot more clubs in Victoria to provide better facilities for their members. I commend the Bracks government for its response to the report.

Road Safety Committee: crashes involving roadside objects

Mrs POWELL (Shepparton) — I would like to make a brief contribution on the Road Safety Committee's inquiry into crashes involving roadside objects. The report was tabled in March. This was a very important inquiry for rural and regional Victoria, which relies heavily on good road infrastructure. Country roads are vital for the travelling public, not just country people but also Melbourne people. Many people travel great distances on roads and spend a long time in getting to and from work, sport and recreation. People in country Victoria are often on roads, and they deserve to have safe, good quality roads.

In my electorate, which is the food bowl of Australia, the agricultural industry is highly dependent upon high quality and safe roads to get its goods either to Melbourne for the market or to the ports or to any of the other capital cities. Businesses in Shepparton and its surrounding districts rely heavily on transport being able to deliver goods to those areas.

One of the roads in my electorate is the Goulburn Valley Highway, which for many years we have been trying to get upgraded. Although it is a federal highway I urge the state government to do everything it can to make sure it works with the federal government to provide a dual-lane highway and to get it completed soon because there have been many accidents on that road. I am a member of the Goulburn Valley Highway Action Group that has been for many years trying to get the road upgraded.

One of the concerns in the community which the report deals with is about vegetation being too close to roads, particularly at intersections, and this causes huge safety hazards. I have had a lot of complaints from constituents through my office about grass being too high at intersections and of their not knowing who is the person or authority that maintains the cutting of the grass. Many accidents have occurred on one of the roads to Shepparton and to Mooroopna. It is a low road, it has a speed limit of 60 kilometres an hour, and it has a lot of trees close to the road. While there is a sign that says 'Trees close to road', one of the issues is obviously that of drivers trying to drive very fast around there and not taking notice of the speed zones. Many locals phone up and say that often cars end up in the trees, which is tragic. One day there will be a bad accident there.

Another issue of real concern is the poor lighting, particularly on country roads. The Peter Ross-Edwards Causeway, which is to be upgraded soon, is a busy main road going into Mooroopna and Shepparton and forms part of the Midland Highway. The issue of the lack of lighting on the full length of that causeway needs to be addressed.

I turn to the part of that road which is the intersection of the Midland Highway and the Tatura-Undera Road. I raised this issue last year because there were a number of accidents on that road. One of the concerns that Senior Constable Simon Hutchings had was about the objects on the road — not just those that are there all the time but those that move.

There was one incident when a cow was on the road, and because of poor lighting at that intersection and it being a foggy night, one car ran into the cow and other cars ran into each other. I know that is a matter of the

farmer containing the cow, but it is also an issue of poor lighting at intersections in country areas where there is a lot of fog and a lot of rain and where sometimes the roads do not have lines down the middle, and that is a concern.

Just last week there was an accident at that intersection involving two cars and five people. The cars were severely damaged. I urge the government to take note of what can be done at that intersection. It is a farming area; stock is sometimes on the roads and poor visibility makes it very dangerous, especially with trees being close to the intersection.

The report contains 50 recommendations, and as the spokesperson for The Nationals on local government and on planning, recommendations 33 and 35 were of great interest to me. Recommendation 33 states that:

> VicRoads and municipalities be exempt from a planning permit for the clearing of roadside trees and hazardous native vegetation within defined distances from the edge of the road and the heights above the road.

Recommendation 35 talks about the need for a planning authority to obtain a permit for the removal of roadside vegetation. The government's response to the report further states:

> These recommendations are supported in principle in regard to VicRoads, but not supported in regard to municipalities.

That is of great concern to me, because municipalities are the level of government closest to the people. They know the safety hazards, and it is important that they have a view.

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

Environment and Natural Resources Committee: sustainable communities

Ms LINDELL (Carrum) — This morning I would like to make some comments on the Environment and Natural Resources Committee's inquiry into sustainable communities that was tabled earlier this year. It made 72 recommendations. I have spoken in the past about some of the earlier recommendations. Today I would like to speak particularly about recommendations 8.18 through to 8.24, which revolve around how we can encourage householders to save water in their gardens, and to look at some of the evidence the committee took with regard to our use of water in gardens. Of course one of the main barriers that we face in reducing water use is Victorians' — and I would suggest Australians' — love of European gardens.

I will quote some evidence from Professor Peter Cullen, who is the chair of the Victorian Water Trust Advisory Council. He said:

> All of the demand impacts that we've had have been with dual flush toilets and shower heads and a bit of education, but none of it's focused on the outdoor use, on the gardens where there's 35 per cent [of household water] use in Melbourne, 50 per cent in some … suburbs …

He goes on to say that quite a lot needs to be done with regard to water-smart gardens.

Some headway has been made. In the Our Water Our Future update to the end of 2004, we note that under the WaterSmart gardens and homes rebate scheme 80 000 rebates were issued. While that sounds an extraordinary amount of participation in the rebate scheme, it represents less than 4 per cent of Victorian households.

During the progress of the inquiry we took a lot of evidence that there is enormous potential for promoting water conservation through nurseries and garden centres. Sustainable Gardening Australia, which is a non-profit organisation, estimates that a modest program involving only 30 retail nurseries influencing their customers could result in a water saving of 340 megalitres a year. This would amount to about half the savings estimated through the WaterSmart gardens and homes rebate scheme. We could also promote the labelling of efficient plants, and that would greatly assist customers. The committee learnt that in Victoria one commercial propagation nursery has developed a labelling system to inform consumers of the relative water needs of plants. The water miser label on the plant shows a scale of water droplets.

Our recommendations to government are to focus some attention on promoting and perhaps expanding a system similar to water miser, to continue the education of our community on the very scarce nature of our water resource, to rethink some of the plants that we put into our gardens, to rethink our need for lovely, lush green lawns and to come to a stage where we understand and reflect in our gardens the very dire nature of our water resources.

Family and Community Development Committee: development of body image among young people

Ms NEVILLE (Bellarine) — I am pleased to speak on the Family and Community Development Committee's inquiry into issues relating to the development of body image among young people. As members know, I have spoken on this report a few

times, and one of the reasons I have taken the opportunity to do this is because this report is one of the most important we have seen this year. This is perhaps one of the biggest issues facing young people in our community. The report notes that there are ever-increasing numbers of young people suffering from an eating disorder and also from body dissatisfaction. Ironically, this contrasts with the other major health problem in this country, which relates to obesity. In some ways they go hand in hand; in other ways they are completely separate issues.

Today I particularly want to discuss some of the recommendations that relate to the treatment options for young people with eating disorders. This report makes a number of key recommendations. The first one I want to speak about is the committee's recommendation that it felt it was important for the Department of Human Services to undertake a statewide mapping exercise of eating disorder services. It would include looking at patterns of use and demand. We see this as an important process that would form the basis of future government policy and funding.

One reason this recommendation was highlighted by the committee was its concern about what appears to be a very wide difference in accessibility and the type of care that is available to young people and their families. It is particularly the case for Victorians in rural and regional areas. Currently treatment for eating disorders is available in either the public or the private system, and in most cases very different sorts of services are provided. Public services tend to focus on inpatient and outpatient services, particularly where the medical condition is very severe and complex, whereas the services offered by private providers normally revolve around day treatment programs, although there are some limited inpatient services based in Melbourne.

Evidence presented to the committee by parents and families and by sufferers themselves as well as by the professionals suggests that services are variable. The general practitioner is the first port of call for most families and most young people suffering from an eating disorder. This is an issue in itself. We have a very wide disparity among our general practitioners in their understanding of the condition and how to treat it. There are concerns at the moment that the system tends to focus on young people who are very sick rather than having a more preventive or early-intervention focus.

Many professionals and parents also talked about fragmentation and the lack of knowledge and integration of services. The committee believes that we need to better understand what services we currently have in Victoria and develop strategies to actually improve the accessibility and integration of these services.

The other key recommendation I want to focus on relates to the Karolinska Institute in Sweden and is about a method that operates as the main form of treatment for eating disorders, again often at the very hard end of treatment. The committee felt that the evidence it received both from representatives of the Karolinska Institute and from parents who had had experiences of their children attending the centre was enough to suggest that a trial of this method was justified in Australia. The committee found that one size does not fit all. For some young people the current system works well; for others the Karolinska Institute had been a lifesaver. I know there are some concerns about this recommendation, but we felt that we would have been derelict in our duty if we had not recommended at least some further investigation of this method, which has had enormous success in Sweden. It will not work for all people, but it may make a difference to some of those who are unable to get well under our current system.

I commend this report, and I would encourage everyone to look at it. This is a key issue for young people, and I hope we see some of those recommendations picked up in government policy and funding in the future.

DUTIES AND LAND TAX ACTS (AMENDMENT) BILL

Second reading

Debate resumed from 27 October; motion of Mr BRUMBY (Treasurer).

Government amendments circulated by Ms PIKE (Minister for Health) pursuant to standing orders.

Mr CLARK (Box Hill) — Today is a red letter day — or perhaps a black letter day — as far as taxes are concerned. At almost the exact time that we are debating this new Duties and Land Tax Acts (Amendment) Bill the Premier and the Minister for Planning are out announcing a new tax on Victoria's first home buyers of some amount which the Minister for Planning would not disclose on radio this morning but which is reported to be of the order of $5000 to $10 000.

Ms Pike interjected.

Mr CLARK — The Minister for Health said, 'Watch this space', which is a rather worrying interjection to receive in terms of what else the

government might have in the pipeline. It is clear the government is desperate to raise all the tax revenue it can in order to prop up its spending blow-outs and to cover the cost of its waste and mismanagement, such as the $96 000 it is spending on painting trees blue and the hundreds of millions of dollars of blow-outs on the regional fast rail project and all the other bungled projects that we read about almost daily. Certainly the Bracks government has had a deliberate strategy of increasing the tax slug that it derives from both land tax and stamp duty, increasing the overall tax burden on property in Victoria by a very simple but devastating policy, which is to leave the tax scales either completely unchanged or as unchanged as it can get away with and take advantage of ever-rising property prices to rake in extra revenue.

Honourable members interjecting.

Mr CLARK — The comrades opposite are getting a bit agitated, but the figures speak for themselves. In the last full year of the Kennett government, 1998–99, land tax revenue in Victoria was $378 million. In this current financial year it is budgeted to be $824 million, more than a doubling of land tax revenue in the period since the Bracks government came to office. The story is very similar with stamp duty: $1.006 billion was collected in 1998–99, and $2.076 billion is expected to be collected in this financial year. I notice from the September quarter financial statement that revenue from stamp duty is running significantly in excess of even that forecast.

It is clear that the Bracks government is relying on property taxes to raise the extra money it needs to prop up its budget, as if the extra slugs on gaming machines, the new parking tax, the new water tax and the automatic indexation of fees and charges were not enough. It is not just the opposition which is pointing out the burden of property taxes in Victoria. That is also borne out by the Commonwealth Grants Commission data, which shows that on the latest available figures up to and including 2003–04, land tax revenue in Victoria is some 29 per cent higher than the standardised per capita level — that is, higher than the norm as far as the burden on Australian taxpayers is concerned. The picture is similar with stamp duty on conveyances, which the grants commission figures show is 18.1 per cent higher than the norm in terms of the tax burden across Australia.

The Bracks government is busily raking in all the revenue it can get its hands on from property taxes, and this bill forms part of this continued and inexorable grab for cash. We have seen the consequences of this, with small to medium-sized businesses being forced to close their doors and sell up their properties as a result of unaffordable land tax burdens; and the new land tax on trusts which is contained in this bill will just add to the burden and complexity of trying to do business or invest for the future if one is a small to medium-sized business investor or indeed a professional person. Instead of inflicting all these increases the government should be heading in a completely different direction.

It should be unwinding the increases in land tax that have been caused by its failure to adjust the scales adequately to date. Equally importantly, it needs to commit to returning to the past practice of frequent adjustments to the land tax scale to prevent properties being rapidly pushed into ever higher land tax brackets.

Mr Stensholt interjected.

Mr CLARK — To satisfy the member for Burwood, the Parliamentary Secretary for Treasury and Finance, who is persistently interjecting, let me remind him that when the Kennett government left office, the revenue that was being collected from land tax in Victoria was less than the revenue being raised from land tax by the failed Cain and Kirner governments. In other words, the Kennett government reduced the burden of land tax in Victoria, whereas the Bracks government has doubled that burden in the time it has been in office. On top of the reforms I have mentioned, we also need to get rid of the use of indexation factors basing land tax bills on individual property devaluations. We need to base land valuations on genuine assessments of the market values of sites, not on highly artificial assumptions about possible alternative uses. We also need to get rid of the catch-22 anomaly which prevents taxpayers from objecting to their land valuations at the time they get their land tax bills.

Instead of doing all that, we have new complexities and burdens being dreamt up by the Bracks government on top of the damage and the increased land tax burden it has already imposed. The saga of this tax that now finds itself before the house deserves some examination, because it has been a tortured tale of bungles and duplicity on the part of the government.

This tax was first mooted in the May state budget. No details were given, but the government said it would introduce a new tax on trusts that was expected to raise some $20 million a year. The next thing the public found out about it was when a detailed document was posted on the State Revenue Office web site which announced new arrangements that had been approved by cabinet. It said it was releasing this proposal for public comment with a view to the government's

passing legislation in the spring 2005 sittings of Parliament. As I have said, it made it absolutely clear that this was a scale which had been approved by cabinet and which the government intended to proceed with. Indeed it announced a proposed commencement date for the legislation of 1 January 2006.

This measure, announced by this surreptitious posting on the State Revenue Office web site, contained a new penal scale for land tax on trusts, to be set at 1 per cent of the value exceeding $20 000. That was to apply to all properties valued to $1.19 million. That would have had devastating consequences on a wide range of taxpayers, including pensioners and self-funded retirees. I publicly highlighted the case of a couple living in Lorne, Bill and Margaret Snelling, who would have seen their land tax bill increase by some $6000 or more as a result of this tax. Indeed it would have been $7600 when you allowed for valuation changes. I commend them for being willing to speak out publicly on what this tax meant to them.

Then we saw the government start to duck and weave about what exactly its intentions were. We had the Premier and the Treasurer trying to back-pedal on this document which had been posted on the State Revenue Office web site. We had an *Animal Farm* rewriting of what had been posted up for the world to see. The original document was modified without any disclosure that it had been modified. The heading was modified to insert a reference to its being a discussion paper, and an additional paragraph was included which invited submissions from the public and stated that submissions should be received by 8 July 2005. At absolute best, the time that was given for submissions was about a week, because the changed paper was purported to be dated 27 June 2005. People who track the State Revenue Office web site even more closely than I do insist that this revised version did not even make it onto the web site until after the closing date for submissions had expired.

We heard the Premier trying on the Neil Mitchell program to talk his way out of this proposal, which had been approved by cabinet, so it should hardly have come as a total surprise to him.

Mr Stensholt interjected.

Mr CLARK — The parliamentary secretary challenges my saying that it had been to cabinet. I quote from paragraph 1 of the document released by the State Revenue Office, which says that the provisions were to:

> … propose new arrangements for taxing trusts under the Land Tax Act 1958 (LTA), as approved by cabinet, and to release this proposal for public comment …

Is the member for Burwood saying the State Revenue Office made this up? Is that what the Minister for Education and Training, who is at the table, is claiming?

The Premier was trying to talk his way out of this and trying to hold out some hope that there might be some sweetener in this deal as far as taxpayers were concerned. On the Neil Mitchell program — I believe it was on 26 July this year — the Premier responded in his usual eloquent way to a question by Neil Mitchell about whether the beneficiary then paid normal tax, by saying:

> There would be a normal person then in the principal, you know, they could avoid the principal place of residence.

He was holding out the hope that the principal place of residence might be exempted from land tax under the model that the government was now going to consider. There were a number of other possibilities tossed on the table by the government to try to do anything to get the debate off the agenda.

The government then went silent for many months, but the clock continued to tick. The intended starting date of 1 January 2006 drew ever closer, and we could not get any coherent statement whatsoever, even out of the Treasurer's office, on what was intended. When I asked the Treasurer about it in the house, he responded that he was going to make an announcement and that it would come soon, with no further detail than that. The other day we finally got an announcement about the new regime from the government. The Treasurer was struggling to even get the details of his own announcement right when he made the announcement on Friday, 21 October.

What he announced was that there would be a new surcharge, or a new penalty tax, on land held through trusts. He said that it would apply to all properties valued over $20 000, that it would commence from 1 January next year and that it would apply a 0.375 per cent surcharge on top of the existing land tax. He said that there would be certain rights to nominate a beneficiary and that there would be various exemptions such as for complying superannuation funds and various charitable trusts established solely for disabled beneficiaries et cetera.

What was striking was that in his media release the Treasurer was not able to get right the scale he was going to impose, even though he had been labouring over it for months. He announced that for properties valued at $2.7 million and above, the tax would be $36 330 and 3.5 per cent of the value over $2.7 million. But when you did the calculations of how the scale

worked leading up to $2.7 million you realised that, for land valued at $2 699 999, under the Treasurer's scale the tax burden would be some $10 000 higher than it would be if the land in question were worth a dollar more.

I pointed that out at a press conference held around midday on the day of the Treasurer's announcement, and later in the day, in another document-modifying exercise, the government amended its media release to include a revised scale. It put a little asterisk against the bracket between $1.62 million and $2.699.999 million with a footnote to say 'Total surcharge tapers from a maximum of $6075 at $1.62 m to zero at $2.7 m.'.

Then we had the actual official scale that the government intends to include in the bill before the house, and that is different again. We do not have a tax rate of 2.585 per cent on that portion of the value above $1.62 million. Instead we have a rate of 1.706 per cent of the land value above that amount. This is in complete contradiction to what was in the first and the second versions of the Treasurer's media release. On top of that the government got around to fixing up another error in the scale originally published which stated that the tax for $200 000 would be $950. It corrected that to $750.

You can only wonder what is going on with a Treasurer who is supposed to be a financial guru, who has the learned assistance of the member for Burwood and all of the expertise in the Department of Treasury and Finance together with all the expertise in the State Revenue Office (SRO). With all the months they have taken to get this right they still had to have three goes before they could get a tax scale that even added up and gave effect to what they sought to do.

But now we have this measure before the house, and it is going to be a heavy blow to many small to medium-sized property owners in Victoria, be they investors, be they business people, be they professional people, or be they self-funded retirees. As I said, this will impose a higher tax burden on properties that are held through trusts. It will certainly do that in the future, and in many instances it is going to cause enormous complications, even for existing trusts.

The government seeks to allow trustees of existing discretionary trusts to nominate a beneficiary, the intention being that the trust would be assessed on existing land holdings at normal rates. The beneficiary would then be assessed on the total value of the trust land and any other land that the beneficiary owned, with a deduction for any tax payable by the trustee. The government's intention is to allow some sort of mitigation of the new tax for those with existing land holdings. However, this nomination right is not going to apply to land acquired after 31 December 2005, which will be taxed solely in the hands of the trustee at the trust's surcharge tax rate, in the case of discretionary trusts.

There are some provisions in the bill that allow trustees of fixed trusts and unit trusts to provide details of the beneficial interests or the unit holdings to the State Revenue Office, and those are ongoing. But, effectively, if you want to have land in a discretionary trust in Victoria after the end of this year you are going to have to pay the penal land tax bill, unless you fall within one of the categories of trusts exempted from the new arrangements. These are in some respects quite limited, particular in relation to families who want to set up discretionary trusts for their children in circumstances where one of their children has a disability but their other children do not. Such a trust does not appear to qualify for an exemption.

A further factor thrown in with the announcement made by the government was that a separate nomination process can apply to nominate a beneficiary who is described as a PPR beneficiary, short for 'principal place of residence' beneficiary. This will allow the trust to be exempted from the surcharge on a principal place of residence in which the nominated beneficiary lives. I make the point that this is a long way from the carrot that was offered by the Premier several months ago when he held out the prospect that principal places of residence held through trusts might be able to be completely exempted from land tax on trusts. No, it is not a complete exemption, it is simply an exemption from the surcharge.

Going forward, small to medium-sized investors in Victoria are going to face this dilemma. They are either going to have to pay penal tax if they want to hold their property through a trust, or they are going to have to forgo the many legitimate benefits they and their competitors have been able to enjoy to date and which their competitors, in many instances interstate, will be able to continue to enjoy by structuring their affairs through trusts.

The government seems to think that small to medium-sized property owners are using trusts in order to avoid land tax. I can inform honourable members opposite that I am certainly not aware of any small to medium-sized property owner who has done that, and it does not make a lot of sense for them to do that. The people who might want to avoid land tax through trusts are the very large land-holders who might find it beneficial to take a total landholding of, say,

$10 million and split it up into 10 trusts, each holding $1 million.

A bizarre feature of the bill before the house is that it will still be advantageous for someone in that position to avoid land tax by that means, because it will still be cheaper for them to pay the surcharge than to have $10 million worth of property in the one holding. If the government is seeking to reduce avoidance, it is not doing so. Instead, it is those who have not structured their affairs for any land tax avoidance purpose who are being hampered in their ability to carry on their legitimate activities in the pursuit of earning a living for themselves. They may want to use a trust because they have a family business, for asset protection reasons or for the very good reason that flows from the structure of commonwealth capital gains tax, whereby capital gains held through trusts are eligible for the 50 per cent capital gains tax concession, whereas land that is beneficially owned by a company and not in a trust is not eligible for that concession.

Businesses are going to face this financial penalty in the future and face complexity in doing business in Victoria. There is also going to be an added level of complexity in people having to adjust to the new regime that is being introduced because we are well into November and this new regime is going to commence from 1 January next year.

People are going to have to make decisions. Are they going to nominate a beneficiary in order to be grandfathered from this new tax, or are they not? Are they going to pay the surcharge? Are they going to seek to restructure their affairs to wind up their trusts or transfer them to other holding entities? Or are they going to give up altogether, throw up their hands in horror, sell up and move to Queensland or to some other state where it is a bit easier for them to legitimately earn a dollar and build for the future than it is to negotiate their way through the tax hazards in Victoria? These are all issues which thousands of Victorians are going to have to resolve with only a very limited window of opportunity.

There is a requirement here that taxpayers must lodge returns by 31 December this year if they are trust holders of property, and this appears to apply even where the trusts do not hold taxable land — for example, where trusts hold purely farming land. I will be interested to hear the rationale from the Parliamentary Secretary for Treasury and Finance as to why the government wants to cast its net over all trusts, whether or not they are holders of taxable land.

Mr Stensholt — They are actually exempt.

Mr CLARK — The parliamentary secretary interjected, saying, if I heard him correctly, that they are exempt. That is certainly not the view that is taken by the taxation institute in its submission to the Treasurer. The institute is of the view that all trusts, whether or not their land is exempt, are required to lodge returns by 31 December, so we will look forward to hearing the parliamentary secretary on that.

This looks very much like a repeat of the fiasco we saw with the parking tax, where the government said that everybody who had a parking space in the inner urban area caught by the new parking tax had to register, whether or not they were liable for the tax, and that they had to do that within three weeks of the start of the new calendar year. When that was pointed out the government said, ‘Look, it is not a problem. We will allow more time. We are not intending to fine people. It is just good administrative process’ — or words to that effect.

We are getting into a similar position with this new requirement to lodge a return by 31 December. The date is specified, but we are told there is not going to be a penalty and that there is going to be a window of opportunity for people to lodge later than that. This leads you to ask the question: why on earth is the government imposing this legal obligation in an act of Parliament if it does not intend to enforce it? It leads to the further question: what are the government’s plans in terms of notifying taxpayers across Victoria, and indeed taxpayers outside Victoria who own Victorian land, of the obligation that is being imposed on them to lodge this return? For all these reasons the opposition is vehemently opposed to this new land tax regime on trusts which the government is introducing. We will be opposing the bill for that reason.

There are some other relatively minor provisions in the bill, and I will make just a few brief comments on them. There are provisions in relation to duties which provide exemptions where older persons enter into equity release programs. ‘Equity release programs’ are defined in clause 4 of the bill. They apply basically where a person sells a proportionate interest in a home to a financier and in effect sells down their equity in one or more stages over the latter years of their life. I should make the point that these equity release programs are separate from reverse mortgages, because where there is simply a mortgage transaction, duty — at least at land-transfer rates — is not applicable, although I believe a fairly hefty and increased fee will be payable for the registration of such mortgages. This exemption seems reasonable. The opposition does not take any exception to the concept of it, although some points

could be raised about the way in which the exemption is drafted.

There is also a range of provisions that transfer to the Duties Act various exemptions from motor vehicle stamp duty that are currently contained in VicRoads legislation. Again, the opposition has no objections to these exemptions being incorporated in legislation.

Finally, there is a range of measures relating to the land-rich duty provisions, including the recovery of commissioners' valuation costs, the expansion of the definition of qualified investors in wholesale units trust, the listing of trusts on non-Australian stock exchanges and trusts declared on existing unit holdings. A large number of these measures are fix-ups for the mistakes that were made by the government in legislation that has gone through this house in very recent times. Many of these fix-ups are to remedy problems and areas of concern that were raised with the government at the time.

I can well remember the Law Institute of Victoria making very forcefully the point that when the government consults with it and other practitioners and interested parties in advance a far better product can be arrived at than when the government presses on with its legislation without such prior consultation. The law institute in the case of this previous legislation pointed out a wide range of flaws in the legislation as it then stood, and some of those were canvassed in debate in this house; yet the government in its usual arrogant way pressed on regardless with its changes, would not listen to reason, was not prepared to admit it might have got anything wrong, and it ended up in serious difficulties as a result which now have to be remedied by this bill.

Finally, in relation to matters that have to be remedied, the Minister for Health circulated just as the debate on this bill began a series of house amendments to be moved by the Treasurer. I should put on the record that the minister's announcement was the first notice that I as opposition spokesperson on this bill had of these amendments. In the past there has been accepted practice to give some advance notice of house amendments. I commend the Minister for Finance in the other place on the fact that he has given the opposition advance notice of some house amendments to a bill we are going to debate later on, but it is to be regretted that the government was not able to get itself sufficiently organised to give notice of these amendments in advance to the opposition. We believe land tax on trusts is a retrograde measure that is going to damage small to medium-sized Victorian property owners of all descriptions, and we vigorously oppose this bill.

Mr RYAN (Leader of The Nationals) — About five years ago the budget in the state of Victoria was $20 000 million, or $20 billion. This year the budget for the state of Victoria is about $30 000 million, or $30 billion — or a bit more, in fact. There has been a 50 per cent increase in the budget available to the state over a period of five years.

As I track around Victoria, I say to people, 'Hands up all those in the room who have had a 50 per cent increase in the funds available to them in five years?'. I am yet to go into a room where anybody has put up their hand. This amazing state of affairs is due in no small measure to the remarkable inventiveness of this government to be able to reach into the pockets of Victorians and pinch money from them. This government has made an absolute art form of doing it. It basically follows two essential paths. One path is to do it and be damned; the other is to flag it, see how it looks and either back away from it or change it a bit, but nevertheless in a modified form bring it in.

In the first category we have a range of things, such as the doubling of the tax earlier this year in relation to gaming machines, to increase that from $45 million to $90 million. This was done without any further ado and without any reference to the industry. The industry representatives were called in and told that that was what was going to happen. Similarly, in this first category we have had the introduction of the car parking tax — otherwise known as the congestion tax or congestion charge, or by whatever other name you might need to call it.

Mr Stensholt — Levy.

Mr RYAN — The member for Burwood interjects, as parliamentary secretaries do, to correct me and say it is the congestion levy. I acknowledge that he is correct in his terminology for it — thievery, levy; whatever! Congestion levy is the formal name. That was another instance where, without any reference, the government announced measures to take $40 million out of the pockets of Victorians. Interestingly enough, in the face of all the commentary coming from investigations and reports that it simply will not work, it is not going to work at all, it does not reduce congestion. It does not matter whether it be the Australian states that have introduced it or whether it be London where they have a form of congestion charge which does work. In London they examined the option that Victoria has now installed and went away from it and did not pursue it because they knew it would not work. Nevertheless that is another way within this first category where the government chooses to raise its taxes and charges, or it brings in legislation that on 1 July automatically, by the

consumer price index, increases all the fines and fees across the state, although to this day not even the government knows how many fines and fees are being increased. It cannot even tell us. That is all in the first category.

In the second category are the ones where the proposition is tossed up in the air, you see how it goes and modify it according to the reaction you get from the community. This one, as embodied in this legislation, comes within that second category. It has classically been undertaken by the government as is the wont with this particular parcel of taxation. It had its genesis in the budget papers. It appeared in budget paper 2 for this year at page 13, where there is reference to a clause that starts off at the top of the page:

> These taxation relief measures have been partly offset by …

That is an absolute classic for a start. I do not have the previous page with me which lists the taxation measures, so it is probably several pages, but in any event this is the area of these taxation relief measures that are being partly offset. It goes on to talk about the car park levy, firstly, and then there is reference to:

> revenue from reform of the land tax regime on certain trusts to provide clarity —

don't you love it? —

> in an area of the law which has been disputed in recent years …

It then moves on to the gaming machine tax.

What happened was that the government then went out and further developed this. The Treasurer went out to the odd skirmish and further floated the notion that this taxation on trusts was going to occur. Of course all hell broke loose, particularly among older members of our community, who were distraught about what this might mean as an imposition upon them if it were to be introduced on the broad scale which the government had gone out there and flagged. The government then withdrew, went back to base and had another look at this, and has ultimately come up with the proposition that we now see advanced.

I must say, as I understand it — and the parliamentary secretary will no doubt tell me if I am wrong in this — the proposition advanced by the government is that the measures now proposed will raise about $2 million in land tax each year, certainly at an initial stage. If that is the case, you cannot help but wonder why the government persists with this. Is this the sort of loony left still running within the ranks of the Labor Party who would see the introduction of a measure such as is contemplated under the terms of this bill?

The government's record on land tax is appalling. What it has done by way of rorting this law, particularly over the failure to appropriately adjust the scales and accommodate the enormity of the growth in the valuations of properties in Victoria over the past five years, is nothing less than disgraceful, and all the purported cuts in taxes on land are a fiction. You need only look at the forward estimates. There has been a bit shaved off the top, but basically there will be $900 million-plus over the next four years, so all of the rhetoric that goes with reforms in this area is just that — it is rhetoric. To have this measure being added in is just a disgraceful state of affairs.

The government has gradually backed away from the original propositions and changes have been made. It has all been whittled down to the point that we now have contained in the legislation. The member for Box Hill has done a pretty careful analysis of that, and I do not want to go through it all again from the perspective of The Nationals. Suffice it to say in brief that in the last budget there was a cryptic reference to a tax of this general nature. Soon afterwards the scale appeared on the State Revenue Office (SRO) web site, which has already been referred to by the member for Box Hill. That is really what generated the outcry in the public arena. We now have the bill, which is a pretty pale imitation of what was originally being floated but which nevertheless is going to have consequences.

There is an exemption, a let-out clause inserted to the effect that, should a trust nominate a beneficiary to the SRO, then the land will be taxed at ordinary rates in the hands of the beneficiary. In the first instance that sounds fine, but there are two serious qualifications upon this measure. There are also equity issues. The first qualification is that the trust land is aggregated with other taxable land held by the beneficiary, and it may result in all the land falling into a higher scale than it does under current arrangements. The second qualification is that the so-termed beneficiary nomination concessions apply only to land owned prior to 1 January 2006. After that date all purchases are going to be taxed in the hands of the trust at the new surcharge rates. There are other equity issues. If there is more than one beneficiary, one has to be nominated. There is no mechanism in the legislation whereby the nominated beneficiary is able to collect the contributions from the others. That is going to be the obligation that has to be paid.

The bottom line is that there are various elements of this legislation which are objectionable, but the most

objectionable aspect is the legislation itself. It is another measure being imposed upon Victorians by a rapacious government which knows no limits in terms of its inventive capacity to enable it to haul money out of the pockets of Victorians. It struggles to make the whole thing balance, so we have these halfwit forms of raising extra money that are being imposed upon the people of this state. The Nationals are opposed to this legislation.

Mr STENSHOLT (Burwood) — I rise to support the Duties and Land Tax Acts (Amendment) Bill 2005. I thank the member for Box Hill and the Leader of The Nationals for their contributions to the debate so far. I should make a couple of points first of all, as both of them did in talking about taxation. I want to correct some of the statements they made. Over the last six years the Bracks government has taken Victoria from a position where our taxes were above the national average — in 1999–2000 they were 0.55 per cent worse than the national average — to a position where they are now below the national average and are 0.04 per cent better. In other words, Victoria has gone from being a higher taxing state to being a lower taxing state.

The member for Box Hill went on about increases in revenue et cetera. I should point out that in fact the opposite has actually happened. Revenue has increased by 46.5 per cent but he should have mentioned that the economy has grown faster — by 53.1 per cent. The nominal gross state product (GSP) in 1998–99 was $150 billion, and in 2005–06 it had grown enormously to $230 billion.

Revenue, as the Leader of The Nationals said, has gone from about $20 billion to about $30 billion, which is an increase of 46.5 per cent. But in terms of taxation we have gone from being the state with the second-highest number of taxes, 22 in 1999–2000, to being the state with the lowest number of taxes, now 16. We have abolished more taxes under the intergovernmental agreement than any other state. Payroll tax has been cut by 9 per cent; $823 million was cut from land tax in the last budget, and previously we took off $1 billion. This is quite extraordinary.

We hear from the Liberal Party about land tax. This is the mob that actually doubled the rate of land tax in one year. We have successively reduced the rates of land tax. The former Minister for Small Business will no doubt get up and contribute to this debate if she gets the chance. She actually lowered the threshold to $85 000 — in other words, she put an impost on small business. I could go into a whole number of taxes which have been abolished — duty on non-residential leases, financial institutions duty, duty on quoted marketable securities, duty on unquoted marketable securities, duty on mortgages and bank account debits tax. They have all been abolished.

Dr Napthine — Don't take credit for that. It is all part of the GST package.

The ACTING SPEAKER (Mr Ingram) — Order! The member for South-West Coast!

Mr STENSHOLT — If the member for South-West Coast could listen instead of shouting, he might learn. The business rental duty is going to be abolished from 1 January 2007. Stamp duty on properties is unchanged. With payroll tax there has been a maternity leave exemption effective from 1 January 2003.

The member for Box Hill mentioned first home buyers. We are continuing the first home buyers arrangements, both the owners grant and the bonus. Look at the facts. Look at what is happening to home ownership here in Victoria. The first home owners grant is having a massive impact, and we are helping families. Victoria is the place to live and raise a family — it is the place to be.

A wide range of consultations has occurred on both the duties and the land tax, and the State Taxation Consultative Committee has invited submissions from a whole range of people who have been involved. A whole range of firms have been consulted on the duties and land tax provisions as well. The previous speakers said this has just come up. Let me say this has been in process for a number of years. The industry itself has said there are a few problems, which it acknowledges, with trusts. Last year a joint paper was put out by the property council and the law institute. They actually suggested many of the facets which have been included in this bill, particularly in terms of dealing with beneficiaries. We mentioned it in the budget and said we wanted to deal with land tax because there are people out there setting up multiple trusts, particularly under $2.6 million, to try to avoid paying land tax. There are a number of disputes the SRO is dealing with which it and the industry felt were advisable to tackle.

A number of points in the bill cover this. There are new rates, including the rate which tapers things off to $2.7 million. This is one that provides a new arrangement for trusts in the future. At the same time we have listened to business and to stakeholders and I have had a number of consultations with a wide range of people on this.

We had a system of notification and a system of nomination. I want to clarify a few things. In terms of notification trustees will need to notify the State

Revenue Office of properties held in a trust so they can comply with the new legislation. However, I understand the commissioner will be issuing a statement, provided the legislation goes through the house, saying that subject to its being passed the commissioner will use his power to extend the notification deadline by a further three months to 31 March 2006. He has powers under section 94 of the current Land Tax Act to extend the time.

What about farms? If a trust holds land that is subject to land tax, other than for primary production, the commissioner will interpret this requirement to notify as being in respect of taxable land. Farms are exempt, therefore there will be no requirement to notify. However, if the usage of the land changes and the land ceases to be exempt land, the trustee has three months to notify the State Revenue Office of that change. These are important dates, and the commissioner of taxation will be issuing a statement in this regard after the passage of the legislation.

I should also note a few other points in this regard. The member for Box Hill was talking about interstate competition. With regard to the impact on small and medium business, I should point out that the comparison between Victorian, New South Wales and Queensland land tax on trusts involves a crossover point of around about $2.9 million whereby the Victorian tax will be less, so once again the member for Box Hill has it wrong, wrong, wrong!

The minister at the table has proposed a number of small amendments. These are concerns which have been raised in the consultation process since the details of the final model were made public in regard to the subtrust provisions for clarification and also the issue regarding the principal place of residence nomination. It provides that a trustee of a discretionary trust can change a PPR nomination where the nominated beneficiary held land prior to 1 January 2006. That ensures that if there are some changes in the future the nomination can continue. The suggested amendments provide clarification of the legislation, and I am sure the opposition will support them.

This is a process in terms of both land tax and duties to provide clarification and to improve the administration of both duties and land tax in regard to trusts. It is sensible governance; it is a way of closing loopholes. That is the responsibility of the government, which takes its fiscal responsibilities seriously. This government governs for all Victorians, and it is doing that with this particular bill.

Ms ASHER (Brighton) — It is another day and another tax bill! It does not matter whether it is a congestion tax bill, a water tax bill, a levy on a pokies machine bill — almost every day in this Parliament a new tax is brought in by this greedy government — and has not the Auditor-General this morning pointed this one out in terms of revenue streams coming to this government!

The opposition, unsurprisingly, opposes the Duties and Land Tax Acts (Amendment) Bill before the house. In essence we oppose all these tax changes. We oppose them because the government consists of a rapacious bunch of economic managers. The tax surcharge will be established at 0.375 per cent on trusts with property worth above $20 000, and it goes up to $1.62 million. This allows trustees of a discretionary trust to nominate a beneficiary. The government, of course, is claiming this is a concession. What will then happen is the trust will be assessed for land tax at ordinary rates and the beneficiary will be assessed on the value of that land and any other land owned by the beneficiary with a deduction for any tax payable by the trustee. However, land bought after 31 December this year will be taxed at the surcharge rate.

What we have here is what the government flagged — although that is an overstatement — in the budget, which is that if you own land via a land trust you will be taxed at an additional rate to that for land owned in another form. The government has also required in this bill an additional one-off return for people holding land in the form of trusts. I make the following observation, which I have also made on other taxation bills. The government puts out its glossy, visionary statements about reduction of regulation and wanting business in Victoria, but that is a nonsense because in the fine print of a number of bills that have appeared in the last few weeks we have seen requirements placed on small people — small business owners, people who want to run businesses by a trust, people who want to run their personal affairs by trusts. In this bill we have an additional reporting requirement. As part of that, anyone who wishes to own land in the form of a trust will have to pay for legal and accounting advice to work out whether they wish to nominate a beneficiary or not.

There are a number of concerns that we have about the bill before the house. Firstly, it penalises professionals and small to medium-sized businesses wishing to organise their own structures. Secondly, it will force investors to choose between paying the Treasurer's punitive land tax on trusts and possibly forgoing capital gains tax concessions. Interestingly enough — and the member for Box Hill has pointed this out with great

aplomb — the Treasurer has had three goes at drawing up these tax scales, with the member for Box Hill watching over his shoulder, and on this occasion it appears to be a final — in inverted commas — version.

The background to this additional tax surcharge on trusts is that there was a very quiet announcement about it in the budget. Normally the government likes to announce things with great fanfare, but there was a very quiet announcement on budget day. On page 38 of the *Strategy and Outlook* document it is called 'Compliance on trusts reform'. The government would have people believe that this is about compliance, when it is about additional taxation. At that stage the budget estimates showed this would give $20 million per annum extra revenue to the government. I gather that has been subsequently downgraded somewhat. The first of the three cuts of the scales of taxation was quietly put onto the State Revenue Office Victoria web site. Can you imagine this government — the master of spin, the master of press release, the master of announcement — just quietly putting something on an SRO web site? At that time it claimed these changes had gone through cabinet and simultaneously called for consultation. Only this government could manage that.

There are a couple of other areas of concern. The one that I have already touched on is the issue of forcing investors to choose between this regime and possibly forgoing capital gains tax concessions, because if an investor chooses to buy land through a company rather than through a trust to legitimately avoid the surcharge put forward in this bill they will not be eligible for the 50 per cent concession provided by the commonwealth government on capital gains if assets are held for 12 months or longer, because that concession is not available to companies. This is not just simply saying if you do not want to hold land via a trust, do not do it. There is a whole heap of legal and accounting advice that will need to be sought before people are able to make an economic decision as to whether they will nominate a beneficiary or choose to hold their land in a different holding.

Basically, though, from 1 January next year it is going to be more expensive to hold land through a trust. I note the comments from the Law Institute of Victoria:

> Trusts are a legitimate structure and ought to be available to ordinary people to use without penalty or discrimination. The people who will be hardest hit by these changes are small business and the 'mum and dad' investors.

That is a relevant comment from the law institute, and I have received a raft of constituent objections from people who hold land legitimately in the form of a trust. Some of those stories are particularly sad. If only the Treasurer had the opportunity to sit in an electorate office, which I am sure he does not do much of, he would hear person-to-person some of these concerns from people who have invested life savings for a whole range of legitimate reasons — they want to look after themselves in their old age or whatever else. It is a great pity the Treasurer only sees correspondence, if in fact he deigns to do that, and does not hear some of these stories first hand.

I wrote to the Treasurer and he wrote back to me on 5 September this year and indicated that the government had not agreed to a final position at that stage. You have to ask why, if things are announced in a budget in May, the Treasurer would want to disclose that the government was still fiddling around working out these scales as late as September. The Treasurer sent me a copy of his answer to a question from the member for Box Hill at question time. Not only did we have to listen to that waffle in question time but the final insult is that Treasurer Brumby then sent out a copy of *Hansard*. We read the budget, we have seen the government having three goes at doing a tax scale, and we still oppose this punitive regime of imposing a tax surcharge on people who choose to hold land by way of a trust.

The bottom line, as it always is with this government, is about raising additional revenue. I have to say in terms of the ideology driving this Labor government there is an assumption somewhere in all of this that people who own land are fair game to be taxed. That is the problem with the land tax increases. Forget the so-called decrease in the last budget and look at what the forward estimates are. That is one of the assumptions of this government: if you own land, the government taxes it. It thinks that if you own land it can whack punitive rates of stamp duty and land tax on it, and that it can get away with it.

I note also as an aside that the second-reading speech sets out a number of other purposes to this bill, but one in particular is to rectify errors in the Land Tax Bill 2005, which we debated until 1.00 a.m. a couple of weeks ago. We were allowed to have commentary on that land tax bill until about 1.00 a.m. It is a habit of this government to bring in legislation, then to check it out later and find out there are errors. The Treasurer has referred to it as 'two minor oversights', but we note a bill that has gone through this house only a matter of weeks ago has already had to come back into this chamber by way of this bill asking for additional tax to be corrected. It is a trademark of this government in terms of its sloppy standards, its bad drafting and its desire to rush through legislation, even though in the

case of that bill it had said it would not be rushed through to the end of this year.

In summary, this is yet another example of this high-taxing government. This is yet another example of revenue raising by this government. It is yet another example of this government being punitive towards those who own land, and it shows that if you hold land in one form you will have a higher tax slugged on you by this government. It is a lousy bill, and the opposition opposes it.

Debate adjourned on motion of Mr MERLINO (Monbulk).

Debate adjourned until later this day.

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL

Second reading

Debate resumed from 27 October; motion of Mr BRUMBY (Treasurer).

Government amendments circulated by Ms KOSKY (Minister for Education and Training) pursuant to standing orders.

Mr CLARK (Box Hill) — The Superannuation Legislation (Governance Reform) Bill has several main purposes. The first is to abolish the Government Superannuation Office and transfer its assets, liabilities and staff to the Emergency Services Superannuation Scheme (ESSS). The second is to restructure the ESSS board by combining the existing GSO board with the existing ESSS board. It will also provide some veto rights to board members and require a two-thirds majority for various board resolutions. The bill provides for salary sacrifice for ESSS members. It also makes various amendments that will mean that in relation to defined benefit schemes it is expected that the Victorian Funds Management Corporation will make most of the investment decisions, with only high-level investment policy decisions being a responsibility of the board.

Of the provisions that I have mentioned the one that has understandably attracted the most public attention and controversy is the measure that combines the Government Superannuation Office with the ESSS. If one ever wanted a demonstration of the government's incompetence and how out of touch it has become with the community, one need only look at the saga of how this measure has evolved. It began with the government, through the Minister for Finance, making a unilateral decision to proceed with the merger of the two funds. A letter was sent out to the members of the two funds announcing that what was put to them as an initiative was to be implemented within the coming months. In the letter the Minister for Finance told members of the funds that on 14 July this year he had advised the Government Superannuation Office Board, the Emergency Services Superannuation Board, Victorian Trades Hall Council and other stakeholders of the planned integration of the SSF into the ESSS. He outlined what he described as the key features of the proposals, saying:

> The purpose of the change is to reduce the costs to the government (and Victorian taxpayers) of administering Victoria's public sector superannuation schemes.

He concluded by saying:

> Government will be consulting with key stakeholders … over the next six weeks on various aspects of the integration.

So it was a unilateral decision, albeit with an offer to consult with the key stakeholders on various aspects. Not surprisingly this unilateral announcement was met with concern not only by members of the ESSS and their representative associations but also by pensioners and other beneficiaries of the Government Superannuation Office.

It seems not to have dawned on the government to any significant extent that these funds are not just ones to be shuffled around at its pleasure regardless of the wishes of the members and beneficiaries, who have to be told first what is going to happen and then perhaps be given a say about some of the details. These are funds that are rightly regarded by beneficiaries as being crucial to their future security and their future income after retirement, and they understandably have a very deep concern and interest in the way in which their fund is governed.

That extends not just to the question of whether or not their benefits will be secure, although that of course is a fundamental concern. It also extends to questions of how well the fund in which the money is placed is governed and how well it is administered. How readily are they able to get responses from the fund when they need details about their entitlements, when they need to make arrangements for their retirement income, when they need to notify changes of address or other particulars and when they are promoted or their entitlements and contributions change?

What happens if they become injured or fall on ill health and need for that reason to call on the fund, as can happen quite often in the case of emergency services workers who put their life on the line for the

community? How well will a case be handled in a time of stress and personal difficulty? How efficiently will the fund respond to their needs and ensure that they continue to have a flow of income so that their finances are not disrupted and they are not caused undue angst through administrative and bureaucratic requirements? It is a very important concern to members of a superannuation fund.

Lastly, I mention the question of board structure and representation. There should be an equal number of employer and employee representatives. Emergency services workers feel that there are particular aspects of their scheme and their needs as emergency services workers that have to be protected and represented on the board, so having proper board representation is vital to them.

It is not surprising that when they received this unilateral announcement from the Minister for Finance they were very concerned about what was happening, particularly as they had previously been through some pretty tense discussions with the government when it had moved to change the taxation status of the Emergency Services Superannuation Scheme legislation that went through this Parliament earlier in the year, when emergency services representatives had to stand up to the government and make it take notice about protecting their interests.

The Police Association wrote to a number of members of Parliament. It certainly wrote to me by letter dated 13 September seeking support to prevent the Minister for Finance from merging the ESSS with the Government Superannuation Office (GSO) fund and to have the bill withdrawn immediately. It went on to set out the history of the ESSS and the bipartisan support that it had enjoyed and the threats it perceived to that by what the government was intending. As we all know, the government did not take much notice of these concerns at first. The police and other emergency services workers had a series of meetings and briefings and passed resolutions saying that if necessary they would be prepared to impose various bans and other industrial measures in defence of their position.

We also had the extraordinary reports on the electronic media and again repeated in the *Police Association Journal* of November on the Minister for Police and Emergency Services refusing to meet with police, firefighters and ambulance workers even to discuss their concerns. We saw the minister being approached by representatives at a conference he was attending, refusing to talk with them, refusing to arrange a subsequent meeting and simply walking away from them. With that sort of disdain and contempt and high-handed attitude towards them it is no wonder that their concerns were exacerbated and the potential for a very serious dispute went even further.

I should say by way of an aside, lest the member for Burwood raise this matter, that this is in stark contrast to the way in which superannuation reforms were handled under the Kennett government, where before the legislation went to Parliament there was extensive consultation between the government and the Trades Hall Council. Notwithstanding that there were passionate disagreements between the government and the Trades Hall Council on a number of matters there was a very constructive and positive approach to these negotiations. I know from the government side the then finance minister, Ian Smith, and the senior public servants and others involved went to enormous lengths to talk through with the union movement what the objectives of reform were, what the necessity for reform was and what the proposals and options were to achieve a negotiated and fully agreed position before the legislation went into Parliament.

In contrast here we have the government proceeding in utter disregard for the legitimate interests of emergency services workers until they had to be brought up short by some grave threats by emergency services workers — the sorts of threats that should never have needed to be made in order to make the government see sense.

Fortunately the emergency services workers, the Liberal Party and many others who raised concerns about what the government was doing finally seemed to have got through to the government and to the minister, and there have been a series of discussions and an arrangement proposed which looks as though it is going to be acceptable to emergency services workers. This was also reported in the *Police Association Journal* of November in an article under the heading 'Dispute one step closer to resolution', which states:

> The power of solidarity won through at the 11th hour when it appeared the industrial action would affect the Moto GP at Phillip Island. Talks between the combined emergency services unions and the government went late into the night culminating in an agreement.

It went on to say that agreement had been reached on a process to provide guarantees and that the government had agreed to negotiate what was referred to as a common-law deed of agreement in order to maintain the ESSS for current, retired and future members. The Police Association explained that a common-law deed of agreement in its terms was a legally binding document enforceable in the Supreme and County courts of Victoria. It means that the parties are legally

bound by the document and its contents cannot be changed unless the parties agree to such change. If either party breaches a term of the agreement the court can order specific performance of the terms of the agreement as well as financial penalties against the offending party. The article further notes:

> … this is stronger than legislation as legislation can be unilaterally changed at any time.

The government could still unilaterally abrogate even a common-law deed of agreement by legislation as it has been prepared to abrogate the licences in relation to brown coal royalties, for example, but we must hope not even the Bracks government would be prepared to do that in relation to this agreement.

The article goes on to say that the deed would provide for continued protection of defined benefits for current members of the Emergency Services Superannuation Scheme (ESSS); continued access to the ESSS defined benefits scheme and its benefits for future eligible members; maintenance of the right for retired members to roll over funds into the ESSS beneficiary accounts; continued access to ESSS accumulation products at no cost disadvantage; continued access for current and future members to all ESSS beneficiary accounts; and board representation to protect and fully preserve the ESSS.

Since the article was written my understanding is that the parties have proceeded along those lines, and indeed a series of meetings of emergency workers is taking place over the next few days to consider the agreement that has been negotiated, subject to approval by their representatives with the government. Of course it puts this house in a very difficult position in knowing how to proceed with this bill when these meetings are still to be held and the results from them to be known. If the meetings approve the agreements as negotiated, then all is well, the matter is resolved and the legislation can proceed. The opposition is certainly prepared to support the legislation if it meets with the approval of the emergency services workers in these meetings and if their concerns have been resolved.

It would have been far better if the government had not brought the bill on for debate until the outcome of those meetings was known. However, the government has chosen to bring on the bill at this stage. Therefore the opposition is prepared to support the bill at this time on the basis and the assumption that it is approved by the emergency services employees. Should that prove not to be the case, then of course we would no longer continue to support the bill unless and until the legitimate concerns of the emergency services employees are resolved. We would then adopt a different position on the bill when it came on for debate in the other place. However, let us hope that what has been agreed to is satisfactory and is approved by the emergency services workers concerned.

Clearly, if administrative benefits can be obtained without prejudice to members of the funds, then it is in everybody's interest to avoid unnecessary expense and perhaps to achieve economies of scale and an improved level of service for members. As I understand it the emergency services superannuation scheme is generally regarded as a well-performed fund and has been for many years. Hopefully some of the skills and abilities of the ESSS team, both the board members and the management, and the skills of the Government Superannuation Office board and management that will continue with the combined fund can be harnessed to continue to provide good service to emergency services workers and to the members of the GSO. On that basis the opposition is prepared to support the bill at this time.

There is only one other aspect of the bill which I want to make further comment on, and that is simply to put on the record the fact that although the initial merger taking place here is between the Government Superannuation Office and the ESSS, carried over into the Emergency Services Superannuation Act are provisions along the lines of what is currently in other legislation, providing for the minister to specify in writing that other superannuation schemes are schemes to which the legislation applies, and therefore to effect the folding-in of those other schemes into the new structure. In the course of being briefed on the bill the opposition was told of a number of those other funds that were intended to be brought into the combined administration.

The other provision on which I will comment very briefly is in relation to the expanded management role intended for the Victorian Funds Management Corporation. The way the relevant provisions in the bill are structured does not require the fund to proceed to delegate a wide range of powers to the Victorian Funds Management Corporation. Rather they provide that the board is deemed to have complied with its obligations should it choose to so delegate. So at least in principle it would appear open to the board to decide not to do so, and that, I would think, is in accordance with the proper position that it should be the board that makes the decisions about how the fund is invested. The relevant provisions are contained in clause 7 of the bill, particularly at page 12.

In conclusion I refer again to the fact that in relation to this bill, as with the previous bill we were debating, the government has introduced house amendments at the last minute. As I said in debate on the previous bill, at least on this occasion the Minister for Finance arranged to brief the opposition spokesperson on finance, the Honourable Chris Strong in another place, in advance of the house amendments. I suspect the house amendments were being drafted up until the last minute and I have not had time to examine them, but I will be consulting with the Honourable Chris Strong about them while this bill is being debated. Subject to those caveats and provisos, the opposition is pleased to support the bill at this stage.

Dr SYKES (Benalla) — I rise to speak on behalf of The Nationals on the Superannuation Legislation (Governance Reform) Bill. It is a pleasure to follow the member for Box Hill, who in traditional fashion has done a thorough assessment of the components of the bill and some of the background issues.

First of all I would like to focus a little bit on the importance of appropriate superannuation arrangements for the people in the emergency services. They are in a high-risk, high-stress profession. It is not only high risk and high stress for them, but also for their families and those close to them. If we look at police, who would be a copper? On a day-to-day basis they get caught up in domestic and other incidents that are often violent and are often fuelled by drugs and alcohol, and therefore the unpredictability of the people they are dealing with means it is just not possible to work out what is going to happen other than to know that at every moment their life is at risk. They deal with gangland thugs who see life as very cheap. There are no concerns about removing someone from this planet if it suits the objects of the gangland thugs. It does not matter if the occasional bit of collateral damage is done and an innocent bystander or two or a uniformed policeman is taken out along the way.

Then we have the large number of unfortunately mentally ill people in society who at times also resort to violence, so again the lives of our police are often put at risk. Even in doing general duties that can be so. We had the experience where a local member from Benalla, Rennie Page, was tragically killed while carrying out his duties as a highway policeman on the freeway at Benalla. I witnessed first hand the enormous trauma that was inflicted not only on Rennie's partner and other police personnel but also on his colleagues. It knocks the members around amazingly.

I was also given the opportunity to see a copy of a letter that a policeman from Mansfield sent to the Minister for Police and Emergency Services outlining his concerns and the importance of an appropriate Emergency Services Superannuation Scheme. His letter was extremely passionate and moving. He outlined the challenges that he faces on a daily basis — which I have already alluded to — but in his case his life has been threatened by serious criminals as well as the lives of his wife and family, who have been stalked. The person doing that was fair dinkum, because that person subsequently committed murder and was convicted of that crime. That person was playing for keeps, and that policeman was subjected to that ongoing threat. He said that it is essential that they have in place entitlements that offset the ongoing stress and dangers to them and their families. In his letter to the minister he asked the rhetorical question: when did you last have a gun pointed at your head?

I can answer that question. I have had a gun pointed at my head. It was in the 1980s drought, when we had the unpleasant task of destroying animals that were suffering as a result of not having been fed. On one property where I was about to walk towards doing my job a man came up behind me and I heard a click. He said, 'You shoot my sheep and I will shoot you'. I found that extremely unnerving at the time, and I should say that it continues to haunt me more than 20 years on. I still remember 15 March 1983 as the day that I lived.

That is just one incident, but our police are facing this on a regular basis. It is no wonder that they are stressed and that they say they are entitled to the benefits of the Emergency Services Superannuation Fund. Ambulance officers are also at the front line of trauma. Who would swap jobs with ambos, who are required to remove bodies trapped in vehicles as a result of the horrific crashes that sometimes happen on our roads. The bodies are often dismembered, with blood and guts everywhere. There are bodies of young people, babies, friends and, unfortunately sometimes, family members. Who would swap jobs with those guys?

I have talked to the local ambos at Benalla, Wangaratta and Mansfield, and they are people under enormous stress. Often they go on stress leave, because it gets to them in the end. I have had experience in my own life of slaughtering a lot of animals, and the stress associated with that and with having to deal with humans who are impacted by it preys heavily upon you. The ambos and the police have the job of dealing with families and friends in many different situations.

Look at the situations fire officers face. Theirs is a high-risk occupation too, whether it is fighting fires in buildings or fighting unpredictable wildfires, often in

unfamiliar terrain. As we know from the Linton tragedy, regrettably at times, and even with their best efforts, lives can be lost. Property fires can be particularly scary when the fire officers are not sure of the layout of the building, it is impossible to see and the fumes are often overwhelming, although they all should have breathing apparatus. Theirs is a very stressful environment. These people deserve a generous superannuation arrangement, because it compensates in part for the stress they experience. It also gives them peace of mind, knowing that things will be taken care of in the event that they are killed in the line of duty or need to be superannuated because of stress. If these arrangements are put in place and maintained, they at least know that their families will be financially secure.

I now turn to the bill before the house. The Nationals support the principle it is trying to achieve — that is, an improvement in efficiency. We understand that there may be an opportunity to save up to $6 million, and if it can also decrease the level of bureaucracy involved in operating the emergency services fund by combining with another fund, we think that makes sense and we support that intention. However, like the member for Swan Hill, my colleagues in The Nationals and I are absolutely appalled by the manner in which the government attempted to introduce this piece of legislation. The furore that was created among emergency workers, who already have stressful enough jobs, needed to be seen to be believed.

Surely this is yet another lesson to the government that it needs to improve the way it implements what is well-intended legislation but about which people have serious doubts. Those doubts exist because people in the emergency services, including members of the Police Association, the ambos and the firies, do not trust the government — and they have good grounds for not trusting the government. Repeatedly we have examples in the house here where things that the government said it was going to do have gone in a different direction.

Therefore it was not a surprise that the representatives and members of the emergency services organisations were totally unhappy with the way the legislation was originally presented to them. The government tried to bulldoze it through, but as we saw and as the member for Box Hill mentioned, it was the combined efforts of the police, fire and ambulance unions in raising their members' awareness and concerns and making all that public that eventually led to the government sitting down with the relevant organisations. It appears to have addressed their concerns about the protection of their members' entitlements not only in the legislation per se but by having a common-law deed of agreement prepared whose principles, as I understand it, have been agreed to by all parties. However, the police, fire and ambulance unions need to go back to their members this week to gain their approval.

It was enlightening this morning, as the member for Box Hill indicated, to be made aware of the additional, late amendments to the legislation. We have to take these on faith. We were given the benefit of a briefing, which I appreciate, and it is my understanding from that briefing that these late amendments address the concerns of the members of the emergency services organisations. Accepting in good faith that that has been done, we are comfortable with the amendments.

I should say that The Nationals support the principle of a separate, legally binding agreement to protect the entitlements of the members of the emergency services organisations, but we give that support with one reservation. Because this agreement will bind not only the current government but also successive governments, The Nationals strongly believe that this agreement should be made available to the Parliament. We suggest that consideration be given to incorporating the agreement in a schedule attached to the bill so that not only this current government but all successive governments are fully aware of what has been signed on behalf of the people of Victoria to accommodate the just concerns of the members of the emergency services organisations.

An additional note which was brought to my attention this morning was the issue of the number of board members who are going to be managing this new superannuation arrangement. Twelve seems to be an excessive number in comparison to the number of board members who are involved in running other large organisations or local councils. In the interests of efficiency, I suggest the government needs to look at how the number of board members can be honed back. When the government looks at how duties can be carried out and how the breadth of representation can be achieved when reducing the number of board members, it is absolutely vital this time that the stakeholders be consulted, that they concur with any proposals to reduce the number of board members in the interests of efficiency and that they know their interests are going to be protected by adequate representation of their organisations by members on that decision-making board.

In conclusion, it would appear that the police, fire and ambulance union organisations combined and their members now believe their entitlements are being protected. That being the case and given that we can see potential efficiencies and savings in the proposal of

combining the two superannuation funds and having a more streamlined management approach, The Nationals see this is an appropriate direction in which to head. The Leader of The Nationals spoke with Paul Mullett of the Police Association. Mr Mullett said he was satisfied that members' entitlements have been protected.

Acting in good faith and taking on board that everyone's interests have been protected — and as the member for Box Hill said, assuming this is the case — The Nationals do not oppose the bill. But in the event that members are concerned about the protection of their entitlements, The Nationals reserve the right to reassess their position when this bill is debated in the upper house.

Mr STENSHOLT (Burwood) — I rise to support the Superannuation Legislation (Governance Reform) Bill. Governance reform is exactly what this bill is about. It continues a long tradition of reform of state superannuation funds. In this case it puts two funds together — the State Superannuation Fund and the Emergency Services Superannuation Scheme. This is good governance and good governance reform. The idea is to achieve efficiencies and effectiveness in the management of public sector entities. The bill will do this exactly. There has been rationalisation for more economical and effective governance.

I should also add that there used to be hundreds of schemes, particularly in the public sector side of industry. There are now two major funds, and this bill draws them together. One is the closed defined benefit scheme, which is made up of a number of other closed schemes, and the other is the Emergency Services Superannuation Scheme, which was put together not long ago and is an open scheme and will continue to be so under the terms of this bill.

There has been widespread negotiation and consultation on this bill. I am pleased to report that there has been widespread consultation with unions, particularly the Police Association, the United Firefighters Union of Australia and the ambulance employees union. It is good to see the member for Benalla supporting the unions and their membership in this regard. They can actually trust the Labor government, but of course they are unable to trust the Liberal Party or The Nationals. The proposed legislation at the federal level would throw the proposal into doubt. It shows that The Nationals and the Liberal Party have no regard for unions, including the Police Association, the United Firefighters Union and the ambulance employees union.

Yesterday I was very pleased to hear the head of the United Firefighters Union speaking in Carlton.

Sitting suspended 1.00 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Housing: developer levy

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer to the Premier's announcement today of a new levy on young families and home buyers, and I ask: how could the Premier falsely claim, as recently as 23 August, that 'We are not going to have a system where every block has a certain levy'?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. If he read details of the release today — —

Dr Napthine — No-one trusts you! You have lost the trust.

The SPEAKER — Order! I removed the member for South-West Coast yesterday for making inappropriate interjections. It would be unfortunate if I had to do it again.

Mr Baillieu interjected.

The SPEAKER — Order! And the member for Polwarth as well. I thank the member for Hawthorn for that advice.

Mr BRACKS — The Leader of the Opposition referred to the announcement today. If the Leader of the Opposition had read details of the release today, he would have realised that the developers' contribution is on 40 per cent of the growth areas. Secondly, there are three different rates which are applying. Could I also indicate that developers contributions have been in place for some time, and they vary — —

Honourable members interjecting.

The SPEAKER — Order! That will do. I ask members on my left and right to be quiet to allow the Premier to answer the question.

Mr BRACKS — They vary at somewhere between $600 per lot and $10 000 per lot currently.

Honourable members interjecting.

The SPEAKER — Order! I give a general warning to all members, including the member for Narre Warren South, that if they continue to interject at that level I will remove them from the chamber without further warning.

Mr BRACKS — I reiterate that the current developer levies, which have applied for some time, already include something between $600 per lot and $10 000 per lot. What we have fixed is a low rate to ensure that housing affordability is kept at a premium. The development industry has said that this in fact will drive down prices because of the release of land, which is significant.

Could I also add that the developer contribution which has been announced today is the lowest developer contribution on the eastern seaboard of Australia. It compares with a developer contribution of $45 000 in Sydney and $7000 in Brisbane. In our case it varies between just over $2500 and $5000, the lowest developer contribution in the country. Alongside the release of extra land, this will drive down prices, and that is what the development industry has said.

This is in keeping with the report in today's *Australian Financial Review* on page 3 that has the heading 'PM wants flexible land policies'. The Prime Minister — —

Honourable members interjecting.

Mr BRACKS — Let me go on.

The SPEAKER — Order!

Mr Doyle interjected.

Mr BRACKS — No, he is endorsing it.

The SPEAKER — Order! I remind the Leader of the Opposition that he is required to cease interjecting when the Speaker is on her feet.

Mr BRACKS — The Prime Minister has called on the states to open up more land for residential property development. He goes on to say that the 'crisis driven by a decade of low land release and increasingly unviable infrastructure costs' should be addressed. He is also reported as saying that:

> While there was 'no easy solution …' some of the answers … lay with 'more adventurous land release policies and rather more realistic development policies to be adopted by state and federal governments'.

I support and endorse those comments. What we have here is a significant increase in land availability in the growth areas of Melbourne. That increase in land availability will drive down prices, and that is exactly what developers are saying today in Victoria.

Rural and regional Victoria: *Moving Forward*

Ms DUNCAN (Macedon) — My question is to the Premier. I refer the Premier to the government's commitment to making regional Victoria a great place to live and raise family, and I ask him to detail for the house how the government is supporting smaller communities across regional Victoria through its *Moving Forward* provincial statement.

Mr BRACKS (Premier) — I thank the member for Macedon for her question. Our government's Small Towns Development Fund has been a great success over the last six years. This fund has helped councils across provincial Victoria to get much-needed projects up and running in towns with small populations. So far more than 160 projects have been funded by this program. I was therefore pleased, together with the Minister for State and Regional Development, the Minister for Agriculture and the Minister for Employment and Youth Affairs, to indicate that we would be extending that program by providing an additional $25 million as part of the provincial statement. This means that some $36 million will now be spent on this important Small Towns Development Fund.

The hallmark of this change and this increased money is that it will change the dollar-for-dollar contribution system, which has been a barrier for some small towns applying for funds, to a new system which will have $2-for-$1 contributions as part of the Small Towns Development Fund. These funds will go towards streetscape improvements, which have already occurred under the existing fund in areas like Elmhurst, Metung and Mallacoota. They have also been used to restore community halls in Wycheproof and Murrayville. As well as that they have been used for improvements in industrial estates at Beaufort and Yackandandah and to improve recreational facilities at Cobden and Violet Town.

More than 150 such projects across Victoria have seen small towns develop their economic viability and improve their potential. I believe that these extra funds will mean that more small towns with populations below 10 000 will be able to get access to the fund. They will not be required to make a matching contribution because there will be a two-for-one contribution from our state government.

I also refer members — and I know this will be referred to today in some detail — to the *Weekly Times*, which

reported on these matters recently and indicated that many things were a boon to country Victoria. One of things I am referring to is the extra $25 million for small towns. The *Weekly Times* indicates that this is a bonanza for country Victoria — and so it is.

Commonwealth Games: public transport

Mr WALSH (Swan Hill) — My question is to the Minister for Transport. Given that the Minister for Commonwealth Games in the other place is now claiming that people who travel on different days will be able to access the $10 fare deal, can the minister provide an explanation as to what his government is offering and whether the deal also extends to country volunteers travelling to assist with the running of the games?

Mr BATCHELOR (Minister for Transport) — The Minister for Commonwealth Games made an announcement yesterday clearly setting this out. We will be providing assistance to people from country Victoria. If, for example, they are living in a part of country Victoria where the additional services that will be provided do not bring them in to Melbourne or to the location where their ticket entitles them to attend a Commonwealth Games event, they will be given the opportunity to purchase the discounted and subsidised fare the previous day. They will be required to do so on the same basis that other people do so — that is, by providing their ticket as proof of when the event is taking place. As long as they can establish that, they will be able to get the advantage.

If they are coming to Melbourne for a succession of days, they will be able to defer their subsidised and special travel entitlements until after their visit is finished. All they will need to do is take their Commonwealth Games ticket to the V/Line booking office, which will establish their requirements for and times of being in Melbourne, and they will get that advantage. As I said yesterday, we are making arrangements for the people of Melbourne and people right across Victoria to attend the Commonwealth Games. We are going to assist them in doing that because we know the games will be a terrific and enjoyable time, and we want as many people as possible to participate.

Public transport: *Moving Forward*

Mr MAXFIELD (Narracan) — My question is to the Minister for Transport. Can the minister detail for the house how the government's *Moving Forward* provincial statement will see more transport services provided to link regional Victoria?

An honourable member — How's your train going?

Mr MAXFIELD — The Bairnsdale one is going pretty well!

Mr BATCHELOR (Minister for Transport) — I thank the member for his interest in transport issues. The provincial statement *Moving Forward* is a great initiative for country and provincial Victoria. It builds on the government's investment in public transport with a further $50 million that has been allocated to further improving regional transport. Right across the state we are improving regional transport services. Key elements of this package include major extensions of the regional bus network: around 950 extra trips per week will be supported by this funding boost, which represents about a 20 per cent increase.

It is interesting to note the support that has been given to this government initiative by the Bus Association Victoria. The association has hailed this as the most significant upgrade in regional bus services for many years. In fact the association's executive director, Mr John Stanley, in a press release he put out yesterday, said:

> Regional bus services play a vital role in connecting regional communities and in providing mobility to socially excluded people. Many people's lives will be substantially improved by this initiative …

Many people's lives will be substantially improved by this initiative because of the extra $50 million that has been allocated to improve public transport. New services will operate within regional towns and cities and will also connect regional centres and small towns.

Another feature of this initiative is that extended services will be put in place to run for additional hours to better service the needs of our regional communities. There will be new and improved services which feed into the revitalised rail network and these will complement the biggest upgrade of our regional rail lines in more than 120 years. We will be providing improved connections between the smaller towns and the rail network, and we will ensure that smaller communities can be linked into the faster, more frequent and reliable train services that the Bracks government is delivering to country Victoria.

We have also announced a regional park-and-ride program to support the growing number of commuters who want to travel between where they live in regional Victoria and Melbourne.

These new parkways will link our highways with the rail network and offer secure parking and superior

passenger facilities for country commuters. We will also deliver greater comfort for passengers through a $13 million refit to the V/Line's regional train fleet. This will include new soft furnishings, upgraded toilets and washrooms in addition to the 38 new V'locity trains which will soon be operating on Victoria's regional network.

We are working hard to improve regional transport connections in places where these services were shut down, neglected and ignored by the Liberal and National parties when they were in government. We are committed to making provincial Victoria an even better place to live, a better place to work and to raise a family, and a better place to catch public transport. These new major initiatives will help drive population growth and economic growth right throughout regional Victoria and improve the quality of life for the people who live there.

Housing: developer levy

Mr CLARK (Box Hill) — My question without notice is to the Premier. I refer to the Premier's announcement today of a new tax on young families and other home buyers, and I ask: how will this new tax make Victoria a better place to live and raise a family?

Mr BRACKS (Premier) — I thank the member for Box Hill for his question. It will be a better place for families when they get access to cheap land; it will be a better place for families when they can get access to services when they need them; and it will be a better place for families when they know they can be in a livable city with good plans for Victoria's future.

Tertiary education and training: *Moving Forward*

Ms OVERINGTON (Ballarat West) — My question is to the Minister for Education and Training. I ask the minister to detail for the house how the government's *Moving Forward* provincial statement will address the skill needs of regional Victoria?

Ms KOSKY (Minister for Education and Training) — I thank the member for Ballarat West for her question and her strong interest in the importance of skills within provincial Victoria.

Mr Perton interjected.

The SPEAKER — Order! That is enough from the member for Doncaster.

Ms KOSKY — The member for Doncaster is obviously suffering from Alzheimer's; he has a very short memory. The *Moving Forward* statement — —

Mr Cooper interjected.

The SPEAKER — Order! The member for Mornington!

Dr Napthine — On a point of order, Speaker, I suggest that the honourable member has cast aspersions on people with Alzheimer's disease. I ask that she withdraw and reconsider the words she used. I think it is an absolute insult to the many people who suffer dementia and Alzheimer's throughout Victoria.

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

Ms KOSKY — I apologise to the people with Alzheimer's for attempting to associate them with the member for Doncaster. The *Moving Forward* statement — —

Honourable members interjecting.

The SPEAKER — Order! The minister has been asked a question. I suggest she restrain herself to anything but answering it at the moment.

Ms KOSKY — Thank you, Speaker. The *Moving Forward* statement includes a strong focus around skills.

Honourable members interjecting.

The SPEAKER — Order! In the same way as I have asked the minister to respond to the question, I ask the member for South-West Coast and the member for Doncaster to cease interjecting in that way and allow the minister to — —

Dr Napthine — There are a number of members on this side of the house who have family members with Alzheimer's disease.

The SPEAKER — Order! The member for South-West Coast was removed yesterday for abuse of the Chair, and yet he continues to do so today. I will give him the opportunity to apologise to the house or I will remove him from the chamber.

Dr Napthine — Speaker, my mother is suffering from Alzheimer's disease. I think the way the minister has carried on is an absolute insult to people who suffer from Alzheimer's disease. I will apologise in deference to the Chair, but I find her remarks absolutely insulting.

Honourable members interjecting.

The SPEAKER — Order! The offence that the member for South-West Coast committed was against the Chair. It has nothing to do with any other member of the house. I accept his apology on this occasion, but I warn him that regardless of his personal views, there is a procedure in this house that must be followed by all members, and that includes the member for Benambra as well. The minister to answer the question.

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster has made a reflection against the Chair. I suggest he does not do it again.

Mr Thompson — On a point of order, Speaker, as I understand order 108, personal reflections on members are disorderly. I put it to you that the reflection upon the member for Doncaster was disorderly as it was a personal reflection.

The SPEAKER — Order! The member for Doncaster, if he wishes to ask for a withdrawal, can do so.

Ms KOSKY — As I was saying, the *Moving Forward* statement includes a very strong emphasis around skills, which is very important within this state. There is a five-year program for skills in provincial Victoria included within the *Moving Forward* statement. There is $21 million included in this statement which builds on the investment we have made in education and training. Members of the house may be interested in some of the details of the additional funding. An amount of $15.5 million has been provided in additional vocational education and training in regions with specific industry needs.

In Central Gippsland we are providing extra funding for the power generation industry. Training is being provided for electro technology at that TAFE. In the south-west, at the TAFE institute, we are delivering additional traineeships in the engineering plastics area with a focus on the local wind farm industry and on ensuring that they have the skills there for the building of those wind farms and facilities. In Wodonga, at the TAFE institute, we are providing additional funding for road and rail logistics in order to pick up some of the road and rail development projects in the area. They will be provided with pre-vocational training.

This package is about apprenticeships and traineeships and also about pre-apprenticeship courses and pre-vocational courses. It acknowledges that within regional Victoria and provincial Victoria we have seen skill shortages in particular industries, so we are supplying the extra places that will provide skills in those much-needed industry areas, but they will also have a very strong geographic focus.

Part of the package includes $5.5 million over the next five years which will provide extra funding for regional TAFEs. The member for Doncaster might be aware that his government removed the regional funding differential for TAFE. Not only did we replace that regional funding by $25 million in 2000; we are now providing extra funding of $5.5 million to compensate the nine regional TAFE institutes for the additional expenses they incur from smaller class sizes, extra travel and extra communication costs. We are ensuring that businesses within provincial Victoria have access to the right sorts of skills so they can grow their industries. We are ensuring that young people can have opportunities for employment, and it really is about ensuring that Victoria is a great place to raise a family.

School buses: student support

Mr INGRAM (Gippsland East) — My question is to the Minister for Education Services. I refer to a letter presented to the minister yesterday concerning Brooke McPherson, a seven-year-old profoundly deaf girl who travels daily on a bus with her two older brothers from Lakes Entrance to Bairnsdale to attend Bairnsdale West Primary School to access its Auslan program, and I ask: will the minister guarantee that Brooke's brothers, on whom she relies heavily due to her disability, will be able to continue to travel freely on the school bus despite the department issuing a directive that the boys will be removed from the bus this week?

Ms ALLAN (Minister for Education Services) — I thank the member for Gippsland East for his question. As all members of the house are aware, particularly members from provincial Victoria, there is a very clear and well-understood departmental policy that governs the transport of the more than 100 000 students who are transported to schools right across Victoria. As the member indicated, I received his correspondence only yesterday, and I have requested further information from the department and a further investigation of the matter by the department to explore whether support may be able to be provided to this family. I understand the member's concerns, particularly about a student who is profoundly deaf and relies on the support of her brothers to attend school. I want to assure the member for Gippsland East that I will respond to his concerns and the family's concerns as soon as I have received that further advice from the department.

Employment: *Moving Forward*

Mr CRUTCHFIELD (South Barwon) — My question is to the Minister for Employment and Youth Affairs. I ask the minister to detail to the house how the government's *Moving Forward* provincial statement aims to encourage skilled migration to regional Victoria.

Ms ALLAN (Minister for Employment and Youth Affairs) — I thank the member for South Barwon for his question. As we have heard a number of times already this week, it was a great day on Monday to join with the Premier, the Minister for State and Regional Development, the Minister for Agriculture and many other members of Parliament in the lovely rural centre of Beaufort to celebrate the launch of the terrific *Moving Forward* policy statement. Many communities across provincial Victoria that were once struggling — and certainly The Nationals know about those communities — are now thriving. The turnaround in provincial Victoria is just remarkable. More jobs have been created and more people are living there, with an increase in population of 1.2 per cent per annum. More investment and infrastructure are going into provincial Victoria.

However, as we know, and as this government has heard from listening to the concerns from many people across provincial Victoria, this great story of growth has led to some challenges for industries and employers in filling key skills shortages. As part of *Moving Forward* I am very pleased to be able to advise the house that the Bracks government will build on its highly successful skilled migration strategy and invest a further $6 million to attract skilled migrants to regional Victoria. The Bracks government already has a great record in this area. We have already seen an increase in skilled migrants coming to Victoria from under 19 per cent a few years ago to around 27 per cent today. We know that one in three migrants to Australia is choosing Victoria as the place to live, and that is a terrific story.

The extra $6 million that has been provided through *Moving Forward* will help local employers fill vacancies in local labour markets. This will really help regional businesses to continue to thrive. The extra funding will go towards increasing international awareness of provincial Victoria through our intensive marketing efforts and particularly through our online marketing promotion. It will also boost our online visa application processes and job application services that are available through our Live in Victoria web site. To complement these critical marketing and promotion services that are provided through Live in Victoria, we are going to provide critical workplace orientation services and work experience placements for skilled migrants in provincial Victoria, giving them the opportunity to get experience in workplaces and assistance with preparing their CVs, all to assist them to fill those critical skills shortages in provincial Victoria.

We are not just doing more to encourage skilled migrants; we are doing more through *Moving Forward* to assist disadvantaged Victorians to fill skill shortages in regional economies. *Moving Forward* includes a $3.3 million package to help disadvantaged Victorians into jobs. Victoria is certainly leading the nation when it comes to attracting skilled migrants. We have already seen Queensland, Western Australia and New South Wales using our innovative approach in this area in the development of their own skilled migration strategies. As the Bracks government continues to work very hard in this area we will also continue to work very hard to make provincial Victoria the best place to work, live and invest.

Housing: developer levy

Mr CLARK (Box Hill) — My question without notice is to the Premier. I refer to the comments by the member for Yan Yean — —

Ms Beattie interjected.

The SPEAKER — Order! The member for Yuroke!

Mr CLARK — They were published on 14 September, and the member said a new services tax on land was 'a complete fabrication'. I refer also to the comment by the member for Eltham published on the same day that 'the government is not even considering such an idea'. Can the Premier inform the house whether Labor MPs, especially those who represent electorates in the five growth corridors, stand by the government's decision to introduce this new burden on young families in their electorates, and were they told of the new tax prior to its announcement?

Mr BRACKS (Premier) — I thank the member for Box Hill for his question. It was not a surprise, when there was publicity on the front page of the newspaper, which was wrong at the time, that there would be a $30 000 development levy, that it was denied by the government, as it should have been. Today's announcement makes it clear that that was not the government's intention or policy.

What we have done is ensure that we can have the most affordable land-house packages in the country, and that is why are we are opening up more areas for development. That is why the development levy here is the lowest on the eastern seaboard of Australia.

Rural and regional Victoria: *Moving Forward*

Mr HARDMAN (Seymour) — My question is to the Minister for State and Regional Development. I refer the minister to the government's commitment to govern for all of the state and ask the minister to detail to the house how the government's *Moving Forward* provincial statement is delivering on that commitment.

Mr BRUMBY (Minister for State and Regional Development) — I want to thank the member for Seymour for his question and also for his contribution to the provincial statement *Moving Forward* that the Premier and I released on Monday. I announced in Parliament yesterday that there had been a very positive response from right across the state to our provincial statement. We have seen that reinforced today, with more stakeholders and more third-party endorsements of this exciting package which we announced earlier this week.

The Premier has referred to the *Weekly Times* coverage today and the 'Bonanza' headline — $200 million for infrastructure, $100 million for regional growth, $112 million for ports and transport and $25 million for small towns. There was certainly — —

Honourable members interjecting.

The SPEAKER — Order! I ask honourable members to be quiet to allow the Minister for State and Regional Development to continue his answer.

Mr BRUMBY — There has been more government investment in the electorate of — —

Mr Perton — On a point of order, Speaker, in the last sitting week you referred to the use of props by members of Parliament, and the minister, rather than bringing his normal piece of paper, is using the newspaper as a prop. I ask you to have it removed.

The SPEAKER — Order! The Minister for State and Regional Development, to continue.

Mr BRUMBY — We have done a great deal for the electorate of Bass, despite the efforts of the local member, Hoss!

Honourable members interjecting.

The SPEAKER — Order! I warn the Minister for State and Regional Development that if he does not address his answer to the question, I will sit him down.

Mr BRUMBY — This is a statement, as the Premier said, which drives growth right across Victoria. As I said earlier in the week, the only criticism I have seen of this statement was from the Leader of the Opposition, who said it was a cynical attempt to buy votes. I want to outline — —

Honourable members interjecting.

Mr Cooper — Are you saying it's not cynical?

Mr BRUMBY — I'm saying the honourable member has not even read it.

The SPEAKER — Order! Through the Chair!

Mr BRUMBY — The electorates benefiting from the initiatives in the transport package are Benambra, Mildura, Murray Valley, Shepparton, Lowan, South-West Coast and Rodney. I dare say this package does more for transport in those towns and electorates than was achieved in seven years under the Kennett government. There are new bus connections in the King and Ovens valleys, from Donald to Horsham, Hopetoun to Warracknabeal, Woomelang to Sea Lake, Rainbow to Jeparit to Horsham, Grampians to Warrnambool and Cowes to Wonthaggi, and in Cape Paterson and Leongatha. It is not a bad package!

Port upgrades will occur at Port Fairy in the South-West Coast electorate, Apollo Bay and Lorne in Polwarth, Mallacoota in Gippsland East, Warrnambool in South-West Coast, Gippsland Lakes in Gippsland East, Port Campbell, Andersons Inlet, Snowy River and Port Albert. They are some of the $30 million worth of port upgrades. It is not a bad list, is it?

The East Gippsland, Sunraysia, Wodonga, Goulburn Ovens and South-West TAFEs will be upgraded, and there is $3 million to lever investments off the back of the Wimmera–Mallee pipeline. The Wimmera–Mallee pipeline did not run through too many Labor electorates last time I looked.

Mr Delahunty — Not yet!

Mr Thwaites — You'll have us, Hugh! Over here!

Mr BRUMBY — Come on Hughie, come on!

Honourable members interjecting.

The SPEAKER — Order! The member for Doncaster is fully entitled to raise a point of order without that sort of noise from the government benches.

Mr Perton — On a point of order, Speaker, you warned the Treasurer just a minute and a half ago. He just violated that warning. You said you would sit him down, and I ask you to do so.

The SPEAKER — Order! I think that was in the nature of a joke. The minister, to continue.

Mr Perton — On the point of order, Speaker, this question time has deteriorated into a joke, and you have permitted it to do so. I ask you to enforce your earlier ruling.

The SPEAKER — Order! The Minister for State and Regional Development, to continue.

Mr BRUMBY — This is a package for the whole of Victoria, and it is a package which has been extraordinarily well received because it is a package for the whole of Victoria. We made a commitment on this side of the house that we would govern for the whole state — for every street, every suburb and every country town — and that is exactly what we are doing. It is a good package. It distributes benefits right across the state, it will grow the whole state and it sets a framework to take provincial Victoria forward and to never ever take us back to the bad old days of the 1990s.

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

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL

Second reading

Debate resumed.

Mr STENSHOLT (Burwood) — The Superannuation Legislation (Governance Reform) Bill has been the product of negotiation with emergency services unions and unions connected with the Government Superannuation Office. We have agreement on all issues in relation to the legislation and amalgamation of the two superannuation funds, as I mentioned before lunch. The benefits are in whole-of-government savings which effectively reduce government waste and duplication by reducing administrative costs. The government has written into the legislation that member benefits will not be affected as a result of this merger. We have undertaken that no member's benefit will be affected by this legislation. That is contained in the bill through the anti-detriment provisions. We have added some minor amendments after some further negotiations with stakeholders recently, and these have been tabled by the Treasurer, who is at the table.

We have undertaken to preserve the Emergency Services Superannuation Scheme's rights as a defined benefits scheme by enshrining in the legislation that the scheme will remain open to new members. Why? Because we recognise the important services these people provide to the community and the special nature of the work they undertake. I am pleased that the opposition members for Box Hill and Benalla have supported the unions — the police association, the united firefighters union and the ambulance employees union — in supporting this legislation. The government is working with all these unions and the people employed in these fields to make sure that the bill is to the benefit of all the workers. It underlines our firm commitment and the fact that we trust each other and that they can trust us. I commend the bill to the house.

Debate adjourned on motion Mr WELLS (Scoresby).

Debate adjourned until later this day.

PERSONAL EXPLANATION

Mr RYAN (Leader of The Nationals) — Last night in the adjournment debate the member for Gippsland East raised issues regarding the use of my electorate office vehicle. I wish to advise the house that my chief of staff, Darren Chester, is an authorised driver of the vehicle pursuant to the provisions of the members of Parliament vehicle plan. I further advise the house that on all occasions on which Mr Chester has driven the vehicle he has done so in accordance with the stipulated guidelines. The allegations by the member for Gippsland East against Darren Chester and me are wrong.

TERRORISM (COMMUNITY PROTECTION) (AMENDMENT) BILL

Second reading

Mr BRACKS (Premier) — I move:

That this bill be now read a second time.

The purpose of this bill is to amend the Terrorism (Community Protection) Act 2003 to assist Victoria in meeting the challenge posed by the terrorist threat.

Honourable members will be aware that a special meeting of the Council of Australian Governments on counter-terrorism was held on 27 September 2005. It agreed to the introduction of nationwide counter-terrorism initiatives. The commonwealth government has recently introduced counter-terrorism laws into the commonwealth Parliament to implement

that agreement. The commonwealth laws include a control orders mechanism to restrict the activity of people who pose a terrorist risk and to enable the preventative detention of persons for up to 48 hours to prevent a terrorist act or preserve evidence of a terrorist act.

Prior to the COAG agreement, the Victorian government released a statement titled 'Protecting our community: attacking the causes of terrorism'. That statement announced that Victoria would only enact and support counter-terrorism laws that:

are based on evidence that they were needed;

are effective against terrorism;

contain safeguards against abuse;

are subject to judicial review; and

are subject to a legislative sunset.

COAG endorsed these guiding principles for the development of the commonwealth counter-terrorism laws. This bill conforms to those principles.

Under that national agreement, the states and territories agreed to introduce legislation to enable the preventative detention of persons for up to 14 days to parallel the commonwealth laws and stop, search and seize powers for police in public places.

This bill will deliver these commitments and improves the covert search warrants provisions in the Terrorism (Community Protection) Act 2003 as I announced prior to the COAG meeting.

It is important, at the outset, to indicate that the government acknowledges the concerns raised that counter-terrorism laws may unduly infringe civil liberties. Our community has a strong respect for individual civil liberties and the traditional doctrines and processes that guarantee those liberties. It is important to recognise the nature of the challenge that terrorism poses.

The consequences of terrorist acts place police under great pressure to intervene earlier to prevent a terrorist act with less knowledge than they would have had using traditional policing methods. In our society, individual liberties must always be balanced against the needs of the community, in particular community safety. We already have laws that restrict individual liberty for the benefit of the community. This bill strikes that balance between empowering police to undertake their functions for the benefit of the community without unnecessarily interfering with personal freedoms.

After COAG and before the commonwealth bill was introduced, Victoria has been involved in negotiations with the commonwealth to ensure that the provisions of the commonwealth bill based on referred state power contained sufficient safeguards including review of the merits and lawfulness of a control order or preventative detention order.

This bill I am second-reading today will be debated when Parliament resumes in February 2006.

This will allow the Victorian community time to examine the provisions.

The Senate is currently holding a public inquiry into the related commonwealth bill, which federal Parliament is expected to pass by Christmas.

The government will give consideration to the Senate inquiry report, the final form of the commonwealth legislation, and any issues that arise out of the public consultation process.

Any further improvements that may be required to the Victorian bill will be made as house amendments in February.

Victoria is a multicultural, multifaith community with a proud tradition of tolerance and diversity, and Victoria is determined to remain a tolerant and diverse community.

I now turn to the substance of the bill.

Preventative detention provisions

The bill enables the preventative detention of persons for up to 14 days in the extreme case where that detention is necessary to prevent a terrorist act or preserve evidence of a terrorist act. The terrorist act must be imminent, that is, expected to occur some time in the next 14 days. Where the order is to preserve evidence, the terrorist act must have occurred within the last 28 days. Safeguards in the bill prevent multiple applications being made against an individual, allow a detained person access to a lawyer and prevent them from being mistreated, or questioned other than to confirm their identity. The detained person will have the right to seek compensation from the court if the detention order made against them was wrongfully obtained.

The detention may be accompanied by an order prohibiting the detained person from having contact

with a specified person that is required for security reasons. That restriction will not prevent the detained person from contacting a lawyer or complaining about their detention and treatment to the Ombudsman. As a minimum requirement, the detained person may also contact their parents or a family member to advise that they are safe. The bill allows the court to order additional contact with family members, including visits to the detained person where that is appropriate.

The bill departs from the commonwealth preventative detention laws by giving the Supreme Court the power to make or revoke a preventative detention order. An initial preventative detention order granted by the police is only an interim order requiring confirmation by the Supreme Court. When the court determines the matter, it will undertake a full examination of the merits of the order and may either confirm or vary the order or declare it void. To ensure that the detained person has the full benefit of that review, the court can order Victoria Legal Aid to provide legal representation. Separate to that review, the detained person can seek leave of the court to obtain a review of a preventative detention order at any time. The bill also specifically allows the detained person to be visited by their lawyer. It also enables the family member contacted by the detained person to discuss the case with the detainee's lawyer.

These differences from the commonwealth bill, with additional safeguards, are justified because under state law preventative detention can be up to 14 days. The maximum detention under a preventative detention order under the commonwealth legislation is 48 hours.

Stop, search and seize powers

The bill includes the power to authorise police to exercise special powers in limited circumstances. These provisions are modelled on the Terrorism (Police Powers) Act 2002 in New South Wales. An important difference in this bill, however, is the necessity to satisfy the Supreme Court that the special powers are necessary before an authorisation will be granted.

The authorisation will be limited to persons or vehicles of a particular description or over a specified geographic area. These powers will enable police to demand identification, stop and search people and vehicles, direct persons to leave or remain in an area specified in the authorisation, seize things connected with a terrorist act and cordon areas to improve their ability to prevent or respond to a terrorist act.

The circumstances that allow an authorisation of special powers are when it is necessary:

to secure an event or gathering of prominent persons that may be the target of a terrorist act and police resources cannot ensure the security of the event or persons attending it;

to prevent a terrorist act that will occur within the next 14 days; and

to recover from a terrorist act that has occurred and reduce the threat to public safety, apprehend those responsible and preserve evidence relating to the attack.

In each of these instances an application must be made to the Supreme Court for an authorisation of powers. The court must be satisfied that the grounds for granting the authorisation are established. Where a terrorist act is imminent or has occurred, these urgent circumstances enable an interim authorisation to be given by the Chief Commissioner of Police. That interim authorisation must still be authorised by the court within 24 hours.

A separate mechanism is proposed for the authorisation of powers to protect infrastructure assets or networks such as public transport networks. This authorisation can be made by order in council over any land or premises where infrastructure assets or networks are located. If the Premier, the Chief Commissioner of Police and the minister responsible for the infrastructure agree that:

the infrastructure assets or networks are vulnerable to a terrorist act, and

an authorisation of special powers is necessary to protect those assets or networks or people using them,

then a recommendation may be made to the Governor in Council. An order can only last 12 months but can be remade.

This order will also apply to vehicles travelling on the specified land such as trains and trams.

Covert search warrants

The current power of police to obtain covert search warrants does not allow a warrant unless the target is known and the terrorist act is imminent. This power is too limited. The bill extends the power to obtain a warrant to prevent the planning of a terrorist act at some time in the future or the prevention of an imminent terrorist act where the specific target is unknown.

These modest amendments are necessary to enable the police to counter terrorist activity and not greatly expand intrusive police powers over individuals.

I wish to make the following statement under section 85(5) of the Constitution Act 1975 of the reasons for altering or varying that section by clause 10 of the bill.

Clause 10 inserts a new section 39A into the Terrorism (Community Protection) Act 2003 which provides that it is the intention of section 21J of that act to alter or vary section 85 of the Constitution Act 1975.

Section 21J of the Terrorism (Community Protection) Act 2003 is inserted by clause 5 of this bill. Section 21J will prevent any interim authorisation of the use of special powers given by the Chief Commissioner of Police (or any decision of the Premier or of the Chief Commissioner of Police concerning that interim authorisation) being challenged or called into question before any court or tribunal.

The reason for limiting the jurisdiction of the Supreme Court is to prevent the necessary exercise of special powers being delayed or frustrated by court proceedings.

Finally, I advise that all of these amendments are subject to a legislative sunset clause as a further safeguard.

These legislative amendments are not the only response to the threat posed by terrorism to the Australian community. These laws are just one of a number of nationwide initiatives including engagement with various communities to eliminate the causes of terrorist activity.

I commend this bill to the house.

Debate adjourned on motion of Mr DOYLE (Leader of the Opposition).

Debate adjourned until Wednesday, 30 November.

JUSTICE LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Background

This bill gives effect to the government's decision to make a series of minor technical amendments to legislation related to the justice portfolio. The amendments are primarily of a mechanical nature.

While none of the amendments alone mark a significant policy initiative, together they reflect the government's commitment to ensuring that the justice system continues to work efficiently and fairly.

Appeal Costs Act 1998

The bill amends the Appeal Costs Act 1998 to reinstate the requirement to prove additional costs as a consequence of a criminal adjournment in order to enable the Appeal Costs Board to accurately determine the costs 'reasonably incurred' (as specified in section 17(3) of the act).

Constitution Act 1975 — judicial pensions

The bill makes amendments to restore an entitlement to elect to retire for judicial officers appointed to the Supreme or County courts in a set period in 1995.

The restoration of this entitlement is consistent with section 82(6B) of the Constitution Act 1975 which states that the salaries and aggregate allowances of judges of the Supreme Court should not be reduced.

I note that the amendments to entrenched provisions of the Constitution Act 1975 will require an absolute majority of members in the Legislative Council and the Legislative Assembly.

County Court Act 1958

The bill clarifies amendments made to the County Court Act 1958 by section 7 of the Courts Legislation (Judicial Appointments and Other Amendments) Act 2005 by ensuring that relevant sections do not refer to a now repealed section.

Courts Legislation (Judicial Conduct) Act 2005

The bill provides a purely technical amendment to the Courts Legislation (Judicial Conduct) Act 2005 to correct a textual omission in the act.

Crimes Act 1958: DNA — appeal against sentence

The bill provides for an amendment to the Crimes Act 1958 to clarify that an appeal against sentence does not delay the execution of an order for the conduct of forensic procedures.

Currently, the legislation does not make it clear whether an order can be stayed pending an appeal against sentence, as well as an appeal against conviction. It would be undesirable for an order for a forensic procedure to be stayed merely on account of an appeal against sentence.

Evidence Act 1958

The bill provides a purely technical amendment to the Evidence Act 1958 to rectify an incorrect reference to the Patents Act 1952 that should be the Patents Act 1990.

Public Notaries Act 2001

The bill amends the Public Notaries Act 2001 to rectify an error relating to the fee payable, by a person seeking appointment as a public notary, to the prothonotary of the Supreme Court.

The Monetary Units Act 2004 converted fees expressed in Victorian legislation as 'dollar values' into 'fee units'. As part of this conversion process, the application fee of $285 was to have been converted in July 2004 into 29 fee units (or $290).

However, the Monetary Units Act 2004 inadvertently converted the fee into 2.9 fee units.

The amendment will remove the decimal point.

Serious Sex Offenders Monitoring Act 2005

The bill amends the offences covered by the Serious Sex Offenders Monitoring Act 2005 to include two new commonwealth offences prohibiting trafficking in children.

This will allow an extended supervision order under that act to be imposed on offenders who are convicted and imprisoned for these offences.

The amendment will also ensure consistency with the offences covered by the related Sex Offenders Registration Act 2004.

Sex Offenders Registration Act 2004

The bill provides a purely technical amendment to the Sex Offenders Registration Act 2005 to correct a numbering error in the act.

Victorian Civil and Administrative Tribunal Act 1998

The bill makes a number of minor technical amendments to the Victorian Civil and Administrative Tribunal Act 1998 (the VCAT act) to improve the efficiency and timeliness of proceedings before the tribunal.

Further, section 25A of the VCAT act places certain practice restrictions on former VCAT members. When I introduced the provision in 2000, I noted that the provision was intended to be mainly educative. The section was intended to enhance the ability of VCAT members to make independent and impartial decisions.

It is considered that this purpose has now been largely achieved. Over the last five years VCAT has enhanced its reputation for providing timely, efficient, cost effective and impartial dispute resolution services. It is now considered that the provision as currently drafted can act as a disincentive to attracting members of the highest calibre to VCAT. The proposed amendment will continue to ensure that VCAT members maintain the highest professional standards and at the same time facilitate the attraction of quality candidates as members by giving the VCAT president discretion to consent to former members appearing before their former list in appropriate cases.

Working with Children Act 2005

In order to ensure that the Working with Children Act 2005 properly gives effect to the government's decision that all registered Victorian teachers will be exempted from the requirements of the working-with-children scheme, the bill provides for an expansion of the act's definition of a 'registered teacher'.

It will now capture teachers who may not be formally qualified but who have been recognised and registered by the Victorian Institute of Teaching (VIT).

These teachers, who usually teach things such as dance, music or specialised languages, have been through police checks, carry a VIT registration card and are subject to the same disciplinary regime as other registered teachers.

The government is committed to ensuring that Victoria's laws remain responsive and effective.

I commend this bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Dr Napthine — On a point of order, Acting Speaker, I seek clarification from the Attorney-General. The notation at the bottom of the second-reading speech states, 'Page 6 of 13 pages' and goes through to

'Page 10 of 13 pages' on the final page of the speech which has been distributed. I seek an assurance from the Attorney-General that there are not missing pages, that this is the complete second-reading speech and we are not missing pages 1 to 5 and pages, 11 to 13 of this speech, which is indicated by the notation at the bottom.

Mr HULLS (Attorney-General) — I absolutely give the honourable member that assurance.

Debate adjourned until Wednesday, 30 November.

CRIMES (DOCUMENT DESTRUCTION) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The Bracks government is strongly committed to ensuring that the integrity of the Victorian justice system is protected and enhanced.

It is essential that the processes of justice apply fairly and effectively to all Victorians involved in the justice system. It is also essential that that the justice system delivers outcomes expected by the Victorian community. These important values reflect key principles which underpin the government's justice statement.

In introducing this bill, the government is taking decisive action to ensure that the rule of law continues to be upheld in Victoria.

Background

The bill responds to important issues that arose in the recent case of McCabe in the Victorian Court of Appeal.

The intentional destruction of documents to prevent their use in judicial proceedings can seriously undermine the fairness of such proceedings by removing the ability of courts to consider all relevant evidence.

The common law offence of attempting to pervert the course of justice may cover some forms of this behaviour. However, the Victorian Court of Appeal made it clear in McCabe that such behaviour is not otherwise unlawful (unless it amounts to contempt of court).

It is essential to the rule of law that individuals and corporations cannot intentionally destroy documents to prevent their use in judicial proceedings with impunity.

The government is therefore introducing a new criminal offence that will make it clear that this sort of behaviour is unacceptable.

Previous reports

On 6 May 2003, the Victorian Parliament Law Reform Committee was provided with a general reference to review administration of justice offences.

In their administration of justice offences final report in June 2004, the committee recommended (amongst other things) that a specific offence of evidence destruction be enacted.

Following the decision in McCabe, on 6 November 2003, Crown Counsel, Professor Peter Sallmann, was also specifically asked to advise on the adequacy of current laws, procedures and practices relating to document destruction.

In his report on document destruction and civil litigation in Victoria in May 2004, Crown Counsel made the following recommendations for reform:

> a new statutory offence to cover the destruction of documents to prevent their use in judicial proceedings; and
>
> civil law recommendations to:
>
> > codify the powers of the courts to intervene in proceedings affected by the unavailability of documents (by way of a broad judicial discretion and amended rules of discovery); and
> >
> > create a professional conduct rule to apply to legal practitioners when advising clients about document retention and destruction.

The bill acts upon the recommendation of the committee and the recommendation of Crown Counsel to create a new offence of destruction of documents to prevent their use in judicial proceedings.

Crown Counsel also made a number of more specific recommendations about the form of this offence. The new offence is consistent with these recommendations, although a different approach is taken for corporations.

Introducing the new offence will bring Victoria into line with the majority of other Australian jurisdictions,

including the commonwealth, which all have similar offences.

New offence

In general terms, the offence will apply if a person:

knows that the document is, or is reasonably likely to be, required in evidence; and

(i) destroys or conceals it; or

(ii) authorises or permits another person to destroy it; and

does so with the intention of preventing it from being used in evidence.

The offence will apply where all of these elements of the offence can be proven by the prosecution. The offence will not apply to lawful forms of document destruction that do not involve the type of criminal misconduct covered by the offence.

For example, under the Public Records Act 1973, records can be destroyed in accordance with standards issued by the Keeper of Public Records. Record destruction practices in accordance with these standards that do not involve the criminal conduct targeted by the offence will be unaffected.

While the offence will not impact on appropriate document destruction practices, it will target criminal forms of document destruction which undermine the fair operation of the justice system.

The offence will apply to proceedings in progress and proceedings that are or may be instituted at a later time.

The maximum penalty for individuals will be five years imprisonment or a fine of 600 penalty units (currently $62 886) or both.

Corporations

The new offence will also apply to corporations.

Many parties to litigation are corporations and often these corporations have significant financial and legal resources. Modern corporations have an obligation to ensure that their document management and retention policies are responsible.

The bill provides additional principles that indicate how the offence applies in the corporate context.

In general terms, the offence will apply if:

an employee, agent or officer of the corporation (an associate) knows that the document is, or is reasonably likely to be, required in evidence; and

(i) an officer of the corporation destroys or conceals the document with intention to prevent use in evidence; or

(ii) the corporation authorises or permits the destruction or concealment of the document with intention to prevent use in evidence.

Authorisation or permission could be provided by the corporation's board of directors or officers (unless the corporation exercised due diligence to prevent such authorisation or permission) or as a result of the corporation's 'corporate culture'.

'Corporate culture' will cover situations where corporate policies and processes provide implied authorisation or permission. For example, there may be situations where, despite the absence of formal policy documents, the reality was that non-compliance was expected.

The offence has been carefully drafted to recognise the structure of modern corporations and to cover a range of situations where a corporation should be held responsible.

For example, the corporation could be liable where:

all of the elements of the offence were committed by an officer of the corporation (e.g., a director);

some (but not all) of the elements of the offence were committed by the same associate(s) of the corporation (e.g., a director created the policy to prevent use in evidence and knew that the document would be required in litigation but gave it to an assistant to destroy); or

all of the elements of the offence were committed by different associates(s) of the corporation (e.g., the board of directors created the policy to prevent use in evidence and a manager knew that the document would be required in litigation but gave it to an assistant to destroy).

A number of alternative approaches could have been adopted for corporations. For example, Crown counsel recommended creating a different offence for corporations based on gross (i.e., criminal) negligence.

However, the government considers that it is important that the same standards of responsibility and culpability apply to individuals and corporations. Individuals and

corporations share a common duty to respect the rule of law.

The maximum penalty for corporations will be a fine of 3000 penalty units (currently $314 430).

Complementary reforms

As part of the commitment to ensuring that the integrity of the Victorian justice system is protected and enhanced, the Bracks government will also implement Crown counsel's recommendations concerning civil proceedings in all the Victorian courts.

The legislation will enable courts to intervene in proceedings affected by the unavailability of relevant documents, including when documents have been destroyed or removed in advance of legal proceedings.

The legislation will focus on whether the unavailability of relevant documents has made a fair trial impossible. This will complement the criminal offence which will address the unlawfulness of the conduct.

Although the courts currently enjoy some powers to deal with the unavailability of documents, the new legislation will clarify what the powers of the courts are and what the consequences might be for parties to litigation who make relevant documents unavailable, whether those documents become unavailable pre or post-commencement of proceedings.

These statutory provisions will be developed in consultation with key stakeholders and will be introduced in the 2006 autumn session of Parliament.

It is anticipated that the commencement of legislation dealing with civil proceedings will coincide with the commencement of this bill.

Conclusion

The Crimes (Document Destruction) Bill underlines the government's continuing strong commitment to the rule of law in Victoria.

The new offence will form an important part of a package of complementary reforms to ensure that the rule of law is maintained and the integrity of the justice system is protected and enhanced.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Wednesday, 30 November.

CRIMES (SEXUAL OFFENCES) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Sexual crime in all its forms horrifies us as a community. The effects of sexual crime on our society are profound and far reaching. Victims of sexual assault experience incredible trauma and stress, the effects of which are long-term and devastating. The impact of the crime also extends to victims' families, our public health system, the capacity of victims and their families to contribute to our society, and of course, our criminal justice system.

Whilst the right to a fair trial is a cornerstone of our legal system, for too long the balance of fairness in the prosecution of sexual assault has been heavily weighted against the complainant. Regrettably, for many complainants this has meant the process failed to treat them with respect and in a way that preserved, as far as possible, their dignity. The criminal justice system has thus not only denied them an acknowledgment of their experience but, worse still, has had the effect of re-traumatising them through the very process through which they have sought redress.

Over the last 15 years, there has been recognition of the need to improve the way the criminal justice system deals with sexual crime. Yet despite previous reforms in 1991 and in 1999 to address these problems and improve the way the criminal justice system responds to sexual assault, positive change has to a large extent been marginal. This is why the government gave the Victorian Law Reform Commission a reference in 2001 to review law and procedure governing sexual offences.

In its final report, *Sexual Offences Law and Procedure*, the commission found that there is a high incidence of sexual assault, a low disclosure rate, serious health consequences for victims of sexual assault, low prosecution and conviction rates and a criminal justice response that causes further trauma to victims, especially children.

The commission's final report put forward a large number of wide ranging recommendations in recognition of the need for a broad systemic response to the problem of dealing with sexual assault. This bill implements the majority of the legislative recommendations put forward by the commission and represents one component of a broader policy initiative to make the criminal justice system respond to sexual

assault in a fairer way and in a way that does not re-traumatise victims.

I have previously acknowledged its work but would again like to take this opportunity before the house to thank the Victorian Law Reform Commission for its excellent work in preparing its report, which has been of tremendous assistance to the government.

Evidence from children and people with a cognitive impairment

The bill will make it easier for children and people with a cognitive impairment to give evidence in the prosecution of sexual offences against them. It will do this through four key amendments.

Firstly, it amends the Magistrates Court Act so that children and people with a cognitive impairment cannot be required to give evidence at the committal stage of the prosecution of sexual offences against them.

Secondly, the bill amends the Evidence Act to create a right for children and people with a cognitive impairment to give their evidence to the court through alternative arrangements that do not require them to be in the same room as the accused person, instead allowing them to be seen and heard via closed circuit television. These alternative arrangements will also allow children and people with a cognitive impairment to have their evidence-in-chief prerecorded once and played before the court at trial. These amendments will ensure that children and people with a cognitive impairment give evidence-in-chief and are cross-examined only once, thus protecting them from having to repeatedly give evidence and from unnecessary delays and further trauma in the prosecution of sexual offences against them.

Thirdly, the bill will make it easier for children and people with a cognitive impairment to give evidence by amending the Evidence Act to create a right for them to have a support person of their own choosing present with them when they give evidence.

Fourthly, the bill amends the Evidence Act to protect children and people with a cognitive impairment from confusing, misleading, harassing or inappropriate questioning when giving evidence in sexual offence cases.

The bill will also make it easier for children to give their evidence in sexual offence cases through other changes. It will amend the Evidence Act to expand the scope for out-of-court statements made by children to be admitted in evidence as a specific exception to the hearsay rule, subject to certain requirements being met. This will recognise that in many cases, evidence of what a young child has said to a trusted adult will be the best evidence available to the court.

Furthermore, the bill amends the Evidence Act to make it easier for courts to assess the competence of children and people with a cognitive impairment to give sworn or unsworn evidence, and ensures that, even where a child is not competent to give evidence in general, there may be some matters in relation to which a child can give evidence that is able to be understood and that should therefore be heard by the court.

Restriction of evidence that is prejudicial or confidential, and exclusion of direct cross-examination of complainants by accused persons

The bill will amend the Evidence Act to ensure that a complainant's privacy and dignity are better preserved through clearer and tighter restrictions on the use of evidence related to the complainant's sexual history or activities with the accused person or with another person, and to confidential counselling communications between a complainant and their counsellor.

The bill amends the Evidence Act to remove the ability for unrepresented defendants to personally cross-examine complainants in sexual offence cases. It will introduce a special procedure whereby an unrepresented defendant who wishes to question a complainant in a sexual offence case must have their questioning conducted by a barrister who is specially appointed by Victoria Legal Aid for that purpose.

Protecting children and people with a cognitive impairment from sexual abuse

The bill amends provisions in the Crimes Act that set out sexual offences against children and people with a cognitive impairment to provide better protection against sexual abuse for this vulnerable group.

The bill integrates and expands the current offences of soliciting and procuring of children and young people to capture the kinds of grooming activities commonly engaged in by paedophiles, whether online, through electronic communications or through other means or activities. This offence will cover soliciting and procuring of children under 16, of young people under 18 in relationships of care and supervision, as well as soliciting or procuring of another person to take part in an act of sexual penetration or an indecent act with a child.

The bill clarifies the types of relationships that are covered in sexual offences against young people by

their carers and supervisors through the express inclusion of specific roles such as employers, teachers, sports coaches and others that bring with them particular responsibility, authority and influence over young people.

There is a need for better protection for people with a cognitive impairment from sexual exploitation from their medical and therapeutic service providers, and from workers at facilities that provide special services designed to meet the educational or developmental needs of people with a cognitive impairment. The bill clarifies and expands these offences to place a responsibility on a greater range of service providers not to sexually exploit people with a cognitive impairment, irrespective of whether the medical/therapeutic service is connected to the person's cognitive impairment or whether a facility is residential or non-residential. The bill also substitutes 'cognitive impairment' for the term 'impaired mental functioning' where it appears in the Evidence Act and the Crimes Act.

The bill will clarify that where sexual penetration constituting incest occurs under coercion from the perpetrator, this is not an offence on the part of the victim. It will also rename the sexual offence of 'maintaining a sexual relationship with a child' to that of 'persistent sexual abuse' in recognition that an offence under this provision is actually sexual abuse not a 'sexual relationship'.

In relation to the offence of sexual penetration with a child under 16, where the child is aged 10 years or over, there has been a lack of clarity as to whether the burden of proof for the defence of reasonable belief that the child was aged over 16 should lie with the accused person. This bill amends the Crimes Act to clarify that the onus of proof for this defence is on the accused, to prove, on the balance of probabilities that they reasonably believed that the child was aged over 16, when claiming the defence.

Expert evidence and the concept of consent

Recognising that expert evidence on the dynamics of sexual assault is rarely led in the prosecution of sexual offences in Victoria, the bill amends the Evidence Act to provide that expert evidence on the nature and effects of sexual assault may be heard by the court more readily and not unfairly excluded.

The bill will also make judges' explanations to juries about the concept of consent in rape cases clearer, to ensure that it is understood that agreement to one act at one time is not consent to other acts at other times.

Better understanding by courts of sexual assault

The complex and unique nature of sexual assault will be recognised in the bill through the inclusion of a statement of principles. These principles expressly acknowledge that sexual assault is significantly under-reported, that women, children and people with cognitive disabilities overwhelmingly make up the majority of victims of sexual assault, that offenders are commonly known to victims and that physical signs of a sexual offence are unlikely to be present. These will form the basis for the interpretation of particular provisions of the Crimes Act and the Evidence Act relating to sexual offences.

I commend the bill to the house.

Debate adjourned on motion of Dr NAPTHINE (South-West Coast).

Debate adjourned until Wednesday, 30 November.

INFRINGEMENTS BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

Background

Nearly 100 years ago, the Parliament was considering a bill to regulate the driving of motor cars by introducing certain offences and penalties. The minister presenting explained why such regulation was required:

> If recklessly driven they endanger the lives of the people, more especially those who are not in the cars, but sometimes the occupants are also endangered.

Interestingly, the minister went on to explain:

> Where it is most desirable to bring motor cars under proper control is in the thoroughfares of the large cities. I am entirely indifferent as to the speed at which motor cars travel on lonely country roads, for there the rate of speed at which they travel imperils the lives of none but those in the cars. That is their look out …

Clearly — and fortunately — things have changed since 1909. We now have an infringements system with offences and penalties that seek to protect all the community — including those in regional Victoria, and those who might imperil their own lives.

The infringements system was born because of the motor vehicle and has developed as the motor vehicle has become an integral part of our lives. Infringement

notices were first introduced in Victoria in the 1950s for parking fines. They were a cost effective way of enforcing minor criminal offences, without the need for a costly court prosecution.

The growth in the system around the motor vehicle is reflected in the data on the offences managed by Victoria Police. (We should note that the data does not cover local government infringements, which currently account for approximately 35 per cent of road and traffic infringements.) In 1965 Victoria Police issued approximately 64 000 infringement notices for 11 different traffic offences. By 1985 the number of offences had grown from 11 to 124, and by 1992 there were more than 200 infringeable offences. Now Victoria Police manage approximately 474 different road and traffic infringeable offences and in 2003–04 issued approximately 1.9 million notices in relation to those offences.

In the system overall there has been around a 40 per cent increase over the last decade in the number of infringements issued by all agencies in Victoria. In 1990–91 an estimated 2.3 million notices were issued. In 2003–04 approximately 3.2 million notices were issued.

The importance of the infringements system as a diversionary mechanism in the justice system is evident from the following data on the Magistrates Courts. In 1971, 69.4 per cent of convictions recorded in the Magistrates' Court (numbering 188 328) were for driving offences. In 1991, by which time on-the-spot tickets were well in place, these offences amounted to only 28.8 per cent of all offences charged.

Since the 1950s and 1960s the use of infringement notices has not only grown considerably in volume but also in application. Whilst motor vehicle-related offences account for 95 per cent of the system, infringement offences are now in more than 50 different Victorian acts, providing for more than 1000 different offences. Whilst infringements notices are relatively low in volume for these non-traffic-related areas, they are a critical part of regulating behaviours across industries and occupations, as well as protecting the physical environment.

Infringements systems now exist in most jurisdictions around the world and are clearly here to stay. The objective is therefore to be able to regulate community behaviour to achieve public order, safety and amenity in a way that maintains fair and due process in dealing with breaches of those standards. The current system has developed over the last 50 years in an ad hoc way. It is timely to present a bill to this house to ensure the infringements system meets the community needs in 2005 and well beyond.

The new infringements model

The bill provides for a new infringements system. Its primary purpose is to improve the community's rights and options in the process and to better protect the vulnerable who are inappropriately caught up in the system. A second objective is to provide additional enforcement sanctions to motivate people to pay their fines in order to maintain the integrity of the system.

Broadly, the new elements of the system are:

overarching legislation to cover infringements law and process,

A fairer infringements process based on early intervention and improved information to the public,

process improvements which include a right of internal review by the issuing agency,

measures at various stages, including internal review stage, to filter people out of the system who cannot understand or control their offending behaviour (e.g., people with mental or intellectual disabilities, the homeless, people with serious addictions),

improved administration by issuing agencies of the infringements environments they manage,

firmer enforcement measures to improve deterrence in the system, reducing 'civil disobedience' and the undermining of the rule of law,

arrangements to establish a gatekeeper role for the infringements system which will take a system-wide view and be responsible for managing ongoing improvements to the system, and

changing the name of the current PERIN court to infringements court.

Overarching legislation

The bill will establish a common process for issuing and enforcing infringement notices by a wide variety of state and local government agencies, as well as bodies such as universities and hospitals. The bill will replace inconsistent legislation and practice across more than 50 different acts.

Offences will still be created under the acts assigned to individual ministers, but the infringements process will no longer be set out in individual acts. This will achieve

the consistency of practice and law long sought by the community.

The exceptions to this are the serious infringement offences under the Road Safety Act, the Marine Act and under rail safety legislation. Offences which involve excessive speed or driving whilst drug or alcohol affected — whether in a road, rail or seagoing vehicle — will retain the specific process provided for in their respective acts. For example, under the Road Safety Act drug or drink-driving or excessive speed will result in conviction and/or licence loss unless contested to court within 28 days. In volume, these offences are small in number (approximately 5 per cent of the system) but their consequences are serious and it is important to retain the protections and deterrence achieved by such specific processes.

I propose to introduce a separate bill to this house next year dealing with the consequential amendments required to this range of acts.

Improving the front end of the system

Improving the front end of the system improves the experience most Victorians have with the infringements system. The bulk of Victorians pay their fines before they default.

Greater onus will be placed on agencies that issue infringement notices. This will require agencies to:

have training standards and codes of conduct for their issuing staff. Many agencies have already acted on the need for improvement in this area. These improvements will continue to be supported by guidelines the Attorney-General can issue under the proposed act to improve interaction in an infringements situation.

provide information to people about their rights and options in the infringements process, as well as about their responsibilities.

review an infringement notice once issued. This is a significant change to current arrangements, and will include the requirement to disclose the right of internal review on the notices.

Internal review by agency

The bill gives a person a right to apply to the agency to withdraw a notice where a person believes its issue is wrong in law, or the identity is mistaken, or where the person has exceptional circumstances or special circumstances. In response to such an application the agency has a number of options. These include confirming the decision, withdrawing the notice, or withdrawing the notice and issuing an official warning.

Whilst some agencies currently consider a case made to them by a person, the practice is dependent on the individual agency, and often the individual officer, and it is not disclosed as a right. The bill enshrines this right, and the prescribed information in infringements forms will require the disclosure of this right of review.

Under the act the Attorney-General will also issue guidelines to assist agencies in conducting reviews. These guidelines will establish a more consistent approach across the system, but are not intended to interfere in the discretion necessary to be exercised by the individual agencies.

The right to contest an infringement notice to the Magistrates Court is an important principle of an infringements system; however, it is recognised that it can be a difficult option for some to exercise. The right of review is an important adjunct mechanism for a person to contest a notice.

Special circumstances

A ground for seeking a review of a notice is that the person has ‘special circumstances’ that affected the behaviour at the time of the offence. This is a critical change to filter the vulnerable in the community out of the infringements system. People with special circumstances are disproportionately, and often irrevocably, caught up in the system. In a just society, the response to people with special circumstances should not be to issue them with an infringement notice.

The term ‘special circumstances’ refers to circumstances whereby a person cannot understand or control his or her offending behaviour. The circumstances that are included in the definition contained in the bill are:

mental or intellectual disabilities or disorders,

homelessness, or

serious drug/alcohol/substance addictions.

Often, it will be when the sheriff attends an address to service a notice or execute a warrant that it is discovered that the person is in special circumstances.

Homelessness has been included to provide for those people who are sleeping on the streets or living in crisis accommodation. Often these people have no choice but to be in public places where they are more likely to be

infringed. In this sense, they cannot control their offending behaviour. There will be some people who are homeless who also have either a serious addiction or a mental or intellectual disability. But some do not and the bill needs to provide for them also.

This problem has been in part addressed by the implementation of the special circumstances list in the Magistrates Court. People with mental or intellectual disabilities who have infringement fines and enforcement orders are able to have their matters considered by a magistrate, and in most cases the matters are discharged.

This bill goes a step further to try and prevent special circumstances matters flowing to the court by having notices withdrawn by the issuing agency. Where the person's circumstances are genuine, it should be possible for the person or, more likely, someone on their behalf, to provide evidence to the agency of the person's condition and seek to have the notice withdrawn. This provides benefits to all parties. Unnecessary matters are not prosecuted by the agency and, for the people involved, fines are avoided and matters do not escalate.

As an added protection, the bill provides that where a person has their application for review on special circumstances grounds rejected by the agency, the agency can only prosecute the matter to open court. The default cannot be lodged at the proposed Infringements Court. This is another filter to prevent people with special circumstances being channelled into a highly automated enforcement process.

Instalment payment plans

A longstanding criticism of the infringements system has been that people cannot pay a fine by instalment when they first receive it. A bill was recently introduced to the Parliament to implement instalment payment plans as soon as possible, and prior to 1 July next year when the Infringements Bill would be expected to come into operation. This earlier implementation is important to allow people to enter into plans prior to stronger enforcement sanctions which the Infringements Bill implements coming into operation. The Infringements Bill, pending consideration by this house, is proposed to commence on 1 July 2006.

The Infringements Bill provides for instalment payment plans for the period beyond 1 July 2006. The provisions generally mirror those in the earlier bill, with the basic requirement on an issuing agency to offer instalment payment plans to people where there is financial hardship. It also replicates the powers and mechanisms for the Department of Justice to offer agencies a centralised facility for managing instalment plans, which agencies can choose to use. In the past, agencies have not been able to justify the cost of setting up separate information technology systems to manage instalments.

The eligibility criteria for instalment plans will be based on financial hardship and include people on a commonwealth benefit or who have a health care card. There will also be capacity for people in financial difficulty who are not on a benefit or do not have a card to make a case to the issuing agency for inclusion.

Improved enforcement

Victoria lags behind all other jurisdictions in measures available to the sheriff to enforce court orders. The sanctions in Victoria currently are driver's licence suspension, where the offence was road related, and seizure of personal property. Whilst the bulk of the community pays their fines, a small group are recalcitrant and ignore the court's orders. Approximately 40 000 people have 10 or more outstanding warrants.

An additional range of measures is proposed based on what works effectively elsewhere and is likely to operate effectively in Victoria. The measures proposed are:

driver licence suspension and non-renewal,

vehicle registration suspension and non-renewal,

wheel clamping,

garnishees against wages,

charging orders on real property, and

sale of real property.

Defaulted fines are, in effect, the non-observance of court orders. The sanctions would therefore apply irrespective of the original offence relating to the fine.

Driver licence and registration non-renewal will mean that any renewal notice sent by VicRoads will indicate that a person will need to pay their fines, or enter into an instalment plan to pay, before the licence or registration can be renewed.

The proposed improvements to the infringements system will make the system fairer for the ordinary person and will protect the vulnerable, minimising the degree to which their matters flow on to enforcement.

This means that firmer enforcement sanctions to motivate people to pay fines can be considered. This will help deal with the perception that compliance is optional. Such a perception threatens the viability of the whole system.

A unique protection in the Victorian system once an infringement has defaulted to the sheriff is that a sheriff would in most cases personally serve a notice of intention to effect an enforcement sanction. This does not generally happen in other jurisdictions in Australia, where an enforcement sanction is notified by mail. (The exceptions to this will be the non-renewal of a vehicle licence or registration as part of the usual renewal notices sent by VicRoads; and potentially some cases of wheel clamping where notification is not practicable.)

Personal service by the sheriff is a resource-intensive process but one which ensures that:

people are personally handed the notice of the intention to effect an enforcement sanction and given a time period (at least seven days and for some sanctions more) to pay their fine or enter into an instalment plan to avoid the sanction being given effect. Enforcement of the sanction does not proceed unless the notice of intention can be personally served;

the correct person is the subject of the sanction, and

people are made aware of other options open to them, such as entering into instalment payment plans or seeking a revocation of the enforcement order if, for example, the person was not the driver.

Community work

Community work is an option available when a sheriff executes a warrant to arrest. This is earlier than the community work which is available if the matter proceeds to court. The availability of community work at this pre-court stage is important. It avoids the need for the matter to go to court, and it avoids the risk of imprisonment. However, the terms of the community work available from the sheriff — termed a custodial community permit — are legislatively restrictive, limiting the people able to take up the option.

The problem currently is that custodial community permits require the person to undertake the community work in one continuous period. For example, if the amount of the fines translates to five days jail, the community work must be undertaken full time over the five days immediately following arrest by the sheriff. This means that many people are not eligible for custodial community permits.

In contrast, court-based orders allow the community work to be spread over a period, allowing people to fit the community work around other commitments. The bill replaces custodial community permits with a community work permit that can be undertaken over a period of time, similar to a court-based order. This will mean that some people will not need to appear before a magistrate to be able to undertake community work for their fines.

The bill also provides that the sheriff can issue a community work permit at the time of serving a notice. Currently, the sheriff is required to arrest the person and take him or her to a prison or police jail, where consideration can then be given to whether or not the person is eligible for community work. The changes will enable the sheriff to authorise a community work permit at the person's home. This avoids the convoluted process of arresting the person, which in regional areas of Victoria, can mean driving the person a significant distance from their home to a police jail. If they are then released on community work, they have to find their own way home as they are no longer technically 'in custody' and the sheriff is not empowered to return them to the place where they were arrested.

Magistrates powers

In 2000 the Parliament passed amendments to the Magistrates' Court Act to prevent people being arrested on enforcement warrants and automatically taken to prison. Anyone arrested on a warrant must now appear before a magistrate in open court. The policy of avoiding people being imprisoned for infringement fine defaults is continued in this bill and enhanced.

The bill gives broader options to magistrates in open court hearings which occur after the execution of an enforcement warrant. By this stage, other enforcement sanctions, instalment payment plans or community work will not have been successful in expiating the fines. These hearings consider whether a person should be imprisoned, and will determine whether the individual has extenuating circumstances.

Currently, magistrates powers include being able to discharge the matter if the person has a mental or intellectual disability. If a person has exceptional circumstances, the court can place the person on community work. The term of imprisonment can also be reduced. The bill proposes that magistrates also be able to approve instalment payment plans and that where imprisonment would be 'excessive, disproportionate or unduly harsh' the magistrate can discharge the fine in all or part, or reduce the term of imprisonment by two thirds. These changes will ensure

that imprisonment is, and will remain, a sanction of last resort for the most serious fine defaulters.

PERIN court name change

The bill proposes that the name of the PERIN Court be changed to Infringements Court. 'PERIN' is an acronym for 'penalty enforcement by registration of infringement notice'. However, research shows that the term is not understood by the community in particular, and by many practitioners in the field. 'Infringements Court' makes clearer the purpose of the court.

System oversight role

An ongoing concern about the infringements system is that it involves a large number of different agencies whose focus is on their particular domain. No single agency has responsibility in relation to the system as a whole. It is proposed that a unit be established in the Department of Justice with this responsibility.

The unit will support the Attorney-General's responsibilities as minister responsible for the proposed Infringements Act and will:

monitor the operation of the system, including the implementation of the proposed new act,

provide advice to the Attorney-General and government on infringements policy,

effect legislative instruments and develop guidelines required under the proposed act,

support an ongoing advisory committee comprising agencies, stakeholders and community groups, and

undertake key system improvement projects such as a review of infringement notices and associated documentation.

The character of the unit's role will be to foster ongoing improvement across the system and to have a stronger stakeholder management role. The stakeholders — both agencies and advocacy groups — in this area are many. Their support and input are critical to how the system operates, and to how it improves. Whilst the proposed legislation establishes a base for change, there needs to be ongoing system improvement and responsiveness. A system that has taken 50 years to develop will not only be changed by an act of this Parliament.

I commend this bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Wednesday, 30 November.

GUARDIANSHIP AND ADMINISTRATION (FURTHER AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

This bill seeks to further improve the Guardianship and Administration Act 1986 ('the act') to ensure the scheme for guardianship and administration effectively protects the rights of Victorians with a disability.

The amendments contained in this bill arise from recommendations from, or discussions with, a variety of organisations or individuals involved in applying the act, including the guardianship list of the Victorian Civil and Administrative Tribunal (VCAT), the public advocate, State Trustees Ltd, medical researchers and human research ethics committees. Consultation has also taken place with other key stakeholders.

Medical research procedures

This bill will change the current procedures in the Guardianship and Administration Act 1986 ('the act') for seeking consent to medical research procedures being conducted on 'patients'. Within the context of the act, 'patients' are adults with a disability who are incapable of giving informed consent.

The act currently provides that consent must be obtained from VCAT before a 'special procedure' can be performed on a patient. 'Special procedure' includes, among other things, any procedure carried out for the purpose of medical research. This bill changes the arrangement for seeking consent to procedures carried out for the purposes of medical research, not special procedures generally. Application will still need to be made to VCAT for consent to the other types of 'special procedure' including sterilisation, termination of pregnancy and removal of tissue. In Australia, medical research proposals undergo rigorous ethical and procedural assessment by the relevant institution's human research ethics committee before they are approved and before research can be conducted on humans.

Human research ethics committees assess medical research proposals under the National Health and

Medical Research Council's *National Statement on Ethical Conduct in Research Involving Humans.*

The national statement provides a comprehensive national framework for the ethical consideration of research relevant to humans. Research projects involving humans must be reviewed and approved by a properly constituted human research ethics committee. Such committees also have a role in monitoring research. The national statement includes additional specific requirements for clinical trials, including progress reports and the mandatory notification of serious and adverse events during a trial. The national statement also provides that human research ethics committees may take measures to monitor research (including random inspections of research sites) and to ensure the development of appropriate plain language information forms for practitioners to use when seeking consent to medical research. Properly approved medical research is important both for individuals who will have an opportunity to benefit from the medical developments and for society as a whole. It may also assist a patient in cases where conventional medical treatments are ineffective.

Prior to 1999, the ability to perform medical research procedures on people with disabilities who lacked capacity to consent, was unregulated by Victorian legislation and the common law applied. At common law, family members cannot provide valid consent to a medical procedure on a patient's behalf. A medical practitioner can only carry out a medical procedure with lawful authority, such as where the patient has given consent or in an emergency situation.

The common-law position operates unfairly on people who have a disability that affects their capacity to consent. It is important to ensure that people with disabilities are able to access required treatment and to be enrolled in medical research projects where appropriate. People with disabilities should not be disadvantaged simply because their disability means they cannot provide consent themselves.

In 1999, the act was amended to include a comprehensive scheme for medical practitioners to seek prior consent from VCAT for special procedures (including procedures for the purposes of medical research) in relation to people with long-term or indeterminate disabilities who were incapable of giving informed consent.

In 2002, the act was amended so that the processes for seeking consent to special procedures (including procedures for the purpose of medical research) applied to all patients with a disability (whether short or long-term) who lack capacity to consent. I am informed that in practice, medical research was conducted on patients with a short-term or indeterminate disability with the consent of the 'person responsible' not VCAT, prior to the 2002 amendments.

When considering an application for consent to perform a medical research procedure on a patient, VCAT requires the applicant to satisfy certain criteria in relation to each patient before it will consent. First, the research must have been formally approved by the institution's human research ethics committee. This is appropriate because ethics committees have the specialist expertise required to consider ethical issues in relation to medical treatment and research. Second, there must be confirmation that there is no objection from the patient's next of kin. Third, VCAT requires evidence that the research may be in the patient's best interest. If these criteria are satisfied, VCAT will generally approve the application.

Where the research is time critical, seeking the prior consent of VCAT can lead to delays. The VCAT guardianship list has established a process where members are on call 24 hours a day, 7 days a week to consider applications for consent to medical research procedures. However, if there is only a brief window of opportunity for the enrolment of a patient in medical research, any delay can result in a patient being ineligible to participate in the research project. This could compromise the care of a patient, if there is no standard treatment that is likely to be beneficial and where participation in the procedure being researched would be in the patient's interests.

It is considered that the requirement to obtain VCAT consent to medical research procedures on patients has added no discernable protections or safeguards in practice over those resulting from an assessment of a medical research project by a human research ethics committee and through the involvement of the person responsible in considering the interests of the patient of participating in the project.

In developing amendments to the act the government has been guided by the following principles:

protection of patients' interests;

respect for the autonomy of patients, wherever possible;

recognition of the importance of research being properly authorised by human research ethics committees;

respecting the important role that persons responsible can play in decision-making for patients, where appropriate;

avoiding unnecessary duplication in decision making; and

allowing critical medical decisions to be made in a timely fashion.

This bill provides that a medical research procedure may only be performed on a patient when the research project under which the procedure is being carried out has been approved by a human research ethics committee. This entrenches the current practice. When there is such approval, the next question that will have to be addressed by a practitioner who is involved in research is whether a patient is incapable of consenting to the procedure that is part of a research project. If so, the bill requires consideration of whether, in light of the nature of the research project and the patient's condition, it is likely that the patient will regain capacity within a reasonable time. If so, consent to participation in the project should be sought from the patient when they have regained capacity.

What is a 'reasonable' time will vary, depending upon each patient's circumstances. For instance, if the research protocol approved by the ethics committee involves assessing the effectiveness of a proposed new treatment for brain injury that typically occurs to road trauma victims, and it is necessary to perform the relevant new treatment immediately upon admission to hospital, the relevant question to ask is whether the patient is likely to regain capacity by that time. If so, then the patient's own consent must be sought. If not, then the new approval processes under the bill would apply.

In contrast, a clinical trial may test the effectiveness of two different medications. The trial is to continue for a number of years and under the criteria for the research protocol the patient may be eligible to participate at any time. In this scenario, the question to be answered is whether the patient is likely to regain capacity during the relevant period of the clinical trial. If so, then the practitioner should wait until the patient regains capacity and seek the patient's own consent. If not, then the new approval processes will apply.

If a patient will not be capable of deciding whether to consent to a medical research procedure within a reasonable time, then the following alternative sources of authority to conduct the procedure will apply.

Consent for a patient to participate in medical research may be sought from the 'person responsible' (usually a patient's guardian or next of kin). The bill provides that all steps that are reasonable in the circumstances must be taken to identify the relevant person responsible and seek consent from that person. I understand that in most cases it is possible to contact the person responsible.

The bill provides that the person responsible may only approve the involvement of a patient in research where this is not contrary to the best interests of the patient.

The bill recognises that in rare circumstances, it will not be possible to contact a person who is willing to act as the patient's 'person responsible'. In such a case, the practitioner may perform the research procedure on a patient if stringent criteria are met. These comprehensive criteria are set out in new section 42T and include requirements relating to the nature of the research and the research protocol approved by the ethics committee. The practitioner must also certify his or her belief that inclusion in the research project and the research procedure are not contrary to the wishes of the patient.

The bill requires that a certificate stating that the statutory safeguards set out in section 42T have been met must be forwarded to the public advocate and the relevant human research ethics committee. These notifications will be readily available if, for example, an audit or inquiry is considered necessary. The certificate must also be retained on the patient's clinical records.

The practitioner must also ensure that steps that are reasonable in the circumstances are taken to contact the person responsible, and if that person is located, or if the patient regains capacity, then the procedure cannot be continued under the authority of new section 42T. In such a case the consent of the person responsible or patient (as applicable) would be sought, and their decision respected.

The bill allows an application to be made to VCAT by a person responsible or a person with a special interest in the affairs of the patient. If the public advocate or another interested person were concerned about whether a medical research procedure should be performed on a patient, or about the continuation of medical research procedures on a patient, then they may apply to VCAT for an appropriate order.

The bill includes new offences. The existing penalty for performing a special procedure without the required VCAT consent has been increased from 20 penalty units to imprisonment for two years or 240 penalty units or both. This is to reflect the severity of

performing a special procedure such as sterilisation, termination of pregnancy or tissue transplant on a patient without the required consent. Medical research procedures cannot be performed unless the research project has been approved by a properly constituted human research ethics committee.

The bill contains an additional obligation to perform a medical research procedure consistently with any conditions of the ethics committee's approval relating to that procedure. Except in a medical emergency or where other lawful authority exists, it is to be an offence to perform a medical research procedure unless a person responsible has given consent or the procedural authorisation requirements have been met. It will also be an offence to falsely certify that the criteria for procedural authorisation of a medical research procedure have been met. In some cases, prior to commencement of the amendments, VCAT will already have provided consent to the involvement of a patient in a medical research project or have conferred the authority to continue consent on a person responsible. The bill ensures that this consent (or continued consent) remains valid and is sufficient authority to perform a procedure after commencement. In contrast, the provisions of this bill will apply after commencement to the enrolment of new patients under existing research projects, to ensure the new system takes effect at the earliest opportunity in relation to patients who have not already been the subject of an order by VCAT.

Minor and technical amendments

A number of minor and technical amendments requested by the Office of the Public Advocate and the state trustees have been included in the bill to improve the operation of the act.

The bill enables the public advocate to delegate any power, duty or function (except the power of delegation) to appropriate staff or employees at the Office of the Public Advocate without being required to seek prior approval of that delegation by VCAT. This is to facilitate the exercise of powers and functions of the Public Advocate by the appropriate staff or employee without the need to obtain approval from VCAT.

Enduring guardianship allows a person to choose in advance, the person or people who may make certain decisions on his or her behalf if they become unable to make those decisions themselves. The bill will improve the form for appointing an enduring guardian so that it will no longer require the appointor, proposed guardian, alternate guardian and the two witnesses to all be present and sign or witness the form at the same time.

The bill will allow the signature of the appointor, proposed guardian and alternate guardian to be witnessed separately, which will make it easier for people to use the forms, for example when the proposed guardian or alternate guardian lives interstate.

The bill will protect the acts or decisions by the administrator of an estate in circumstances where an administration order has been set aside by a court or tribunal (or an order has the effect of setting aside an administration order). The acts and decisions will remain valid from the date of the administrator's appointment until the date the order was set aside (unless the court or tribunal otherwise orders).

The bill also includes provisions relating to the payment of costs and expenses to an administrator or former administrator from an estate.

The bill enables a person previously sworn in as acting public advocate to act as public advocate during the public advocate's temporary absence upon notice in writing from the Attorney-General, rather than requiring an order of the Governor in Council. The appointment of the acting public advocate during any suspension of the public advocate will still require the order of the Governor in Council.

In conclusion, this bill reaches an appropriate balance between the protection of vulnerable patients and improving the consent process for medical research procedures by giving statutory recognition to the institutional processes that govern the ethical conduct of medical research, patient autonomy and the important role often played by patients' next of kin (who will usually be the person responsible). The proposal has been supported during consultation.

The minor and technical amendments will further the objective of continuous improvement to the guardianship and administration regime in Victoria.

I commend the bill to the house.

Debate adjourned on motion of Mr McINTOSH (Kew).

Debate adjourned until Wednesday, 30 November.

LIQUOR CONTROL REFORM (AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The liquor industry in Victoria generates substantial economic and social benefits to the state, and the number and diversity of licensed outlets enhances Victoria's reputation as a lively and cosmopolitan place to live. However, the regulatory framework must balance the need to provide the community with reasonable access to alcohol whilst at the same time minimising the adverse amenity and social impacts that can flow from its misuse.

In order to fulfil the above objectives, the bill before the house will improve the capacity of the regulatory framework to enhance amenity and community safety.

The major amendments which are designed to address antisocial and violent behaviour in and around licensed premises are as follows.

Firstly, the bill provides the director of liquor licensing with the power to make, vary or revoke late-hour entry declarations for an area or locality. Whilst the current legal framework provides the director with the ability to restrict late-hour entry in an area via the general condition-making powers in the act, the bill facilitates this by providing a specific power to declare an area. This will enhance the transparency of the current process. The director is also provided with a power to place conditions upon late-hour entry declarations for a locality to take account of local circumstances, and the relevant provisions also provide for specified premises to be exempted from the operation of late-hour entry declarations for an area or locality to exempt those licensed premises not linked with amenity or antisocial behaviour problems.

Late-hour entry declarations are an operational response designed to tackle amenity issues associated with unruly patron behaviour, such as violence, property damage, vandalism and other antisocial behaviour in the early hours of the morning in relation to specified licensed venues. The essential feature of late-hour entry declarations is that they prohibit entry to a licensed premises by patrons after a designated time. Patrons inside the licensed premise at the designated late-hour entry time are free to stay on until closing time or leave at any other time, but they cannot return nor can new patrons enter from a designated time.

The new power will reduce the amount of time it takes to address amenity and antisocial behaviour problems in local communities, which will in turn generate savings to the community through reduced crime costs, health care costs and costs to Victoria Police and the director of liquor licensing in negotiating with licensees.

Importantly the decision of the director in these circumstances is subject to VCAT review to ensure that this power is used judiciously and affected licensees are afforded an avenue of appeal.

Secondly, the bill provides for regulations to be made setting minimum recording standards for surveillance equipment in licensed premises. This will ensure that investigations into serious offences in or around licensed premises are not hampered by substandard image quality.

To further support the responsible service of alcohol in licensed premises, the bill also defines intoxication for the purposes of the act and requires the director of liquor licensing to issue guidelines for determining indications of intoxication as well as specifying circumstances when a person is not taken to be intoxicated for the purposes of the act.

Recently a video store successfully applied for a liquor licence and more may do so. However, video stores are frequented on a regular basis by minors and in such circumstances, minors can be inappropriately exposed to alcohol. To address this issue, the bill requires premises within a class of prescribed premises to require the approval of the minister before it can be licensed to supply liquor. This is because there may be special circumstances where it may be appropriate to licence certain premises to sell liquor. This will enable the regulatory framework to respond appropriately in the future, should a situation arise requiring a similar response.

The bill ensures that disqualification orders issued by the liquor licensing commission under the former Liquor Control Act 1987 can be treated as if they were VCAT orders, and non-compliance with such orders constitutes an offence, or contempt of the tribunal under the VCAT act 1998.

In so doing, it will ensure the integrity of the licensing framework by excluding the involvement of unsuitable individuals in the licensed industry.

In order that liquor confiscated as a result of the proceeds of crime can be sold at the highest possible price, the bill exempts the assistant director, asset

confiscation operations, from the operation of the act. Otherwise, asset confiscation operations would be required to pay annual licence fees.

The bill also repeals subsection 37(b) of the Liquor Control Reform (Underage Drinking and Enhanced Enforcement) Act 2004, which amends schedule 3 of the Liquor Control Reform Act 1998. This section has not been proclaimed to commence. It required applicants for new liquor licences in dry areas, or applicants seeking the relocation of an existing licence to a dry area, to pay the reasonable expenses incurred by the electoral commissioner in conducting a poll to determine whether a liquor licence should be granted in, or an existing licence relocated to, the dry area.

In summary, the bill will promote amenity and community safety in and around licensed premises, thereby enhancing the reputation of the liquor industry for the benefit of all Victorians.

I commend the bill to the house.

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until Wednesday, 30 November.

DUTIES AND LAND TAX ACTS (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr BRUMBY (Treasurer).

Mr MERLINO (Monbulk) — I am happy to rise in support of the Duties and Land Tax Acts (Amendment) Bill. The bill covers a number of amendments including exemption from duty with regard to equity release programs clarifying motor vehicle duty provisions and also changes to the land-rich provisions which include amendments to deal with potential avoidance schemes through the use of trusts.

We heard from the member for Burwood earlier that those changes in particular were subject to substantial consultation and the changes incorporate a tax surcharge of 0.375 per cent for trusts with aggregate property holdings above $20 000. There will be, as we have heard, an once-off opportunity to nominate a beneficiary of the trust which will be assessed at ordinary land tax rates with regard to land acquired prior to 31 December this year. It is a sensible outcome and an economically responsible position.

I would like to, however, focus on clause 4 of the bill. We have heard detailed discussion already about the bill in relation to trusts, but I want to talk about clause 4 as it relates to equity release schemes, which is of particular interest to me. It is a subject that is covered by a review I am conducting at the moment on consumer credit on behalf of the Minister for Consumer Affairs in another place. This year we have conducted many regional forums on consumer credit, including in Geelong, Mildura, Yallourn and metropolitan forums. It deals with the whole gamut of consumer credit — whether it is credit card debt, mortgage brokers or finance brokers. It also deals with equity release schemes.

Equity release schemes typically are for older people who own their homes. They borrow against the equity in their property. It is commonly known as a reverse mortgage. The principal and interest is not repaid until the consumer dies, or the consumer sells their home. It means that at the end of this period the debt can be quite high. This is further affected by interest rates that are slightly higher than the average normal mortgage. Therefore there is considerable negative equity risk — that is where the cost of the loan, the debt, exceeds the capital value of the property at the end of the scheme. That is a risk for both parties because for the home owner they may have originally taken out an equity release scheme or reverse mortgage of $20 000 or $30 000, but by the end of their lifetime or by the time they sell their house it may indeed be a quite significant debt. It is also a risk for the lender, in that they may not realise the capital improvement and the debt may be higher than the capital value of the home.

These types of schemes have been available for a number of years; however, the growth and interest have been significant, particularly over the last few years. One estimate that we have noted in the draft report is that the value and amount of credit extended on reverse mortgages was around $500 million in mid-2005. We also know that the Victorian Council on the Ageing has noted that it has many, many calls and inquires over its telephone service and that the demand for seminars and information sessions on reverse mortgages has been quite intense.

There are many reasons for the popularity of equity release schemes, including concerns about the rising cost of health, home maintenance and renovations; helping out family members; the need to pay for home-based specialist care; supplementing people's incomes; maintaining lifestyles; and indeed going on holiday.

In a submission the Senior Australians Equity Release Association of Lenders informed my credit law review that the over-65s represent 12 per cent of the population, and the figure is growing. Of that population 70 per cent will retire with less than $100 000 in superannuation. Therefore there is great interest in looking at alternative financial options. In the past those options have obviously been downsizing the family home, selling other assets or borrowing from family members. So whilst we should be cautious about equity release schemes, there is no doubt that there is a level of community support and strong interest in reverse mortgages and the like.

In light of this the legislation provides an exemption from stamp duty to Victorians who take up an equity release product. This duty concession is a reflection of the changing nature of financial arrangements. People are seeking and financial institutions are offering more flexible products. In one sense it is the ultimate symbol of the consumer society. As a society we have grown used to living with debt, and I talk particularly of generations X and Y. Credit card debt is a normal part of life, and it has tripled over the last six years in Australia. Mortgages are becoming more highly geared. And now we can go to the grave absolutely up to our eyeballs in debt because we can access cash through our equity in our once fully-paid-off homes. Rather than leaving assets for future generations we can hand over those assets to the bank. So there are competing views.

Personally I am not completely sold on the product. Nevertheless this legislation is recognition, as I said earlier, of community support and interest. It provides a stamp duty exemption that older people, for a variety of reasons, want or very much need. As I said, if it is an issue about maintaining their health or providing specialist care in the home, they need that extra cash.

Importantly the concession only relates to commercial products offered by financial institutions, not private companies like Money for Living, which was in the news earlier in the year. Prior to being placed in the hands of administrators Money for Living offered to buy a home but then allow the former owners a guaranteed lifetime tenancy in the property. The consumers received the purchase price of a property in a lump sum or in instalments, or a combination of both. Money for Living then on-sold that property to third-party investors, who were contracted to make payments to the consumers — so they were very dodgy operations.

This legislation makes it clear that equity release products must provide for older people to retain the legal title of the property and for a one-off payment rather than payments over time. It is only available, as I said, to financial institutions and not to private companies, and there can be no claim on the property until the home is sold or the person dies. It is a protection against scams like Money for Living.

In terms of the regulatory concerns that I talked about before, the issue of the debt increasing over time and other issues about the marketing of these products, they will begin to be addressed by the consumer credit review that I am conducting. A draft report will be released this year and government recommendations will be released probably around March or April next year. There is also a report by the Australian Securities and Investments Commission which will be released shortly. Those two reports will give us a strong indication as to what we need to do in terms of regulatory arrangements. The uniform Consumer Credit Code does not deal with equity release schemes so it is likely that a review will seek further detailed analysis of the need for traditional consumer protections. I commend the bill to the house.

Mr PERTON (Doncaster) — It gives me pleasure to join this debate and to follow my friend the member for Monbulk, who probably after a late night last night has not been able to throw the usual passion into his speech. Obviously he has promised us yet more reviews, inquiries, bureaucracy and regulation — ever more a tangled web we need to live in.

I have a simple point to make on this bill — I oppose it. I oppose it because it has extremely detrimental effects on many of my constituents and imposes new taxes on them for no good reason at all, other than the greed of this government for ever-more revenue. It has been said on many occasions but it merits repeating: when the Kennett government left power at the end of 1999 the state budget was $19 billion. A short six years later the state budget is $32 billion. We have not won Tattslotto.

Mr Maxfield interjected.

Mr PERTON — There is the member for Narracan — —

The ACTING SPEAKER (Ms Lindell) — Order! The member is out of his place and being disorderly.

Mr PERTON — Quite so; he is out of his place and disorderly, but his point was absolutely the sort of point you would expect of a Labor member. They think it is a magic pudding because the extra $11 billion or $12 billion comes out of the pockets of Victorian taxpayers. Do those Victorian taxpayers feel they have

a benefit out of the spending of that $12 billion? Those in the gallery who caught the bus here: I ask, are there more buses? Do they feel the tram services are better? If they go to the waiting room of a general hospital do they find that the service is any greater? The answer of course is no. If they entered the queue for elective surgery, they would know that the waiting lists are actually longer.

We have a government hungry for cash; it is spending more cash than ever before which is taken from the pockets of Victorian taxpayers. Every time they buy a product or move house, or undertake almost any activity within the city of Melbourne or the state of Victoria, the Labor government has its hands in their pockets for ever-more money. This piece of legislation adds yet another impost and that is a penalty land tax on those who hold trusts. It is the introduction of a tax surcharge for trusts with aggregate property holdings above $20 000. I ask any of the people in the gallery who own property: what could — —

The ACTING SPEAKER (Ms Lindell) — Order! The member will address his comments through the Chair rather than the gallery.

Mr PERTON — I ask you, Acting Speaker, as a member of this government: what property could be held that was under $20 000?

Ms Green interjected.

Mr PERTON — I see the member for Yan Yean interjecting behind me. She is probably a strong beneficiary of tomorrow's change in metropolitan planning guidelines and her friends and political donors will be strong beneficiaries. But even she would be able to tell me — —

Ms Green — On a point of order, Acting Speaker, I take offence at what the member for Doncaster has just said. He was impugning my character and I ask him to withdraw.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Yan Yean has taken offence at the member for Doncaster's comments and has asked him to withdraw.

Mr PERTON — I ask you, Acting Speaker, what is the imputation?

The ACTING SPEAKER (Ms Lindell) — Order! The member for Yan Yean has taken offence at the member for Doncaster's comments and has asked him to withdraw.

An honourable member interjected.

Mr PERTON — I do not need your advice. I will withdraw in deference to the status you are exercising on a temporary basis, Acting Speaker.

This is not a measure which helps small business. It is not a measure which helps my constituents. All this measure does is whack yet another hefty tax on small to medium-sized businesses and investors. It will impose a sizeable tax bill on many taxpayers in my electorate, and most of them are not wealthy and they are not tax avoiders. They are very angry. They believe this government is singling them out and they strongly oppose this legislation. The small benefits from the bill's non-land tax provisions do not outweigh the damage caused by the land tax on trusts. The bill is unjust and will simply penalise thousands of innocent property owners who have worked hard to provide for their families or their retirements.

Several Doncaster residents who have contacted me have expressed a great deal of concern about the impact the legislation will have on them. I give the house the example of an East Doncaster resident who does not want to be named but is more than happy for me to raise his case in Parliament. He and his brother have been self-employed and hardworking for the best part of 30 years. Their separate businesses are in a family trust for the purpose of asset protection. They recently purchased an investment property for $630 000, and paid $1320 to the land titles office and $33 460 to the State Revenue Office. The money earned in the business is distributed through the trust to his wife and himself, and last year it was only $32 000 each. Even the member for Yan Yean would recognise that that is not a wealthy or high income-earning couple. In his letter to me the constituent said:

> We hardly qualify as being wealthy or tax evaders.
>
> Being self-employed I am not entitled to long service, redundancy, superannuation guarantee payments or other benefits enjoyed by others and this investment was to help fund our retirement.

Ms Green interjected.

Mr PERTON — You are a great beneficiary of this, as are your union bosses.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster, through the Chair! I ask for cooperation from the government benches.

Mr PERTON — I continue to quote my constituent. He said:

> I wanted to avoid the cost of setting up and running a DIY super fund and I fail to see why, as a trust, we should be more harshly treated than a super fund or any other individual.
>
> People seem to have a mindset that trusts are a tax evasion tool (unlike salary sacrifice, extra superannuation contributions et cetera).
>
> People don't mind being charged for services or goods rendered and I can understand the land titles office cost for having to change titles et cetera.
>
> I would like the government to explain why we were charged $33 460 by the State Revenue Office for an apparent benefit and why we should be paying a land tax at all, let alone the proposed tax on trusts.

My constituent goes on:

> Hopefully the government comes to its senses … The Labor Party promotes the ladder of opportunity (espoused by Mark Latham) and then proceeds to pull it from under you when you get too high up.

Another constituent, Mary Karadimas, is a public accountant at a suburban accounting firm which provides services to small business. She believes the proposals on trusts are, and I quote, 'grossly unjust, discriminatory and they impose unfair additional costs on families'. In her letter to me she said:

> In my 22 years of working in my field I can tell you that in my experience land tax is not even a consideration when a decision is made to buy property in a family trust.
>
> The primary reason clients choose to hold investment or business property in trusts is so that property can benefit the family as a whole, including new additions.
>
> It assists with estate planning purposes so that the property does not need to change hands when there is a death in the family. It is a flexible structure that works well for families.
>
> As a property owner myself I have almost reached the point of deciding that the returns on my investment do not make it worthwhile to hold property.
>
> If I sell the property and invest the money in the share market instead I will not have to pay stamp duty or land taxes any more.
>
> I will also not have to pay insurance, body corporate fees, rates.

Mrs Karadimas wants me to say to the Parliament that these provisions on trusts will, and I quote:

> have a serious detrimental effect on Victoria's economic future, as more and more property owners become fed up with the imposts on property and determine that holding property in Victoria is not the best place for them to invest.

This government is using land tax to milk the community, and this is not the first time its land tax measures have caused misery for my constituents. Last year we had the example of the Gedye company, which is well known for its water products which have been produced over decades, and its water, garden and composting business. Its land tax bill rose in one year from $10 500 to $35 000 for 2.5 acres in suburban Doncaster — a ridiculous impost for such a family business. As I said to the Parliament at the time, it was the difference between their wanting to continue in business and saying the imposts had become too great.

This bill should be withdrawn and rewritten. The people of Victoria and the people of Australia accepted the GST on the basis that it would remove a whole lot of these iniquitous state taxes. Instead they are paying the GST and finding that the Labor Party dips its hand into their pockets when they buy or sell a house, or if they have their affairs in a trust for the purposes of handing property on from generation to generation. It is unfair. It has a detrimental effect on families and individuals. It is a bad tax for the community. This is a bad piece of legislation, and on behalf of the people of Doncaster I oppose it.

Mr HERBERT (Eltham) — It gives me great pleasure to speak on the Duties and Land Tax Acts (Amendment) Bill 2005. Principally the bill makes a number of amendments to Victoria's taxation regime as it relates to duties and land tax. Firstly can I say that I am not involved with family trusts, and the initiatives in this bill have absolutely no personal interest for me whatsoever. However, if they did, I would certainly support them as fair and measured pieces of legislation in the interests of the state.

Community and industry consultation around this legislation has been outstanding, and the State Revenue Office Victoria and particularly the Treasurer are to be congratulated. New taxation regimes are rarely popular with the community; however, in this case they have certainly been out there and open to scrutiny. They have been widely debated and discussed by constituents, as we have heard from the member for Doncaster. I believe they have been accepted by the community and positively welcomed by a number of people. In fact some of the measures — —

Mr Perton — Have you had a single person write to you?

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster has had his opportunity to contribute to the bill.

Mr Perton — I am allowed to ask a question. You allowed the member for Yan Yean to interject on me.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Doncaster will cease interjecting!

Mr HERBERT — A number of measures are a direct result of industry submissions. I was amazed to hear the member for Brighton earlier in the debate complain that there had been a lack of consultation. She said the government tried to hide these changes, rush them through and has not talked to people. She said a lot of her constituents had complained. The truth is, like the member for Doncaster and like most members here, I have had a lot of debate with a number of my constituents simply because the bill was well aired out there in the public and clearly explained to people. The government was there in this case, as in most cases — probably in all cases — to listen to what they had to say. We amended this legislation in line with what community and industry consultation brought out, and because of that, this is much better legislation and is a good example of how proper community consultation and discussions with industry can produce laws which not only benefit the state but with which most stakeholders are basically happy.

The member for Doncaster referred earlier to the consultation I have had. In my case there were a number of concerns, mainly from people with severely disabled children or from people with disabilities. They were concerned that the trust arrangements would be detrimental to their children. The government acted on those concerns and is now excluding from the new taxation regime cases where a beneficiary is nominated from an existing trust. I can tell you that people in my electorate are very happy with that measure and are happy that they were listened to.

The measures, as I say, are moderate and sensible. They will only affect about 2000 people. Trust holders are a pretty small number when you look at any taxation measure. Out of 100 000 trusts only some 2000 people will be affected. It is quite clear that what the government has come up with is something that will only impact on trusts that seek to minimise legitimate tax obligations. That is fair, and it is fair not only to those who have family trusts but it is fair to the general taxpayer, who of course does not want to have more than their fair share of the burden of taxation.

I will not speak on all the aspects to this bill, but the bill makes a number of changes to the Duties Act 2000. In particular it introduces a new exemption from duty for certain equity release schemes; it amends the motor vehicle duty provisions to clarify existing policy and remove certain exemptions more directly into the act itself; and it amends the land-rich provisions for the purpose of clarity, revenue protection and response to industry submissions.

In regard to the equity release scheme, this provision will enact the introduction of exemption from stamp duty to older Victorians who take up equity release programs from financial institutions. The member for Monbulk spoke very eloquently about this provision, which basically recognises that the financial options needed for people as they get older are different. It enables people to take out financial loans or arrangements with financial institutions on the equity in their house so they can pay for much-needed services and other things they need to enhance their lifestyle in their latter years of life. It enables them to use their financial equity in their house to broaden their basic lifestyle in the latter years of their lives.

It is important that older people are assured that this does not apply to the recently discredited Money for Living scheme, which would not attract exemptions under this legislation. It is also important to know that an older person retains the legal title to the whole of the land under this bill and that the person receives a one-off payment upon signing a contract with a financial institution rather than receiving payments over time, which can be financially detrimental to them. The exemption is only available through financial institutions, not private companies like the discredited Money for Living scheme. A financial institution cannot assert an entitlement over a property — this is incredibly important — until the home is sold or the older person passes away, so people can use their home for equity to improve their lifestyle and their financial security but still have the absolute guarantee that they have the home, that they can still live in it and that they can enjoy the benefits of living in it.

The bill also changes the motor vehicle duty provisions — and this is fairly simple — to ensure that the longstanding exemption from duty that applies where there is a transfer of registration of a motor vehicle where a financier takes possession of a vehicle on default or where possession is restored to a person on settlement of a debt will continue. That is pretty important in its own right.

The bill makes changes to the land-rich provisions of the Duties Act 2000. The current land-rich duty regime, which was introduced in May 2004 and consulted on widely by the State Revenue Office at the time, needs a few changes. What this bill basically does is to ensure greater clarity. It acts on requests from industry, and it implements some pretty necessary anti-avoidance measures — not all of which I must say were supported by industry in this particular case.

The bill makes changes to the Land Tax Act 2005, which I spoke about earlier. It makes minor amendments to the Land Tax Act 1958, and as I also mentioned earlier, it amends the provisions concerning land tax on trusts to ensure compliance and to stop tax minimisation schemes, but not in a way which unfairly penalises people who establish trusts for non-tax-avoidance purposes.

In conclusion, this is a broad sweep of measures. They are fair and very moderate when you talk about taxation measures — most taxation bills run into hundreds of pages and are very complex. This tidies up many aspects of the principal acts. It stops a lot of the anti-avoidance activity that has been happening with trusts but protects the rights of people with legitimate reasons for having trusts, such as those with a disabled beneficiary. The bill has been widely consulted on and is supported broadly by the community. It will make major changes and improvements to the way taxation is dealt with in this state, and I thoroughly commend it to the house.

Mr COOPER (Mornington) — This is a new taxing measure for the Victorian community. Even though the member for Eltham said that it is only going to affect 2000 people and therefore it is okay, the reality is that this house should be looking at protection for those 2000 people rather than just writing them off as victims of this new tax measure being brought in by the Treasurer and this government.

Earlier today I listened to the member for Burwood responding to the contribution to this debate by the member for Box Hill. He started off his remarks by saying that Victoria is a great place to live and raise a family. Of course now we know with all the tax measures that come into this place — and they seem to come in virtually on a daily basis — that Victoria is not just a great place to live and raise a family, if it ever was, but now it is a great place to be taxed out of existence.

That is what they have been doing ever since 1999 when they came into government. They come in here and drain the people of Victoria with more and more taxes. We are constantly seeing tax bills coming into this place, and the member for Burwood stands up and says this state is a great place to live and raise a family. If you have got the money it is, but unfortunately for a lot of people that money is now going into the coffers of the Bracks government.

Today we have seen a further tax announced by the Premier with a $5400 levy on each block of land within an urban development area. The Premier says he does not believe that cost is going to be passed on to home buyers. Well, he is in pixieland, isn't he! He must be down at the bottom of the garden with the rest of the fairies, because the Planning Institute of Australia state president, Trevor Budge, says that it will be passed on to property buyers in the form of higher prices.

So here we have this government — tax, tax, tax, tax. This is another instance of that. We have got members of the government standing up saying it is a great piece of legislation because there has been fantastic consultation and everybody is applauding it. I have not found anybody who is applauding this tax. I have never found anybody who applauds any new tax, but certainly not this one, because from 1 January next year when this piece of legislation comes into effect it is going to be much more expensive for small and medium-sized businesses and investors to buy and hold land through a trust in Victoria. It is therefore going to create just another disincentive for people to invest in this state. Is this what this government is all about? It seems so.

Earlier speakers on this side of the house have said that if you own more than one piece of property in this state then you are fair game for the Treasurer and his tax men, because that is what this bill does. It basically says that people who own land other than their principal place of residence are fair game for the tax coffers of this state. For those who are currently holding properties through a trust, many will need to get legal or accounting advice about what they have to do to nominate a beneficiary in order to be excluded from the next tax and what the implications of such a nomination are.

It is a very expensive operation that is going to have to be undertaken by those 2000 people, but the member for Eltham says, 'There are only 2000 of them. Who cares?'. He does not care about those 2000 people since he is not one of them, so why should he bother? Why should anybody on the government benches bother about those 2000 people? They are being written off under a piece of legislation that, despite the calm and peaceful words of the member for Eltham, has not been a successful piece of consultation with the community. It has been a complete catastrophe.

When the Treasurer first brought it out he made such a monumental mess of it that he had to have a second go — and he made a monumental mess of the second go. Now the Treasurer has had to have a third go, and I suppose we can all hope that perhaps he might have got it technically right on his third go. Certainly we know that the Treasurer made a mess of his first and second attempts. For example, I point out to the house that in the Treasurer's first and second scales he said that land

worth $200 000 that was held in a trust was liable for land tax of $950. However, under the scale in the legislation we are now dealing with that figure has been changed to $750. The commencing figures in the following five brackets of the scale have also been changed as a consequence. As I said, the Treasurer did not get it right the first time and did not get it right the second time, and now we have to hope and pray that he might have got it right on the third occasion.

This is a piece of legislation that everybody needs to be very clear about. This is not about bringing people into the land tax net who have been exempted from it or who have been able to slip through a loophole. This is about penalising people who hold property in trust, who have been paying land tax and who are now going to have to pay a premium, are now going to have to pay a surcharge and are now going to be slugged extra.

Let me give the house some examples of what we are talking about. For example, land valued at $100 000 attracts ordinary land tax at the present time of zero. Yet under this legislation a person who owns land to the value of $100 000 will now have to pay $375 in land tax. That is obviously an extra cost to them of $375. Then the scale starts to go up quite significantly. Remember when I am quoting these figures that we are not talking about millionaires here, we are talking about people who have invested in property for their superannuation or their retirement. It does not take a lot of land to get up to a value of $200 000 or more in this day and age. People who own land to the value of $200 000 at the present time pay $200 in land tax. If they hold the land in trust, under this legislation they will now be paying $750, which is an extra $550.

People who hold up to $400 000 worth of land at present pay $600, but under this legislation they will be up for $1900. So they are going to be hit for $1300 on top of the $600 that they are currently paying. That is a huge percentage increase. It is significant in dollars alone, but when you look at the percentages you can see that what this government is doing to these people is absolutely disgraceful. We are talking about small and medium-sized investors. We are talking about people who have put their hopes for their retirement into property investment, into land in a trust, and now they are going to be clouted by this government.

As I said earlier, the member for Eltham came in here and told us that because there are only 2000 of them they do not count. To the Liberal Party they count very much! We believe there should be justice for all, and particularly for these 2000 people, if in fact the member for Eltham's figure is right — and it probably is not, given that the Treasurer had three goes at this legislation before he got it right — —

Mr Herbert interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Eltham is out of his place and disorderly.

Mr COOPER — I doubt very much whether the member for Eltham has got his figures right either. The member has probably soft-soaped the figures down to 2000 because he thinks that sounds a little bit better than the real figure, which is probably higher. No matter what the figure is, these people are entitled to justice and fairness and they are entitled to some equity, and they are not getting it out of this legislation. The scale that is now out shows that if you hold land worth $900 000 you are currently paying $2680 in land tax and that under this legislation you will be hit for $5855. In other words, you will be hit with $3175 in extra tax because you happen to have it in trust.

If you want to try to change the whole thing, you are going to have to deal with issues in regard to capital gains tax that are going to complicate the situation for individuals and once again make it far more expensive for them. This is an inequitable piece of legislation, it is a disgraceful piece of legislation and it is legislation that has not been through a process of consultation in any decent way, shape or form with those who are affected. It is legislation that should be thrown out, and the Liberal Party will certainly be opposing it very vigorously!

Ms GREEN (Yan Yean) — I am pleased to join the debate on the Duties and Land Tax Acts (Amendment) Bill. The changes proposed in the bill could largely be grouped around changes to the Duties Act. They introduce the new exemption for duty for certain equity release schemes, amend the motor vehicle duty provisions, clarify existing policy and amend land-rich provisions for purposes of clarity and revenue protection. They are in response to industry submissions. Also, as other members have said, the bill makes some changes to reflect the new regime for imposing land tax on lands held in trusts, which was publicly flagged some months ago.

This government has a good record on taxes and charges; we have the lowest levels of any state. In terms of the intergovernmental agreement on the GST with the commonwealth, we have removed every one of those taxes, and we are either the only one or one of the only jurisdictions which has done that fully. The member for Eltham said that no-one really likes paying

tax and no-one necessarily welcomes tax. But this government is responsible in the way it uses its taxes.

The member for Doncaster injected into the debate a comparison between this government and the previous government. The former government was the highest taxing jurisdiction of any state government at the time, and the community was quite confused about how that taxation was used given the reduction in the level of services and lack of capital investment. I am glad the member for Doncaster chose to compare the Bracks government with the Kennett government.

He posed a number of questions. For instance, in this government's spending have we seen increases in bus services? Yes, we have. Under the Kennett government all we saw in my electorate were reductions in and removal of bus services. Under this government we have seen numerous new services and reinstatement of those that had been cut by the Kennett government.

The member for Doncaster also talked about the health system. I can tell the house that more than 35 000 extra patients are being treated in our health system; there have been billions of dollars of capital investment. My electorate is served by three out of the four newest hospitals in the state. The Kennett government would have privatised one of those hospitals, the Austin, yet now it is the largest public hospital project ever. I know that the electorates of the members for Ivanhoe and Eltham are also served by that hospital. The Northern Hospital has received two new wings — not one, but two — so the community can see what we spend with taxation revenue. It was not that clear under the Kennett government.

The member for Eltham said we have consulted widely about this bill, and we have. We have made sensible and reasonable changes when they have been put to us, and that is something the Kennett government also did not do. It rammed through legislation with no discussion. In particular, the changes to the taxation on trusts, as flagged by the Treasurer in July, would have affected about 10 000 trust holders. Now that number in the incoming model will be less than 2000. My constituents are not well-heeled, and not many of them are trust holders — in fact, I had only four people contact me in regard to this legislation — but overall my community will welcome these changes.

The member for Monbulk talked quite eloquently about the equity release programs, which will be better regulated in this bill. It is a regrettable development that we have to see these types of proposals and people accessing their equity, but a lot of people are needing to do that to look after themselves in their retirement. Regrettably I think we will see more of that into the future if the Howard government gets its way with its proposed industrial relations changes. It will ensure that many people will have to do that to fund their retirement.

I think of people like my mother, who has only rejoined the paid work force in the last 10 to 15 years. She does not have a lot of savings, and I think in future many people like her will be affected if they are not able to earn a decent living. We can also look at people on pensions. If average weekly earnings go down, it will be increasingly difficult for those people to live, so they may need to access these types of schemes in the future. I have been very pleased to join the debate on this bill, which I think has confirmed that this government is sensible in its taxation regime. I commend the bill to the house.

Mr THOMPSON (Sandringham) — The opposition strongly opposes the Duties and Land Tax Acts (Amendment) Bill because it represents a further tax slug on small and medium-sized businesses. The minor benefits from the non-land tax provisions of the bill do not outweigh the macro damage caused by the land tax on trusts. A number of constituents have written to my office objecting to the proposed changes. One constituent states:

> I wish to register my dissatisfaction against the proposals currently approved by cabinet to impose punitive and grossly unfair taxes on lands held in trust.
>
> It would appear that these drastic measures are being implemented to correct abuses of the system; however, in doing so they are unwittingly imposing massive penalties on small family trusts. In my family's case we have owned a property investment now for many years, and this is held in a family trust on behalf of my wife and my children. If the government approves this legislation it means that our land tax rate will increase by 712 per cent.

He goes on to say:

> I do sincerely beg you to raise this issue to ensure that a more equitable and fairer system will be implemented. Clearly the proposed new tax scales are simply unjust and unfair.

Some other constituents wrote to me:

> We would like to express our horror [at] the proposed land tax changes for family trusts by the current state government.
>
> For nearly 40 years we have been working as builders and developers in Victoria. Over the years we retained some of the residential properties as our 'nest eggs' in two family trusts. One of the trusts is over 30 years old … and the other trust is about 25 years old. Both trusts have complied with the various legal changes over the years and have survived the booms and busts in hostile and favourable economic conditions. Now that we come to the end of our productivity

> and intend to enjoy the fruits of our labour, we are frightened out of our wits [by] the intended changes.

They go on to note:

> We can only see demise for the future of Victoria. Everyone will try to sell their properties, the market will be flooded, values will fall, residential rental properties will be rare and too expensive for people who do not own, or cannot afford, their own house. In other words, we can see that if these changes in land tax will take place, nobody in his right mind will invest in real estate property, which will cost jobs in the building and associated industries and Victoria will be once more flat broke. Like in the good old Labor times.

Another constituent wrote to me expressing his concern, again about the proposed increase in land tax on property held by trusts. In his family's case they have three family trusts, two of which were established 30 years ago when land tax was minimal. Their letter states that the increase in land tax for the three trusts in 2006 would result in an increase of some 43 per cent, which would represent an unfair impost.

Essentially this proposal rips into the benefits available to those people who have sought to provide for their future. It kicks in the guts those families who have sought to work independently to save up a nest egg for their retirement. Through no fault of their own the government is kneecapping them for the hard work they have done to provide for their future. It is hitting very hard small businesses and those people who have sought to provide for their retirement, and for these reasons the Liberal Party strongly opposes the proposal.

Mr SEITZ (Keilor) — I rise to support the Duties and Land Tax Acts (Amendment) Bill. I particularly want to refer to the comments made by opposition members about property trusts. The Treasurer and this government have looked at the process in depth and the adjustment proposed in this bill is a fair step in the consideration of land tax on properties. Property trusts and trusts generally, including family trusts, have been used by some in the past to avoid meeting the taxation payments and obligations made by other normal citizens. Many people who do not have property trusts, and who are not even aware of the existence of property trusts, pay tax on extra properties that they may possess.

Opposition members are trying to say that this legislation is unfair, but I do not see that. They say it is draconian, but the government has carefully considered the ability of people to pay the tax and to regulate and sort out their affairs in relation to property trusts in the light of the changes to the Land Tax Act. That is what is being considered here today. This legislation is not being bulldozed through by the Treasurer or the government. There has been a long consultation process and developments have been worked through.

This is a fair taxation scheme. The government is responsible for collecting taxes from everyone to build Victoria's future. In particular, people with greater wealth and large corporations have been able to hide land in property trusts in order to minimise their taxation. A former president of the Liberal Party, John Elliott, said that only fools pay tax. That was his attitude to paying tax.

Honourable members interjecting.

The ACTING SPEAKER (Ms Lindell) — Order! The members for South-West Coast and Benambra will cease interjecting!

Mr SEITZ — We need to make sure that people are not exploited by the amount of tax they pay. We have demands for goods and services for everybody, and governments need to make sure they have the money to provide them. This bill goes a small way towards making sure we can provide that money.

The opposition says the Bracks government has brought in new taxes, but it does not talk about the tax that the government has relinquished, particularly under the GST agreement. Taxes on small businesses in particular have been reduced, so we are a lower taxing government than any other government in Australia, and opposition members should consider that. Members of the Liberal Party are crying crocodile tears for some of their mates who have approached them and who now have to readjust their books so that once again they do not have to pay tax; they can avoid another tax.

The average salary earner has always paid tax as they go; they have not been able to work the tax system in the way that people who do not pay tax under the pay-as-you-go system have done. In other words, small and large businesses alike have been able to use property trusts. In particular, people in the building industry have used these trusts to avoid paying tax because the trust did not make a profit, or was only paying a living allowance to beneficiaries of the trust. Yet expenses for company directors have been met out of the trusts.

It is important that the government looks at the situation and makes sure that everybody contributes equally to the wellbeing of the state. We have given people plenty of warning to make adjustments on these issues, as we have done in the past with consumer price index increases on a number of state taxes so that the business community can plan its tax obligations. It also enables

the Treasurer and the government to predict the tax intake for the state.

Having said that, I do not see anything in the issues that have been raised by the opposition. It is trying to make a last-minute stand to appeal to a small minority of groups that are fully aware that tax has to be paid by everybody. I know people do not like to pay taxes, but it is important that we realise that without that income the state cannot provide goods and services. Therefore, I commend the bill to the house.

Dr NAPTHINE (South-West Coast) — I rise to oppose this legislation and oppose what is another new tax being foisted upon the people of Victoria by a greedy government. When we look at the context of this we only have to look at the Auditor-General's report on the finances of the state of Victoria, which was handed down in Parliament this morning. I refer to page 29 and to the reference to figure 3E, where it says:

> … since 1999–2000, revenue has grown on average by a rate of 6.1 per cent per annum and expenditure has increased on average by a rate of 4.7 per annum —

under the Bracks Labor government. The Auditor-General put that in further context on page 30, where he said:

> Since 1999–2000, while the CPI has increased by 14 per cent, state revenue has grown by 34 per cent and state spending by 25 per cent.

The Auditor-General has hit the nail on the head: this is a high-taxing, high-spending, wasteful Bracks Labor government that is not delivering services for the people of Victoria. It is putting its hand deeper and deeper into the pockets of ordinary Victorians and not delivering outcomes for them. This legislation is just another tax slug by this greedy Bracks Labor government.

Let us look at land tax. Again, the Auditor-General said on page 59:

> Figure 5H shows that land tax collections have increased significantly, from $381 million in 1999–00 to $808 million —

more than double —

> in 2004–05.

I will put that in context. Under the previous Kennett Liberal government the amount of revenue collected from land tax in 1999, when it left office, was less than it collected in 1992, when it came to office. During the seven years of the Kennett government the actual land tax take was reduced, but during the years of the Bracks Labor government the land tax take has more than doubled, because this is a greedy government that continues to invent new ways to tax Victorians.

Let us look at some of the new ways the government has invented to tax Victorians. We have the new land tax on trusts that is in this legislation, which we oppose. Today's announcement of a new development tax on new home buyers will hurt young families in the state of Victoria by driving them away from their dream of owning their own home, and it will certainly drive them out of investing in Victoria.

Just recently we passed legislation for a new car parking tax, and we have passed legislation to double brown coal royalties. We have had legislation to introduce a 5 per cent water tax, which is a tax on taps and toilets for every family in this state. We have seen the introduction of an $80 motor vehicle registration fee for pensioners, war veterans and health care card holders. We had a motorcycle tax of $50, which is now nearly $54 per year. We have seen a doubling of the gaming machine tax, a new tax invented by the Bracks Labor government. We have had a massive increase in forestry royalties. We have had the removal of the winter power bonus which provided relief for families under the previous government. We have seen the removal of the exemption from payroll tax for apprentices and trainees. We have had the broken promise and introduction of tolls on the Scoresby tollway, which was supposed to be a freeway. And of course we have the annual increases in fees, taxes, fines and charges under this government.

There are three particular issues regarding the special tax on trusts which I want to raise from the perspective of country Victoria. Firstly, I make the point that a trust is a common vehicle used by many families involved in farming and by other businesses in regional and rural Victoria. It is not used as a tax avoidance mechanism. It is a normal management tool used by many farmers who also have off-farm incomes and own property. It is also used by many businesses in regional and rural Victoria. Trusts are more common in regional and rural Victoria; therefore regional and rural Victoria will be hit harder by this super-tax introduced by the Bracks Labor government.

Secondly, this tax will kick in on land valued at $20 000 or more, whereas normal land tax does not start to apply until properties reach $200 000. Again, properties in country Victoria, which are generally lower in value than city properties, will be hit harder by this new land tax. This land tax is unfair and unjust, and it targets small business people, small investors, people looking after their retirement incomes and people in

country Victoria particularly. It is a super-tax invented by the Bracks Labor government to hurt ordinary Victorians. It is unfair and unjust, and I totally oppose it.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

SUPERANNUATION LEGISLATION (GOVERNANCE REFORM) BILL

Second reading

Debate resumed from earlier this day; motion of Mr BRUMBY (Treasurer).

Mr WELLS (Scoresby) — I rise to join the debate on the Superannuation Legislation (Governance Reform) Bill. I thank the government for allowing us the opportunity to continue debating this bill. The main provisions of the bill will have the following effects. It will abolish the Government Superannuation Office (GSO) and transfer its assets, liabilities and staff to the Emergency Services Superannuation Scheme (ESSS). However, in doing so it provides for separate accounts within the merged scheme so that the predecessor scheme's assets and liabilities are accounted for separately. I will come back to that issue.

The bill restructures the ESSS board by combining the existing GSO with existing ESSS members, which will result in the board being twice the size. It also gives certain veto rights to board members and requires a two-thirds majority for board resolutions. The bill also allows salary sacrifice to ESSS members and provides that only high-level investment policy decisions will be the responsibility of the board. All other investment decisions will be undertaken by the Victorian Funds Management Corporation.

This piece of legislation has not been well handled by the government. It has been an ongoing issue for emergency services workers. There is one job that a lot of us would dread to have — being on the front line, whether it is in the firefighting service or ambulance service or, particularly, the police force. When police go out on duty, they put their lives on the line. As members of the community, the government and all political parties, we need to ensure they have financial support behind them so that, if they are ever injured or something more serious happens to them, they know that their family will be financially well looked after. Everyone in the community would accept that and would expect nothing less of a government when it comes to dealing with the pay, conditions and entitlements of our emergency services workers. The problem the Bracks Labor government has had is that those workers have not trusted it.

When we spoke to the Police Association it expressed grave mistrust. I note with interest that during question time in the other place on 6 September 2005 the Honourable Chris Strong, a member for Higinbotham Province, asked why the Minister for Finance had failed to advise the Police Association whilst he was negotiating with it in regard to the enacted Emergency Services Superannuation (Amendment) Bill that one of his ultimate intentions was to merge the Emergency Services Superannuation Scheme with the Government Superannuation Office. We members of the Liberal Party find it extraordinary that while the minister was dealing with the Police Association on particular superannuation matters one of the big-ticket items the government was going to introduce, the merger of the two schemes, was not mentioned in the discussions.

It is my understanding that those discussions took place earlier this year, which is the reason why there is mistrust between the Victoria Police Association, the United Firefighters Union and the ambulance union and the Minister for Finance, the Minister for Police and Emergency Services and the Premier. Regardless of whatever assurances the Premier or the government gave at any time that trust was broken because Minister Lenders in the other place was not up front with his discussions earlier in the year which led to the problem of the emergency service unions not trusting the government.

I note with interest that the Premier on 20 September 2005 stated clearly on 3AW that he was talking about emergency services officers refusing to sign a legal agreement. He said that despite the promises there would be no impact upon the benefit entitlements of members so the superannuation benefits will not be changed 1 inch — the benefits will remain.

On 26 September the Minister for Finance wrote a letter to all members of the Emergency Services Superannuation Scheme and the Government Superannuation Office updating them about what would happen. He said:

1 Your entitlements as enshrined in the legislation are guaranteed by the state …

2 No part of this merger proposal will impact on your benefits.

3 The scheme will remain open to new emergency services workers.

The trust between the two parties had broken down. The GSO was significantly in debt and had significant liabilities. The fear was that at some point the government wanted to merge the two schemes so the ESSS would financially bail out teachers and nurses in the GSO scheme. There was the issue of, for example, whether police officers injured on the job would receive the same entitlements that they now receive compared with some point in the future.

These were serious concerns with regard to what was going on. When the Liberal Party looked into this it could see quite clearly that the issue was a breakdown of trust. We still expect answers from the Minister for Finance about his dealings with the police earlier in the year. Why did he not mention he was going to merge the two schemes? If he said that the government was not thinking about it at that time, we must question his credibility, because it does not make any sense.

I suspect that the Minister for Finance was trying a sleight of hand to introduce changes not realising the uproar this would create. We believe the emergency services workers are meeting today to ratify this bill. The Victoria Police Association has asked that the Liberal Party support it, so we are supporting the bill provided the rank and file agree to the changes. If they do not agree to the changes, the Liberal Party will retain the right to alter its decision to support the bill between the two houses.

Mr JENKINS (Morwell) — I would like to join this debate and congratulate in particular the Minister for Finance and his staff for the amount of consultation that has taken place in ensuring that the Emergency Services Superannuation Scheme continues to deliver extraordinary benefits to those important workers in the emergency services area in Victoria — the ambulance officers, the firemen and the police; those workers who have been supported by this government. Under this government those workers' numbers are increasing. It is sad again to hear the crocodile tears from opposition members when they say they support these workers because they stripped them of their rights and reduced their numbers when they were in government. The opposition when in government cut police officer and ambulance numbers and withdrew funding from fire services, but now the opposition is supportive of those members. They were not supportive of them in government. At a federal level these workers are under attack by the same people who are sitting on the opposite side of the chamber.

Here in Victoria, for reasons that become obvious as they cry their crocodile tears over the bill, people on the opposition benches say they want to talk to the unions. They say they want to engage with unions and believe they are a legitimate way of talking with the members of the superannuation funds. But at the federal level they are taking away the rights of unions and banning them from workplaces. Members opposite talk about the consultation with the Police Association and the ambulance and firemen's unions and the great work they have done in representing and consulting with their members.

At the same time, at the federal level they are supporting legislation that will prevent that very consultation between unions and the work force from taking place. They would prevent unions from holding mass meetings or holding meetings of staff at their workplaces. Yet they stand here with the gall and thick hide they have become famous for in opposition, saying that they support not only the workers but the Police Association, the ambulance officers and the firefighters. These people could not lie straight in bed.

This bill does a great deal of good, and it needs to be supported by both sides of this house. I am glad that finally, after being dragged kicking and screaming, members of the opposition are joining with the government to support this important legislation, which will continue to guarantee great conditions and superannuation. This government supports workers and it supports the maintenance of workers conditions. It is extraordinary to finally see an opposition supporting this government on workers conditions when they are failing to do it at the federal level. I commend the bill to the house.

Dr NAPTHINE (South-West Coast) — The hypocrisy of the member for Morwell is breathtaking. The member knows full well that he and his government have been forced kicking and screaming by the representations of the members of the Emergency Services Superannuation Scheme (ESSS) into ensuring that their benefits are protected. He and his government, including the Minister for Finance, wanted to merge the ESS scheme with the state government superannuation scheme and in doing so take away the benefits of the members of the ESS scheme. It was only after severe pressure from the members of the ESS scheme and their representative organisations as well as pressure from the member for Scoresby and the Liberal Party that the government has come to heel. As I said, the government wanted to take away the benefits of those members. It is gross hypocrisy for the member for Morwell to stand here and give a speech when he knows full well what his government was trying to do.

People in the South-West Coast electorate who are members of the ESS scheme still do not trust this

government. They are still concerned that this is the thin end of the wedge and that once this scheme is merged, over time the Minister for Finance will get his wicked way and the benefits of the ESS scheme will be slowly eaten away. They are very concerned about all that — and that is the point I wish to raise. To put it in context, we have just recently had the annual report of Emergency Services Super tabled in Parliament, and I just want to quote from it to set the scene:

> The ESSS Defined Benefit Fund (ESSS DB fund) pays benefits to members on retirement, resignation (or dismissal), retrenchment, death and disability.
>
> …
>
> Members of the ESSS DB fund include:
>
> > all operational employees of the Victoria Police, Metropolitan Fire and Emergency Services Board, Metropolitan Ambulance Service, Rural Ambulance Victoria and Country Fire Authority;
> >
> > certain employees of the Department of Sustainability and Environment and Department of Primary Industries;
> >
> > non-operational employees who commenced employment with their emergency services employer before 1 January 1994.
>
> As at 30 June 2005 there were 15 460 members of the ESSS DB fund, representing approximately 60 per cent of Emergency Services Super's total membership.

The other members are those who have retired and are receiving benefits.

> The assets invested in the defined benefit pool, including pensions, as at 30 June 2005 totalled $4.023 billion.

The report goes on:

> The assets invested in the defined benefit pool, including pensions as at 30 June 2005, totalled $4023 million.

If we look at the investment management and asset performance, whether it is Australian or overseas shares, infrastructure, international fixed interest, indexed bonds or cash, we see that consistently this fund performed above benchmark standards. Is it any wonder the members are pleased with the scheme and are concerned about anything that may threaten the scheme!

As the member for Scoresby said, the reason the scheme is so important for the members of the emergency services scheme is that literally every day they go to work they put their lives at risk or on the line to protect the health and safety of the Victorian community. Those members need to know, whether they are in the police, the ambulance service, the Country Fire Authority or other emergency services, that if they are injured in the course of their duties their interests will be protected and their financial future secure and they can meet their house payments and the needs of themselves and their families. They also need to know that in the most unfortunate circumstance — unfortunately members of the emergency services sometimes die in the course of their duties — their families will be protected by the Emergency Services Superannuation Scheme.

While the scheme may be seen by outsiders as a generous one, it is justifiably and rightly a generous scheme given those circumstances. We in the Liberal Party strongly support the scheme. I make it clear that I personally and the Liberal Party would never support any changes to the Emergency Services Superannuation Scheme unless they were supported by the members and by the rank and file. I put it on the record that if the rank and file members at their meetings do not support these changes, we will oppose the bill in the upper house. If they support the changes, we will support the legislation. It is absolutely important that these members are protected.

Members of the scheme in the South-West Coast area include police officers, who do a fantastic job whether in Warrnambool, Koroit, Dartmoor, Heywood, Portland, Port Fairy or Macarthur. Country Fire Authority officers, State Emergency Service officers and the people involved in the ambulance services also do a fantastic job, and we need to protect them.

One of the other points raised with me by a number of people involved in the Emergency Services Superannuation Scheme which I was asked to bring to the attention of the house is that the amalgamation of this relatively small scheme into a much larger state superannuation scheme may mean that members will lose that personal contact, advice, expertise and knowledge that is now available to help them.

Members of the Emergency Services Superannuation Scheme can contact people they know who are involved in the management of their funds, get advice about their own circumstances and do some planning on that basis. They are concerned that if they are in a larger scheme they will lose that personal knowledge and expertise. They are also concerned because they know that now the people in the Emergency Services Superannuation Scheme are committed to getting the best result for the members of that scheme. However, in a large amorphous mass of a scheme there may not be the same commitment to getting the very best outcome for their funds.

In conclusion, it is rank hypocrisy for the Bracks Labor government to say that it is supporting the members of

the Emergency Services Superannuation Scheme when we know full well that the intention of the government for the past 18 months has been to amalgamate the various schemes and reduce the benefits. It has only been through the concerted effort of those members, supported by the Liberal Party, that these benefits are protected and preserved. If they are not protected and preserved we will not support the legislation.

I thank the members of the scheme in my electorate for the way they serve our community and are prepared to put their lives on the line for the community. It is much appreciated, and the least we can do is to make sure we look after them by providing a proper superannuation scheme that protects them and their families. I will defend that principle as long as I am in Parliament.

Debate adjourned on motion of Mr CAMERON (Minister for Agriculture).

Debate adjourned until later this day.

Remaining business postponed on motion of Mr CAMERON (Minister for Agriculture).

ADJOURNMENT

The ACTING SPEAKER (Mr Nardella) — Order! The question is:

That the house do now adjourn.

Bushfires: prevention

Mr HONEYWOOD (Warrandyte) — The matter I wish to raise is for the Minister for Environment. I wish him to take action to expeditiously implement important changes in the management of wildfire in the state of Victoria, particularly coming up to the crucial summer season. Only three years ago Victoria experienced one of the worst fire seasons on record. In the 2002–03 fire season Victoria suffered a heavy blow, with many people injured, 36 homes lost, over 1 324 000 hectares of land burnt, 2800 sheep and 850 cattle lost, and the destruction of equipment.

The only way that the threat of wildfire and the destruction it causes can be reduced is by initiating the critical changes that have been recommended by various experts and committees. In this case I refer specifically to the Auditor-General's recently tabled report and to its recommendations that the Department of Sustainability and Environment must improve its networked emergency organisation and long-term work force planning strategies. According to the Attorney-General's report the slow progress of the DSE in this area remains a critical issue and is in need of urgent attention to ensure that the 2005–06 fire season is better managed by those responsible.

Further recommendations include an improved long-term funding strategy for the replacement of Country Fire Authority vehicles; improved policies on the proper maintenance and inspection of CFA vehicles, given that a 2003 audit identified serious mechanical problems with some vehicles; an improvement from the disparate approaches to fire management between the CFA and DSE to an integrated planning approach that provides a seamless system across the state, thereby reducing inefficiencies; the CFA and the DSE ensuring the compatibility of their information systems to better support interagency cooperation; and the CFA and DSE implementing strategies to better coordinate community education and engagement. Finally it is recommended that now that the work has been completed on finalising the state policy position on fire refuges, further work needs to proceed quickly on educating the community on the agreed arrangements on these refuges before the 2005–06 season gets under way.

These recommendations represent just a few of the changes needed to conscientiously improve Victoria's approach to wildfire management. The current government has a poor reputation in this area, and this was confirmed by the most recent investigation into the government's own fire management practices — namely, the recent Esplin report, which was damning of the management regime of this government. It investigated the failure of the DSE and Parks Victoria specifically to control a prescribed burn at Tidal River at Wilsons Promontory in April of this year, a 20-hectare departmental controlled burn that went on to destroy 4000 hectares.

This report again exposed serious flaws in the current planning and procedural practices within our fire management authorities, and as a result of these failings lives and properties were again put at risk — as well as in the north-eastern fires that I referred to. The opposition only hopes that for the sake of all Victorians the government will learn from its inexcusable mistakes. I would therefore call on the minister to provide me with a clear and unequivocal timetable for the actual implementation of the recommendations in the Attorney-General's report and the Esplin report.

Home-stay industry: regulation

Ms MORAND (Mount Waverley) — I raise an issue for the Minister for Consumer Affairs in the other place. The action I seek is in relation to the home-stay industry, and I ask her to investigate the need for further

regulation of this industry. I have been contacted by a home-stay provider in my electorate who was concerned about insurance issues for home-stay providers and was also concerned about the need for the regulation of and accreditation in this industry.

The Homestay program provides accommodation for students from overseas who are in Australia temporarily for the purposes of study. Students may be school aged or in post-secondary education. At present the home-stay industry is not specifically regulated in Victoria or anywhere else in Australia, and individual providers have been unable to form an association either statewide or anywhere across the country.

This has apparently created problems, given the existence of some home-stay providers who do not offer effective minimum standards. They damage the reputation of the wider industry as a whole and in some cases provide unsatisfactory service to overseas students. I note that the industry is generally regulated by the Fair Trading Act and that, depending on the exact arrangement, the tenancy agreement or rooming house provisions of the Residential Tenancies Act 1997 might apply.

I understand that Consumer Affairs Victoria (CAV) is currently developing a residential tenancies strategy, and I ask the minister to ensure that home-stay industry accommodation is part of that important work. I also understand that there was a recent report, entitled *Evaluation of the Education Services for Overseas Students Act 2000* undertaken for the federal Department of Education, Science and Training by PhillipsKPA and LifeLong Learning Associates.

Recommendation 20 of that report recommended that the Department of Education, Science and Training develop a comprehensive set of standards to be incorporated into the national code. This is a code that provides nationally consistent standards for the registration and conduct of providers of education and training services for overseas students; addressing accommodation arrangements for international students, including home stay.

The report also recommends that the Australian Education Systems Officials Committee (AESOC) examine the feasibility of a national licensing regime for commercial accommodation agencies and home-stay hosts catering to international students under 18 years of age. I hope the commonwealth government responds to this report in a timely fashion so that these important issues are addressed and so that a national response can be taken into account as part of the work that Consumer Affairs Victoria is currently conducting.

I conclude by asking the Minister for Consumer Affairs in the other place to consider the need for specific regulation of the home-stay industry in Victoria.

Central Gippsland Health Service: future

Mr RYAN (Leader of The Nationals) — I wish to raise an issue for the attention of the Minister for Health. It relates to the future of the Central Gippsland Health Service, but more particularly to the return of a community-based board to oversight the operations of that health service.

As the house will be aware, the Central Gippsland Health Service provides a magnificent service to the people of Gippsland across the whole health sector. This applies not only in the campuses of Sale, Maffra and Heyfield where this health service operates in the first instance, but also through parts of East Gippsland where many doctors and nursing staff are also involved in assisting people in need. At Yarram in the southern part of my electorate, and through Gippsland generally, the Central Gippsland Health Service has a well-deserved reputation for excellence in the way it looks after people in need, both at an acute and a primary care level.

About 1000 people come together each day to provide those services, and this health service is truly one of the treasured icons of our region. Needless to say, in terms of providing not only health services but in supporting the Royal Australian Air Force (RAAF) at East Sale, the oil and gas industry, our very extensive agricultural enterprises and our general community commercial and retail activity, it is the Central Gippsland Health Service which so often is a pivotal factor in all of that being able to flourish.

About 12 months ago — in November last year — the minister saw fit to dismiss the board of the health service. I seek immediate action from the minister to initiate steps to see the return of a community-based board. Over the past 12 months the minister has given many assurances about the retention, and indeed the enhancement, of the service delivery from Central Gippsland Health Service. I am able to tell the house that over this last 12 months the administrator appointed by the minister last year, Mr Peter Craighead, has done a sterling job in making sure that the extent of the services has been maintained and in also setting the ground work for the future provision of health services from this great institution.

However, the time has come for our community-based board to be returned. People in our community want to see a board comprising our own people who are

involved in the administration of this great facility. So I ask the minister to take steps immediately to make sure that the board is returned as soon as possible. I would have thought that by July next year we should see that process concluded and the board in place.

Rail: freight

Mr MILDENHALL (Footscray) — I raise a matter for the Minister for Transport and minister responsible for ports. I request that additional and more intensive work be done on the government's policy of moving a higher percentage of freight from road onto rail, particularly container movements to and from the port of Melbourne. For the community of the inner west, the greater the proportion of freight on rail, the greater the improvement in residential amenity via reduced heavy truck movements through residential streets.

The government has made significant progress on developing new rail links to the port, having secured federal funding to assist with the grade separation of Footscray Road and streamlining access through the West Footscray shunting yards. There has also been a series of works around the port to ease access for rail. Since the election of the Bracks government we have seen the proportion of port freight on rail double to around 20 per cent of all movements.

A significant challenge remains, however, to put adequate infrastructure and policy settings in place to cater for the growth expected in port throughput over the next 20 to 30 years. Some estimates have the current 2 million TEUs — or 20-foot equivalent units — growing to more than 5 million or up to 8 million TEUs in that planning period.

As the announcement for rail connections to the port shows, considerable work is under way on improved road and rail connections to the port. I have been particularly interested in the development of policy settings to facilitate the establishment of inland ports with enhanced rail access to decentralise the concentration of container traffic. Movement of containers between inland ports and the port of Melbourne are envisaged to be primarily via rail.

The policy outcome sought is a mix of infrastructure and regulatory measures for freight movements that can maintain the growth of economic activity with all its attendant benefits whilst reducing the volumes of truck traffic on inner western suburban roads. Some interesting draft strategies that might provide some guide have been released by the New South Wales government in the face of congestion issues more serious than those of Melbourne. Our challenge here is to get these settings right to prevent the level of distress that is currently being experienced around Port Botany. I seek the minister's assistance to progress that vital policy work.

Planning: activity centres

Mr BAILLIEU (Hawthorn) — I raise a matter for the Minister for Planning. It goes to the issue of the capacity of activity centres in metropolitan Melbourne. Specifically I ask the minister to commission an independent audit of the infrastructure in the 1000 activity centres nominated in Melbourne 2030. I invite the minister to conduct that audit with the purpose of establishing the capacity of those activity centres to accommodate additional loads associated with additional development in the centres.

Melbourne 2030 targets an additional 680 000 households in metropolitan Melbourne by 2030. Much of that is targeted to occur in high-density housing in activity centres. I note that in the blind designation of activity centres consideration has not been given to the capacity of those centres to cope with the additional load.

By way of example I note Glenferrie Road, Hawthorn, which was unilaterally converted from a neighbourhood activity centre to a major activity centre by the previous minister, despite the protests of the local community and the local council. That has exceptionally limited capacity and has already been subject to major flooding — major flooding has already occurred there twice in the past 18 months.

Burwood Road nearby currently accommodates $160 million worth of office development but is not even designated as a neighbourhood activity centre in Hawthorn, and it has limited capacity. I note that Camberwell Junction is designated as a principal activity centre.

I want to quickly refer to three reports. In his report on managing stormwater flooding risks in Melbourne, which was issued in July this year, the Auditor-General says that Melbourne Water:

> … estimates that there are currently 37 000 properties within its catchment areas likely to suffer internal damage … if a 100-year storm event passed over their local drainage catchment.
>
> Melbourne Water's target is to reduce flood exposure for 500 properties over the next 10 years. It has budgeted $7.3 million over the next three years to do this for 164 properties at a cost of $44 500 …

It goes on to say:

> If we assume a mitigation cost per property of $50 000, then the total program cost is in the order of $1.7 billion —

clearly a shortfall. The Engineers Australia report *Infrastructure Report Card Victoria* of June this year concludes:

> Engineers Australia is fundamentally concerned that:
>
> > much of Victoria's infrastructure is barely adequate for current needs let alone future needs;
> >
> > funding commitments are largely inadequate to support the substantial costs of renewal and replacement …

I refer finally to a letter from Yarra Valley Water to Parsons Brinckerhoff about Camberwell Junction. It says:

> Preliminary investigations have shown that the sewer system in and around the Camberwell Junction principal activity centre [PAC] is currently at capacity.
>
> …
>
> Whilst there will be intermittent sewer relining works … there are no major sewer main or manhole upgrade works planned …

Nillumbik: sportsground watering

Mr HERBERT (Eltham) — I wish to raise an issue for the attention of the Minister for Water. The action I seek is for the minister to communicate to my electorate the government's response to the Nillumbik WaterSmart Sportsgrounds Committee submission made to the government earlier this year. The WaterSmart Sportsgrounds Committee was chaired by the member for Yan Yean and me and was composed of representatives of many of the area's premier sporting clubs. These are groups of eager people who are keen to improve the surfaces of their playing fields and to play their part in Melbourne and Victoria's water-saving agenda.

The submission principally sought funding assistance and also technical assistance from the state government, water authorities and Nillumbik Shire Council. It sought assistance to implement a state-of-the-art WaterSmart demonstration project to reduce the use of water on sportsgrounds, to improve the condition of sporting grounds across the shire and to attack the current water-guzzling in place on those grounds by improving that technology.

Earlier this month the minister visited Eltham central oval to announce a partnership between Nillumbik Shire Council and Yarra Valley Water to implement a very dynamic water management plan incorporating a totally new approach to water use and sportsground management in the shire. A project team of industry experts was put together, and they have conducted an initial site analysis of nine of Nillumbik's highest water use sportsgrounds and a golf course to identify key sites to complete comprehensive open-space water management plans. This is pretty important.

The submission we put to the government, the council and the water authorities was for a totally dynamic new approach to water use in these groups' sportsgrounds, involving changes of playing surfaces, the use of summer grasses, the installation of water tanks, the use of dual flush toilets, the installation of efficient watering systems, landscaping designed to minimise water use and major projects to recycle road and roof run-off.

I ask the minister if the results of the initial studies that have been completed are available and to advise my community of Eltham on the next step of the government's response to the submission.

Cardinia Primary School: portable classrooms

Mr SMITH (Bass) — The issue I raise is for the Minister for Education Services. I seek prompt action on a serious matter at Cardinia Primary School in the electorate of Bass. This great little school at Cardinia is on the outskirts of developing Pakenham and has over a number of years been promised two new modular 5 classrooms.

As a temporary measure in 2001 the department installed four portable modular 2 classrooms on the basis that they would be replaced with two modular 5 classrooms — but this has not occurred. We find now that one of the so-called temporary classrooms has asbestos in it, which is a risk to the whole school community. As the department, and therefore the minister, is aware of this problem, I think the government is liable for any future claim for health problems because of this asbestos and is open to criminal charges for ignoring the issue.

The accommodation at the school is totally inadequate for the rapid increase in student numbers: this year the school has 137 students and only six teaching spaces. The new modular 5 classrooms would alleviate the current problem, but with 154 students so far for 2006 there is a dire need for more teaching rooms. The school has been forced into placing a cap on enrolment of 150, but it has already reached 156 for next year. Of course the surrounding schools are overcrowded.

This is a great little school that is offering quality education in a rural environment, but it is feeling neglected and under great pressure because of the lack

of teaching space, the poor quality portable rooms and the asbestos problem in the classrooms. This minister talks of quality schools and quality education, but fails to deliver what was promised in 2001 and 2002. Unfortunately the department has Otto van der Velde as a facilities manager. He offers no encouragement to the school community and should really stop playing pedantic little games with these children's futures. A little bit of sensitivity and commonsense would overcome what is becoming a very serious problem.

Through you, Acting Speaker, I ask the minister to become involved in this problem and get the two modified classrooms installed before the start of the new school year and the dangerous asbestos classrooms removed before it is too late. The school council president and the students' parents have shown good faith over the years. Now they are becoming very concerned and very vocal.

Tourism: government initiatives

Mr MAXFIELD (Narracan) — I raise an issue for the Minister for Tourism. Those who have been looking at the *Weekly Times* would have seen the word 'Bonanza' on the front page. That is the case with this $500 million regional package. As you go through the *Weekly Times* you see page after page on what a fantastic commitment the Bracks government is delivering. On page 7 of the *Weekly Times* of 16 November, along with the headings 'Train, bus gains' and 'Keeping the entrance open', there is an article acknowledging the commitment of $27 million to promote the regions.

I congratulate the Premier, the Treasurer, who is also the Minister for State and Regional Development, and of course the Minister for Tourism for making available this $27 million investment in tourism across provincial Victoria. Of that money, $11 million is for food and wine tourism, $3.2 million is for fishing and tourism projects and $9.7 million is for ecotourism, cycling and walking tracks.

Mr Smith — On a point of order, Acting Speaker, the member has not at any stage asked for any action to be taken by the minister. All he has done is quote from the *Weekly Times*.

The ACTING SPEAKER (Mr Nardella) — Order! There is no point of order. I gave the honourable member for Bass 2 minutes to come to his action. The honourable member for Narracan will continue.

Mr MAXFIELD — The member for Bass sat in the chamber and defamed and lied before. He ought to apologise to the community for that comment.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Narracan will desist.

Mr MAXFIELD — I will desist. It is disappointing that we have such a person in the chamber. When it comes to tourism the Bracks government is delivering for our regions and for Gippsland with this magnificent package. I ask the minister to take action to ensure that the Destination Gippsland marketing campaign occurs. This government delivers for Gippsland and for Victoria.

The days are gone when the champion of Bass insisted on having his trains cancelled, schools shut down and hospitals shut down. He wanted the state to refer to his area as the toenails of the state because he insisted on the money being spent in Melbourne and not in Gippsland.

Mr Honeywood — On a point — —

Mr MAXFIELD — This government is delivering for all Victoria — delivering for the regions and for the communities in Victoria that really deserve it.

Mr Honeywood — Are you just going to ignore my point of order?

The ACTING SPEAKER (Mr Nardella) — Order! I will.

Mr MAXFIELD — I am very proud of the commitment the Bracks government is putting in.

Mr Honeywood — On a point of order, Acting Speaker, if you sit there and allow a member to abuse another member for half of their 3-minute contribution and then when a member rises to make a point of order you ignore them, you should not be in the Chair.

The ACTING SPEAKER (Mr Nardella) — Order! Thank you!

Local government: elections

Mr THOMPSON (Sandringham) — I raise a matter for the attention of the Minister for Local Government in the other place. What I seek from the minister is a review of what literature is appropriate for a local council to distribute during an election campaign when the literature is funded by the council itself.

As members will be aware, local government elections are currently being held, many by postal ballot. The City of Bayside recently distributed the *Bayside News*, a comprehensive publication running to some 16 pages and containing a wide variety of information. Page 3 discusses a children's Christmas picnic, page 4 discusses carols in the park and page 5 covers season's greetings. Page 6 announces the launch of the shared path — it was a fine initiative under former minister the Honourable Mark Birrell to construct an around-the-bay cycle circuit — and page 7 discusses a community celebration on 20 November regarding the Commonwealth Games.

There is other information in relation to keeping children safe and about the use of domestic swimming pools. There is a comprehensive article on how to prepare food for eating outdoors so that bacteria does not grow: hot food should be kept hot and cold food should be kept cold. There is a page about considering a career in caring. There is information on Bayside immunisation. There is a constructive page on Bayside's graffiti clean-up, which is prolific around Melbourne at the present time. There is a business women's network and new regulations for footpath trading, improving our open spaces, and calling for people to nominate people for citizens of the year in Bayside under a range of categories.

It is a comprehensive document. However, at the same time as the ballot papers were being distributed in letter boxes, this publication arrived. Information is contained on page 2 of the publication which details the current ward councillors. A balance needs to be achieved between information that is fairly informing citizens at an appropriate time and information that might have a slight political overlay. What side of the boundary this particular document falls on is something for detached analysis and judgment, so that when a local election is fought, it is fought fairly on the available information and there is fair competition.

I ask the minister if, through her department, she is able to review this particular issue and come up with equitable guidelines so that the interests of the various candidates are not unfairly advanced nor unfairly prejudiced by literature distributed by councils during the election process.

Responses

Ms PIKE (Minister for Health) — The Leader of The Nationals raised an issue with me concerning the Central Gippsland Health Service — a health service which has been through some difficult times over the last few years. I am very pleased to tell the member that the Central Gippsland Health Service has this year reported an operating surplus of $500 000. That is a change from last year's operating deficit of $1.9 million and is a very pleasing result for the whole community. This has been achieved while services have been maintained and in fact grown at that hospital.

Currently an administrator has been appointed by the Governor in Council until November next year, but I am advised it is possible to fast-track the appointment of a new board of management at Central Gippsland Health Service with the view to it taking office from 1 July 2006. I know that is something that the community has a very strong desire for, and I am pleased it will be able move in that direction. Applications for board membership will be advertised in about February of next year. There are still some issues that the administrator is bedding down — structural, financial and system reforms — but I am sure that the administrator can continue to work on those while we are in the process of appointing the new board.

Finally, I would like to acknowledge the advocacy of the Leader of The Nationals, the member for Gippsland South, on behalf of the health service and the community he represents. We are all working together in the best interests of the community.

Other members raised varying matters and I will make sure that they are forwarded to relevant ministers.

The ACTING SPEAKER (Mr Nardella) — Order! The house is now adjourned.

House adjourned 5.49 p.m.