PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

26 March 2002

(extract from Book 2)

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By authority of the Victorian Government Printer

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The Lieutenant-Governor

Lady SOUTHEY, AM

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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TUESDAY, 26 MARCH 2002

Tuesday, 26 March 2002

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.03 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Road Safety (Alcohol Interlocks) Act
Sentencing (Amendment) Act
Wildlife (Amendment) Act

FORENSIC HEALTH LEGISLATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. M. R. THOMSON (Minister for Small Business).

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Council's amendments

Returned from Assembly with message disagreeing with Council amendments.

Ordered to be considered next day.

QUESTIONS WITHOUT NOTICE

Ice sports centre

Hon. I. J. COVER (Geelong) — In May and November 2000 the Minister for Sport and Recreation informed the house that the government was looking into the development of an ice sports centre, which I might point out had been part of Liberal Party policy in 1999. When did the minister first take action to deliver this much-needed and widely supported sporting facility?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for his question. I appreciate that there is a fair degree of enthusiasm in the community for ice sports facilities, and members of the opposition might also appreciate that I have discussed this issue in the house on previous occasions.

In late 1999 Sport and Recreation Victoria commissioned a feasibility study in the city of Melbourne to determine the likely demand, and it has since been proven that there is significant demand and, I suppose, need for the facility, particularly amongst ice sports enthusiasts. What is interesting is that we have been able to determine from that work that the facility will cost in the order of somewhere between $30 million to $40 million, so a fairly substantial amount of support is required.

The previous government identified the ice sports facility as an election commitment, and I reinforce that the Honourable Ian Cover has mentioned that, but it failed to identity in its forward estimates the level of financial commitment that that would require. This government has determined the quantum of funds required for such a facility, and at this time is also working on the issue through the department, but that is also based on an identification-of-interest process which was undertaken by Sport and Recreation Victoria recently. That has flushed out those who are prepared to support such a facility. One particular group has been very vocal in the media, and we will continue to discuss and negotiate with that group about the sort of support it is looking for. Recently it submitted a business plan to Sport and Recreation Victoria, and at the present time we are looking through that business plan to see if it is viable. The group is looking for substantial government funding support.

I reinforce that the difficulty in this area is that across the rest of Australia and traditionally ice sports facilities have been privately owned ventures.

This would be new territory for the government, and because of that it is proceeding cautiously to ensure that any potential public–private partnership does not expose the government to excessive risk, as was the case with the privatisation that the previous government undertook. That arrangement exposed the government to excessive risk which we are not prepared to do. We are reviewing the business plan very cautiously to ensure that when we progress in this direction that it is economically viable and a worthwhile investment for the state.

Hon. I. J. COVER (Geelong) — I have a supplementary question. It is plain from the minister's answer as he trawled back to November 2000 when he last mentioned it in this house that he has done nothing for 18 months — and frankly he has done nothing since 1999 when he became minister. He has clearly failed to deliver on this project. I ask by way of supplementary question — I was just giving a bit of background to the fact that he has done nothing, which does not take a lot of time to say — —

Hon. B. C. Boardman — How much has he done?

Hon. I. J. COVER — Nothing! I thought this might be an opportunity for the minister to share with the chamber what he has done to deliver this project for Victoria.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As I mentioned before, we have continued to discuss it in meetings with Sports Australia, the consortium which is approaching the government in relation to support for its facility proposal, and I also appreciate that any support from government in this matter would have to undergo a full, frank and clear process.

Marine parks: establishment

Hon. R. F. SMITH (Chelsea) — Will the Minister for Energy and Resources advise the house what the Bracks government's revised marine parks package means for the fishing industry and recreational anglers?

Hon. C. C. BROAD (Minister for Energy and Resources) — The Premier today announced that a world-class system of 13 marine national parks and 11 marine sanctuaries covering about 5 per cent of Victoria's marine parks will be created by this government. Today's release of the revised package provides the basis for further consultation with the fishing industry and recreational anglers ahead of the release of a draft marine parks bill and introduction of new legislation. The Bracks government has listened to concerns raised in the community about the original package and importantly it has acted. There are a number of modifications — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the Leader of the Opposition and Mr Smith to keep out of the debate and allow the minister to answer.

Hon. C. C. BROAD — The government has acted following reactions to the original package, and there are a number of modifications to the proposals as a result which are of direct benefit, I am pleased to say, to the fishing industry — for instance, a compensation assessment panel will be created in legislation to assess eligible fishers for compensation. The amount of financial assistance will not be capped and a tribunal will be created for fishers to appeal the assessment of the panel. It is also proposed that fishers will be able to make claims to assist them in maintaining their net income while they adjust to the new arrangements. Under the new revised proposals there will be no provision to alter or vary section 85 of the Constitution Act.

The fishing industry generally and the abalone industry in particular will benefit from a substantial boost to fisheries enforcement, which will also ensure the protection of marine national parks and sanctuaries. With regard to recreational anglers, the government will further discuss issues including beach angling with stakeholders and the opposition with a view to achieving a balanced result which will maintain the environmental credibility of the parks.

According to the most recent version of the *Victorian Fishing Atlas*, just 19 out of more than 300 coastal fishing spots and other locations will be incorporated in the proposed marine national parks and sanctuaries. In addition, not one pier or one jetty will be in any park or sanctuary in these proposals.

I urge the opposition to show that it is not just negative and carping, but that it is capable of standing for something, and that on this occasion it supports the government's vision for marine national parks into the future.

Liquor: licences

Hon. W. I. SMITH (Silvan) — My question is directed to the Minister for Small Business. On Sunday an article in the *Herald Sun* states that the government had brokered a landmark agreement allowing Woolworths and Coles to increase the number of liquor outlets in Victoria. This deal was brokered with two independent liquor associations — the Master Grocers Association of Victoria and the Liquor Stores Association of Victoria — which represent one-fifth of the total independent liquor stores in Victoria; there are 1090 stores and they represent 200 stores. What were the results of the minister's discussions with the other liquor associations — the other four-fifths of the industry?

Hon. M. R. THOMSON (Minister for Small Business) — The hypocrisy of the opposition on this issue is amazing. In 1996, when the now Liberal Party opposition was in government, the Kennett government conducted a sham review into shop trading hours, involving no consultation with small businesses that were to be affected by deregulation — none whatsoever! What was the level of consultation then with the 39 300 small businesses in the retail sector out of the total of 40 500? None!

How hypocritical for opposition members to come here and talk about consultation and small business as if they care. Their record stands. They did not care about small

business then and they do not care about small business now. We know that, with a nod and a wink, had the opposition won the last election it was going to do away with the 8 per cent.

We have allowed for the industry to find its own solution to allow for a transition to a deregulated industry. What we have had is Geoff Gledhill from the Master Grocers Association of Victoria who, in the *Herald Sun* newspaper article referred to by the honourable member, agreed that it:

> … gave small operators their best chance to remain viable in a deregulated marketplace.

Peter Wilkinson, president of the Liquor Stores Association of Victoria, was quoted in the same article as having said:

> The agreement will give us an orderly phase-out period and the chance to prosper in the future.

I reiterate that we welcome the fact that the industry is looking to find its own solutions to its own future. We welcome those discussions and we are looking to the finalisation of an agreement.

Hon. W. I. SMITH (Silvan) — I understand from the minister's answer that there has been no consultation with the Local Independent Liquor Stores association, the Australian Liquor Marketeers and the Southern Independent Liquor Group. I quote Ian Urquhart from the Local Independent Liquor Stores association, who wrote to me about discussions with Peter Wilkinson of the Retail Liquor Association of Victoria:

> … they are working on an industry document under significant pressure. Apparently the majors would only entertain an industry document if certain of the valid points were not raised.

So much for accountability by the Bracks government. Why has the minister left out the remaining four-fifths of the industry?

Hon. M. R. THOMSON (Minister for Small Business) — It is so hypocritical for members of the opposition to talk about consultation when they do not know what it means; they cannot engage in it and they certainly were not prepared to engage the small business community when they reviewed shop trading hours and imposed a great deal of hardship on small business when they changed the shop trading hours.

Geelong: triathlon world cup

Hon. E. C. CARBINES (Geelong) — In light of the Bracks government's commitment to regional events, will the Minister for Sport and Recreation advise the house of the importance of the recently secured International Triathlon Union World Cup event in Geelong?

The PRESIDENT — Order! Will the honourable member assure me that this is not the same as the question asked last week?

Hon. E. C. CARBINES — It is not the same as the question asked last week.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — Whilst I have mentioned this in the house before, I have not elaborated on it in great detail, and I would like the opposition to hear this today. Victoria has won the right to stage the Australian leg of the International Triathlon Union (ITU) World Cup from 2002 to 2004. The event will be held in Geelong, with the first event being staged in April this year. The event has previously been held in Noosa and in Sydney. Victoria has also won the right to stage one leg of the National Triathlon Series in 2002, 2003 and 2004. These events will be held in Geelong in 2002 and in St Kilda in 2003 and 2004.

The government has been able to attract these events to this state and deliver them to Geelong as part of trying to broaden the scope of major events to encompass regional Victoria. The government is currently discussing with Triathlon Australia the funding arrangements for assisting the staging of these events. It is expected that Victoria will receive significant promotional and economic benefits through athlete and spectator visitation, as well as international broadcast, which is why it will have significant impact in attracting tourists to our regional areas. The major international markets for triathlon are the USA, Canada, China and the UK, so these events will help to broaden our tourism attraction.

The staging of the world cup event and the national series offers a significant opportunity to further develop the state's focus on triathlon events and to position Victoria as a training destination for international triathletes who need to prepare for these events and also during the off season. It will ensure they are well acquainted with the venues and are training in the climatic conditions of Victoria. As well, people often fail to recognise that holding major events assists in skilling up the local sport and the officials involved in the sport. Events of this nature will assist in developing the skill base of local volunteers and technicians within triathlon.

The world cup will provide a unique opportunity for regional communities to experience the social and economic benefits from staging a major international event. Hopefully this will increase — I am sure it will — the popularity of triathlon in the community and enable residents of those areas to witness elite level sport free of charge, which is part of the government's policy platform to increase access for all sports events including triathlon. This shows that we are delivering for the whole of the state and growing the whole of the state, particularly those areas in rural and regional Victoria.

Freeza program

Hon. E. J. POWELL (North Eastern) — Given the former minister's decision to drastically cut funding for the Freeza program, will the new Minister for Youth Affairs show her support for the program by reinstating that funding?

Hon. M. M. GOULD (Minister for Youth Affairs) — The government is committed to the program and like programs developed through Freeza funding. The previous government only put in $1 million. When we came into government, we increased that to $1.7 million because we understood the need to have such a great program that expanded right across the state to 62 different providers. Did the opposition and the National Party when they were in government encourage the previous government to increase funding? No. Did they encourage it to expand right across the state? No, they did not do that. This government has increased the funding for Freeza right across the state where regional and rural areas of this state benefit from the Freeza program. This government is committed to Freeza and to like programs, in community building and bringing people together. If the honourable member had listened to the answer I gave in the house — —

Honourable members interjecting.

The PRESIDENT — Order! I suggest the level of conversation drop dramatically so we can hear the minister finish her answer.

Hon. M. M. GOULD — The honourable member should have listened to the answer I gave in the house last week about the Push organisation, which this government funds, and about being involved in the Push On event, which is also connected with Freeza. I indicated that buses had come from the Benalla area down to Melbourne to attend that event, which was held on Labour Day at the Moonee Valley racecourse. The Bracks government has shown its commitment to the Freeza program by increasing funding. Unlike the opposition, which did not care, we increased funding across the 62 different providers, so the government's position with respect to Freeza is quite clear.

Hon. E. J. POWELL (North Eastern) — I thank the minister for her response, because it certainly was not an answer to my question. I asked the minister what guarantee she would give to show her support to reinstate the funding. The former coalition government knew how important that Freeza program was because it was effected under our government. We had given a commitment of $1 million. We were then going to increase the funding. This government instigated an amount, increased it, reviewed it and is now going to drastically cut it. The minister has not acknowledged that it has not cut the funding, and I ask her in her new portfolio to show her continued support for that program and reinstate the funding.

Hon. M. M. GOULD (Minister for Youth Affairs) — As I indicated in response to the original question, the government is committed to it. It has increased funding from $1 million to $1.7 million. That is the hypocrisy of the opposition parties which are nothing but negative and carping with respect to such a program. As I have indicated, the government supports the Freeza program and has shown that by its increase in funding from $1 million to $1.7 million, expanding it right across the state. With respect to the opposition and the National Party in asking such a question, it just shows their hypocrisy.

Schools: relocatable classrooms

Hon. G. D. ROMANES (Melbourne) — Will the Minister for Education Services please advise the action the Bracks government took to ensure that relocatable classrooms were in place for the start of the school year?

Hon. M. M. GOULD (Minister for Education Services) — I thank the honourable member for her question. I am pleased to advise the house that the Bracks government has been extremely successful in its program to ensure that schools in this state had in place all the relocatable classrooms that were needed for the beginning of the school year.

Unlike members of the opposition, who carp and whine about education — they do not care about it — we are delivering to our schools. Preparation for the start of the school year in 2002 was a major logistical exercise involving — —

Honourable members interjecting.

The PRESIDENT — Order! A conversation across the chamber does not help the Leader of the Government complete her answer. I ask other honourable members to allow the minister to finish.

Hon. M. M. GOULD — Preparation for the start of the school year was a major logistical exercise involving 92 relocatable classroom movements, and all of the 92 relocatable classrooms that were identified as being needed were put in place over the Christmas period for the beginning of the school year. All buildings promised to schools were delivered on time, and all of these classrooms are now being used by the schools.

In addition, seven supplementary movements of relocatable classrooms were required to provide extra classrooms to cater for unexpected enrolments at the beginning of the year, and these have also been completed.

I am pleased to advise the house that this year's relocatable program was successful, but of course there is, as always, room for improvement in such a difficult process. The Bracks government is committed to looking at innovative ways to ensure that we deliver the best results to our schools — which is in contrast to the opposition.

Since 1999 the Bracks government has overseen a major step forward in the upgrading, expansion and relocation of classrooms across Victoria. Unlike the previous government, which had no vision for education, the Bracks government is taking a positive step to turn things around in this state.

Liquor: licences

Hon. W. I. SMITH (Silvan) — Will the Minister for Small Business explain how the proposed $3 million fund will assist small liquor outlets when the real issue is predatory pricing?

Hon. M. R. THOMSON (Minister for Small Business) — It is amazing that the opposition continues on this issue given that when it was in government its way of assisting small business on shop trading hours was to move the responsibility for shop trading hours from the former Minister for Small Business, Louise Asher, to the Honourable Mark Birrell. That was its solution!

The discussions being held with members of the industry in relation to the industry fund are to help prepare them for change and to provide them with funds to actually get the expertise they need to be able to position themselves and niche themselves in the marketplace. This is something that is wanted by small businesses. It is an opportunity to get the kind of expertise that will aid them in being better in their businesses, and it is something that they are welcoming.

Hon. W. I. SMITH (Silvan) — The industry is very interested in this fishes and loaves $3 million, but as one wine merchant put it to me: how do you train staff to sell more when the market has diminished in your store due to the buying power and cheaper prices of the Woolworths and the Coleses?

Hon. M. R. THOMSON (Minister for Small Business) — As I have stated before and as is known in this house, an industry agreement will be the facilitator to the phasing out of the 8 per cent ahead of the legislative time frame that was put in place.

We want to see an industry where small businesses are viable and able to compete. The industry is looking towards a capacity to adapt to change and the time in which to do it. I welcome the discussions that have occurred in the sector; I welcome the further discussions that will occur and I look forward to a viable small business sector providing liquor to Victorians.

E-gaps program

Hon. D. G. HADDEN (Ballarat) — I refer my question to the Minister for Information and Communication Technology. On 1 March the *Stawell Times-News* reported on the success of a public Internet access point provided under the Bracks government's e-gaps program at the Great Western service station. Similarly on 7 March the same paper reported the launch of a further e-gaps Internet access site at the Navarre general store. Can the minister inform the house what other rural areas are to benefit from this program?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — Last week I was able to inform the house of the Bracks government's Skillsnet extension program, and e-gaps is further proof of the Bracks government acting to close the digital divide. The e-gaps program is a $1.3 million program that has been allocated to address the gaps in Victoria's public Internet access networks. Many of the access points provided, such as those of the Great Western service station and the Navarre general store, have provided not only Internet access but also a community meeting place.

When the opposition was in government we saw the closing of schools and banks, particularly in rural and regional Victoria. The opposition took from the

community, and the e-gaps program is just one of those programs that is putting back the capacity for communities — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down. I ask the minister not to help his colleague, and I ask the Minister for Information and Communication Technology to come to the conclusion.

Hon. M. R. THOMSON — I am pleased to be able to announce a second round of e-gaps funding totalling over $465 000. This funding for further Internet access will go to 30 locations in 15 municipalities. The councils to receive funding are the City of Greater Bendigo, the shires of Buloke, Campaspe, Cardinia, Central Goldfields, East Gippsland, Hindmarsh, Moorabool, Moyne, Northern Grampians, Melton, West Wimmera and Yarra Ranges and the cities of Hume and Moreland.

The new public Internet access sites will provide at least one Internet-connected computer and printer. They will be open to the public for a minimum of 20 hours a week. They must be accessible to all members of the community, including people with disabilities and those from non-English-speaking backgrounds. They have to be located close to public transport and other public amenities and have the support of the communities they aim to serve.

I am certain that the e-gaps funding for terminals in locations such as the Blackwood general store in central Victoria or at the local hotel-cum-general store in Darlington in the Moyne shire will not only help to close the digital divide but also continue to maintain the community spirit which is the lifeblood of Victorian towns.

Gas: SEA Gas pipeline

Hon. C. A. FURLETTI (Templestowe) — I direct my question to the Minister for Energy and Resources. I refer to the report in today's *Herald Sun* indicating that the Bracks government has finally given the go ahead to SEA Gas to construct the 680-kilometre gas pipeline linking Victoria and South Australia. The minister would be aware of the need for SEA Gas to acquire easements over private farm properties along the proposed route, but is the minister aware of a $5000 inducement being offered to solicitors representing so-called recalcitrant farmers for each signature of a client they can procure to an easement agreement? If she is, I ask: what is the minister doing to stop such inducements being offered?

Hon. C. C. BROAD (Minister for Energy and Resources) — These are not matters that have been brought to my attention, including by the honourable member who has just got to his feet. If the honourable member cares to make that information available, it will be investigated.

Schools: funding

Hon. S. M. NGUYEN (Melbourne West) — My question is to the Minister for Education Services. Will the minister please advise what the Bracks government is doing to improve the learning environment in Victorian schools.

Hon. M. M. GOULD (Minister for Education Services) — I thank the honourable member for his question. The Bracks government has invested heavily in improving the maintenance of Victorian schools. Educational research shows that the quality of students' learning environment has a positive impact on academic results. The government recognises the need for investment in this area, unlike the opposition that closed over 300 schools, sacked over 9000 teachers and left our schools crumbling.

I am proud to say that the Bracks government is upgrading one-third of government schools and has invested $590 million in the last two budgets to improve schools and TAFE institutes. This compares to only $275 million in the previous government's last two budgets.

The upgrades are taking place right across the state to repair the damage left by the previous government's neglect. One example of this — and I know the Honourable Mark Birrell will be interested — is the Roberts McCubbin Primary School in Box Hill South. Earlier this month I had the pleasure of announcing a $75 000 upgrade of the staff amenities at that school. The upgrade is sorely needed as the staff were working in cramped conditions. The upgrade will improve the conditions. The school is a fantastic example of a great government school. The entire community is passionate about its school. I had the opportunity of having a look around the school — —

Honourable members interjecting.

Hon. M. M. GOULD — The community is working tirelessly to provide the best education for its students. The previous government did not care about education. It did not care about the conditions in which the schools were left. This government is fixing up the mess and turning them around.

ANSWERS TO QUESTIONS WITHOUT NOTICE

Ice sports centre

Hon. I. J. COVER (Geelong) — I move:

> That the Council take note of the answer given by the Minister for Sport and Recreation to a question without notice asked by the Honourable I. J. Cover relating to the ice sports centre.

I refer to the issue of the ice sports centre for Melbourne which was mentioned during question time and about which the government has clearly done nothing.

Honourable members interjecting.

Hon. I. J. COVER — Mr President, 15 seconds into my contribution to take note of the minister's answer, it is clear that the minister has no interest in this topic, which is an important piece of sporting infrastructure for Victoria. During his answers, he pointed out that the government was proceeding cautiously on this issue.

Honourable members interjecting.

The PRESIDENT — Order! I remind the minister that when the Chair is on his or her feet the minister stays where he is. Mr Cover is making a point under this heading.

Hon. M. M. Gould interjected.

The PRESIDENT — Order! It is a general point for anyone, and that is why I said 'his or her'; it applies to whoever is in this position. We are going through a process and we are entitled to hear from Mr Cover. Other members will then get a chance. I ask the house to settle down to allow Mr Cover to continue.

Hon. I. J. COVER — Let it be known that 40 seconds into my contribution the minister has left the house. He should have taken notice and stayed in his place so he could tell us about what he has done to advance this ice sports centre for Victoria. Clearly in his answer in question time today he indicated that he had done nothing. He said the government is proceeding cautiously, which is obviously code for doing nothing.

The ice sports centre proposal was part of Liberal Party policy in 1999. There has been further advancement of the idea, particularly by the Ice Sports Australia consortium, which has been working for some two years to advance this proposal with the government. Following Australia's outstanding showing at the Olympic Winter Games it can be seen that such a facility would further advance Australia's future prospects. Indeed, Geoff Henke, chairman of the Olympic Winter Institute of Australia, says the institute has been working for a couple of years now with Ice Sports Australia, and it now needs the state to back the development of a Docklands project and to provide world standard ice skating rinks.

The government has moved slowly on this, if at all. Suddenly it has been stung into some action not only because of the success of the winter Olympics but the presence in Melbourne over the past few days of Alisa Camplin for various activities, including a state reception. In Saturday's *Herald Sun* Alisa Camplin is reported as saying:

> Now we're looking to the state government to help out with the site so skaters can build on our success.
>
> … with a world-class ice facility there's no reason why we couldn't be winning more gold with skaters, an Australian women's ice hockey team, even a world curling team.

Part of the state reception for her yesterday was conducted in the Sir Redmond Barry Room at 55 Collins Street, not many floors from the minister's office. There may have been a good reason, but I understand the minister was not in attendance at that civic reception. Had the minister been in attendance he could have heard personally from Alisa Camplin of her support for this facility that he has done nothing about for more than two years.

Clearly the minister has no influence and no clout around the cabinet table when it comes to advancing such important sporting facilities for the state. There has been a raft of support since the Olympics. I have received letters urging the government to get on with this project. I have received letters from young skaters such as Josephine Brand and Cherry Lau who have aspirations of being Olympic skaters. They know the provision of such a facility would greatly enhance their prospects of fulfilling their dreams.

I am happy to present this to the minister if he has not already seen a copy. Josephine Brand points out that if we do not get facilities like this she and others like her will move interstate where there are better facilities. This is a classic case of Victoria losing under Labor and potentially losing even more under Labor if it does not get behind it.

As the minister said in November 2000, to facilitate such a project would require a partnership between the government, a commercial operator and local government. The commercial operator has put a

proposal to the government and is keen to enter into a partnership. It is time the government did as well. I conclude by quoting from the editorial of the *Herald Sun* on Saturday, which states:

> … the state government has a golden opportunity to set that right —

that is, the provision of a world-class skating facility —

> while providing a new, major attraction.

Geoff Henke says that he:

> … has backers willing to sink $55 million into a rink — if the government provides the Docklands site.
>
> It is an offer too good to refuse.
>
> The government should get its skates on while the offer holds.

I could not agree more.

Hon. T. C. THEOPHANOUS (Jika Jika) — Let me begin my contribution by saying that this performance today will certainly not get Mr Cover a seat because he was so interested in his electorate that he has written it off and will abandon it and go somewhere else. The proposition put by the opposition again displays the gross hypocrisy that it works under. There has been a problem in relation to ice-skating facilities in this state for more than a decade. In fact, ice-skating facilities have probably been a disgrace for even longer than that.

What did the Kennett government do during its seven years of government about providing an ice-skating facility for this state? Absolutely nothing — it did nothing for seven years about ice-skating facilities. Let us get it on the record — opposition members knew it was a problem and did nothing. And during the last election campaign in another desperate attempt to get themselves re-elected for another term they said as part of their third-term policy that they would look at developing an ice-skating facility for Melbourne. They did not identify the location, the scope and, most importantly, the funding — not a single dollar was in the Liberal campaign document.

Hon. I. J. Cover interjected.

Hon. T. C. THEOPHANOUS — I look forward to any information which shows that before the last election you made a $28 million commitment, because I do not believe there was. Since the government came to power a feasibility study has been undertaken by Sport and Recreation Victoria and the City of Melbourne to determine the scope, cost, viability and location for an international standard ice-skating facility. I believe Melbourne will ultimately get an international standard ice-skating facility, but it is important to have such projects properly costed and to examine who will be the partners in such a proposal. Traditionally, and in all other states, ice-skating facilities have been a province of the private sector. If we are to go down the track of injecting public money into the construction of an ice-skating facility it is entirely appropriate to have a proper feasibility study, proper costing and proper accountability of the mechanisms. It has not all been done; it is in the process of being done. A number of issues have been identified which are currently being considered by the government.

I can say one thing: the former government did not get past the feasibility study. It did not even do that. That is the level of interest it had over the period of seven years.

We on this side of the house are doing it by carrying out a proper feasibility study, by looking for partners and, most importantly, by doing it in a financially responsible way.

Hon. N. B. LUCAS (Eumemmerring) — We are talking here about a failure of the Labor government to act, a failure of the Minister for Sport and Recreation to act. This is another example of the Bracks Labor government's do-nothing attitude. This is another reason why Victoria is losing under Labor.

I raised this matter in this house in May 2000 and the minister said in answer to me, 'We are having a feasibility study — a joint feasibility study'. I have a copy of the feasibility study and you know what — it is dated June 2000! But the government had a review on that, so it reviewed the feasibility study and came up with an updated version. In August 2000 we note the second version, the review. Do you know what happened then? It reviewed the review! The review was updated again in May 2001 and do you know what the feasibility study said? It basically said, 'An ice facility in Melbourne would be fantastic!'.

Today we are asking, 'What has the minister done in response to this feasibility study?'. The minister said to us that the government is doing further work on it; it is having another review! So we have a study which has been reviewed, the review has been reviewed and now we are reviewing the reviewed review, and that to me is just extraordinary. It is typical of this do-nothing Labor government and it is just an extraordinary disgrace.

The people of Melbourne who are interested in ice sports are so keen to have this facility. I had a

constituent come to me saying, 'What about it?'. That is why I raised it. There are people right across Melbourne who want this facility, and after the success in the Olympics this year, yes, we have a reason for having it in Melbourne. We have the opportunity of having the headquarters for ice sports in Melbourne, Victoria, and what has the government done about it? Nothing but studies and reviews. All that is needed from the government is sufficient money for the land to be provided there and the go-ahead being given to the successful developer. The successful developer has $55 million. The money is on the table and the government is saying, 'No, no, no!'. I rang the government up; I spoke to this departmental fellow and he said, 'No, we have other priorities at the moment. We are looking after aquatic facilities and leisure centres all around Victoria so we have put this to one side'. This fantastic centre that we could have in Melbourne has been shelved for the moment because we are doing these other things, and yet all along we have had a developer who is willing to go, and all he needs is a footprint of land. If a footprint of land were available in the Docklands that would be fantastic; if it were somewhere else that would be fantastic too — anywhere! We will have it anywhere in Melbourne. The opposition wants it — it was in its policy prior to the last election.

Hon. T. C. Theophanous interjected.

Hon. N. B. LUCAS — Mr Theophanous asks, 'Where was it?'. I have it here: 'Working for our future'. It has the Liberal logo on it and it says that the coalition will spend $28.5 million over the next three years to develop a volleyball centre and a Victorian ice centre and upgrade and expand the Melbourne Sports and Aquatic Centre. It is quite clear in our policy. It is there in black and white. We were going to do it. And gosh, what has this party done?

Hon. T. C. Theophanous interjected.

Hon. N. B. LUCAS — The Honourable Theo Theophanous asked who is going to be the partner? There are many people out there wanting to do this and they are pleading with the government: 'Just give us a footprint of land and we will be right into it'. So today we have asked the minister the question, 'What have you done?'. What has he said? He said, 'There is a fair degree of enthusiasm in the community'. Well, beauty, why not build it? He said that there is proven significant demand — well, why not build it? And he says, 'We are waiting for a business plan'. I have looked at the feasibility study and do you know what is in there under a heading? Business plan! The government already has a draft business plan in this document, the reviewed reviewed review; the business plan is already in here and all we need do is fill in the spaces and the figures in accordance with what is required.

Let us be quite clear on this: Victoria is losing under Labor. This is a do-nothing government. The government is willing to put up $40 million for a film studio in Docklands but it is not willing to put $5 million or $6 million up for the footprint of the land. I call on the minister to make a decision, to do something. We want this facility, and it is not good enough for the minister to hide in his office and listen to this debate.

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

Hon. R. F. SMITH (Chelsea) — It gives me pleasure to engage in this debate, albeit that it is a sham. This so-called debate is clearly an exercise in futility being pursued by Mr Cover to try to establish some profile in Geelong, given the fact that he has been dumped by his own party down there and has nowhere to run. It is a matter of public record that Mr Cover attempted to move from Geelong Province to the safe confines of Bellarine. He has a big problem now and this is all about trying to create some sort of publicity for himself in Geelong. I say to Mr Cover, 'Good luck!' It is a bit of a pity really because in a way Mr Cover is the victim of unforeseen circumstances within his own party in that he has been crucified for the attempt of his own party — —

Hon. Bill Forwood — On a point of order, Mr President, it is a nice effort by Mr Smith to try to divert attention away from the fact that this government has no policy in relation to the ice centre. The take-note motion is about the answer given by the Minister for Sport and Recreation to a question asked by the shadow Minister for Sport and Recreation, and I ask you, Sir, to tell Mr Smith to debate that topic.

The PRESIDENT — Order! The motion before the house is strictly to take note of the minister's answer. The matters raised by the honourable member at the moment clearly have nothing to do with that. Passing references are okay. I call on the Honourable Bob Smith to continue.

Hon. R. F. SMITH — The reality is honourable members can manipulate this house in any way they so choose. We will not get away from the fact that the honourable member got dumped by his own because the opposition tried to knock off Vogels and Mr Cover paid the price. Bad luck!

The most famous rink in Victoria is St Moritz, which closed in the 1960s, and during the 1970s three others were developed and they were in Footscray, Oakleigh and Bendigo. I suppose the one line of consistency through all of them is that they were privately owned and developed — nothing to do with the government.

Today we have rinks in Oakleigh, Ringwood and Bendigo. Again, they are all private — no public funds. All of a sudden propositions are being put by the opposition — comrades opposite — that we should expend huge amounts of taxpayers' money to help their mates with land and other resources to develop rinks wherever they choose and where they will make it better for them politically. It is a sham. This whole debate is a sham and the opposition's consistency in trying to portray us as a do-nothing government is pathetic.

I reiterate that this take-note motion moved by Mr Cover is specifically designed to enhance him, and the government will reject it.

Hon. B. C. BOARDMAN (Chelsea) — There is an element of predictability with this, Mr President. Under the take-note motion the government is always going to be hamstrung in trying to delve into the abysmal talent which exists on the other side of the chamber to try and find people who have a degree of competency and ability to participate in this debate. We know that Mr Theophanous will always ramble on about something he is completely unaware of, but judging from this contribution from Mr Smith I think he has had his go. We do not think the government will be relying on Mr Smith in the future to participate again because clearly he has decided to divert the lack of action from the government and the indecisiveness and the inability to make — —

Hon. R. F. Smith — On a point of order, Mr President, I am interested in the fact that you are allowing the Honourable Cameron Boardman to babble on about my contribution et cetera. I thought you may have taken the opportunity to bring him back to the subject at hand, and I ask that you do so.

Hon. Bill Forwood — On the point of order, Mr President, it is entirely appropriate in debates in this house that an honourable member can comment on the contributions of previous speakers. Mr Smith got to his feet and spoke for 2½ minutes when he had 5 minutes available to him and it is entirely appropriate for Mr Boardman in the first 30 seconds of his contribution to comment on Mr Smith's contribution. I put it to you, Mr President, there is absolutely no point of order and you should invite Mr Boardman to contribute further.

The PRESIDENT — Order! The primary rule of any contribution to debate before the house is relevance. It has to be relevant to the matter before the house. In this case it is a take-note motion in relation to answers given by the Minister for Sport and Recreation. Subsequent speakers have the opportunity to comment on that issue but also on issues raised by previous speakers and that was what the Honourable Bob Smith was doing. Mr Boardman had only been going for 37 seconds before he was pulled up. As I said, passing reference in relation to these matters is relevant. In this case he is commenting on Mr Smith's contribution, not something as irrelevant as whether someone gets a preselection or not. I ask the Honourable Cameron Boardman to continue.

Hon. B. C. BOARDMAN — I shall continue because Mr Smith is obviously disappointed about the fact that he had 2 or so minutes to go and he needed to get a bit more on the record, but in doing so he completely embarrassed himself further. Nonetheless by diverting from the real facts of this issue highlighting the inability of this government to make a decision, Mr Smith attempted to try quite vitriolically to turn this debate into a personal attack on my colleague and friend Mr Cover. I think Mr Smith has got far more pressing issues to worry about than Mr Cover down his way because he came in the other day and decided to defend his mate Matt Viney and I think he regrets that now.

The PRESIDENT — Order! I think the honourable member should move to the issue of responding to the minister's answer.

Hon. B. C. BOARDMAN — In May of last year there was an advertisement in the daily papers about expressions of identification of interest for the development of an international ice-skating centre in Melbourne. Eleven months later what do we have from the minister today? We have an acknowledgment that the government is proceeding cautiously. Those were his exact words. Eleven months later, after the government had received quite a comprehensive business plan from the tenderers and there had been review after review on this specific issue, the government is still proceeding cautiously.

By inference the government suggested that although this was costed as part of a comprehensive policy from the Kennett government leading up to the 1999 election, what it failed to take into consideration was the fact that the former government was already in the process of developing quite strategically responsible and necessary sporting infrastructure for Victoria, such as the Melbourne Sports and Aquatic Centre, the

Vodafone Arena, Colonial Stadium, the State Netball and Hockey Centre and other arrangements for the Commonwealth Games. This international ice-skating centre, as it has been identified, was the next one on the list because the demand had been identified, there had been wide acknowledgment that the facility was viable and, importantly, the developers were willing to fund this facility themselves. Unfortunately they are now being hamstrung because this government through its inability to make a decision and its inaction to represent the needs of the community, which it should be doing, will not provide a measly $5 million to the Docklands Authority in order to fund the land necessary for the project.

A press release from the Ice-Skating Affiliated and Associated Sports Committee in Victoria, an association which incorporates Ice-Skating (Figure) Victoria, the Victorian Ice Hockey Association, the Victorian Ice Racing Association and the Victorian Curling Association, states that there is an urgent need for this facility and makes the comparison that there are no major ice-skating facilities within Victoria. There is a dilapidated facility in Ringwood that is quite openly acknowledged as not being up to scratch insofar as what it is trying to achieve, in comparison with Sydney which has six full-size icerinks and Queensland which has three icerinks. Although it must be acknowledged that Stephen Bradbury, a gold medallist, trains in subtropical Queensland, the Victorian movement believes Melbourne is the best city to not only have this facility but also be the base for the whole Olympic Winter Games program. Yet the government does not acknowledge that as being worth while.

The Victorian Olympic Council and the Olympic Winter Institute of Australia are in agreement that there is this niche and they want to incorporate this as part of a conclusive facility. They want racing facilities, recreational facilities, training and industry association-type facilities in conjunction with having more commercial and recreational emphasis that will sit very nicely into the Docklands precinct. So the bottom line with this is that we have a facility that is widely acknowledged as being necessary and viable but the government is not realising its potential. Because the government cannot make a decision and the minister responsible for overseeing this project is obviously too junior or too lacking in influence at the cabinet table to get this message across, Victoria is suffering. Victoria is undoubtedly losing under Labor and ice-skating and winter sports are equally losing under this government.

Motion agreed to.

Marine parks: establishment

Hon. P. R. HALL (Gippsland) — I move:

That the Council take note of the answer given by the Minister for Energy and Resources to a question without notice asked by the Honourable R. F. Smith relating to marine national parks and sanctuaries.

Mr President, I am responding to a dorothy dix question that was put by the minister's own backbench. The answer we got from the minister was a dorothy dix-type answer. It was an absolute joke. I tell you what, Mr President, it is not the biggest joke that has been played on the people of Victoria today. The far bigger joke is the publication of this so-called discussion paper on marine parks. The whole content of the discussion paper is eight pages. Eight single typed pages. Page 1 is an introduction by the minister; pages 2 to 5 contain some overviews of the new proposals; page 6 is a summary; and page 8 has other parts. There are four pages of content in this discussion paper, a large part of which is simply tables.

I will tell you why it is also a joke, Mr President. Not once in the eight pages of this so-called discussion paper is there an invitation to members of the public to comment on it. In not one place is there an invitation for people to make comment on this proposal put forward by this government today. So if it is a discussion paper it seems to me a phoney discussion paper. If it is not a discussion paper it is once again an expensive propaganda exercise by this government to try to prove that its marine parks have some claim in our community. There are quite a few expensive, coloured pictures in it. I say this is nothing more than another expensive propaganda exercise by this government to prop up its marine parks proposal which is absolutely full of faults.

The minister raised the issue of compensation in her answer. I have spoken to literally hundreds of professional and recreational fishermen around the coast of Victoria, yet I have failed to find one who has told me he or she wants to be compensated. They want a job. They want the right to keep on fishing. If they are professional, their first preference is to keep their job and to fish commercially, and if they are recreational fishermen their first preference is to keep their recreation and to fish recreationally. I have not found one whose first preference is to be compensated out of a job or out of the industry.

Further on the issue of compensation, compensation in the document is restricted to some classes of professional fishermen, not all classes of professional fishermen. Certainly not if you happen to hold an

abalone licence — stiff luck, fellas, if you are in the abalone industry; no compensation whatsoever for you. It is a pity if you are a fisherman who fishes and takes most of your catch from Beware Reef in East Gippsland — and I know a member in the other place who has an interest in an abalone licence there and whose licence takes a large percentage of the catch at Beware Reef. Stiff luck for him, there will be no compensation for the loss of resource available from that marine sanctuary.

Further, there is no compensation for recreational fishers proposed in the document. There is also no compensation offered for businesses that conduct a business related to marine activities and are impacted upon by the classification of a marine park. Stiff for them, no compensation for them either.

Further, compensation is restricted to somewhere between three and four years. After that, fellas, you are on your own again — the government will wash its hands of you after three years of limited compensation. Compensation is an absolute joke. No-one wants it; people want the right to continue with their job and to continue with their legitimate recreational rights.

What annoys me more than anything else is that compensation as an issue totally misses the point. Fishing in itself does not impact on the marine environment to anywhere near the extent that a range of other activities does. Pollution has the biggest impact on the marine environment. The muck that comes down the rivers and streams into our ocean, the ocean outfalls that dump into the ocean and the exotic species that have been introduced into some of our bays impact far more on the marine environment than a rod, a reel or a net cast by professional fishermen in a sustainable way. Each of those fisheries is regulated. They all have bag limits and catch limits and they have input and output controls to manage the fishery properly.

The government is totally out of kilter on marine parks. New South Wales has a model; Western Australia has a very successful model of multiple use marine parks. The government has its head in the sand. It misses the point on this issue, and these proposals will be soundly rejected by the people living in coastal communities around Victoria.

Hon. G. D. ROMANES (Melbourne) — The Bracks Labor government has announced today that new legislation will be introduced into the Parliament this session to create 13 marine national parks and 11 marine sanctuaries covering about 5 per cent of Victoria's coastline. All the honourable members of this Parliament have an opportunity to put in place through our actions a world-class system of marine national parks and sanctuaries.

What the Minister for Environment and Conservation has put forward in the consultation paper that is being released today is a way of handling the concerns relating to compensation that waylaid the bill in an earlier sessional period in the other place. The consultation paper is in the community, transparent, out in the open, ready for comment and ready for feedback, and an exposure draft for the legislation will follow, again for feedback.

Members of this chamber should be aware of the polling that has been done on this issue. The vast majority of the people of Victoria want to see those marine parks and sanctuaries in place. This is an issue that had bipartisan support. In the past 9 or 10 years both sides of the house were working to develop the proposal, and it is time the opposition put into practice what it has said in the past and support this proposal.

Motion agreed to.

PETITION

Pakenham–Launching Place Road: safety

Hon. N. B. LUCAS (Eumemmerring) presented a petition from certain citizens of Victoria requesting that the Minister for Transport give urgent attention to and approve funding for the construction of the Pakenham–Launching Place Road between the Pakenham Upper roundabout and Boyd Road (465 signatures).

Laid on table.

QUESTIONS ON NOTICE

Answers

Hon. M. M. GOULD (Minister for Education Services) — I have answers to the following questions on notice: 2057, 2277, 2511 and 2699.

Hon. C. A. FURLETTI (Templestowe) — I raise again, as I did last week, an answer to question 2339, which the minister has now on at least four occasions undertaken to pursue for me — unsuccessfully.

The process of questions on notice is a matter of convention, but it is now some six months since the question was asked, and if the Premier does not want to answer the question perhaps the minister could let me

know, which would at least save me the time it takes to keep raising the matter with the responsible minister.

Hon. K. M. Smith — On a point of order, Mr President, it is not a matter of the Premier ignoring the question on notice or saying that he does not want to give an answer, I understand it is up to the minister to ensure that answers to questions on notice asked by members of this house are presented in this place. The minister has a responsibility to respond to members who ask questions in this place. Otherwise, ministers in the other place will refuse to give answers to members of this house. That is not good enough. Surely there must be some way this house can take action against ministers or the Premier for treating this house with contempt.

Hon. M. M. Gould interjected.

Hon. K. M. Smith — It is treating this house with contempt — you are!

Hon. M. M. Gould interjected.

The PRESIDENT — Order! The fact is it is very obvious that ministers make very strong endeavours to get answers to questions.

Hon. M. M. Gould interjected.

The PRESIDENT — Order! I am just saying that it is obvious that ministers in this place make strong endeavours to get answers on time. It is not in their interest to be harangued when answers are not given. On the other hand, I believe it is a grave discourtesy on behalf of their ministerial colleagues when they let down their colleagues in this place by not providing answers. The minister has assured the house she has done everything possible to get the answer. No doubt she will raise the matter again with the Premier, and perhaps generally she should talk to her cabinet colleagues about backing up the ministers here so that we do not have these unfortunate situations.

Hon. M. M. Gould — I don't need help with what I need to say to my cabinet colleagues.

The PRESIDENT — Order! I am just making a suggestion.

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I also have a question outstanding for the Leader of the Government, question 2213, parts (ii) and (iii), I think it was, which was for the attention of the Premier. It was placed on notice on 19 September last year. I wrote to the minister on 30 November and followed up in the house on 4 December of last year. I am now following up again hoping that after six months we can get an answer from the Premier.

Hon. M. M. GOULD (Minister for Education Services) — With respect to the matter the Honourable Carlo Furletti raised, I have passed it on to the responsible minister, in this case the Premier. He raised a couple of answers last week, and one out of three of them has been provided. On the one raised today, I am waiting for a signature. Hopefully we will have it by tomorrow.

With respect to question 2213, which the Honourable Gordon Rich-Phillips has raised, I will raise that with the Premier again.

The PRESIDENT — Order! The Honourable Andrew Brideson wrote to me seeking my ruling in relation to question on notice 2153. In my opinion part (a) of that question has not been answered. I therefore direct that that part of question 2153 be reinstated on the notice paper.

PAPERS

Laid on table by Clerk:

Border Groundwaters Agreement Review Committee — Report, 2000-2001.

Desert Fringe Regional Waste Management Group —

Minister's report of failure to submit 2000-2001 report to her within the prescribed period and the reasons therefor.

Report, 2000-2001.

Goulburn-Murray Rural Water Authority — Report, 2000-2001 (*in lieu of that tabled on 31 October 2001*).

Melbourne Parks and Waterways — Report, 2000-2001.

Mildura Regional Waste Management Group —

Minister's report of failure to submit 2000-2001 report to her within the prescribed period and the reasons therefor.

Report, 2000-2001.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Banyule Planning Scheme — Amendment C25.

Cardinia Planning Scheme — Amendment C25.

Geelong — Greater Geelong Planning Scheme — Amendment C15.

Glenelg Planning Scheme — Amendment C6.

Golden Plains Planning Scheme — Amendment C8.

Hepburn Planning Scheme — Amendment C6.

Indigo Planning Scheme — Amendment C13.

Melbourne Planning Scheme — Amendment C40.

Mitchell Planning Scheme — Amendment C26.

Mornington Peninsula Planning Scheme — Amendment C36.

Nillumbik Planning Scheme — Amendment C3 (Part 2).

Statutory Rules under the following Acts of Parliament:

Conservation, Forests and Lands Act 1987 — No. 18/2002.

Victorian Civil and Administrative Tribunal Act 1998 — No. 17/2002.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 17 and 18/2002.

A proclamation of the Governor in Council fixing an operative date in respect of the following act was laid upon the table by the Clerk pursuant to an order of the Council on 4 November 1999:

Health Services (Conciliation and Review) (Amendment) Act 2001 — Whole Act — 25 March 2002 *(Gazette No. G12, 21 March 2002).*

CRIMES (DNA DATABASE) BILL

Second reading

Debate resumed from 20 March; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. R. M. HALLAM (Western) — The purposes of the Crimes (DNA Database) Bill are twofold. Firstly, the bill is designed to improve upon the current procedures in respect of the obtaining, use and retention of forensic samples. Secondly, the bill has the objective of facilitating Victoria's effective participation in the national DNA database.

I begin my contribution by acknowledging that DNA testing represents an absolutely quantum leap in the solving of crimes and to that extent at least is similar to the breakthrough that fingerprinting represented about 100 years ago. Indeed both of those technologies can be said to have brought great benefits to our community, not just in respect of the solving of crimes but perhaps more pertinently to the extent that they have acted as preventers of crime, given the dramatic increase in the prospect of detection which comes as a direct result of that technology.

However, whereas fingerprinting was a massive breakthrough, and to that extent is most welcome, it does have a number of fundamental deficiencies. I am not an expert in the taking of fingerprints, but I do know that one's fingerprints do not show on all surfaces, and I know, therefore, that all of the surfaces or articles at a crime scene have to be painstakingly dusted in a search for those prints because they do not show up to the naked eye.

In addition to that, it is a fact that each of our fingers and thumbs is unique. In respect of their prints, they are different from those of any other person, but they also happen to be different from each other. Thus we have a much more complex testing process to determine whether a particular person has been present in a particular location. The time taken for that testing process is a complicating factor, as is the prospect of those prints being fused with the prints of other persons, and coupled with that the difficulty in that one is not able to tell with precision which prints were there first and which have been overlaid.

In addition to that we should acknowledge that fingerprints do fade over time through the action of dust and so on, or can, as I said, be obliterated by another person's prints through subsequent usage or presence at that scene. So there is a whole range of obvious drawbacks with fingerprints.

There is the major drawback that it is relatively easy for a person to avoid leaving his or her prints at a particular scene simply by the wearing of gloves, so the technology of fingerprints becomes of less importance, particularly in respect of premeditated crimes such as burglaries and so on, given that the would-be perpetrator is quite simply able to avoid leaving evidence of his or her presence.

The really important thing in respect of DNA technology is that it overcomes all of those shortcomings. The DNA profile is just as unique to the individual. It still remains our biological blueprint. In addition to that, it can be simply recorded and simply catalogued. Coupling that with the enormous advance in computer technology where we get the ability to match quickly and accurately, the DNA technology becomes a very powerful system indeed. Perhaps even more importantly our biological blueprint can be established from samples taken from our skin, hair, blood, semen and even saliva, and from very small samples of each. Indeed it is a little scary to note that every single human cell exhibits its own unique DNA, and so to that extent exhibits a sort of human bar code. In those circumstances it is quite difficult for a person to attend a scene and to not leave DNA traces of their

presence, whereas the reverse, as I said, might well apply in the case of fingerprints.

In addition to all that, perhaps the major advantage with the new technology of the DNA profile is that the process by which it is established is relatively simple and absolutely and totally clinical. It is not affected by external factors. It does not diminish over time. So, for instance, a sample of semen taken from a particular crime scene might readily be matched to a DNA profile established some years later by a simple buccal swab. That of itself indicates better than anything else I could bring to the attention of the chamber what a dramatic breakthrough this new technology represents.

The good thing about DNA technology is that it is relatively simple and inexpensive to employ, and it can be used quite directly to establish the presence of a particular person at a particular scene. Just as it might assist in the solution of a particular crime, the converse is also the truth, and maybe the converse is even more important in that it may lead to establishing, through the DNA samples collected at the scene, that a particular person was not the person directly involved at the scene or in the crime, and it therefore may lead to proving their innocence.

While the DNA technology has enormous applications in our community, it is the massive breakthrough in crime prevention and solution that is, in my view, the most important. It follows that we as a community — or perhaps, more importantly, we as a Parliament — should be very keen to embrace and to employ that new technology and to capture its benefits. Our only hesitation and our only reservation should go to the question of the rights of the individual and the collection, the use and retention of samples and how those individual rights should be recognised and protected.

To that extent we go right back to the age-old question of competing rights, which is a familiar theme in this place: the rights of the individual and the questions of personal freedoms and entitlements versus the rights of the community at large, where those rights might not necessarily be compatible. Again it falls to Parliament to determine the balance of those competing rights. We are asked to strike a balance on the line of continuum that goes from the absolute freedom of an individual at one extreme to the total power of the state at the other.

The debate today — or at least the variation in the positions taken by the individual members and parties — relates only to that point on the continuum where we think the law should land. To that extent we are debating this issue at the margin and we are not addressing the principal issues, and that of itself is pretty good because that is how the system should work.

At that point I should report that the National Party shall be supporting the amendments to be brought forward by the Liberal opposition when this bill is debated at the committee stage. As I understand it, the purpose of the amendments to be offered to the chamber by the shadow spokesman are quite straightforward. They simply say, as I understand them, that the rules relating to the collection, use and retention of forensic samples will effectively be the same as those which currently apply to the collection, use and retention of fingerprints. In other words, samples may be collected from a suspect in the normal course of a police investigation where it is believed on reasonable grounds that the sample would tend to confirm or disprove the suspect's involvement in the commission of an offence.

That to us seems to be an absolutely logical position to prosecute and we shall, in fact, be supporting the amendments on that basis. But I make the point that the position to be put forward by the shadow spokesman is in stark contrast to the government's position which would — again as I understand it, because it is something of a moving feast — require a court order to obtain a forensic sample.

We in the National Party are not convinced that that is a practical or even reasonable prohibition because we are not convinced that the requiring of a court order will provide any protection to the individual, given that it is likely to become a standardised stock procedure. Indeed, it is not all that long ago that we in this chamber were required to address an issue whereby some thousands of orders gained from a court were struck down because they had not been appropriately granted. The question in that case was whether a judge could provide these orders in chambers, and to clarify the law we were required to revisit that issue.

In any event we are not convinced that the mere requirement for a court order to be obtained before a sample might be taken would provide anything like the individual protection that government members apparently believe it would.

I might also say that that is quite different and quite separate from the government's revised position in respect of the requirement that a sample be taken in the presence of an independent witness and that the procedure be captured on videotape. I understand the government has in fact shifted from that position and I look forward to hearing the latest version of the

government's position because, as I said, it has been something of a moving feast. But I note that it is that issue of whether the taking of a DNA sample should require the presence of an independent witness or the recording on video that prompted the secretary of the Police Association to write to every member of this chamber, and, indeed, to every member of this Parliament.

I am a bit intrigued at receiving a letter from Mr Mullett. I cannot remember receiving a letter from him in the past. In fact, I put this down as something of a red-letter day to get a letter from Mr Mullett seeking my assistance, because I do not recall anything quite like that occurring in the seven and a half years I was a minister of the Crown in this place. I note that Mr Mullett cannot quite bring himself to acknowledge that it is members of the government who intend to impose the debilitating and unnecessary restraints which he complains of in his letter, in which he says:

> These measures apparently include the requirement for an independent person to be present whilst the samples are obtained and/or the process is proposed to be the subject of videotape recordings.

He says of members of his association:

> We believe that this would be a time-consuming and resource-intensive imposition on our members that would involve considerable delays in terms of collecting the DNA that is so vital in relation to the compilation of a contemporary database.

He draws the following conclusion:

> The proposed amendments would have a counterproductive effect on the ability of our members to do their job.

As it happens I agree wholeheartedly with him, but it would have been nice to have Mr Mullett say, 'Hang on, it is the members of the government who apparently intend to bring in these debilitating and unnecessary restraints'. He might also have gone on to note that it was, in fact, the members of the Liberal Party who were wanting to ensure that the advantages of the new technology would be available to the police force without impractical conditions being imposed on its use. He might also have noted that the members of the National Party have been fulsome in their support for the embracing of the new DNA technology.

I hope Mr Mullett's hesitation in noting the differences in the stances across the political spectrum is nothing more than embarrassment, because there is every reason for him to be embarrassed. It is, after all, the same persons who are now apparently offering those debilitating and unnecessary restraints whom he so fulsomely supported in the most recent election campaign. If he is embarrassed that is a very good thing, because his partisan support of one particular party was in my view most inappropriate on that occasion.

In any event we are now told that the government's position has shifted again, and we should be thankful for that. I must say that the government's position today is dramatically different from that which it adopted in earlier debates on the same issue back in 1993 and 1998, where the general concept of embracing the DNA technology was fundamentally opposed — and, I believe, fundamentally opposed on quite frivolous and partisan lines. I only hope the members of the Bracks government feel a bit embarrassed today at the position they adopted in respect of that earlier legislation and that they are now acknowledging the importance of embracing the DNA concept. They should feel good about actually expanding upon that application in today's climate. But such is politics, and more's the pity.

I am charitable, Mr Acting President, and in that charitable light I offer the government my response: 'Thank goodness you have actually seen the light and are prepared to now not only embrace the DNA technology but improve upon its application'. I extend my genuine congratulations.

The specifics of the bill are really quite simple. They say in the first place that whereas the 1993 legislation allowed the taking of forensic samples from suspects and the 1998 legislation expanded on that to allow for the taking of forensic samples from prisoners and convicted offenders, in each case that process applied only where the sample was either volunteered or the person was in custody.

As I said earlier, we currently have some 3500 unexecuted orders for forensic samples, and those orders cannot be executed because the persons who are the subject of them are no longer in custody and, not surprisingly, few of them are volunteering a forensic sample. The bill expands the power of the police force to obtain a sample when the person is not in custody. I note that safeguards are employed in relation to the physical collection procedure, but the bottom line is that a person can be required to attend a certain place at a certain time for the purpose of providing that forensic sample, and where that person does not attend the police are able to seek and issue a warrant for the arrest of that person for the specific purpose of gaining that DNA forensic sample. That is effectively what the bill says. It means that the acknowledged weakness in the law, insofar as it previously applied to the collection of DNA samples, has been overcome. That is a good

thing, and to that extent I congratulate the government on its preparedness to embrace modern technology.

Secondly, the current act specifies the offences for which a forensic sample can be obtained. Those offences include, not surprisingly, the offences of murder, burglary, armed robbery and rape. The bill now extends the definition of 'forensic sample offence' to include false imprisonment and the assistance of an offender to commit a forensic sample offence. In an appropriate response to the atrocity of 11 September we see two new offences included in the definition of a forensic sample offence, being the contamination of goods and a bomb hoax. Again, I suggest to the chamber that that is a reasonable expansion of the law and one that is supported by the National Party.

Thirdly, the amendments in the bill ensure that Victoria can expect to effectively participate in the national DNA database which is currently being developed — and this should be a two-way street. For maximum effectiveness those national records need to capture all the state-based sample inputs and on the other hand should provide states and territories with uninhibited access to the total database collected from across the nation and should particularly include access to data derived from the other states and territories.

This is a complication resulting from our constitutional structure and the fact that the national government was established as a commonwealth of states — that of itself imposes some well-known technical difficulties and a whole range of well-trodden sensitivities. It is very clear that it is in the best interests of all Australians to have a free flow of information to get the best possible data access and usage from the database, but it is also just as important that we should do so in a way that does not unnecessarily impinge upon the sovereign rights of the states if we are to get total support. We understand that.

It is another quite tricky constitutional issue requiring model legislation and cooperation across jurisdictional borders. I have to say I am personally delighted to see the level of cooperation that has emerged over the past handful of years. I am happy also to put on the record that over the years I may have in some way contributed to that through the good fortune I had in representing the state as a minister of the Crown. There are many instances where we have enjoyed great levels of cooperation across state lines and have been able to find practical solutions to the matrix of commonwealth and state responsibilities.

In this case we have a solution which has been fashioned on an initiative taken by the Standing Committee of Attorneys-General, and I commend them for what I believe to be a practical outcome. It is good to see that cooperation, and I live in hope to see it spread, because I think there is much more to be done, not just as to the question of whether we can prevent the crazy border anomalies which have bedevilled us in the past but as to whether we can avoid the parochialism that led to situations such as the rail gauge disaster of 100 years ago. There is still a level of duplication and even triplication in the delivery of services across three tiers of government. In the same breath that I congratulate the attorneys-general for finding a way through the DNA technology, I extol to them the need to go back and address a whole range of other issues that fall in a similar basket.

That will take a statesmanlike approach. I point to the Kennett government's decision to cede industrial relations to the commonwealth as a case in point. I cannot recall an example either before or since where a state has been prepared to give up any of the territorial jurisdiction that it has enjoyed since Federation. That was a good case in point, not just in terms of the merit of the decision in itself but in that it removed an entire tier of administration and to that extent represents a more effective government structure. That is a really good example of where good sense should be driving us and where there is a clear recognition of the need to refine a costly and top-heavy structure across the three tiers of government.

I extend my congratulations to the attorneys-general on what I believe to be a good decision. But there are many other anomalies which blight our community due to the structure of the states. There are many other issues where for years we have been tip-toeing around the question of states' rights, and we should be prepared to grasp the nettle.

There is one issue I want to mention in passing that gets me really mad, and that is the ability for delinquent debtors to secure protection from their creditors simply by crossing state borders. It is a problem which, not surprisingly, looms bigger for businesses that operate near or on state borders. The service of debt proceedings interstate is a difficult issue. The state-based police forces are not really interested in migratory debtors. The extradition costs are prohibitive, and the smartest delinquent debtors simply trade on the anomalies by border hopping. I could tell many stories, particularly relating to the hire car industry where the opportunity to skip is greatest.

I invite the Standing Committee of Attorneys–General to go back to the table to talk through a workable solution to this particular border anomaly and the

frustration which is caused to businesses across the state, particularly small businesses — more often than not large businesses have branch offices across the jurisdictional borders and are thereby able to follow up on a delinquent debtor. Anybody who wants a really good example of someone working the system to avoid paying his or her debts or the conversion of leased goods should call Cr Des Brown, the newly re-elected mayor of the Shire of Southern Grampians who has had a classic experience to demonstrate why we should do something about the border anomalies that remain.

This bill is about the collection, use and storage of DNA specimens and how we get the best possible use from this exciting new technology while at the same time respecting the rights of individuals. It is practical and reasonable legislation, and the National Party is happy to indicate its support for the bill before the chamber.

Hon. JENNY MIKAKOS (Jika Jika) — I rise to make a brief contribution in support of the Crimes (DNA Database) Bill. My colleague the Honourable Dianne Hadden made an excellent contribution to this debate last week, and it is not necessary for me to cover a lot of the same ground.

The bill is part of the government's commitment to developing new and expanded crime prevention programs to keep Victoria safe. Honourable members would be aware of the government's commitment in this regard, which has seen hundreds of additional police added to our streets to keep our community safer. At a personal level I am pleased that the government has also funded the building of two new police stations in my electorate — at Northcote and at Preston — both of which are currently in the process of having their site locations finalised.

As part of its commitment the government is also prepared to embrace the benefits that modern technology can bring to modern policing. As part of this acknowledgment, the government appreciates that DNA technology is a valuable investigative and evidential tool. Honourable members have already indicated in their contributions that DNA technology is able to do a lot of things that fingerprinting and more traditional forms of policing have not been able to do. The value of DNA information lies not only in its capacity to implicate a person in the commission of an offence but also in its ability to eliminate a person from suspicion. Over a number of years there have been cases, particularly in the United States of America, where convicted prisoners, even on death row, have been released after many years upon providing DNA samples because those samples have been able to prove their innocence.

I come to the bill with a perspective that DNA sampling is something that innocent suspects should not fear. Honourable members have had a lot to say about the need to balance fundamental rights, the protection of people's privacy and ensuring that there are adequate safeguards in legislation with the need to give police appropriate powers to detect and investigate crimes. This legislation strikes that careful balance in providing safeguards and enabling police to do their job.

As the Honourable Roger Hallam acknowledged, I too am no expert in DNA technology, but my understanding of it is that DNA is a unique identifier of each person in a way that is similar to fingerprinting, but it is a more effective form of identification because each person has unique DNA and a sample can be obtained from various sources, not just from the tips of one's fingers but from biological specimens that a person is able to provide.

I am pleased that Victoria has been at the forefront of utilising DNA information for criminal investigations in this country. Existing legislation already allows for forensic samples to be taken from suspects, prisoners, convicted offenders and volunteers. This legislation seeks to improve upon the existing procedures for obtaining, using and retaining forensic samples as well as facilitating Victoria's participation in a national DNA database.

It is possible for the police to take DNA samples from certain individuals. The bill allows for a person to consent to take their own forensic sample by way of a mouth swab, a simple procedure involving a cotton bud being scraped against the side of a person's mouth. This procedure will be subject to the supervision of an authorised trained police officer; currently such forensic samples must be taken by a doctor or a nurse. It is believed this requirement is not necessary where a suspect consents to the procedure being undertaken. The change to the procedure will seek to minimise the intrusiveness of procedures for the taking of such forensic samples.

Other changes to the legislation relate to concerns expressed by the Victoria Police Association, and the Honourable Roger Hallam referred to a letter he received from Paul Mullett, secretary of the association. I believe that correspondence was sent to all members of Parliament, and the government engaged in discussions with the association as a result of those concerns and will be proposing amendments to the bill that seek to alleviate those concerns. Some concerns

raised by the association were unfounded because I believe they were based on a misunderstanding about how the legislation would work. I acknowledge that it is important for police not only to obtain such forensic samples in a way that is not intrusive to the individual suspect but also ensures that they are able to undertake their work without undue complication and delay.

The government will be seeking to make changes to the procedures to remove the requirement that a forensic sample procedure must be either videorecorded or witnessed by an independent person. This requirement is seen to be unnecessary in circumstances where the person consents to conduct the procedure themselves. The government's view is that it is vital that police have the proper tools available to effectively investigate crimes and the requirement that the self-sampling procedure be videorecorded or witnessed by an independent person is seen to place an unnecessary burden on Victoria Police. The government will be introducing an amendment during the committee stage to remove that requirement and to address the concerns raised by Victoria Police.

The other aspect of the bill I wish to touch upon relates to the widening of the definition of a forensic sample offence. Under existing legislation police may apply for an order to take a forensic sample from a person who has been found guilty of a forensic sample offence. The current definition of a forensic sample offence includes offences such as murder, burglary and armed robbery. In response to community concern about serious crimes, the government is proposing extending the definition of a forensic sample offence to include offences such as false imprisonment, assisting an offender to commit a forensic sample offence, a bomb hoax, offences connected with explosive substances, and the contamination of goods.

It is my recollection in reading about the 1993 bombing of the World Trade Centre in New York that the Federal Bureau of Investigation in the United States of America was able to trace the perpetrators of that crime by using DNA technology. Such technology is an effective investigative tool. Given the present heightened concern in our community about terrorism, it is important that we reflect that community concern and extend the bomb hoax offences connected with explosive substances and the contamination of goods in the definition of a forensic sample offence.

The other key feature of the bill relates to streamlining of the current procedures for retention orders. Currently police must apply for an order to retain a DNA sample to the Magistrates Court. However, given that many offences are heard and prosecuted through the County Court and Supreme Court, particularly in relation to indictable offences, it is only sensible that those courts also have the ability to order that forensic samples be retained. The bill will seek to allow a police officer to apply to the County or Supreme courts for a retention order that a forensic sample be retained after an offender has been convicted of an indictable offence.

The other aspect of the bill relates to the arrangements currently in place for the carrying out of court-ordered forensic procedures. Police are able to apply to the court to take a forensic sample where a suspect is already in prison. However, at present there are over 2500 unexecuted orders made against people who are not in custody. Unless those orders are able to be executed, the ability of the police to utilise DNA information will be severely limited.

The bill seeks to introduce new procedures that will enable the police to obtain a court-ordered forensic sample from an offender who is not in custody. Where a person refuses to provide a court-ordered forensic sample, police will be able to apply to a magistrate or a registrar of the Magistrates Court for a warrant to arrest that person.

The Honourable Roger Hallam in his contribution suggested that a court order would be required in all situations. However, it will be the case that where a suspect volunteers a forensic sample the police will not need to apply to the court for such an order, nor will they need to execute a warrant for the person's arrest.

The safeguards the government is putting in place will ensure that DNA samples are only obtained from people where there is a reasonable belief the person has committed an offence and the taking of the forensic sample will assist in the investigation.

The final aspect of the bill I wish to address relates to Victoria's participation in the national DNA database scheme. The bill seeks to facilitate Victoria's participation in a national DNA database by enabling Victoria to enter into arrangements for the exchange of DNA information between Australian jurisdictions. It seeks to provide for reciprocal enforcement of orders for the carrying out of forensic procedures made in other jurisdictions. Such procedures will be particularly useful where suspects in Victoria flee interstate and the reciprocal enforcement of orders will effectively allow for a warrant to be executed against a suspect in another jurisdiction.

Victoria's participation in the national DNA database scheme has been modelled on the draft Model Forensic Procedures Bill developed by the Model Criminal Code

Officers Committee at a national level. This particular scheme provides for a number of safeguards relating to the disclosure and use of DNA information, and the legislation will ensure that DNA information is only exchanged for law enforcement purposes. The bill also contains provisions relating to the misuse of such information and includes criminal offences for any breach.

I note in this respect that the bill has been modelled on the national approach. To date the commonwealth, New South Wales, Tasmania and the Australian Capital Territory have all passed similar model legislation, and it is hoped the other jurisdictions will also participate. This will be an invaluable tool in ensuring that suspects who either work across a number of jurisdictions or who flee from Victoria to another jurisdiction will be able to be prosecuted for their offences.

Finally, I note that while we have not as yet seen the amendments the opposition will bring before this house at the committee stage, I wish to make some comments in anticipation of what those amendments may relate to.

I anticipate that the amendments may replicate the amendments that the opposition moved in the other house, and I stand to be corrected in that respect when we get to the committee stage. The opposition in the other house sought to introduce a number of amendments relating to the storage of DNA samples and particularly to move to an approach used in the United Kingdom where the Department of Justice controls DNA samples rather than the police themselves.

While in principle I have no fundamental objection to such a proposal the opposition needs to be mindful of the national approach that has been agreed to and the fact that these types of alterations will impede Victoria's ability to participate in a national DNA scheme. All the other jurisdictions have taken an approach similar to ours. As I indicated earlier, the Victorian bill has been modelled on the Model Forensic Procedures Bill developed by a national Model Criminal Code Officers Committee. In fact that legislation was even passed by the federal Parliament — the opposition's colleagues up in Canberra. The opposition perhaps may not have thought through the consequences of these amendments, and I look forward to making some further comments in this respect perhaps once we see the amendments in the committee stage.

The opposition in the Legislative Assembly also sought to remove the requirement that court authorisation be required where a person had refused to provide a forensic sample. Again the government takes the view that the existing requirement for a court order where a person does not wish to voluntarily provide a DNA sample is an important safeguard to ensure that forensic samples are only taken compulsorily from suspects where there are reasonable grounds to believe the person has committed an offence and that the taking of a forensic sample will assist in the investigation. I do not believe that requiring the courts' vetting of such procedures provides any type of impediment to police conducting their work, and I think it is a very necessary safeguard, given that DNA is able to provide a lot of information to the police that is not available from a mere fingerprint.

The opposition is seeking to put DNA information on a par with fingerprints. It would be inappropriate to regard fingerprints and DNA as being of equal forensic value because DNA information provides a lot more information about a person's biological composition and about a range of other things which are not relevant to policing or the investigation of an offence, and for that reason it is necessary to build some safeguards into the system.

In conclusion I believe the legislation seeks to strike a very careful balance between the need to provide adequate safeguards for the community and the need to allow the police to properly investigate offences and to protect the community from offenders. That balance has been reached. The government has done well to respond to some of the concerns raised by the Police Association in the amendments that it will be moving in the house later today, and I wish the bill a speedy passage.

Hon. B. C. BOARDMAN (Chelsea) — I pick up on the concluding comment by the Honourable Jenny Mikakos that she believes the government has addressed some of the issues the Police Association raised with the government. What a hypocritical statement that is! This is the government that purports to have some genuine interest in crime management and in reducing the crime rate in the community by providing adequate law enforcement resources and regulation. It now goes through this confusing process. It introduced amendments into the other place and then reassessed the situation when the Police Association identified some sound and justifiable practicalities and brought them to the government's attention. Subsequently it moved to remove those amendments when the legislation was read for a second time in this chamber today.

I find it amazing that a government which purports on the one hand to be generally interested in trying to

achieve the best possible result for the community in so far as its safety and welfare are concerned could then on the other hand introduce legislation such as this which is cumbersome, confusing and not in the best interests of the service providers which it is supposed to be regulating for.

Ms Mikakos also made the point that there is insufficient evidence to suggest there is an impediment to police by going down the path of obtaining a court order in order to take a sample when the voluntary submission of a sample is not possible. I do not know where that briefing note or that suggestion came from or if Ms Mikakos is simply philosophically basing her arguments on past experience. The reality is that if a police officer has a suspect and wants to take a sample of that suspect's DNA the officer has to go through a complicated process of filling in forms and conducting evidentiary procedures with the court, lodging an application with the court, and then subsequently finding the time to attend the hearing, present the evidence directly to the court, wait for the court to make a decision and then go back and take a sample. I do not know if Ms Mikakos has any idea of how long that would take, but during that time the police would be off the road, tied up with bureaucratic nonsense when clearly they should be serving the community in a more proactive way to provide better solutions.

It seems to me that this legislation is somewhat of a challenge for the government because past history shows that it has some difficulties both practically and philosophically with this type of legislation — with anything that is designed to improve the investigative capabilities of Victoria Police and actually contribute to making the community a safer place.

I note, however, the comments of the honourable member in relation to the national DNA database. If we can recall, on 13 July 2000 the Minister for Police and Emergency Services released a press release entitled 'Crimtrac program on track'. This was about an agreement reached at the Australian Police Ministers Council where he joined his state and federal counterparts in signing off on the multimillion-dollar Crimtrac national crime database. The philosophy behind this database was to reduce unsolved crimes and serious offences and to simplify the job of identifying suspects of crimes who might have transdata locations. It went on to say that the government would fund 70 live scan units that would capture not only fingerprints but palm prints. This would be introduced to improve taking a suspect's fingerprints by replacing the old inkpad and paper method.

I do not know what has happened to those live scan units or whether they have been implemented in the Victoria Police and are proving to be effective, but the technology is internationally renowned, and I hope they are out there. I will be following up on the minister's press release today to establish whether those resources have been allocated. I say that on the basis that the technology is evolving even further, and although Crimtrac was originally designed to try to improve the transmission of fingerprint information, now we are in the final processes of the national protocols for DNA information. Part of the Crimtrac program was to include the national DNA database and also to incorporate a national sex offenders database, and that is what part of this legislation is designed to do. It is to provide the state with the mechanisms for obtaining and storing these samples and to ensure that law enforcement and the investigation of crimes in Victoria is best equipped to meet the community's expectations.

I remember that there was considerable discussion when this legislation was introduced last year. A press release from the Attorney-General dated Thursday, 29 November 2001, states that the introduction of this legislation 'paves the way for Victoria to join the national DNA database' and indicates that there have been significant advances in the collection and collation of samples of both fingerprints and DNA to provide a national response in the investigation of crime. That is very pleasing, and the technology has been working quite effectively. There are profoundly successful examples of other countries having interrelated their own databases with those of external jurisdictions to provide the best result. That level of cooperation has resulted in real successes. The Attorney-General said:

> The Crimes (DNA Database) Bill will improve the existing procedures for obtaining, using and retaining forensic samples.

In one way that sounds quite reasonable, but only if it is the case. Philosophically that might be what this legislation is trying to do, but in practice the situation is somewhat different. I again make the point that this story has evolved considerably because the government has not been able to make up its mind to the extent that best reflects the community's attitudes and will lead to a practical and reasonable outcome for Victoria Police.

This press release is quite fascinating. It goes on to state:

> The bill allows police in Victoria to share DNA information with police in other Australian jurisdictions for law enforcement purposes. Safeguards are provided to ensure that DNA information can only be disclosed and used for certain purposes.

Once again that sounds quite a reasonable statement and that seems to be the objective need to work towards, because there is no such thing as complex criminal investigations being isolated to specific geographical areas. We know that although technology and response by law enforcement agencies is evolving, so also are the methods and the technologies that criminals are utilising in order to commit their crimes. The legislation needs to reflect that to ensure that there is an adequate and appropriate response and allocation of technology and resources.

It is probably opportune to identify the historical aspects of what has happened with DNA and body sample-taking regulations in the state, to give an appreciation of why we are having this debate today. There is an issue that I need to state from the outset, and that is that it is fine in one sense for the government to introduce the legislation and make the point that its motivations are in the national interest and also, equally importantly, in the interests of all citizens of the state of Victoria. But there is a lack of identification and acknowledgment of the difficulties and challenges that confront Victoria Police at the moment in allocating additional resources to analyse these samples. There is a real situation with this. The Victoria Forensic Science Centre at Macleod is facing extraordinary pressure in trying to keep up with the demand this process requires, and that is before this legislation is passed. That is under the current regime, which has quite strict criteria as to how police can and cannot take these samples. Once this legislation is passed the criteria and eligibility methods will change considerably, and there has not been the identification of resources or a sufficient allocation of funds to enable Victoria Police to manage the problem. I am going to talk about that in some detail.

Touching on the historical aspect, I need to highlight some of the hypocrisy the government has shown in introducing this legislation. It is important to note that the first time Australia had comprehensive legislation in relation to forensic procedures was in Victoria in 1989, with the introduction and passing of the Crimes (Blood Samples) Bill.

Part of that act incorporated a sunset provision for one year because the then Cain government was again failing to adequately address the philosophical differences within the Labor Party and was facing external pressures. Groundbreaking and of national importance as it was at the time, the legislation was for only one year. With the benefit of hindsight it is difficult to acknowledge that if there was that genuine commitment to law enforcement activities you would hamper law enforcement activities by having a sunset provision or introducing a restriction that prohibits that type of investigative technique to only one year.

The legislation proved to be groundbreaking and incredibly successful. In 1991 the Crimes Legislation (Miscellaneous Matters Amendments) Bill was introduced. It repealed the sunset provision and expanded the range of offences for which blood samples could be taken by order or consent to cover all indictable offences against a person. There was that acknowledgment of availability of having such procedures. The Kirner government of the day went down the correct path, battled the philosophical differences that no doubt the Labor Party would have been confronted with and introduced legislation that was the appropriate response in dealing with what was the evolving technology in law enforcement.

In 1993 the Crimes (Amendment) Bill was introduced. It broadened the type of samples that could be obtained. No longer was the technology restricted to blood samples. It included samples such as pubic hair including the root, if required; samples from external genital or anal regions and female breasts, saliva, mouth scrapings and dental impressions. Non-intimate samples of the body were defined as non-pubic hair including the root, if required; matter from fingernails or toenails; swabs from non-genital or anal external parts, and not female breasts. That legislation identified that there were a number of other ways in which you could take the samples so as to provide a forensic analysis with the appropriate material in order to come up with a reasonable analysis of a person's DNA.

I recall that at the time that was subject to significant debate in this place. It resulted in considerable outrage from particularly the Council of Civil Liberties, and the Labor Party was internally divided on that type of legislation because there was that lack of acknowledgment that technology had progressed to such an extent where you could move from blood as being the only sample to be taken for analysis to the other samples, as I have mentioned.

In that regard I find it quite curious to note the comments from the Council for Civil Liberties at the time. I refer to the *Age* of 4 March 1992, where the council states that the law was:

> … unjustified and deceptive law-making which was unlikely to provide reliable evidence for criminal prosecutions.

It is interesting to note that we have moved considerably forward in that regard.

The Labor Party was faced with a difficulty of trying to get over its own predeterminations with this legislation

and trying to work out whether they would be progressive and in tune with community expectations or whether they would succumb to pressure groups such as the Council for Civil Liberties. Mr Neil Cole, then the honourable member for Melbourne in the other place, in his contribution to debate on the legislation on 23 November 1993 said he was:

> … extremely concerned that the capacity of people to object to having their fingerprints taken has been removed and that matters now have to go before the Magistrates Court.

He was making the point that because there were quite clear procedures in relation to taking a person's fingerprints, they could be taken in a number of situations where consent was involved and otherwise. He concluded that the government needed to be very cautious about moving forward in relation to what eligibility was placed on the taking of DNA samples. Mr Cole further states:

> Members of the opposition are concerned about the taking of mouth swabs and dental impressions …

He made a comparison in relation to a report by the Coldrey committee that said there was no justification for making the scraping of a person's mouth a compulsory procedure for criminal investigation purposes. Even in those days, which is just on 10 years ago, there was that difficulty about the philosophical obligations of a person to provide a sample and whether it would be a worthwhile tool in criminal investigations. The reality is that, as has been widely acknowledged not only in Australia through some of the technological increases and inroads made by ourselves but also internationally, it is the future of law enforcement. In fact, it is the current process in law enforcement.

There have been a number of cases in Victoria and throughout Australia where DNA has not only provided incredible effectiveness in proving that somebody unquestionably has had a role to play in a serious offence but equally has provided valuable information in exonerating or clearing a person who may have been implicated through a range of other circumstances. For that reason, I find the objections of some members of the government about consent or court orders or whatever the processes may be somewhat difficult to digest because there is that presumption that if a person does not consent to this, they are probably doing themselves an injustice because it has the potential to clear as well as implicate them.

I refer to another curious comment made by Neil Cole in 1993. He said:

> The opposition believes strongly that technology such as DNA testing should not be precluded for want of a legal ability to obtain it. The opposition's overall concern is that the government is attempting to alter the balance between the liberty of the individual and the right of the state.

It is fascinating to see that we have moved considerably further than Mr Cole said was the situation in 1993. I am glad that is the case although it is undoubtedly a little difficult to comprehend why the government would be trying to stifle the quite commonsense and adequate amendments that the opposition proposes to move during the committee stage, which are not only in the community's best interests but also preclude the police from participating in processes and administration that may be disruptive and that may be cumbersome and an unnecessary burden.

To highlight some of the issues confronting resource allocation in relation to scientific analysis of DNA samples it is important to note and point out in doing so that comments made in this chamber or publicly by members of Parliament have the potential to come round and resurface themselves as the opportunity arises. In doing so I highlight some of the comments made by the present Minister for Police and Emergency Services when he was the opposition police spokesperson. On 1 June 1995 his press release states, in part:

> The shadow minister for police said that a report by the all-party Crime Prevention Committee revealed delays of six months or more in the analysis of some blood samples.

He went on to state:

> … if samples were analysed sooner it would enable police to solve crimes more quickly.

That is all well and good because if he were genuine in that comment and if he were seriously committed to ensuring that police could solve crimes sooner by trying to address the problem of the backlog and some of the resource or management difficulties that the police currently face in Macleod with their forensic analysis, he would have done something in the two and a half years he has been the minister because the backlog is completely and totally unacceptable. Although that press release may be six and a half years old it still makes the point clearly that it is one issue to simply have the mechanics to enable police to do their job and to assist in trying to apprehend and prosecute offenders, but it is something completely different to allocate the necessary resources to assist and aid this technological response that undoubtedly is very important.

Victoria Police identifies how important this is. On its web page in relation to what DNA profiling results mean for a case it states:

> DNA profiling can be a very powerful investigative tool. Of the cases carried out so far, approximately 50 per cent of the profiling results have established that the suspect was not the source of the sample associated with the crime — that is, he/she was excluded as being the perpetrator of the crime.

Once again the point is clearly made: the benefit is not just for the police as an investigative tool, but also to potential suspects to exonerate them if necessary, and that is widely acknowledged.

The resource issue is extremely important. Absent from this debate so far, particularly from the government side, is the cost and implications of the cost associated with this technology. To conduct DNA profiling — and I refer again to information from the Victoria Police web site — it costs approximately $50 for consumables and approximately $150 per hour for the analysis, which includes all parts of the analysis including overheads and the cost of the scientists. The difficulty in getting a specific case-by-case cost is obvious because a sample may be a trace sample, a body sample or involve different body methods and techniques depending on what type of sample is provided, but on average it takes about two weeks to obtain a full DNA profile and usually they are analysed individually and entail crosschecking and referencing to ensure the sample is analysed correctly and appropriately in so far as the evidentiary provisions are concerned. So it can run into a costly exercise for the Victoria Police in providing this service.

That is where the problem starts because as from the end of February this year there is an enormous backlog of cases at the Victorian Forensic Science Centre awaiting analysis that clearly is hampering crime investigation and crime reduction in the state. The backlog insofar as biological examinations are concerned from a branch level — I understand these are where there has been a request from a criminal investigation unit or crime squad for a sample to be analysed where a suspect is identified — as at February 2002 is 840. The numbers pending — this is where the request has not been formally submitted but no doubt will be submitted as part of the investigation process — is approximately 800. That does not include where a suspect has not been identified. There are two specific differences in relation to what necessitates the priority in the order of sample analysis. If we include where a suspect has not been identified and where the urgency is not as high a priority as where a suspect is identified, there are in excess of 3000 cases backlogged at the Forensic Science Centre awaiting analysis — that is of considerable concern. The government has not acknowledged how serious this problem is, yet it is introducing legislation that may compound the problem.

I call on the government to identify a strategy, a policy, some funding or some allocation of resources to deal with this serious situation. The comparison is profound. In 1987–88, when the legislation was first discussed, there were 517 cases in that financial year requiring analysis. By contrast in 2000–01 there are in excess of 3700 cases requiring analysis and the legislative procedures have changed, technology has changed and the evidentiary procedures that now make it a necessity as a component of investigations have changed.

It is unacceptable that this should jeopardise public safety in Victoria, particularly when honourable members consider the seriousness of the crimes that necessitate police going down this path. Currently there is an eight-month backlog — the time it takes from when the State Forensic Science Centre receives a DNA sample — for that sample to be analysed. That is extraordinary. So a known defendant, someone who has the potential to commit other crimes while being investigated, may wait eight months to get a sample analysed. Undoubtedly the community has strong reasons to be outraged. The government has not responded to that issue. It introduces legislation but it has not indicated how it will identify and improve the situation at Macleod and provide a more worthwhile alternative to a serious challenge.

There is a contrast to this issue — I personally have some indifference to this — but if a sample is required as part of an internal investigation, and I am not down-playing how serious internal investigations must be treated, the sample analysis is almost instantaneous. It is done within the two-week opportunity that it takes to conduct the analysis. There is some management hypocrisy on behalf of the Victoria Police, that although it can get a sample turned around where it is essential because there is a directive relating to an internal investigation, there is an eight-month backlog for other crimes where a suspect is identified.

Where a serious crime such as a homicide is part of the equation, the backlog is reduced because obviously there is an allocation of resources, but the reality is, which is bad news for the police, people have to wait because they do not have the manpower or resources to deal with the situation and there is no acknowledgment by the government of how complex and serious the problem really is.

Currently 42 sworn members work at the Victorian Forensic Science Centre and not all of them work in DNA profiling because it is a very complex process requiring considerable academic and scientific qualifications to provide that expert advice. Those 42 members would be involved in other activities such

as crime scene investigation, fingerprints, photography, analysis of stolen motor vehicles and assisting in other investigations. This is the only forensic science centre in the state yet there are only 42 sworn members attached to the facility; so considerable resources need to be allocated to bring it up to an international standard.

I make the point that the opposition welcomes the philosophy behind the legislation and the motivation behind it, but is appalled at the hypocrisy of the government in introducing ill-conceived amendments in the other chamber and then having to go through a ridiculous process that shows its lack of preparedness and acknowledgment in consultation with the appropriate stakeholders on the real issues. The government has had to amend amendments simply because it is opportune and the facts have been pointed out to it, which demonstrates it is probably not in the best situation to be managing the legislative program in the state. On the other hand, in stark contrast, the opposition has identified and historically has a strong record in this type of legislation. It has identified how important it is to the community and how crucial it is for modern criminal investigation techniques to be used. It is essential that the legislation is amended in accordance with the opposition wishes because we are the only ones who have consulted the community extensively and know the reality of the challenges, problems and expectations of the Victoria Police and the community in relation to the legislation. If the government believes it is in a better position to block the amendments it is doing the community a great disservice.

I am appalled that we have had contributions from government members that highlight how important legislation is but have not done two vital things: tried to make the legislation respond to community needs and identified the problems that exist with the Victoria Police and the challenges confronting it with the analysis of forensic samples and in providing worthwhile techniques in criminal investigations. It is a disgrace that that issue has not been brought up by the government thus far. The opposition will pursue that in the committee stage and I hope during that stage the government will show some genuine commitment, because that has been sadly lacking so far.

Motion agreed to.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

The ACTING CHAIRMAN (Hon. G. B. Ashman) — The committee has to consider amendments to this clause from both the government and the opposition, so I might indicate what it will try to do here. Both the Minister for Sport and Recreation and Mr Katsambanis are proposing to omit the same expression '17(2)'. However, the minister is proposing to insert '18(2)' and Mr Katsambanis '21(2)'. The difference is due to Mr Katsambanis's proposal to insert at a later stage four new clauses and the minister's proposal to insert only one. At this stage it may therefore be appropriate for each honourable member to canvass the amendments dealing with the proposed insertion of the new clauses. The first amendment of clause 2 proposed by each mover will therefore test which of the proposed new clauses will be accepted by the committee.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

1. Clause 2, line 2, omit "17(2)" and insert "18(2)".

I believe in speaking to this clause it is worth considering or canvassing the significance of amendment 20 in my name, and thereby I wish to make a statement. The Crimes Act 1958 currently provides that intimate forensic samples such as the taking of blood or a scraping from the inside of the mouth may only be taken by a person such as a doctor, nurse or dentist. The taking of that sample must be witnessed by an independent person. In this situation the independent person may be the doctor, the dentist or the nurse taking the sample.

Clause 7 of the Crimes (DNA Database) Bill provides that a person will be able to consent to taking their own sample of a scraping of the mouth, subject to the supervision of an authorised police officer. This will serve to minimise the intrusiveness of the procedure for the taking of forensic samples.

The bill provides that where a person has consented to conducting the procedure themselves, police must record that consent by tape recording or in writing signed by the person. The bill also provides that the conducting of the procedure must be either videorecorded or witnessed by an independent person.

Further consultation has taken place on this bill since it was passed in the Legislative Assembly. The

amendments remove the requirement that the procedure must be either videorecorded or witnessed by an independent person. This requirement is unnecessary in circumstances where a person consents to conduct the procedure themselves.

The government is concerned to ensure that the process operates both fairly and effectively. It is vital that police have the proper tools available to effectively investigate crimes. The requirement that the self-sampling procedure be videorecorded or witnessed by an independent person places an unnecessary burden on Victoria Police. Certainly there are many situations where the requirement that a process be either videorecorded or witnessed by an independent person operates to protect both police and the person who is subject to the procedure. This is particularly important where there may later be suggestions that the procedure was conducted unfairly or improperly.

Enabling a person to conduct the procedure themselves respects each person's autonomy and minimises the intrusiveness of the procedure. Because the procedure will be carried out by the person themselves, it does not involve the same level of intrusion as when a forensic sample is taken from a person by someone else. Therefore the requirement that the procedure be videorecorded or witnessed by an independent person is unnecessary.

An adequate safeguard exists to protect both the police and the person subject to the procedure with the requirement that the police must record the person's consent to take their own mouth swab in writing or by tape recording. Further, it is desirable for the person who is subject to the procedure that the procedure be carried out as quickly as possible. Removing the requirement that the procedure be either videorecorded or witnessed by an independent person will ensure that a simple and quick procedure is available for people to provide an intimate sample. The amendments strike an appropriate balance between the public interest in the investigation of crimes and the need to protect individuals from unlawful and unfair treatment.

The remaining amendments remove consequential clauses relating to the requirement that the self-sampling procedure be either videorecorded or witnessed by an independent person and make changes to the numbering of the clauses in the bill as a result of the amendments.

Hon. P. A. KATSAMBANIS (Monash) — I move:

1. Clause 2, line 2, omit "17(2)" and insert "21(2)".

The opposition has canvassed the issues relating to the amendments that the government is putting as well as the amendments that I will be moving on behalf of the opposition in the second-reading debate, and I do not intend to take up the time of the committee to unnecessarily re-debate them. However, it is worth stating for the record the opposition's position and what we are attempting to do with our amendments, which we believe are going to arm our police with the modern-day tools they need to fight crime in Victoria.

Insofar as the government's amendments are concerned, I can only say that we in the Liberal Party are glad the government has finally seen the light. Lord knows what possessed it to make the changes it did in the lower house, which introduced an unnecessary burden. In my second-reading contribution, I read on to the record significant amounts of a letter that Mr Mullett, the secretary of the Police Association, circulated to members, to highlight exactly how difficult life was going to be for a member of the Victoria Police force in obtaining DNA evidence if the government's position remained, and it did not change its stance that either an independent person would be present at the taking of a DNA mouth swab sample or that the process be videotaped.

As I said, it is heartening to see that the government has come to its senses. It has taken a lot of unnecessary talk and has created a lot of unnecessary angst. Certainly the Police Association highlighted the need to free up police people's time rather than to tie it up with unnecessary administrative burdens. I believe the government's move to no longer insist upon an independent person being present or videotaping of the procedure to take place is a good one.

As I highlighted in my second-reading contribution to this bill, there are no provisions anywhere in the world except for some bizarre provisions in South Australia that relate to an independent person or a videotaping of the taking of DNA evidence by mouth swab, so it is not as if we were attempting to follow some form of world best practice or trying to come into line with what other places are doing.

It was folly and the government has admitted that. We welcome the fact that the government is moving on this and that we will not burden our police force unnecessarily with silly administrative rules that would simply take police officers off the streets where they should be fighting crime on behalf of the Victorian society.

Insofar as the government is doing what it is doing, we support the thrust of its amendments. However, as I

foreshadowed in my contribution on the second reading of the bill, we in the opposition believe that the government has simply not gone far enough with this legislation; that, yes, this is making a significant change to the way DNA evidence is collected and databased in Victoria, but that it is only going halfway; and that it is only untying one hand of our police force in its never-ending and ever-vigilant battle to fight crime in Victoria.

The amendments I have circulated and which I intend moving propose inserting provisions in the bill that will amend the Crimes Act to give our police the powers that are certainly necessary and that they are certainly calling for in order to adequately fight crime in this state.

The amendments the opposition proposes to move will allow a member of the police force to request a sample of DNA from a suspect who is reasonably suspected of having been involved in the commission of a particular offence. That is basically the position that currently exists in England, where a Labour government introduced these provisions and where every suspect in every criminal investigation can be requested to give a sample of their DNA for the purposes of investigating that crime.

Hon. Jenny Mikakos — What are the Labor governments in the other states doing?

Hon. P. A. KATSAMBANIS — We will get there. That is the position in England. That is also very similar to the position that we have in relation to fingerprinting here in Victoria, where every suspect in every criminal investigation can be and is requested to provide a sample of their fingerprints which the police require to properly investigate that offence and to determine whether that person is the perpetrator or is actually innocent.

However, the opposition is adding one more safeguard than the existing law in Victoria has in relation to fingerprints and the existing law in England has in relation to DNA. That additional safeguard is that as well as the person being reasonably suspected of having been involved in the commission of a crime, there needs to be one more element of reasonableness in the minds of police officers before they can demand a DNA sample — that is, that there are reasonable grounds to believe that the DNA sampling of that person would tend to either confirm or disprove the involvement of that person in the commission of an offence within that schedule of DNA offences.

The police will have to have a reasonable suspicion that the person they are holding may have committed the offence, and furthermore they have to have a reasonable belief that the taking of a DNA sample will assist them in the solving of the crime. If they have not collected any DNA evidence from the scene of the crime or if they do not reasonably expect to collect any DNA evidence from the scene of the crime, then obviously that will be a test that will be pretty difficult to prove up. It provides protection for a suspected offender from having a sample taken unnecessarily or without any real reason.

I noted with interest the contribution that Ms Mikakos made during the second-reading debate in which she said — I am paraphrasing, because the contribution was made today — that basically an innocent suspect should have nothing to fear from this regime. I put on the record my full agreement with that view that an innocent suspect should in fact welcome the use of DNA evidence and should welcome the expansion of the use of DNA evidence. There are many examples, not only in Australia but around the world, of innocent people walking our streets as fine, upstanding citizens who have already benefited from the use of DNA technology to eliminate them as suspects in investigations. During my contribution to the second-reading debate I gave the example of the striking resemblance between two people, the photographs of whom some members of the Law Reform Committee actually saw. One of the two people was the suspected perpetrator of a crime who was arrested, charged and incarcerated pending trial and the other was the eventual perpetrator who was caught through the use of DNA evidence. In that case circumstantial evidence against a person who was eventually proven to be innocent could well have led to a wrongful conviction, and there is a real fear that without DNA evidence that sort of thing can happen.

I believe that innocent suspects welcome the expansion of the use of DNA evidence to prove up their innocence, and I agree with what I heard Ms Mikakos say earlier — that is, that innocent suspects have absolutely nothing to fear from the expansion of the use of DNA technology. As for those suspects who are not innocent, I have to say that on balance I would rather protect the interests of innocent Victorians than of suspects who have something to hide and something to fear from this sort of legislation.

I talked about safeguards in my contribution to the second-reading debate, and I am still concerned — this is a personal concern, but because the minister raised it in committee I have to put it on record again — that all of my investigations as to best practice in the United

States and in Europe and all the evidence I have obtained from senior officers in Scotland Yard, Interpol and various American police forces, including the New York police force and the New York Governor's office, have led me to the conclusion that self-administration of mouth swabs is not exactly the right way to go. It is not an overly intrusive procedure for a police officer to administer the swab, and I am concerned about the error rate of the sampling under self-administration.

This is something that we should be looking at, and I do not want to prejudge the results of the investigation that the Law Reform Committee is undertaking, but I have to say it rings significant alarm bells for me, mainly because those experts I spoke to universally condemned self-administration as a second-best option and said that the best option is administration by police officers who have had the requisite training, which does not take too long, and who know what they are looking for. The real safeguard for the people of Victoria in having mouth swabs obtained by police officers is that the persons administering the swab do not have any interest at all in getting a wrong swab — their sole interest is getting the swab correct. However, I must question whether a not-so-innocent suspect has any interest at all in providing a proper, usable DNA sample. To give those people the opportunity to self-administer tends to give us, again, second-best practice rather than best practice, and that should be looked at.

We have all spoken about the safeguards of our database. The people who run our database in Victoria are regarded as world experts. They are part of all the leading international groups that look at the use of forensic sampling procedures and the technologies that are emerging day by day. They are not fly-by-nighters; they are not people who do not know what they are doing; and they are not making it up as they go along. We should give those people every opportunity to use existing technology because it is for the here and now. We should give those people every opportunity to use existing technology to support the efforts of the Victorian police and the Victorian community to fight against the criminal element in our society. We should not tie their hands behind their backs. That is why the opposition believes we should be expanding the use of DNA evidence in the way we have proposed.

It is incumbent on the government to ensure that our police force and our forensic scientists are properly resourced so there is no backlog and so that cases are processed in a manner that provides quick and accurate results. That means making sure the swab is taken correctly so results are accurate. It also means all the procedures and the funding being put into place to ensure that no backlogs develop. It is not good enough to have the technology and the legislation that provides for the technology but not the resources to put the intentions and the legislation into practice.

In a nutshell, the issues relating to our amendments have been fully canvassed in the second-reading debate. The amendments provide our police force with the ability to take DNA evidence from any suspect in any criminal investigation upon two steps being fulfilled. Those two steps are: that it is reasonable to suspect that person's involvement in the commission of a crime; and that there are reasonable grounds to believe that by undertaking a forensic procedure such as the DNA sampling that it would tend to prove or disprove the involvement of the person in the commission of the offence. That is a significant safeguard. It is one additional step to the steps required in order to take fingerprints of suspects. Currently, all you have to have is a reasonable suspicion that a suspect is involved in a crime and you can take their fingerprints. Now, we have two steps. I think that is appropriate and strikes a balance between the need to give our police force proper tools and resources and the need to provide adequate safeguards for suspects in criminal investigations. I believe that through the passing of these amendments the Parliament will send a strong message to the community of Victoria, a strong message that our parliamentarians, certainly those in the opposition, will provide our police force with the most modern tools available to fight crime — that is, the finger printing of the 21st century, the ability to use DNA evidence.

To not accept these amendments will be to accept second best. It will be to delay unnecessarily the introduction of available technology and hamper the power of the police force to properly investigate offenders and the commission of crimes by those offenders. The only thing that will do is help criminals in our society prosper. That is not a message I want to send out to the public of Victoria. I want to send the message that this Parliament understands that the public is crying out for protection from the criminal element and that this Parliament is prepared to arm our police force with the best tools available to combat criminal elements in our society.

There is nothing sinister about our amendments. They are pretty straightforward. As I said, they are similar amendments to current practice in England, fully supported by an existing English Labour government. They are similar to amendments being undertaken in many American states. They will make members of our community feel safer because they know that the police force is not tied with red tape and is not denied modern crime fighting facilities and resources. For the

government to oppose the amendments would send a message to the people of Victoria that they put the interests of criminals ahead of the interests of law-abiding citizens. I would like to think the government does not take that approach, but these amendments will test that and whether the government is serious about fighting crime or whether it will continue down the path of being soft on crime.

The ACTING CHAIRMAN (Hon. G. B. Ashman) — Order! The question is:

That the expression proposed to be omitted stand part of the clause.

Omission agreed to.

Committee divided on Mr Madden's insertion:

Ayes, 12

Broad, Ms	Madden, Mr
Carbines, Mrs (*Teller*)	Mikakos, Ms
Gould, Ms	Nguyen, Mr
Hadden, Ms	Smith, Mr R. F.
Jennings, Mr	Theophanous, Mr
McQuilten, Mr (*Teller*)	Thomson, Ms

Noes, 24

Atkinson, Mr (*Teller*)	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Boardman, Mr	Lucas, Mr
Bowden, Mr	Luckins, Ms
Brideson, Mr	Olexander, Mr
Coote, Mrs (*Teller*)	Powell, Mrs
Cover, Mr	Rich-Phillips, Mr
Craige, Mr	Smith, Ms
Davis, Mr P. R.	Stoney, Mr
Forwood, Mr	Strong, Mr

Pair

Darveniza, Ms	Bishop, Mr

Mr Madden's insertion negatived.

Committee divided on Mr Katsambanis's insertion:

Ayes, 24

Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Boardman, Mr	Lucas, Mr
Bowden, Mr	Luckins, Ms
Brideson, Mr	Olexander, Mr
Coote, Mrs	Powell, Mrs
Cover, Mr	Rich-Phillips, Mr (*Teller*)
Craige, Mr	Smith, Ms
Davis, Mr P. R.	Stoney, Mr (*Teller*)
Forwood, Mr	Strong, Mr

Noes, 13

Broad, Ms	Mikakos, Ms (*Teller*)
Carbines, Mrs	Nguyen, Mr
Gould, Ms	Romanes, Ms
Hadden, Ms	Smith, Mr R. F.(*Teller*)
Jennings, Mr	Theophanous, Mr
McQuilten, Mr	Thomson, Ms
Madden, Mr	

Pairs

Bishop, Mr	Darveniza, Ms

Insertion agreed to.

Amendment agreed to.

The ACTING CHAIRMAN (Hon. G. B. Ashman) — Order! I presume the minister will not be moving his amendment 2 because it has been previously tested by the committee, as have his amendments 10 through to 20.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — That is correct.

Hon. P. A. KATSAMBANIS (Monash) — I move:

2. Clause 2, line 5, omit "17(2)" and insert "21(2)".

This is another consequential amendment. All the amendments, with the exception of amendments 26 to 29, are consequential on those particular amendments inserting the new clauses.

Amendment agreed to; amended clause agreed to; clauses 3 and 4 agreed to.

Clause 5

Hon. P. A. KATSAMBANIS (Monash) — I move:

3. Clause 5, page 6, line 30, omit ", 464T or 464U".

Amendment agreed to; amended clause agreed to.

Clause 6

Hon. P. A. KATSAMBANIS (Monash) — I move:

4. Clause 6, omit this clause.

Amendment agreed to.

Clause negatived.

Clause 7

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

3. Clause 7, line 26, omit "person; and" and insert "person.".

4. Clause 7, lines 27 to 34, omit all words and expressions on these lines.

5. Clause 7, page 9, lines 1 to 10, omit all words and expressions on these lines.

6. Clause 7, page 9, line 11, omit "(3D)" and insert "(3B)".

7. Clause 7, page 9, line 16, omit "or waiver".

8. Clause 7, page 9, line 19, omit "waiver" and insert "consent".

9. Clause 7, page 9, line 23, omit "or waiver".

Hon. A. P. OLEXANDER (Silvan) — My question relates to the procedure on clause 7 for the taking of DNA tests. Will the minister respond to the concern of the Law Institute of Victoria that the self-administration of a test by a person who is party to a criminal action in a court could potentially lead to challenges of that evidence at court.

It is a serious issue so far as the institute is concerned because it says that it is highly irregular for a party in a criminal action, a defendant, to be responsible for the provision of evidence in that trial. It believes it is potentially challengeable and could frustrate the process at trial. How does the government respond to that criticism from the Law Institute of Victoria?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that the bill provides a safeguard in that those persons supplying the samples must agree in writing or by videotape recording that they will willingly provide the samples.

Hon. A. P. OLEXANDER (Silvan) — As a follow-up to that, I understand the minister is saying that consent must be obtained by the person administering or self-administering the DNA sample test, but the question the Law Institute of Victoria has, and which I also have, is that if the party is suspected of a crime, has been charged with a crime and is trying to defend that charge, is it appropriate for that individual to be responsible for providing evidence of that nature to a court of law? It is specifically the law institute's concern that that could be the subject of challenge at trial. I wonder if the minister could respond to that specific query on the part of the institute.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that if a person refuses to provide the sample then that is when a court order is required, so I believe with that answer and the previous answer either one of those courses would provide certainty for that evidence to be presented at trial.

Hon. P. A. KATSAMBANIS (Monash) — I do not particularly want to dwell on this point because it is obvious that the government has chosen to go down the path of self-administration. However, Mr Olexander submits that the Law Institute of Victoria has issues with the admissibility of such evidence, and I have alluded in my contributions both in the second-reading debate and in debating amendment 1 in committee that it appears to be a second-best option to undertake self-administration.

To help the minister, the issue is not about whether consent was obtained. The issue really relates to the quality of the evidence — the sample — that is gathered upon self-administration, either because the individual who is self-administering deliberately attempted to somehow or other obfuscate or not give a good sample or, inadvertently due to a lack of knowledge of what was required, did not produce a good enough sample. That is the crux of the issue; it is to the quality of the sample collected because your data is only as good as the quality of the sample. If you do not get a good enough sample you cannot get a string of numbers, you cannot get the DNA — and that seems to be the issue, that a system where the accused person is the person who self-administers the test is second best compared to a system where that person consents to a police officer administering the swab, which is very similar to a cotton bud, scraped on the inside of the cheek of that person.

Mr Olexander has clearly said that the Law Institute of Victoria has problems with that. What is the government's response to the law institute's concern?

Hon. JENNY MIKAKOS (Jika Jika) — I would like to make a brief point because I think the Honourable Andrew Olexander has raised the crux of the issue. While it is important to have samples from which a DNA sample is able to be derived, it is also important that that sample is admissible in evidence later on. The model that the opposition is seeking to advocate is one which would probably require the police to hold a suspect down. I suggest it would probably be impossible to put a cotton bud in a person's mouth when they are not participating or consenting to the procedure, and it would probably have to involve a blood sample being taken from the suspect in order for DNA to be used in any consequent criminal hearing.

The Honourable Andrew Olexander has raised an important issue here relating to the admissibility of evidence in subsequent prosecution hearings, because defence lawyers may well make an argument that a person who was held down in some way did not consent to a procedure, that there was some duress

involved in the procedure, and it may well be the case that that evidence could be inadmissible in the hearing.

The government is proposing a sensible procedure which will adequately include some safeguards, which will involve a person either consenting voluntarily to give a sample, or when they do not consent the police can go to court and get a court order.

The model that the opposition is advocating here is one that no other Australian jurisdiction has adopted. We are participating in a national scheme to enable information to be included in a national DNA database, and if we move down the path that the opposition is proposing it may well jeopardise Victoria's chances in participating in this national database.

Hon. Bill Forwood interjected.

Hon. JENNY MIKAKOS — Mr Forwood would be pleased to know that we have adopted a procedure similar to the one passed by the Howard government in relation to the national counterpart legislation that was passed. Mr Forwood should be aware — obviously he is not — that Victoria is participating in a national scheme whereby a number of jurisdictions have already passed legislation similar to ours which enables information to be exchanged between our jurisdiction and those other jurisdictions. What he is advocating is a process whereby our participation in that national scheme could be jeopardised, and I think these are another lot of half-baked amendments by the opposition who clearly are not on top of their brief. The shadow minister is far too busy trying to get himself a seat at the moment and has come up with some half-baked amendments which would jeopardise our participation in this national DNA scheme.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am advised that if there are concerns about the quality of evidence through self-administration then the police are entitled to take a blood sample if they believe the quality of that self-administered sample is likely to be insufficient. Again, I am advised they would have to go through a court order to get an appropriate blood sample, which I am again advised would be a sufficient sample for admissibility in a court.

Hon. P. A. KATSAMBANIS (Monash) — I accept the minister's answer, although I still think it will be second rate. Unfortunately I cannot accept the totally illogical and completely misinformed comments of Ms Mikakos who waded into this debate, which really is not a debate because we are seeking further information. She has inflamed passion; she has claimed the opposition is doing all sorts of things. I point out to Ms Mikakos that all we are doing at the moment is asking a few questions about the government's amendments to its own legislation. We are not proposing anything. We are not talking about any opposition amendment; we are not discussing that. We are discussing a regime that the government is introducing. We are actually supporting these amendments.

What we are asking is for the government to respond to queries raised by the Law Institute of Victoria and to those raised by international experts in this area as to the quality of the evidence and therefore the admissibility of the evidence if it is self-administered — legitimate questions. We are not proposing a new scheme. How many states in Australia provide for mouth swabs? We are not interested in reinventing the wheel, but I think Ms Mikakos might be.

Certainly Ms Mikakos should go back and read the legislation and what the government is proposing. I have to say that her contribution is completely unhelpful. It should be on record that this is not about incompatibility with the national database. Victoria leads the way in the national database; we have people in Victoria who have been appointed to the Interpol working group for an international database. I have met with Federal Bureau of Investigation experts who have told me that their Codis — combined DNA index system — program and our national database are going to be two similar databases that in the future, pending legislative sanction, will be able to interact very well. The fact is that the quality of the samples collected is the best possible.

We are not talking about circumventing the database but about enhancing it. The minister was responsive to that, although I am not quite sure that it will happen. The government is saying that it thinks what it is doing is good enough. I welcome that response from the minister, but whether or not what the database does is good enough will be seen in the future. The unfortunate thing is that if you discover that the mouth swab is inappropriate and you need to go back for a blood sample, you do not discover it at the time when you have got the person in the police station. The government model indicates that the person himself will do the swab. It gets put in a bag, sealed and sent off to the laboratory, and two to six weeks later — or six months later, depending on resourcing — we get the results back. If we get a result that says 'Sorry, your DNA sample just wasn't good enough' we then have to go and find this person again, bring them in and ask them for a blood sample. If they do not consent to give

a blood sample, we have to write off and get a court order.

To get a blood sample we have to call the doctors in. It is not a process that happens contemporaneously with the event; if you do not get it right it adds considerable delay so we are concerned to get this as right as possible. It is in that spirit that we make these contributions, not in some sort of adversarial, old Cold War system that Ms Mikakos seems to be fighting in. It is a different paradigm; it is now 2002 and we submit that there is a better way. Hopefully the government can look at that in the future. We just hope in the meantime we do not get any errors, mistakes or omissions, or unnecessarily hamper our police while they are fighting crime on our behalf.

That applies to the element about the sampling. A number of other aspects to Ms Mikakos's contribution simply demonstrate her ignorance of the operation of this legislation. If I addressed all of them we could be here for hours. I will not do that and I trust that members of the government will take that as an indication that we do not want to debate the minutiae of this bill until the cows come home or to introduce concepts that are not in this legislation. Let's have a fight, if you like, about things we should be fighting about. These are causes that we support. The government has provided an answer. It might not be the one we were looking for but we thank it for that answer.

Amendments agreed to; amended clause agreed to.

Clause 8

Hon. P. A. KATSAMBANIS (Monash) — I move:

5. Clause 8, lines 9 and 10, omit all words and expressions on these lines and insert —

'In section 464ZE(1) of the Principal Act —

(a) after "(4)" **insert** "and section 464ZGO";

(b) in paragraph (d), for "464ZGE; or" **substitute** "464ZGE.";

(c) paragraph (e) is **repealed**.'.

Amendment agreed to; amended clause agreed to; clause 9 agreed to.

Clause 10

Hon. P. A. KATSAMBANIS (Monash) — I move:

6. Clause 10, page 11, line 2, omit "10" and insert "12".

Amendment agreed to; amended clause agreed to; clause 11 agreed to.

Clause 12

Hon. P. A. KATSAMBANIS (Monash) — I move:

7. Clause 12, after line 21 insert —

'( ) in paragraph (a), **omit** ", 464T(3), 464U(7) or 464V(5)";'.

Amendment agreed to; amended clause agreed to; clauses 13 and 14 agreed to.

Clause 15

Hon. P. A. KATSAMBANIS (Monash) — I move:

8. Clause 15, page 28, line 28, omit "15" and insert "18".

Amendment agreed to; amended clause agreed to.

Clause 16

Hon. P. A. KATSAMBANIS (Monash) — I move:

9. Clause 16, lines 6 to 8, omit sub-clause (2).

Amendment agreed to; amended clause agreed to; clause 17 agreed to.

Clause 18

Hon. P. A. KATSAMBANIS (Monash) — I move:

10. Clause 18, after line 19 insert —

"(1) Section 464R of this Act as substituted by section 6 of the **Crimes (DNA Database) Act 2002** applies to all forensic procedures conducted on or after the commencement of section 6 of that Act and any application made under section 464T, 464V or 464W as in force immediately before that commencement that has not been determined before that commencement is deemed to have been withdrawn.".

Amendment agreed to.

Hon. P. A. KATSAMBANIS (Monash) — I move:

11. Clause 18, line 20, omit "(1)" and insert "(2)".

12. Clause 18, line 25, omit "(2)" and insert "(3)".

13. Clause 18, line 26, omit "12" and insert "14".

14. Clause 18, line 29, omit "12" and insert "14".

15. Clause 18, line 30, omit "(3)" and insert "(4)".

16. Clause 18, line 31, omit "15" and insert "18".

17. Clause 18, page 31, line 1, omit "(4)" and insert "(5)".

18. Clause 18, page 31, line 2, omit "16" and insert "20".

19. Clause 18, page 31, line 5, omit "16" and insert "20".

20. Clause 18, page 31, line 6, omit "(5)" and insert "(6)".

21. Clause 18, page 31, line 7, omit "17(1)" and insert "21(1)".

22. Clause 18, page 31, line 10, omit "(17(1)" and insert "21(1)".

23. Clause 18, page 31, line 12, omit "(6)" and insert "(7)".

24. Clause 18, page 31, line 12, omit "(4) and (5)" and insert "(5) and (6)".

25. Clause 18, page 31, line 16, omit "16 or 17(1)" and insert "20 or 21(1)".

These amendments make some changes to the transitional provisions in relation to the operation of the bill. I put on record my concern that there seems to be an inordinate delay in processing DNA samples in the Victoria Forensic Science Centre. I know Mr Boardman wants to place his concerns on the record, and I think this is the opportune time to raise these concerns.

With the indulgence of the minister, I canvassed my concerns during my second-reading contribution, but nonetheless I ask the minister to take this point on notice and provide an answer to me in due course.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I am happy to indulge the honourable member, and I hope he appreciates the indulgence.

Hon. B. C. BOARDMAN (Chelsea) — The point I raise was referred to in the minister's second-reading speech. He said there were more than 3500 unexecuted orders currently awaiting analysis at the Victoria Forensic Science Centre. I ask the government to provide information on where it has allocated additional resources, additional technical experience and/or personnel, to deal with the backlog, taking into consideration that with the passing of this legislation the workload will increase considerably.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I thank the honourable member for his question. Although I do not have the information directly in front of me, I will endeavour to supply the honourable member with that information by drawing the matter to the attention of the appropriate minister in the other place.

Amendments agreed to; amended clause agreed to.

New clause A

Hon. P. A. KATSAMBANIS (Monash) — I move:

26. Insert the following new clause to follow clause 5:

'A. ***Substitution of sections 464R to 464X***

For sections 464R to 464X of the Principal Act **substitute** —

"464R. Forensic procedures

(1) If there are reasonable grounds to believe that a forensic procedure on a person would tend to confirm or disprove the involvement of the person in the commission of an offence specified in Schedule 8, sections 464K to 464M apply to forensic procedures as if —

(a) a reference to the taking or giving of fingerprints were a reference to the conduct of a forensic procedure; and

(b) a reference to an authorised person were as reference to a person authorised under section 464Z(1); and

(c) a reference to an indictable offence or a summary offence referred to in Schedule 7 were a reference to an offence specified in Schedule 8; and

(d) a reference to fingerprints were a reference to a forensic procedure or evidence obtained as a result of a forensic procedure.

(2) A member of the police force must inform a person on whom a forensic procedure is to be conducted that the person may request that the procedure be conducted by or in the presence of a medical practitioner or nurse of his or her choice or, where the procedure is the taking of a dental impression, a dentist of his or her choice."'.

This is the first of the substantive clauses which will give effect to the opposition's desire to amend the legislation to ensure that Victoria Police can use DNA samples and in the same away that they currently use fingerprinting, with that one additional safeguard that there is a reasonable belief that the sample will lead to the solution to the crime. The chamber canvassed the issues during the second-reading debate, and unless the minister or honourable members on the government side have some issues to raise I ask that the new clause be supported by honourable members.

New clause agreed to.

New clauses B and C

Hon. P. A. KATSAMBANIS (Monash) — I move:

27. Insert the following new clauses to follow clause 7:

'B. ***Execution of order for mouth scraping***

(1) In section 464ZA(1) of the Principal Act, for —

"If a court makes an order under section 464T(3), 464U(7) or 464V(5) for the conduct of a compulsory procedure, or an order under section 464ZF for the conduct of a forensic procedure" —

substitute —

"If a forensic procedure is to be conducted under this Subdivision".

(2) In section 464ZA(3) of the Principal Act —

(a) for "If the Children's Court makes an order under section 464U(7) or 464V(5)" **substitute** "If a forensic procedure is to be conducted under this Subdivision on a child";

(b) for "a compulsory procedure" **substitute** "the forensic procedure".

(3) In section 464ZA(4) of the Principal Act, after "blood sample" **insert** "or a scraping from a person's mouth taken by that person".

(4) In section 464ZA(5) of the Principal Act —

(a) **omit** "compulsory or";

(b) after "procedures" **insert** "(except a scraping from a person's mouth taken by that person)".

(5) In section 464ZA(6) of the Principal Act —

(a) for "an order under section 464T(3), 464U(7), 464V(5) or 464ZF is executed" **substitute** "a forensic procedure is conducted";

(b) after "the order" (wherever occurring) **insert** ", if any,".

(6) In section 464ZA(7) of the Principal Act, **omit** "compulsory or".

C. ***Forensic reports***

In section 464ZD of the Principal Act, **omit** "in accordance with section 464R, 464T(3), 464U(7), 464V(5) or 464ZF(2) or (3) or sections 464ZGB to 464ZGD or otherwise".'.

This amendment is consequential on new clause A and also incorporates some changes that are necessary as a result of the government changing its mind while the bill was between here and another place and removing the onerous obligations it had imposed on the Victoria Police in its house amendments in the other place. Amendment 20 standing in the name of the minister deals with this matter, but given the amendments that have been made by the opposition the provisions are better contained in new clause B.

New clauses agreed to.

New clause D

Hon. P. A. KATSAMBANIS (Monash) — I move:

28. Insert the following new clause to follow clause 14:

'D. ***Safeguards***

In section 464ZGE of the Principal Act, for sub-section (11) **substitute** —

"(11) This section does not prevent a member of the police force causing a forensic procedure to be conducted, in accordance with this Subdivision, on a person who has voluntarily given a sample under sections 464ZGB to 464ZGD.".'.

New clause agreed to.

New clause E

Hon. P. A. KATSAMBANIS (Monash) — I move:

29. Insert the following new clause to follow clause 15:

'E. ***Supreme Court — limitation of jurisdiction***

In section 464ZI(a) of the Principal Act, for ", 464T(1), 464U(3) or 464V(2)" **substitute** "or under that section as applied by section 464R".'.

New clause agreed to.

Reported to house with amendments.

Report adopted.

Ordered that bill be read a third time later this day.

WATER (IRRIGATION FARM DAMS) (AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

The Water (Irrigation Farm Dams) Bill (the farm dams bill) proposes amendments to the Water Act 1989 to complete Victoria's water allocation framework. The farm dams bill will amend the current right to store water off waterways and use it for any purpose. In the

future, a licence will be required for all irrigation and commercial use in a catchment.

The farm dams bill was debated by the Legislative Assembly and the Legislative Council in the spring 2001 parliamentary sittings but was not passed by both houses.

The farm dams bill provides for the commencement of a number of key sections on 1 February 2002. There are also several references throughout the bill to 1 February 2002, 31 January 2003 and 1 February 2003.

The Water (Irrigation Farm Dams) (Amendment) Bill provides for the amendment of those dates to enable the farm dams bill to be implemented in an orderly manner and to avoid the retrospective application of provisions.

I commend the bill to the house.

Hon. PHILIP DAVIS (Gippsland) — What I want to say briefly is that this is a machinery bill that relates to the principal matter of the government's farm dams legislation, which we will be debating shortly. It is quite clear that because the government presumed that the Parliament would agree to its legislation last year — that bill did not proceed as the government had intended because the Parliament did not consider that the legislation was in a form appropriate for passage — the clauses relevant to implementation of that legislation specified particular dates that pre-empted, if you like, the passage of that legislation.

Given that the legislation now appears in principle to have general agreement in the Parliament, it is likely that the dates now proposed for implementation, which are set out in this amending bill, will enable the appropriate enactment of the various processes set out under the original legislation. The Liberal Party therefore has no objection to the immediate passage of this bill.

Hon. W. R. BAXTER (North Eastern) — Likewise the National Party has no objection to the house dealing with the bill forthwith. It is basically a piece of machinery legislation brought about by the assumption that the principal piece of legislation to which it refers would have been passed in the spring sittings. It was not, for reasons of which the house is aware, because agreement could not be reached. I suppose to an extent there is still a presumption that later this day or tomorrow the house is going to agree to that legislation in any event, but it is commonsense to enable the new law to be passed in a form that does not immediately require some amending legislation to which people have to have regard. While it might seem a little awkward and clumsy, I believe is a practical way around accounting for the delay that has occurred in the passage of the principal legislation.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

In doing so I thank honourable members for their support for the bill.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

WATER (IRRIGATION FARM DAMS) BILL

Council's amendments

Message from Assembly disagreeing with following Council amendments considered:

1. Clause 4, page 3, line 11, after "51(1A)" insert "or 51(1B)".

2. Clause 6, lines 4 to 11 omit all words and expressions on these lines and insert —

   '(2) In section 8(6) of the Principal Act, after paragraph (c) **insert** —

   "(ca) a restriction or prohibition on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building) contained in an approved management plan drawn up under Division 3 of Part 3 for a water supply protection area; or".'.

3. Clause 6, after line 11 insert —

   "(3) In section 8(6)(d) of the Principal Act for "the prescriptions" **substitute** "any other prescriptions".

4. Clause 10, page 15, after line 14 insert —

   "(k) restrictions or prohibitions on the use, other than domestic and stock use, of water from a spring or soak or water from a private dam (to the extent that it is not rainwater supplied to the dam from the roof of a building);".

5. Clause 10, page 15, line 15, omit "(k)" and insert "(l)".

6. Clause 10, page 15, line 17, omit "(l)" and insert "(m)".

7. Clause 10, page 15, line 22, omit "(m)" and insert "(n)".

8. Clause 10, page 15, line 30, omit "(n)" and insert "(o)".

9. Clause 10, page 16, line 4, omit "(o)" and insert "(p)".

10. Clause 10, page 17, after line 33 insert —

"(14)Sub-section (13) does not apply to a contravention of a kind referred to in section 63(1A).".

11. Clause 19, lines 26 to 33 and page 29, lines 1 to 26, omit all words and expressions on these lines and insert —

"(1A) During the period commencing on 1 February 2002 and ending on 31 January 2003, a person may apply, without payment of an application fee, to the Minister for' the issue of a registration licence to take and use water from a dam on a waterway other than a river, creek, stream or watercourse for a use other than domestic and stock use.

(1B) If an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a private dam, a person may, during the period of 12 months after the approval of that management plan, apply, without payment of an application fee, to the Minister for the issue of a registration licence to take and use water from the spring or soak or water from the dam (to the extent that it is not rainwater supplied to the dam from the roof of a building or water supplied to the dam from a waterway or bore), for a use other than domestic and stock use.

(1C) Sub-section (1A) only applies, in relation to a dam, to a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use) for which a licence under sub-section (1)(a) is not in force.

(1D) Sub-section (1B) only applies, in relation to a spring, soak or dam, to a person who at any time during the period of 10 years immediately before the approval of the relevant management plan was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use.".

12. Clause 19, page 29, line 29 omit "(1C)" and insert "(1E)".

13. Clause 19, page 30, lines 12 to 35, omit all words and expressions on these lines and insert —

"(ba) in the case of an application under sub-section (1A) in relation to a dam by a person who at any time during the period of 10 years immediately before the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001** was taking and using water from the dam for a use (other than domestic and stock use), set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under section 52A; and

(bb) in the case of an application under sub-section (1)(ba) or 1(B) in relation to a spring or soak or dam by a person who, at any time during the period of 10 years immediately before the approval of a management plan for the water supply protection area for which the application is made that prohibits or restricts the use of water from the spring or soak or dam, was taking and using water from the spring or soak or water from the dam (other than water supplied to the dam from a waterway or bore) for a use other than domestic and stock use, set out the maximum volume of water to be used by the applicant in each year during the period of the licence, determined in accordance with the criteria specified by Order under section 52A; and".

14. Clause 22, lines 18 to 20, omit "the commencement of section 32 of the **Water (Irrigation Farm Dams) Act 2001**" and insert "the approval of a management plan under Division 3 of Part 3 that prohibits or restricts the use of water from the spring or soak or dam".

15. Clause 26, lines 23 and 24, omit "licence issued under section 51(1A)" and insert "registration licence".

20. Clause 32, line 24, after "must not" insert "in contravention of an approved management plan for a water supply protection area".

21. Clause 32, page 40, lines 16 to 24, omit all words and expressions on these lines and insert —

"(4) If, an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a dam not on a waterway and at any time during the period of 10 years immediately before the approval of the management plan, a person was taking and using water from the spring or soak or water from the dam, sub-section (1A) does not apply in respect of that person in respect of that spring or soak or dam until the end of the period of 12 months after the approval of the management plan.".

22. Clause 56, page 53, lines 19 to 33, omit all words and expressions on these lines and insert —

"(8) If an approved management plan for a water supply protection area prohibits or restricts the use of water from a spring or soak or water from a dam (other than water supplied to the dam from a waterway or a bore) for a use other than domestic and stock use, a person who —

(a) at any time during the period of 10 years immediately before the approval of the management plan was taking and using water from that spring or soak or water from that dam (other than water supplied to the dam

from a waterway or a bore, for a use other than domestic or stock use; and

(b) before the end of the period of 12 months after the approval of the management plan applies for a licence under section 51(1)(ba) in relation to the spring or soak or dam —

is not liable to pay an application fee in respect of the application.".

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That the Council do not now insist on their amendments previously insisted upon with which the Assembly have insisted upon disagreeing.

Hon. PHILIP DAVIS (Gippsland) — My comments will be brief because I am pleased, and I am sure the house will be pleased, to learn that there is general agreement for the passage of this legislation, but I do want to make a few points.

I think this is the third time this matter has been before this house. On perusing the work that has been done in the Parliament on this particular legislation, I was surprised to find that the *Hansard* reports run to about 3 inches in depth. I did not count the pages; I thought we should weigh it rather than count the pages. It is probably a great demonstration, and it certainly is to me, of the usefulness of a bicameral Parliament — that is, we have had legislation in the Parliament for some time bouncing, as it might be described, backwards and forwards between the houses, but in reality going through the exhaustive process of finding an appropriate public policy response to a very difficult issue.

In the course of debate both in this house and in the public arena it is fair to say there has been a bit of bumping and grinding going on. That demonstrates how passionately views were held, but from my perspective and the perspective of the Liberal opposition there was a sense not of intransigence but of a clear commitment to ensure that we, as the opposition, engaged the government in a process that guaranteed the very best possible outcome for land-holders who would be directly impacted by changes to entitlements — effectively the removal of what has been perceived for more than 100 years as a particular form of private property right in relation to the harvesting and utilisation of water upon private land.

It needs to be recognised that the process necessarily engaged in had, I think, the full participation of the whole of the parliamentary Liberal Party. I would like to give credit to particular participants in the debate, including the shadow Minister for Agriculture, who has responsibility for issues concerning water, the honourable member for Monbulk in the other place, and certainly the honourable member for Benambra in the other place, who made sure that north-eastern Victoria and upper catchment land-holders' views were heard, both within the Parliament and within the opposition, and I think generally throughout the stakeholder debate.

It is important to note that there have been some efforts to ensure that this matter was settled during these sittings. While there has been some difference of view over a period of time between the Liberal opposition and the Victorian Farmers Federation, I think the VFF and the opposition clearly demonstrated a desire to get to an end point which may not have been common at the start. It certainly is now.

In an effort to bring this matter to a resolution the president of the Victorian Farmers Federation, Peter Walsh, wrote to all members of the opposition on 19 February setting out what the VFF's position at that time was, and he said in part:

> We have supported the government on this issue for no other reason than we believe the bill is in the best long-term interests of farmers.

He then set out a number of points in terms of compromise, referring to changing registration of non-licensed catchment dams from five-yearly to once-off registration; to suggesting that the transition package proposed by the government in relation to the total volume of water eligible for the assistance package be increased from 10 000 megalitres to 12 500 megalitres; and to developing and announcing exchange rates that provide equity in the trading of water rights between upper and lower catchment regions in the state. Further, in proposing those compromises Mr Walsh said:

> The VFF supports the Liberal Party's efforts to improve the government's bill but ultimately we would like to see the legislation enacted because it provides significant benefits to our members.

I would simply like to reiterate at this point that in no sense has the opposition been obstructionist in relation to the farm dams bill. What it has endeavoured to do is to squeeze out of the government all the possible concessions that were available and, indeed, it has done that.

To summarise that progress, the concessions agreed to in the Assembly in the spring sittings included the requirement for the minister to table in each house an order declaring a water supply protection area; the

clarification of what constitutes what is wholly or predominantly a farming area; the prevention of a regional water authority that is enforcing a water supply management plan from demolishing a farm dam; the extension of the qualification period for the registration of existing irrigation commercial farm dams from 5 years to 10 years; and the requirement that water supply management plans be tabled in each house. They are some of the concessions that were agreed to by the government in the spring sittings.

There has been further negotiation in recent days and as a consequence of that, as the message from the Assembly and the motion we are now considering indicate, further concessions have been made by the government in the Assembly specifically in relation to the once-off free registration process for existing irrigation dams, including those used for dairy washdown and drought protection. That is an important concession, may I say, because it formalises or recognises the practical reality that a number of farm dams used in the dairy industry are technically commercial dams which need to be registered, and they will be able to be registered under this proposal. Of course, we will also be able to dispense with the bureaucratic maze of having to register dams on a rolling basis. The only time there will have to be further registration will be when a property changes hands, and the register will have to be updated in that respect.

Further, the government has agreed to the establishment of an independent objective process for exchange rates for the transfer of water between upper catchment and gravity irrigators. Further, notwithstanding that the approach the VFF took was to increase the component of the subsidised water from 10 000 megalitres to 12 500 megalitres, the Liberal opposition was able to negotiate with the government an extra 4500 megalitres above the original government proposal of 10 000 megalitres of subsidised water as part of the transition package to compensate farmers in capped catchments for the loss of statutory rights.

Finally, the government agreed with the withdrawal of a set of ministerial interim waterway determination guidelines which were approved in December 2001, which had effectively frozen all farm dam developments across the state. I am pleased to note that we have a letter from the Minister for Environment and Conservation in relation to that matter in which she says:

> If the Water (Irrigation Farm Dams) Bill is passed, there will be no need for guidelines in respect of licensing the take and use of water and I will therefore revoke the interim waterway determination guidelines.

Given all those concessions that have been achieved and the fairly vigorous, at times, debate on this matter, I am pleased to say that the Liberal opposition is happy to support the bill and agree to the Assembly's message. I thank all my parliamentary colleagues who have taken a very keen interest in this bill.

I note that at times the Liberal and National parties have perhaps been perceived to be taking different views. I would simply say that the Liberal Party probably had a more vigorous view about how these negotiations should have proceeded. Local members of Parliament representing their constituencies necessarily argue vociferously at times about what is in the best interests of their constituents, and it is clearly the case that in bringing this matter to a conclusion on behalf of the state, different stakeholders were very specifically represented by different representatives in the Parliament. Certainly the upper catchment farmers were predominantly represented by Liberal Party MPs, and there is no doubt that there was a strong desire to make sure that their interests were effectively protected. We need to acknowledge that the starting points were slightly different in each respect. Without further ado, I support the bill.

Hon. W. R. BAXTER (North Eastern) — The debate tonight is the final leg in a very long journey.

Hon. Bill Forwood — Ten years for you!

Hon. W. R. BAXTER — Yes. It could be said that it really started back in 1995 with the implementation of the cap on diversions in the Murray–Darling Basin, which made it very clear that if that cap was to be efficient, effective and properly administered, we needed a fair and equitable means of accounting for all diversions that were made in the basin, not just most of them, and a deal of angst has been generated in the intervening years as we sought, as a matter of public policy, to identify how that would be achieved.

The former government and the former minister, Mr McNamara, to his credit, gave a lot of attention to this problem and, as I indicated to the house in earlier debates, established a committee of 10 Victorian Farmers Federation (VFF) members, with me as the non-voting independent chairman, in an attempt to find a resolution. While that committee did some good work it did not exactly resolve the issue, and before it was able to move forward an election intervened, the government changed and this government chose, for its own good and proper reasons, not to take up the recommendations of that committee.

We have had other committees, of course. One committee, chaired by David Heeps, looked at the problem of grape growers and the like in the Pyrenees in Western Victoria, and it too had great difficulty in coming to grips with the waterway definition within the act and how it could be applied fairly, consistently, simply and administratively cheaply across the state. Then we had another committee chaired by Mr Bill Hill of Molyullah, who was a man of considerable talent and influence. His committee came up with a proposal and whilst in theory it had a lot of merit, most of us thought that it had a number of practical prickles attached to it and that it would be very difficult to implement it and have, in the long term, the justice and equity that most parties were seeking.

Subsequently, the current minister established a committee to look at the issue again and appointed Don Blackmore, the chief executive officer of the Murray-Darling Basin Commission to head up the committee. I do not think anyone in the house would dispute my view that Don Blackmore is one of the most competent, well-informed and astute water administrators not only in this nation but in a much wider field. The committee had other competent people on it including Mr Walsh, the president of the VFF and representatives of the environmental movement and others.

Hon. Bill Forwood interjected.

Hon. W. R. BAXTER — I believe that could be so, Mr Forwood. That committee conducted itself extremely well in the way it moved around the state and consulted widely, but at all times was prepared to say to people who were running the line that change was not needed, and that just because something had been in existence since 1886 or earlier there was no need to take account of the fact that we now have a cap in our major river basin and are likely to have other cap catchments in the future, that that was a head-in-the-sand attitude and we have to find a way forward. The committee brought in a report which was widely applauded. Some interest groups, including the National Party, were not entirely happy with some aspects of it and some of its recommendations. We thought some of the recommendations needed to go further; some needed refinement and that was largely done.

The drawing up of the original bill can fairly be said to be not entirely the government's own work. The government invited the National Party and the opposition to contribute to the construction of the original bill, and that is what happened. It was somewhat of a surprise to some of us that it came unstuck once it got into the Parliament.

I do not want to go back over history but I want to allude briefly to the concluding comments of the Honourable Philip Davis as to who represents the upper catchment. The Honourable Jeanette Powell and I happen to represent the upper catchment as well as the honourable member for Benambra in another place. While I have the greatest respect for the honourable member for Benambra, and I also believe that in this issue he could not be criticised at all for taking forward in a strong and vigorous manner the views of some of his constituents, I do not believe they reflected the views of the entirety of the upper catchment by any means. I also believe that at the end of the day, with people who are not prepared to compromise in public policy, who are difficult to negotiate with, who when you think you have an agreement with them, the next morning they have changed their minds and want to shift the margins and the goalposts out a bit further, sooner or later you have to get out in front and lead. At the end of the day that is what happened.

I refer to the large public meeting held in Tallangatta which many protagonists say had an attendance of 700, which is somewhat of an exaggeration — let's say there were 500. It is true that many came to the meeting with the utmost concern because they had been reading the newspapers. There had been various beat-ups about private rights being abolished and that people would not be able to put in dams of any sort and so on. They came to that meeting and it was a good meeting — apart from the fact that it was a very hot night. It was addressed by Don Blackmore, who explained his report, and numerous other speakers and despite the attempts by one or two to inflame the audience from the stage — and the honourable member for Benambra was not one who sought to do that; he made a responsible contribution to the meeting — the fact of the matter is 480 people went away from that meeting satisfied. Their questions had been answered. That is the reason we have not heard from them in the intervening 12 months. We have not been getting the letters, phone calls and visits to our electorate offices from 480 of them because they accepted the rationale that Don Blackmore so expertly and effectively explained that night.

However, there was a group — and there is still a group — that was dissatisfied following that meeting and its members have been the agitators. I do not dispute their right to agitate, but I do think they put the honourable member for Benambra under undue pressure and they have been quite unfair to him. He can hold his head high that he certainly took their views

forward, but at the end of the day, their views did not prevail; nor should they.

Here we have the unique circumstance of a major change in water legislation being agreed to unanimously by the four groups represented in the Parliament: the government, the opposition, the third party and the Independents. You would be a pretty brave person if you were to go off and say, 'We are going to disagree with the unanimous decision of the Parliament of Victoria — 132 members — which has been reached after all the consultation, debate, argument and angst that has gone into all this'. I would similarly say to those of my constituents, one of whom was on the telephone to me yesterday at half past seven in the morning, who are contemplating going off to the High Court, 'Do it if you will, but you are very brave if you want to take on the unanimous decision of 132 members of Parliament arrived at over the length of time that has gone into this legislation'. This is no hasty judgment. This is a bill that has come out of 10 years of hard thinking, of numerous inquiries, of many drafts, much toing-and-froing, some compromise and some horse-trading. I would be very surprised indeed if much fruit was to be had by spending thousands of dollars on a barristers banquet in the High Court, and I want to discourage them from so doing.

I have alluded to the need for the change, particularly with the cap having been brought in and the need to properly account for all diversions. The genesis of it all was the difficulty we had with waterway definitions. It was becoming absolutely impossible to have a consistent application for the waterway definition, so we had to get away from the need for having to determine whether or not a proposed dam site is on a waterway, and this bill does that.

Let us talk about the 10 000 megalitres that has been allocated, initially by Mr Blackmore's recommendations, accepted by the government and now increased to 14 500 megalitres. The National Party and I have absolutely no objection to that increase; in fact we welcome it. But let us not get too carried away as to what it means.

Hon. Bill Forwood — It's about 14 500 megalitres!

Hon. W. R. BAXTER — Yes, Mr Forwood, in about 30 or 40 years time when people might begin to take it up. How was the 10 000 megalitres arrived at? I think it derived from work done by my committee. How did my committee arrive at it? It looked at the historic uptake over the previous 10 years, which was about 5000 megalitres, and it doubled it. In fact it was 4000 megalitres. We doubled it to make 8000 megalitres and we added another 50 per cent and got 10 000 megalitres. On that rate of — —

Hon. Bill Forwood — Why did you add the extra 50 per cent?

Hon. W. R. BAXTER — We were generous people on my committee, Mr Forwood. On the historic rate of take-up, it is going to be well over 20 years before that 10 000 megalitres is taken up. I would venture to say that the rate of take-up in future years is going to be less than in the past because the only dam building we are going to see in the upper catchment in the future is not going to be of irrigation dams to flood irrigate to grow grass; that is not economic any longer and no-one will be doing that. The sort of investment we will get — I hope we get it, and I think this bill will assist us get it — will be for irrigation for high-value horticulture crops using high-tech irrigation techniques. So the volumes of water that people will require are going to be modest indeed.

That is why the 50 megalitres that the subsidy is payable on is going to be adequate in almost every case. In the cases where it is not adequate, they will be big enterprises with huge capital investments. If they have to go out and buy water above the 50 megalitres at the market price without assistance it will be a small part of the capital already being put into that enterprise and investment and therefore it will not be significant. I see this 14 500 megalitres lasting something more than 25 years before someone would have to say that we are running out of the allocation.

Hon. Bill Forwood — Put a bottle of water on that!

Hon. W. R. BAXTER — Yes, I will Mr Forwood. We will put a bottle of port away and see how it is.

I had better get this on the record in case I am wrong, but this is an open-ended subsidy arrangement. This offer by the government to subsidise the purchase of water up to $400 a megalitre, up to 50 megalitres, plus the assistance with the whole farm plan and the like, is going to be provided for in every budget between now and when the 14 500 megalitres is allocated. As I understand it, that is the circumstance. It is a pretty good deal in anyone's language. Here and into the future, for probably 25 or 30 years, we are going to have a budgetary provision made each year to cover the arrangement that Parliament is agreeing to tonight. There are not too many things put in place that have that sort of lifespan. Again I say that it is a good arrangement.

Sitting suspended 6.30 p.m. until 8.07 p.m.

Hon. W. R. BAXTER — Prior to the break I was discussing the significance of the 14 500 megalitres as against the 10 000 megalitres originally agreed to. I reconfirmed over the break my arrangement with the Leader of the Opposition, and we will see in 30 years time exactly how much has been allocated.

The other amendment to which the Honourable Philip Davis referred is the change from registering dams every five years to once only. The National Party has no objection to that change because it is relatively insignificant. In one sense, in terms of the integrity of the register, it might have been useful for a renewal each five years to ensure that the register was up to date, but it is something we do not see as particularly significant, and I am pleased and happy to go along with that change. If it gives the opposition some warm inner feeling in having achieved that, so be it.

I shall recapitulate a couple of the amendments that were inserted in the legislation in the spring sittings. As the Honourable Philip Davis acknowledged, some of those amendments were at the behest of the National Party and one or two came from the opposition.

I in particular want to refer to the amendment by the National Party which extended the definition of domestic and stock use to apply for summer watering of a curtilage around a homestead and outbuildings for the purposes of fire protection. As I explained to the chamber at the time, some farmers who undertake such activity certainly do not see it as engaging in irrigation in a commercial sense, yet under the original definition in the 1989 Water Act they would have been caught up under this bill as engaging in irrigation and would need to licence their dams.

I am pleased that the Parliament adopted the amendment of the National Party to extend that definition. What has alarmed me over the last day or two is advice I have received from my own area where it seems that at least one officer of the local water authority has been advising land-holders that if they water around their homesteads and the stock eat that grass that will be deemed to be irrigation and they will have to licence their dams. That would be an absurd circumstance and completely defeats the purpose of the amendment. I believe it is absolutely contrary to the intent of Parliament.

I place on the record that that was not my intention in moving the amendment, nor that of the National Party, in putting it forward, and I do not think by any stretch of the imagination the intent of the Parliament in passing that amendment was that if the animals happened to eat the green grass it was therefore deemed irrigation land. That would be an absurd circumstance. If you take it to its logical conclusion, it would mean that in years when water was exceptionally short and your dam went dry and you could not keep the grass green and could not graze it off you would have an even worse fire hazard and risk than if you had not done anything at all.

I simply want it on the record in case at some stage someone is looking at extrinsic evidence when they have to make an interpretation about what the Parliament meant, that I am sure the Parliament did not mean such a narrow interpretation as this particular official put on it in the Ovens Valley in the last day or two.

The other point I want to reiterate is that in terms of registering dams which are illegal, or any dam that is to be registered or licensed, the bill at this stage at least talks about the dam as such, not the capacity of the dam. Maybe in the future metering will become mandatory and the actual use from the dam will be measured, but I do not want it thought that small dams, which are small because they are topped up not only by local run-off but also by water from a spring or a soak, will be the subject of some reading down by the authority as to how much that dam can irrigate and how much water can be drawn from it simply on the basis that it is not a large dam. The reason it is not a large dam might be because it has a source of water which tops it up on an ongoing basis. I want it put on the record that I do not think Parliament was intending that these regulations be administered in such a narrow way as to cause people extreme difficulty.

Finally, those of us who happened to watch a program on SBS television last Sunday evening entitled *Water* would have had some salutary viewing. I do not think any of us could have got from that program any other message than that in future water, its use and supply will come under increasing pressure from urban demands in particular, and also perhaps environmental demands from certain sections of the community that think the environment is being hard done by regarding water supply.

The program sent a message to me that we need in this state a licensing system which gives water users security that does not rely on some ill-defined private or statutory right which is capable of being read down by bureaucratic fiat or political whim. Farmers need the security of having a title to their water rather than relying on some form of common-law expectation or belief about their rights and entitlements.

The bill gives certainty to farmers, both those who have existing dams and those who may establish dams in the future. The message I want to give to those farmers in the north-east, that small group who remain upset and concerned by the legislation and who are clinging to the so-called private right provisions, is that they should get a copy of that program and watch it because it will send them a clear message that they are on dangerous ground if they are to continue to rely on that into the future. They would be far better off if they had legislated title to their water — a licence or a piece of paper in their hand — which says, 'This is what I am entitled to; this is what I own'.

The message I want to send people is that the bill gives them certainty, and it does not undermine their rights or devalue their properties. It increases the value of their properties because a potential buyer will now know what water he can get rather than relying on the ill-defined private right. That is the message they need to take on board and understand.

I am convinced the legislation will bring investment to the upper catchment. We have been missing out because the investment has been going to Swan Hill, Robinvale and Mildura. Those people have been able to get security and certainty of their water entitlements whereas in the upper catchment we have not had that certainty, and investment has been discouraged.

This bill will change all that and we will see investment in high-value horticulture coming to the north-east. Some very good work is being done by people like Ian Ada in identifying the area of land which is suitable for this investment; the Alps Valley Forum and other agencies are really promoting this. This bill gives them the wherewithal to take their ideas forward.

Finally I would like to pay a few thanks to the people who have assisted in this long drawn-out debate. The Victorian Farmers Federation has done an extremely good job under very difficult circumstances. I admire people like Peter Walsh and Doug Chant who have carried this forward when some of their most prominent members have given them a really hard time on this. They have stuck to their guns, they have seen it through and they are to be admired. I certainly thank my colleagues in the National Party because they have got quite sick of hearing about this debate over the last few months, as I am sure have many people in the Liberal Party. I appreciate the input that has come from there and I especially thank one of my constituents with whom the honourable member for Benambra in another place and I spent a lot of time on Saturday — Lindsay Jarvis of Karqunyah, who was on the Baxter committee and was of great assistance there. Lindsay Jarvis has been one of those moderating influences that has tried to bring diverse groups together, and he deserves that commendation for the part he has played in this legislation as well.

This is yet another milestone in water law in Victoria. I am fortunate to have been in Parliament for a long time, to have been involved in the 1989 Water Act and in various other water debates. I do not think this will be the last, but it is a big step forward.

Hon. GAVIN JENNINGS (Melbourne) — This day, 26 March 2002, will go down as a great day in the history of water management in this state, a great day for sustainable agriculture and a great day for Victoria's environment. This is one of the most important pieces of legislation that has gone through this place in the last two years because it will have a long-term sustainable effect upon Victoria's environment.

Despite the ridicule that members of the opposition are trying to throw my way at this juncture, today they have finally been brought to heel in relation to their responsibilities and obligations to Victoria's environment and sustainable agriculture in this state. This issue was last debated in this chamber on 6 December, the final sitting day prior to Christmas 2001. It was a very sorry day because it saw the history of this piece of legislation being volleyed from one chamber to the other. In fact Christmas came late. Today Christmas has arrived for Victoria's water management and the environment in this state. We have finally seen the Liberal Party come to the table with a number of significant players in the Victorian community.

In my contribution to this debate on 6 December I gave credit to the National Party for its involvement in the preparation and consideration of this piece of legislation. I gave credit to the important roles that had been played by the Victorian Farmers Federation, the Australian Conservation Foundation and Environment Victoria, and I gave particular credit to my colleague the Minister for Environment and Conservation, who has been brave enough to bring this package through. These packages of reforms have been mooted for a long time; for more than 10 years there have been discussions about the way in which water licensing should take place in this state, and it was this brave and courageous minister who stared down opposition to this matter and delivered the package to Parliament. It would be remiss of any contributor to this debate not to pay credit to the work that my ministerial colleague and the team that worked with her on this matter have achieved on this important legislation.

The bill has been in Parliament since September of last year. Since it was introduced in Parliament a lot of work has been done to achieve the outcome we have sought on behalf of Victoria's waterways and sustainable agriculture into the future. The bill was developed after a lengthy consultation period that was kicked off in April 2000 with the key leadership role being played by Don Blackmore of the Murray-Darling Basin Commission. He travelled extensively throughout Victoria and consulted broadly on the objectives that we see underpin in this legislation.

Those objectives are to ensure that total water resources of catchments are included within the water allocation regime; that water resource management issues involve the total catchment and require a partnership between community and government; that allocation mechanism should be simple, efficient and equitable; and that there be a system to ensure that as the value of the water to community increases so should the management effort to allocate and protect the water resources. We also wanted to ensure that all water users should share in the cost of managing the water resources of a catchment.

Those underlying principles go to the heart of what this piece of legislation is about. The legislation that arrived in September of last year, by its design and through its mechanisms, ensured that there was an equitable allocation and management of our water resources. We were concerned to ensure that the quality of water services delivered to Victorians was a significant factor affecting jobs and economic growth in this state. There was a recognition that for sustainable agriculture to survive and flourish in this community we needed to ensure that there were equitable and secure allocations of water resources so that proper planning and investment could be undertaken in those key sections of the Victorian economy.

All of that had to be obtained within a management regime that protected our precious environment. Of all the issues about our environment that are of concern to Victorians surely there can be none more pressing and urgent than to protect our water courses and to protect the ongoing viability of those precious water resources. That is what we have seen through the mechanisms adopted in this bill, and that is why I believe perhaps it is the most significant piece of environmental legislation that has been introduced during the life of this Parliament.

This bill is an extension of the management regime that applied up until the existence of this bill, by combining for the first time the management of surface water resources outside waterways. Up until this time that had not been dealt with within the water legislation that applied to this state. Although since 1989 we have seen Victorian property owners required to license dams constructed on waterways, until this piece of legislation we have not seen that licensing regime apply to dams beyond those catchments. So this bill delivers an irrigation and commercial licensing arrangement that not only provides for certainty of a legal right to capture and hold water thereby providing certainty for users into the future — it in fact confirms their right to hold water and to use it — but is also an important asset in the monitoring and regulation of our streams and rivers.

Who in the Victorian community would dispute that our healthy rivers and catchments are critical, not only for ensuring an ongoing sustainable resources base for agriculture but also for ensuring the health and wellbeing of the entire community? The cumulative effect of dams that prevent flows to our streams and rivers will see the curtailment of the flushing mechanisms that support catchment regimes. Accumulation of waste and nutrients results in a lack of opportunity to replenish pools and to improve water quality within our catchments. In fact it exacerbates the problems we see in the Victorian countryside where many of those problems are evident in times of drought and low water flow within catchment systems, leading to long-term degradation of catchment agricultural land.

The important thing for us to understand is that in isolation one dam may not have a big impact on a catchment, but the cumulative effects of the vast proliferation of dams within catchments are profound. We should not underestimate for an instant the cumulative effect of the damage done to Victoria's precious streams and rivers by inappropriate dams and the capture of water. So we see within the scope of the bill important mechanisms to manage those catchments through stream-flow management plans, operating on a community basis where local communities are brought together to construct a consultative committee responsible for the development, maintenance and monitoring of those plans. They do this in cooperation with the local catchment authorities and any relevant rural water authority. An important aspect of the bill is that it provides for a 50 per cent representation of farmers on those constituted committees — a provision which notes the focus and valuable contribution of members of Victorian rural communities who live on the land, particularly as their ongoing viability depends upon the condition of the land and their use of this valuable resource.

This bill has had a chequered history in the last six months. Mr Baxter would be aware that his review of these issues going back as far as a decade meant that it was a long time before the bill arrived in the first

instance. As I said, it is a testimony to the courage of my ministerial colleague who, when this bill was first envisaged, may have been asked the question, 'What is in it for the government when although the issue clearly falls within the realm of good public policy it predominantly affects areas which traditionally do not return Labor members?'. It is the antithesis of cynical marginal seat mentality where lots of pieces of legislation or government programs may be said to be cynical exercises in vote buying. This is good public policy. My ministerial colleague brought this forward because it is the right thing to do both in terms of agricultural viability today and well into the future. In his contribution today Mr Baxter indicated that the transitional arrangements that underpin this bill will go well into the next 20 or 30 years. There is a 20 or 30-year horizon in terms of the financial transitional arrangements embedded within this bill.

Certainly no-one can dispute that this is long-term, over-the-horizon protection of Victoria's environment by the government, and the Parliament has recognised that there is an important role to play by providing for transition from what has been private use of water resources in this state to mechanisms that allow for private use but recognise community obligation. That is why this is sound and profound public policy in the name of protecting our environment. If nothing else, this debate has created the opportunity for Mr Baxter and me to harmonise and sing the same song — which is something of a novelty. It has provided me with an opportunity not only to read *Stock and Land* but in fact to quote it on the public record. In fact in December I was quite happy to quote from *Stock and Land* an article that had been written by Peter Walsh, the president of the Victorian Farmers Federation (VFF), and I shall quote it briefly to remind the house of the nature of the debate at the time. In his article he states:

> The Liberals' amendments do not address the fundamental issues, which are the difficulties associated with waterway determinations. By pursuing these amendments they are, in effect, rejecting the government's legislation.

Mr Walsh further states:

> The government's bill protects and enhances the security of existing dams. The rights of farmers to build new stock and domestic dams are fully protected. The rights of owners of existing irrigation and commercial-use dams are also fully protected.

I say, 'Hear, hear!' to the contribution of Peter Walsh and the VFF in that article and in the positive role they have played in delivering this outcome.

I reiterate my positive affirmation of the good work undertaken by the National Party on this matter. Since that date we have seen the bill volleying back and forth between the chambers and we have finally arrived at an agreed package which will go through on this day, 26 March. I refer to the net changes from the original package introduced in September last year. I will allow members of the Victorian community to assess the significance of those changes and decide whether they represent the major victory the Liberal Party is desperate to claim or whether the amendments fundamentally change the nature of this legislation.

I would suggest that if members of the Victorian community were to read Mr Baxter's contribution tonight they would think he did not believe the net effect was too significant either.

I refer to the press release of 21 March 2002 of the Minister for Environment and Conservation in the other place. The minister paid tribute to:

> … the farsightedness and commitment to good water resource management displayed by supporters of the bill, which included ALP country members, the National Party, the Victorian Farmers Federation, the Independents, Environment Victoria and the Australian Conservation Foundation.

The press release further states:

> … the Bracks government had agreed to support a minor amendment to the bill in order to see it finally pass through Parliament. This would see a change from a five-yearly registration fee for dams to a one-off fee.
>
> Ms Garbutt said the Bracks government would also increase its transitional arrangements to provide for a 14 500-megalitre pool of water for capped catchments that farmers will be able to trade water from when building new dams. The government will also offer to pay half the cost of water up to 50 megalitres.

As Mr Baxter said in his contribution, what sort of time frame are we talking about for the allocation of that 14 500 megalitres? We are talking about a 20-year to 30-year time frame for the allocation of those up-to 50 megalitre lots. The time frame in which that allocation will take place will be very long, if ever it is completed. During that time members of the Victorian community will recognise the value of the amendments sought and obtained by the Liberal Party during this exercise. I suggest it will be a very long time indeed.

I conclude by indicating to the house that this is a great day in terms of achieving good public policy in Victoria, because we have seen exemplary consultation and an exemplary process of bringing stakeholders on board. One by one, people of different political persuasions across the Victorian community have come on board so that now we see the successful passage of this legislation. Unfortunately all too rarely do we see constituencies being brought on board one by one to

support an important piece of legislation in the long-term interests of the community and our environment.

I conclude by quoting from the last line of the minister's press release of 21 March:

> It is a great step for sustainable water management in the state.

Hon. BILL FORWOOD (Templestowe) — It had not been my intention to speak on the bill, but I take the opportunity to do so because of the churlish contribution by the Deputy Leader of the Government. I am happy to accept his last quoted sentence as one that I absolutely agree with, as would most people in Victoria. We have achieved an outcome of good public policy.

At the outset of his contribution he said the Liberals had been brought to heel. I take great exception to that comment. What we have achieved today is something that is in the best interests of Victoria, and it has been achieved by goodwill on three sides — by all parties, including the government and including the National Party, and in particular including the Victorian Farmers Federation, with which we also worked closely.

In the end we have achieved a very good result for Victoria on a matter of really significant public policy. We will all do better in this place if we put the interests of Victoria first.

Motion agreed to.

[See page 399 of Hansard of 27 March 2002 for correct version of second-reading speech below.]

FORENSIC HEALTH LEGISLATION (AMENDMENT) BILL

Second reading

Hon. M. R. THOMSON (Minister for Small Business) — I move:

> That this bill be now read a second time.

The Forensic Health (Amendment) Bill makes important amendments to the Crimes (Mental Impairment and Unfitness to be Tried) Act and the Mental Health Act. The bill is based on two reviews. The first was a review of the operation of the Crimes (Mental Impairment and Unfitness to be Tried) Act by the Department of Justice. The act controls what happens when a defendant is found unfit to plead or not guilty because of mental impairment. It provides a fair and practical regime for dealing with mentally impaired people who commit crimes. However, after more than three years of hearings under the act, the government has identified ways to improve its operation.

The second review was a review of leave arrangements for patients at Thomas Embling Hospital chaired by Justice Vincent. Thomas Embling Hospital is a secure hospital for people with a mental illness. The review followed the absconding of a security patient while on escorted day leave. The government accepted the review panel's recommendations. Recommendations that require legislative amendment are being implemented in this bill.

Crimes (Mental Impairment and Unfitness to be Tried) Act 1997

The Crimes (Mental Impairment and Unfitness to be Tried) Act establishes a system of custodial and non-custodial supervision orders. Supervision orders are designed to allow people who commit crimes while mentally impaired to receive treatment and be rehabilitated, while protecting the community. The courts retain a high degree of control over persons subject to supervision orders. The courts may increase or decrease a person's level of supervision.

Victims and families

The act requires that notice be provided to victims in certain circumstances and allows victims to provide information to the courts. The families of people under supervision are also entitled to be informed of the person's progress under a supervision order.

Whenever an application is made to reduce a person's level of supervision, victims and family members may make a report to the court. At the moment the content of a victim's report is limited to an account of the injury, loss or damage they have suffered. The bill broadens the focus of this report so that it will be a statement of the victim's view of the conduct of the person under supervision and the impact of that conduct on them.

The act will also be amended so that basic information about the level of supervision being provided can be supplied to the victim or family member. At the moment agencies that supervise people on supervision order are not free to provide confidential information about them. The provision of this information will be limited to the type of order and the level of supervision, so that there is a balance between the needs of victims and families and the privacy and therapeutic needs of the client.

The act will also be amended so that notices to victims and family members under 18 years of age will go to their parent or guardian. Where this would be inappropriate, the court may direct that notice be given to another person on the young person's behalf.

Understandably some victims and family members simply do not want to hear anything about the offender after the trial because they find it too traumatic. We are amending the act to make it clear that a victim or family member can choose not to be notified about any further applications made by the offender.

Similarly there are circumstances in which notice of a hearing would be so distressing to a person that it would be detrimental to their mental or physical health. In these cases the court will have the power to direct that the notice be provided to another person or that it not be given.

These amendments ensure that the notice procedures in the act are flexible, provide relevant information and allow family members and victims to present their views to the court if they wish.

Representing the community

The community at large also has an interest in the progress of a person under supervision.

The courts may only reduce the level of supervision to which a person is subject if convinced that the safety of the person or the public will not be seriously endangered. The community is therefore entitled to be represented when a court is considering whether to reduce a person's level of supervision.

Experience has shown that the involvement of the Attorney-General's legal representatives speaking on behalf of the community is invaluable. The Attorney is the first law officer of the state and has played no part in the initial prosecution. The Attorney can therefore come to the court to protect the community's interests.

So that the Attorney can fulfil this role more effectively, the bill amends the act to guarantee the Attorney-General's right to appear. The bill also extends power to appeal a court decision to the Attorney-General. This will ensure that the Attorney-General has all necessary powers to act in, and protect, the community's interests.

Notice and rights of appeal

The Director of Public Prosecutions, the Attorney-General, the supervisor appointed under the act and the Department of Human Services all have a role to play at court hearings. This bill clarifies that these parties are entitled to be notified of hearings and ensures that they are provided with relevant information. It also clarifies the rights of appeal available under the act. The bill also sets out the obligations of the Court of Appeal in hearing matters under the act.

Major reviews

In order to ensure that people do not get lost in the system, the court that makes a supervision order under the act must set a nominal term. At the end of the nominal term, the supervision order will automatically be reviewed by the court.

The bill will require the courts to specify a commencement date for the nominal term when making a supervision order. This will allow the courts to take into account any detention preceding the making of that order.

In many cases a major review will not occur for 25 years. A new provision will allow a court to direct that a person subject to a custodial supervision order return to court prior to their major review. This provision allows the courts to take a more proactive approach to reviewing detention under the act.

The bill ensures that if a person is detained after their major review, then they will be reviewed again at least once every five years. This means that even if a person is detained after their nominal term expires, the courts will still regularly reassess their detention.

Leave

People subject to custodial supervision orders may apply for four types of leave: special leave, on-ground leave, limited off-ground leave and extended leave.

Special leave from the place of custody is currently only available for 24 hours. It is administratively burdensome for leave to be approved every 24 hours when the patient is on leave for medical treatment such as surgery that may take longer than one day. The bill extends the period available for special leave to seven days where the leave is for medical purposes.

On-ground leave and limited off-ground leave are granted by the forensic leave panel.

The Vincent review panel recommended that the provisions of the act governing the forensic leave panel be examined. The Vincent review panel cited concerns that the legislation presumes that leave will be granted unless a reason can be shown why it should not. The

review panel suggested that leave should only be granted when it would contribute to the applicant's rehabilitation and when it was reasonable to do so. The amendments address the review panel's concerns.

The amendments provide that the forensic leave panel may only grant leave:

where it will contribute to the rehabilitation of the applicant; and

where the panel is satisfied that neither the public nor the applicant will be seriously endangered.

To ensure that the forensic leave panel is properly informed before granting leave, the bill requires that a patient profile and leave plan be submitted with each application. The profile and plan will be prepared by the service in which the person is detained. Where the service does not think that leave should be granted, then it must provide reasons to the panel. These amendments ensure that the forensic leave panel is provided with the information that it needs when deciding whether or not to grant leave.

A grant of leave can specify the days and nights on which a person may take leave in a period of up to six months. The bill provides that, once an order is made, the panel will only vary it where there has been a significant change in the applicant's circumstances. This will encourage a long-term view of the way that leave contributes to rehabilitation.

The forensic leave panel previously expressed uncertainty about the proper interpretation of the number of nights that the panel may grant as limited off-ground leave. The bill clarifies that the forensic leave panel may only grant up to three nights leave per week.

The bill also provides for an extension of the hours within which leave can be considered day leave. The hours will be extended from 7.30 a.m. to 6.00 a.m., and from 7.30 p.m. to 9.00 p.m. The new hours will allow more flexibility in allowing clinically appropriate rehabilitative activities during hours when they are possible.

Extended leave

Leave granted by the forensic leave panel is part of the gradual reintegration into the community of people on custodial supervision orders. Extended leave, which is granted by the courts and allows a person to be absent from custody for up to 12 months, is also part of this gradual process.

When a person seeks extended leave it will usually be the first time that they have lived independently in the community for some years.

When making the supervision order for the first time the court applies the principle that restrictions on a person's freedom and personal autonomy should be kept to the minimum consistent with the safety of the community. This principle will now also be applied to consideration of extended leave.

The act contains a list of criteria for the court to consider when making a supervision order. These amendments will ensure that the court also considers these criteria when deciding whether to grant extended leave.

The act will be amended so that a person's supervisor can make an application for extended leave on their behalf. The act will also be amended so that a court can grant extended leave when conducting a major review.

Interstate apprehension and transfer

The act contains powers of apprehension for people on supervision orders whilst they remain in Victoria. However, these powers do not apply to people who abscond interstate. The bill contains provisions that will allow warrants to be issued once it is clear that a person who is subject to the act has absconded interstate. The bill ensures that a person subject to a non-custodial supervision order who is apprehended under emergency provisions can be given appropriate treatment.

The bill also provides for the interstate transfer of people subject to orders under the act and similar legislation elsewhere.

Transfers to Victoria will be allowed to maintain or re-establish family ties. A transfer may only take place where it is for the benefit of the patient and services are available. The transfer can only occur with the consent of the relevant Victorian ministers and the person being transferred or their legal guardian.

The new provisions ensure that, when a transfer takes place, an order will be made to allow the person to be treated, supervised and detained, where necessary.

Transfer from Victoria to other states will be possible where those other states have legislation allowing for the reception of persons subject to supervision orders.

These provisions fill an important gap in the regime for transferring people subject to supervision or detention between the states. They will promote rehabilitation

and the reunion of families separated under difficult circumstances.

Mental Health Act 1986

The bill amends the provisions of the Mental Health Act that relate to the discharge and leave entitlements of security patients. Security patients are people who are in custody, including prisoners and young people detained under the Children and Young Persons Act. The severity of their mental illness means that they need to be detained in a hospital for treatment.

The Vincent review panel argued that treatment for these patients in hospital should focus on the acute phase of their illness and continue only so long as it is necessary and can be justified. After that, security patients should be returned to their place of detention where treatment can be continued. These amendments implement recommendations of the Vincent review panel.

The amendments provide that security patients can be discharged back to their place of detention where immediate treatment is no longer necessary. This is consistent with the discharge criteria for people receiving involuntary treatment in the community.

Discharge back to the place of detention for security patients will be governed by clinical guidelines. The guidelines will be issued by the Chief Psychiatrist following consultation with the Correctional Services Commissioner and the Mental Health Review Board. In this way, a balance will be struck between the need for treatment and concern about security.

The Vincent review panel also recommended that a new approach be taken to granting leave of absence to security patients. The panel recommended that the authority for granting leave of absence be transferred from the Chief Psychiatrist to the Secretary to the Department of Justice, who has responsibility for granting leave to prisoners.

The amendments provide that a security patient, or the authorised psychiatrist of the relevant service, may make an application for leave of absence.

The Secretary to the Department of Justice will be responsible for granting this leave. The Chief Psychiatrist, who will be consulted on each application, will provide clinical input.

If the security patient is a young person transferred from a juvenile justice facility, then consultation with the Secretary to the Department of Human Services will be necessary. Similarly, if the security patient was transferred directly from police custody, then consultation with the Chief Commissioner of Police will be necessary. This consultation ensures that the Secretary to the Department of Justice has all the information relevant to the granting of leave.

The secretary will grant leave to security patients only where neither the patient nor the public will be seriously endangered. Leave will be granted for a maximum of six months.

At present, a security patient can appeal to the Mental Health Review Board against a refusal by the Chief Psychiatrist to grant leave of absence. However, there is currently no right of appeal from a refusal by the Secretary to the Department of Justice to grant leave to a prisoner. Accordingly, now that the Secretary to the Department of Justice will grant leave to security patients, there will be no appeal to refusal of an application for leave.

Two recommendations by the Vincent review panel concerning options for sentencing the mentally ill have been held over pending the outcome of the review of the Sentencing Act.

Control of Weapons Act 1990

The amendment to the Control of Weapons Act ensures that a finding of not guilty by reason of mental impairment will not prevent the forfeiture of weapons, dangerous articles and body armour.

Intellectually Disabled Persons' Services Act 1986

The amendment to the Intellectually Disabled Persons' Services Act ensures that a person with an intellectual disability who is subject to a non-custodial supervision order and is detained under emergency detention provisions can receive services.

Other amendments

The bill contains a number of other amendments that clarify existing legislative provisions and correct a number of technical errors.

The overlap between crime and mental impairment can result in the most profound personal, family and social tragedies. This bill aims to achieve the appropriate balance between the needs of mentally impaired offenders, the safety of the community and the wellbeing of victims.

I commend the bill to the house.

Hon. R. A. Best — On a point of order, Acting President, in the Assembly there were some

93 amendments moved by the government to this piece of legislation. The disappointing thing — and this is not the first time it has happened to this house — is that we have received the same second-reading speech that was given in the lower house, and it does not reflect the changes that have been made by way of amendment in that house. Proposed new sections in the amendments have been included in the bill. The disrespect for this house shown by the government of the day in the second-reading speech that has just been delivered is extremely disappointing.

I am not prepared to accept this second-reading speech as it is. It does not reflect the changes that have been made. I seek your ruling, Sir, as to whether the government should withdraw this second-reading speech and come back with a second-reading speech that reflects the amendments which were agreed to in the lower house, which made substantial changes to the bill.

Hon. M. R. THOMSON (Minister for Small Business) — We are happy to check the speech. We believe it was checked, but we will check it again to ensure it accurately reflects what it should reflect.

Hon. P. R. Hall — On a point of order, Mr Acting President, I would like to support the point of order moved by the Honourable Ron Best. As he said, at least three or four significant new clauses have been added to the bill since the second-reading speech that was delivered in the Assembly. It is the view of the National Party that some of the amendments — particularly those relating to proposed new part 7B, headed 'Persons absconding to Victoria from interstate', and some of the new clauses such as the new clause that inserts proposed new section 53AA in the Mental Health Act and new clause CC, which follows clause 42 — substantially change the nature of this bill and ought to be explained to the house in the second-reading speech.

I reinforce the point of order raised by the Honourable Ron Best, which is that a second-reading speech which accurately reflects the contents of the bill is required to be made to this house, and we insist that that be done.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! Following the point of order it is probably a good idea that the accuracy of the bill be checked as a precaution for the house. I suggest to the minister that it be checked and that the minister report the contents of the bill and the second-reading speech to the house before the adjourned debate is resumed.

Hon. Bill Forwood — I raise a point of clarification, if I may. The minister is seeking the adjournment of this debate until the next day of meeting, subject to this being checked. I take it that if it is wrong the second-reading speech will be given again.

Hon. M. R. Thomson — We would have to.

Hon. Bill Forwood — And we can then adjourn the debate for the appropriate time? On that basis I am happy to move, on behalf of Ms Luckins:

That the debate be now adjourned.

Motion agreed to and debate adjourned.

Debate adjourned until next day.

CRIMES (DNA DATABASE) BILL

Third reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a third time.

In doing so I respond to issues raised by the Honourable Cameron Boardman during the committee stage of the debate in relation to resourcing matters.

I am advised that the response of the Minister for Police and Emergency Services in the other place is that this bill will mean that police are using their resources more effectively by allowing their operational people to supervise the self-administration of DNA samples. However, any financial implications are for consideration as part of the budgetary process. The police have sought that self-administration of buccal mouth swabs be introduced as they want to be more efficient in the use of their resources, and we have worked with them to ensure they can achieve this end. Police want self-administration and believe that the use of buccal swabs will achieve this.

This will free up police to continue to carry on the important work of providing a quick response time. It will also allow them to use DNA more effectively as a weapon in solving crime.

Hon. B. C. BOARDMAN (Chelsea) — Firstly, I acknowledge that I appreciate the effort the minister has made. However, it was not the answer I was seeking, because I asked whether or not there was going to be an allocation of resources to deal with the current backlog at the state forensic centre. There are going to be some quite profound implications as a result of this legislation if it is read a third time today, because the

eligibility for taking a sample will expand quite considerably, which will increase the workload. I place firmly on the record that the opposition has some concern about there being adequate resources to deal with the current problem, which is going to be compounded by a future problem as a result of this legislation.

Notwithstanding that I appreciate the effort that the minister has gone to, I would like him to reconsider my initial point and also my subsequent point and ask the Minister for Police and Emergency Services to write to me about that specific issue. It is a very important challenge that not only Victoria Police but also the community of Victoria is faced with, and I think it is appropriate that the police minister appreciate it and respond to me in the context in which I am raising it

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! As a consequence of the bill being amended during the committee stage, I am of the opinion that the third reading of this bill requires to be passed by an absolute majority of the whole number of the members of the Legislative Council. Ring the bells.

Bells rung.

Members having assembled in chamber:

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! I ask honourable members to signify their assent by standing in their places.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

ADJOURNMENT

Hon. M. M. GOULD (Minister for Education Services) — I move:

That the house do now adjourn.

Stamp duty: reform

Hon. D. McL. DAVIS (East Yarra) — I raise with the Minister for Energy and Resources, as the representative in this chamber of the Treasurer, a matter concerning stamp duty in my electorate. I draw the attention of the Treasurer through the minister to auctions held last weekend, including a house in the City of Monash at 2 Railway Parade, Chadstone, which sold for $246 000. The Victorian stamp duty on that auction price was $10 450, as opposed to an equivalent New South Wales stamp duty of $7117. That is a $3300 — —

Hon. D. G. Hadden interjected.

Hon. D. McL. DAVIS — You are exactly right, Ms Hadden, and people in Ballarat would also be very concerned about this.

In the City of Whitehorse at the weekend a property at 54 Seven Oaks Road, Burwood East, was sold for $252 000. The purchasers of that home will have to pay a premium of $3470 above the equivalent New South Wales stamp duty on a property at that price — that is, a total Victorian stamp duty of $10 780.

In the City of Boroondara, also in my electorate — in the Burwood electorate, I might add, represented by Mr Bob Stensholt in the other place — a property at 15 Redvers Street, Surrey Hills, sold for $560 500 with a Victorian stamp duty of $29 290 — that is, almost $30 000 stamp duty on one Boroondara property, and an additional $8577 above the equivalent New South Wales stamp duty.

The point of this is that the stamp duty rates in Victoria are a disgrace and the stamp duty rates in my electorate of East Yarra Province and in the Burwood portion of my electorate are a disgrace. The Treasurer has not intervened. The Treasurer continues to push and to maintain very high stamp duty rates — windfall gains that he has made over and above what he estimated in the budget — and the honourable member for Burwood has been silent on the matter. In fact, he was very happy to support the amazing stamp duty amounts that are levied on the people in the Burwood electorate, and it is a disgrace.

I seek from the Treasurer some indication as to what he will do, and I ask the honourable member for Burwood to join me and my colleagues in a campaign to ensure that in the Burwood electorate, in the East Yarra Province, in the City of Whitehorse, in the City of Monash and in the City of Boroondara we have fair stamp duty rates that do not slug families and businesses when they fairly and reasonably purchase properties. These rates are the highest in Australia, and they are most unfair to families and to businesses.

Black Rock–Bluestone School roads, Connewarre: safety

Hon. E. C. CARBINES (Geelong) — I raise a matter with the Minister for Energy and Resources, as the representative in this house of the Minister for Transport. In particular I draw to the minister's attention an intersection in my electorate of Geelong Province at Connewarre, which the local State Emergency Service describes as notorious and the local police describe as the most dangerous in the area.

The intersection to which I refer is at Black Rock Road and Bluestone School Road. Tragically there was recently a fatality at this intersection, which has heightened the concerns of residents who have tried for a very long time to have it upgraded, without success. I understand from Vicroads in Geelong that the Black Rock Road–Bluestone School Road intersection has been nominated for treatment under the black spot funding program. Accordingly I ask the minister to urgently consider the allocation of the necessary funding to upgrade this most dangerous intersection and to improve its safety for all who use it.

Rural and regional Victoria: waste management

Hon. P. R. HALL (Gippsland) — I raise with the Minister for Energy and Resources for the attention of the Minister for Environment and Conservation in the other place a matter concerning the very important issue of waste management in rural and regional Victoria. In company with the honourable member for Wimmera in the other place, Mr Hugh Delahunty, I recently met with the West Wimmera Shire Council mayor, Mr Bruce Meyer, and the chief executive officer, Mr Rex Mooney, to discuss waste management issues being faced by rural councils.

In particular they were concerned about the cost of complying with the guidelines being imposed upon them by the Environment Protection Authority on the closure and rehabilitation of landfill sites. They made the very good point that uniform technical standards were often unnecessary and inappropriate for rural landfills, resulting in excessive and unnecessary costs to the councils and ultimately the ratepayers. In fact, it was suggested by the West Wimmera shire that it would require an increase in its rates of 10 per cent to cover the cost of the compliance on — —

The ACTING PRESIDENT (Hon. R. H. Bowden) — Order! For the edification of the house, could Mr Hall confirm the minister to whom he is referring his matter?

Hon. P. R. HALL — Yes. I said to the Minister for Energy and Resources for the attention of the Minister for Environment and Conservation.

The ACTING PRESIDENT (Hon. R. H. Bowden) — Thank you.

Hon. P. R. HALL — Recently some 30 rural councils met to consider waste management issues and they recommended, among other things, that the government launch a funding program to assist rural shires with the development, closure and rehabilitation of landfills as a matter of urgency. Further recommendations were listed in correspondence addressed to the Minister for Environment and Conservation and copies were sent to the Minister for Local Government and the Minister for State and Regional Development on 10 December of last year, signed by the convenor of the meeting, Cr Tom Courtney, who was then the mayor of the East Gippsland shire. To date I am not aware of the response that might have been forthcoming from any of those three ministers.

My request tonight is to urge the Minister for Environment and Conservation to look at these issues carefully and to view favourably the recommendations that have been put forward by the 30 rural councils. These are important issues. It is in the state's best interests that waste management be appropriately handled. Rural councils need some help, and I urge the minister to give them that help.

Inner South Community Health Centre

Hon. P. A. KATSAMBANIS (Monash) — I raise with the Minister for Small Business, as the representative in this house of the Minister for Health, a critical issue relating to staff and clients of community health centres around Victoria, but specifically staff and clients of the Inner South Community Health Centre within the electorate of Monash Province. For a considerable period of time staff at the Inner South Community Health Centre have been underpaid in relation to people doing similar jobs within the public hospital system in Victoria. Through their trade union, the Australian Services Union, these staff have been making representations for two years to the health minister about providing commensurate pay.

The Inner South Community Health Centre operates from three sites — one in St Kilda, one in South Melbourne and one in Prahran — all within the electorate of Monash Province, which I share with the Honourable Andrea Coote. I must say from my own experience that the staff and management at the Inner

South Community Health Centre are absolutely first class and they do a wonderful job under very trying circumstances. They point out that in many ways their circumstances are often more trying than those of staff with commensurate positions in public hospitals. However, the Minister for Health has for the past two years ignored their demands for commensurate pay with staff doing the same jobs in public hospitals.

It is a tragedy and a shame that the Minister for Health is also the honourable member for Albert Park and represents the area in which the Inner South Community Health Centre is located. It is quite clear that over the last two years he has ignored the demands from staff, and recently they have had to impose rolling picket lines at community health centres, not just within my electorate but across Victoria, to waken the minister up to the fact that he is doing nothing and he is ignoring the plight of these workers who work under very trying conditions.

The issue I want to raise with the minister — and I trust that this time he will take it up and not ignore it — is what action he has taken to ensure that the staff at these community health centres, especially at the Inner South Community Health Centre, are given adequate resources and pay to recognise the fact that they are fully qualified health professionals performing the same jobs as those who work in public hospitals, and to make sure that these people get the pay rise they deserve.

Walwa and District Bush Nursing Hospital

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the Minister for Small Business for reference to her colleague the Minister for Health in another place. The matter relates to the issue I raised with the Minister for Small Business last week concerning the Walwa and District Bush Nursing Hospital, and I thank the minister for having her colleague convey a message to the large gathering in Walwa on Sunday when some 700 people rallied to mark the 25 years service to the community of Dr David Hunt, but more particularly to seek further funding to enable the hospital to continue its operations.

The day was an outstanding success. About 118 people picked grapes at the Walwa estate that morning and the proprietors handed over a cheque for $5800, which equated to the labour costs of picking the grape harvest; that has gone directly to the hospital. There were various other fundraising endeavours on Sunday.

My purpose in raising it tonight is to invite the Minister for Health to negotiate with his New South Wales colleague some contribution towards sustaining the Walwa hospital, bearing in mind that about 50 per cent of the patients who make use of the hospital are residents of New South Wales from the districts of Ournie and Jingellic, Lankeys Creek and the like. I suggest it is appropriate that New South Wales make a contribution to assist in overcoming the financial difficulty the hospital is facing. We have cross-border health agreements in Albury-Wodonga, Echuca-Moama and I am sure in other areas along the border. There is no reason why there cannot be some similar contribution from New South Wales for the ongoing financial viability of the Walwa hospital. I invite the Minister for Health to negotiate with his New South Wales colleague for a very modest intervention, but one which would be of great assistance to the small community hospital.

Monash: mayoral election

Hon. M. T. LUCKINS (Waverley) — I raise a matter with the Minister for Sport and Recreation for the Minister for Police and Emergency Services in the other place. Honourable members will recall that on the last day of sitting I raised serious concerns about the mayoral election in the City of Monash. I now have additional information in the form of two statutory declarations, which I have sought leave to incorporate into *Hansard*.

Leave granted; for statutory declarations *see pages 346 and 347.*

Hon. M. T. LUCKINS — The statutory declarations I will provide to the house confirm the concerns I raised previously about the coercion, harassment and blackmail of a Labor Party member and councillor in the City of Monash, Cr Felicity Smith, to secure her vote for fellow Labor councillor Geoff Lake. The statutory declarations state that Cr Lake and Labor MHR, Anna Burke, the federal member for Chisholm, exerted threats to the effect that the husband of Cr Felicity Smith, an employee of the Transport Workers Union, would be sacked unless Cr Smith supported Cr Lake in the mayoralty against her preferred candidate, Cr Tom Morrissey.

I have spoken to Cr Smith at length and she has confirmed that concern for her husband's job resulted in her withdrawing support from Cr Morrissey, her preferred candidate. Cr Smith has been distressed and emotionally upset by the threats of retribution against a member of her family by Cr Lake and Anna Burke.

Hon. T. C. Theophanous — On a point of order, Mr President, the honourable member is embarking on a tirade of unsubstantiated allegations involving a

federal member of Parliament, and I ask that if she is reading from a document which she claims to be a statutory declaration — —

Honourable members interjecting.

Hon. T. C. Theophanous — That is not what the honourable member is reading from. She is reading from her own notes. Mr President, given that in the past you have ruled that unsubstantiated allegations during the adjournment debate are not to be allowed, particularly if they are unsourced, I ask you to rule that the honourable member make available the statutory declarations so that we can all see what is in them and whether she is quoting or simply making it up.

Hon. Bill Forwood — On the point of order, Mr President, one would expect that sort of point of order from Mr Theophanous. The issue simply is that the government has granted leave for Ms Luckins to incorporate into *Hansard* two statutory declarations. She has two statutory declarations on the issue and she is quite properly placing on the record her interpretations of them, which she is entitled to do, and she is seeking from the Minister for Police and Emergency Services some action on the matter. It is entirely appropriate for Ms Luckins to proceed the way she is.

The PRESIDENT — Order! Did the honourable member provide copies to the Leader of the Government and the others?

Hon. M. T. LUCKINS — I did not provide a copy. The Leader of the Government read the documents and gave me leave previously.

Honourable members interjecting.

The PRESIDENT — Order! The honourable member, in seeking leave like this, should make copies available to all parties so that they can check the comments. Can you make them available now?

Hon. M. T. LUCKINS — I have certainly got copies.

Hon. M. M. Gould — On a point of order, Mr President, I take offence at the honourable member saying that I read the document. She approached me earlier in the day and asked would I grant leave. I scanned the documents to make sure — —

Honourable members interjecting.

Hon. M. M. Gould — I looked to ensure that they had been signed. I read one paragraph. The honourable member knew that leave would be granted because I informed her of such and, as you rightly ruled, Mr President, she should have made copies available to the house.

Honourable members interjecting.

The PRESIDENT — Order! There are two ways in which an honourable member can handle it. One is to make the document available by providing copies around the chamber. In this case, she sought leave and was given leave to incorporate the documents into *Hansard* which reinforces the need to make them available to members of the house who want them. So can Ms Luckins please deliver them around now?

In relation to the point of order raised by the government leader, she was certainly consulted earlier in the day, and as the honourable member introduced the reference to the material, she should have arranged for a copy at this stage to be delivered to those in the house who wanted it. I ask the government leader whether that covers the issues she raised in her point of order?

Hon. M. M. Gould — It would have been helpful.

Hon. T. C. Theophanous — On a further point of order, Mr President, during the discussion of the point of order the Leader of the Opposition indicated that the Honourable Marie Tehan was providing — —

Honourable members interjecting.

Hon. T. C. Theophanous — Sorry, Maree Luckins.

Honourable members interjecting.

Hon. T. C. Theophanous — Well, she'll soon be in the same boat anyway, so what's the difference!

The Leader of the Opposition indicated that the Honourable Maree Luckins was entitled to give her interpretation of the document she is seeking to use to make her contribution today. If that is the case it is appropriate for the honourable member, when introducing the document, to say, 'This is my interpretation of the document', rather than trying to suggest that somehow what she is putting to the house is a matter of fact as opposed to an interpretation.

The PRESIDENT — Order! The honourable member started the process by seeking leave to incorporate two documents in *Hansard* and she was given leave by the house. The subsequent comments would not have been a problem if copies had been available to the house. Having introduced it, the

honourable member is entitled to speak to the document — —

Hon. T. C. Theophanous — She should get proper leave!

The PRESIDENT — Order! She did get proper leave. She sought leave to incorporate them in *Hansard*. I asked if leave was granted, and leave was granted. The Leader of the Government had already agreed to that earlier in the day. The problem arises from the way it has been handled, so I do not uphold the point of order.

Hon. M. T. LUCKINS — Thank you Mr President. The statutory declarations in question are from John Jeffrey Davis, known as Jack, former councillor and member of the Australian Labor Party and president of the ratepayers association of the City of Monash. The other is from Thomas Graeme Morrissey, known as Tom Morrissey, former mayor of the City of Monash.

As I proceed it will come as no surprise to honourable members that until extremely recently Cr Lake was an employee of the disgraced honourable member for Frankston East, Matt Viney, who has just stood down from his position as Parliamentary Secretary, Human Services until allegations about corruption, impropriety and thuggery in regard to the development in the City of Frankston are resolved.

The PRESIDENT — Order! The honourable member is raising a matter dealing with an entirely different issue. She is allowed to raise one subject. The matters about another member of Parliament are irrelevant to the matters raised. The honourable member should not go any further on that line but get back to the main issue.

Hon. M. T. LUCKINS — Tonight I seek the assistance of the minister in instituting a criminal investigation into this matter — into the blackmail against Cr Smith by Cr Lake and a member of the House of Representatives, Anna Burke, who now employs Cr Lake. This blackmail and impropriety is unacceptable, inappropriate and abhorrent. Cr Felicity Smith — —

The PRESIDENT — Order! the honourable member has asked the question. She has asked for an investigation by the police in relation to certain matters. Having asked that question, she should not editorialise in relation to the point she has already put. I think her request is on the record. The minister will deal with it, and I will move on to the next matter.

Dock Lake Reserve, Horsham

Hon. R. M. HALLAM (Western) — I raise an issue for the Minister for Sport and Recreation which has to do with the rebuilding of the Dock Lake Reserve clubrooms, which are at Dock Lake, situated 10 kilometres east of Horsham on the Western Highway.

The Horsham Rural City Council has written to the minister formally requesting a capital grant of $40 000 towards the cost of rebuilding the clubrooms, which were destroyed by fire last month. I know the minister is likely to get a whole range of requests for funding support, but this case is pretty special and I would plead that the minister give it special attention.

The cost of replacing the clubrooms is estimated at $160 000, and the committee expects an insurance payout of $80 000. If it got a $40 000 payout from the minister it believes it could raise the balance in the local community through donations of cash, labour and materials. I think that is a fairly good indication of the community spirit involved.

The fire which resulted in the loss of the clubrooms can be traced at least in part to the government's inaction. The facts are that there has been an alarming build-up of fairy grass on Green Lake, amongst other dry lake beds across the Wimmera. I do not blame the government for Green Lake going dry, but there has been a farcical outbreak of buck-passing amongst the government agencies regarding the fairy grass build-up, and the committees of management and councils have become totally frustrated in their attempts to get permission to undertake remedial works and to get some acknowledgment regarding both the obvious fire risk and the responsibility for the cost of the works. In this case the fairy grass was ignited by the exhaust of a tourist bus, which paradoxically pulled up to show the passengers the phenomenon. The fire then raced across Dock Lake and burnt the clubrooms!

I know this is outside the annual minor facilities grant program, a program to which I would have expected the minister to have initially referred, but the clubrooms are in regular use for both summer and winter sports and any delay in the rebuilding may have major ramifications for long-term use. I commend both the merits of the council's appeal and the need for urgent consideration.

Knox: health services

Hon. G. B. ASHMAN (Koonung) — The matter I direct to the Minister for Small Business for the

attention of the Minister for Health in another place relates to health services in Knox. Knox City Council was briefed some weeks ago by Eastern Health on the prospects of the Knox public hospital and was advised that the government was not proceeding. The council has now agreed with the recommendation from Eastern Health.

In coming to its decision, it was told there would be a number of hospital upgrades, and I refer in particular to the Peter James Centre. The council was told there would be the development of a 90-bed integrated residential care service at Knox; the establishment of a 24-bed palliative care unit; the expansion from 98 to 120 rehabilitation or geriatric evaluation and management, or GEM program, beds; the expansion from 12 to 16 haemodialysis chairs; and the development of peritoneal dialysis; and an expansion of the Mooroolbark aged psychiatry nursing home.

This was presented to the council, but with the comment that the projects are not yet approved and funded by government. Given that the government has decided not to proceed with the Knox public hospital, when will these projects be funded; or is it the government's intention to leave people to languish in their homes waiting for hospital care?

Ballarat: fluoridation

Hon. ANDREW BRIDESON (Waverley) — The matter I raise with the Minister for Small Business for the attention of the Minister for Health in the other place deals with the fluoridation of drinking water in rural Victoria. Last Friday was a historic day in Victoria because it was the 25th anniversary of the fluoridation of water supplies. The Minister for Health and a former Liberal Premier, Dick Hamer, hosted an important function for those who were instrumental in the implementation of fluoridation. The Minister for Health is reported in the Ballarat *Courier* of last Saturday as saying:

> Ballarat children are almost twice as likely to develop tooth decay than those in Melbourne.

Further research was carried out by the National Health and Medical Research Council in 1990 that showed that Geelong children aged seven and eight had 46 per cent more decayed, missing and filled teeth than their Melbourne counterparts.

Bendigo and Kyneton will introduce fluoride in May this year, but some difficulties are being encountered in Ballarat. I am not sure where the honourable member for Ballarat West, Karen Overington from the other place, stands on this issue, but I am advised that she is opposed to the fluoridation of water in Ballarat. The Ballarat *Courier* also reports the current Central Highlands water board chairman, John Barnes, as saying

> … the issue would not be readdressed by the board unless required by a Victorian government directive.

When does the Minister for Health propose to fluoridate water supplies in rural Victoria and specifically in Ballarat?

Lysterfield Road, Lysterfield: safety

Hon. W. I. SMITH (Silvan) — The matter I raise with the Minister for Energy and Resources is for the attention of the Minister for Transport in the other place. Knox City Council has written to me in regard to an application for funding for a main road in Knox. Fundamentally the council says there is no strategic approach to the provision of arterial roads in the outer metropolitan fringe area.

The council says the backlog of road works in this area needs a targeted program to catch up. The existing system of annual applications and allocations of funds for roads needs to change to project bids on three to five-year programs of targeted works. In particular, Knox City Council has applied for funding to widen Lysterfield Road, Lysterfield. Housing development has grown at a rapid rate in this region, and there is a real need for arterial works. Lysterfield Road is an old country road that today is taking heavy city traffic. In fact, over the past five years 50 serious accidents have occurred on that road.

Knox City Council requests two things: $2.2 million of black spot funds to fund the project; and also a deputation with the Minister for Transport. The council has written to him and has had no response. Will the minister respond and grant funding for the black spot application and receive a deputation?

Tourism: Phillip Island

Hon. B. C. BOARDMAN (Chelsea) — I raise a matter with the Minister for Sport and Recreation for the attention of the Minister for Tourism in another place. I note that last Friday the Premier opened the Churchill Island visitor information centre. As we all know, Churchill Island is in the new seat of Western Port and it is also in the federal seat of Bass. I think the Liberal Party has selected an exceptional candidate and will win that seat comfortably.

The Churchill Island visitor information centre was a project of the Kennett government, and it is interesting

that again the Premier was opening a centre that was yet another Kennett government initiative. In doing so he announced that the state government would provide a $480 000 boost to a tourism campaign that would centre around the Phillip Island penguins. He stated that this would be primarily targeted at the Japanese market. In the press release associated with the opening the Premier says:

> … using a penguin as an icon for Melbourne had attracted more Japanese tourists to the state than ever before.

The Premier also states:

> This year the campaign is using interest in the penguins to attract Japanese visitors to visit Phillip Island and surrounding regions, and other areas of the state.

I hope the Premier acknowledges that Churchill Island is part of Phillip Island and that Japanese tourists, and any other tourists for that matter, visiting the Bass Coast and Phillip Island would avail themselves of this and many other attractions, such as the Seal Rocks development. However, this government would never dare promote Seal Rocks. Nonetheless, there is confusion with this announcement because the official forecasts from Tourism Victoria suggest that the Japanese market is shrinking.

The most up-to-date facts indicate that the trend is continuing. The curiosity with this specific announcement is that the North American, United Kingdom, European, New Zealand and Asian markets are the ones that will grow, and grow considerably. Although we welcome any initiative to make Victoria an international base to try to achieve more visitations, why is the Japanese market being targeted exclusively when it seems to contravene the official statistics that are on a web site and available to the public?

Will the Minister for Tourism provide information that suggests that the Japanese market will be a growing market in future and thoroughly deserves this important allocation of strategic resources?

Buses: Narre Warren South and Berwick

Hon. N. B. LUCAS (Eumemmerring) — I direct a matter to the Minister for Energy and Resources, who represents the Minister for Transport in the other place. It concerns the provision of public bus services in Narre Warren South and Berwick. In recent weeks I have undertaken a survey by posting out and letterboxing numerous surveys to local residents inquiring from them what they would desire regarding public transport in their areas. Narre Warren South and Berwick, south of the freeway, are the fastest growing areas in the state. I have received a huge number of responses. In recent days I forwarded a request to the Minister for Transport for the Bracks Labor government to finally do something with public transport in my electorate in Narre Warren South and Berwick, south of the freeway.

Honourable members interjecting.

The PRESIDENT — Order! I ask the house to settle down and individual members not to interrupt.

Hon. N. B. LUCAS — Since the current government came to power there has been very little increase in public transport in my electorate, particularly in the areas to which I refer. My request to the Minister for Transport is for the provision of further bus services along Greaves Road, Centre Road, Homestead Road, O'Shea Road and Clyde Road in Berwick. I particularly ask that buses go into the collector roads within new subdivisions and for the provision of additional services on Narre Warren–Cranbourne Road.

The people have said, 'We need to connect to shopping centres, to railway stations and to schools. We need to have a service provided for us so that we can get around, so our children can get around and so older residents who do not have a car can get around'. At this stage the Minister for Transport has provided nothing — a do-nothing government — and that really annoys me, and it annoys the people of my electorate. I am really hoping that the Minister for Transport will finally — —

Honourable members interjecting.

The PRESIDENT — Order! If the attempt is to drown out Mr Lucas, honourable members are succeeding, because I cannot hear him. I ask all honourable members to desist and to allow the honourable member to finish his question.

Hon. N. B. LUCAS — I am looking at nearly 200 survey forms which have come back to my office expressing those concerns. I have had a good look at those forms, analysed them and provided details to the minister of the sorts of things people require.

I am concerned that we have a do-nothing government in this state. Victoria is losing under Labor, and I ask the Minister for Transport to look carefully at the information, both detailed and general, that I have sent to him and to give serious consideration to providing adequate public transport in Narre Warren South and in Berwick, south of the freeway, because these people deserve an adequate public transport service.

Tourism: Phillip Island

Hon. R. H. BOWDEN (South Eastern) — I seek the assistance of the Minister for Sport and Recreation in his capacity as the representative of the Minister for Tourism in the other place, although this item could be of interest to the Minister for Ports.

One of the main activities, if not the main activity, on Phillip Island is the provision of recreation and tourism services. For a long time Phillip Island has been an integral part of Victoria's tourism resources through the penguin parade, the nature park and other well-known facilities. In recent years a considerable degree of planning has gone towards the consideration of extending the Cowes wharf. Upgrading and extending the Cowes wharf would provide opportunities for cruise ships to visit regularly.

During the last few years the state has been successful in attracting an increasing number of cruise ships to Melbourne. In March 1997 I had a lot to do with the organising of an experimental visit by the United States warship, the USS *Reid*, which was considered successful. In November this year a cruise ship will visit Phillip Island as part of a scheduled cruise program for the first time. The water in the vicinity of the Cowes wharf is deep, and it should not be a major exercise for civil engineers to look at redesigning and expanding Cowes wharf so that cruise ships can come alongside. I point out that it is really because ships can come alongside that the opportunity becomes a permanent one for Phillip Island. I understand the cruise operators are attracted to the opportunity that Cowes and Phillip Island could represent, because it would enable another port to be scheduled on the cruise. Melbourne is a popular destination, and an overnight journey is attractive to the vessel operators so they could go to Phillip Island and make that a successful visit.

It is my understanding that this would be a popular move with the residents of Phillip Island and that the Bass Coast Shire Council is supportive of this measure. From all the indications I have, this could be a significant and well-received initiative within the community.

I ask the Minister for Sport and Recreation to take an early opportunity to discuss this with the Minister for Tourism and the Minister for Ports so that we can further enhance the tourism infrastructure on Phillip Island.

South Gippsland Highway–Pound Road, Dandenong South: traffic control

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I raise a matter for the Minister for Energy and Resources, representing the Minister for Transport in another place. It relates to the South Gippsland Highway–Pound Road intersection at Dandenong South. Currently that intersection has a two-lane roundabout. For most of the time the roundabout works well; however, during peak time a proliferation of vehicles northbound on the South Gippsland Highway and turning right into Pound Road effectively stop all other traffic in the intersection.

The solution to this situation is simple. It would involve the installation of a single red stoplight to periodically stop northbound traffic on the South Gippsland Highway. A similar stoplight has been installed at the Governor Road–Boundary Road roundabout, and it works very effectively, stopping peak-hour traffic and allowing other traffic to use the roundabout effectively.

The installation of a similar stoplight on the roundabout on the South Gippsland Highway would allow other users of the roundabout, particularly traffic from Dandenong heading south, possibly to Phillip Island, which currently banks back to Greens Road, to effectively make good use of the roundabout. I seek the minister's assistance in having Vicroads carry out the necessary work to ensure that that roundabout works effectively.

Bena–Kongwak Road: safety

Hon. K. M. SMITH (South Eastern) — I ask the Minister for Energy and Resources to pass on a message to the Minister for Transport in another place. Every time my wife sees Peter Batchelor on television or hears him doing a radio interview she says, 'That man should be in jail for what he did in the Nunawading by-election'.

The PRESIDENT — Order! I ask the honourable member to withdraw that statement.

Hon. K. M. SMITH — On behalf of my wife, I withdraw that comment.

The PRESIDENT — Order! I think the honourable member should just say, 'I withdraw'.

Hon. K. M. SMITH — I withdraw.

This is a very serious issue that I raise with the Minister for Transport, and it concerns what I would describe as the worst road I have ever been unfortunate enough to

drive on. It is a road up in a place called Kongwak, which is between Wonthaggi and Korumburra, and it is on the Bena–Kongwak Road. There is a kilometre of road that is so poor that it is just outright dangerous. School buses travel along that road, as do milk tankers, and for a kilometre the road is falling apart. The bitumen has now broken up completely and the camber rolls the wrong way, so if people's attention is not quite right or they go slightly off the road to miss a milk tanker or something they are just as likely to go over the edge of the hill.

The minister had an opportunity to put some black spot funding into this. We know, and I am sure honourable members on the other side of the chamber know, that the government and the Minister for Transport underspent the black spot funding by in excess of $20 million. The government had the opportunity to fix up one piece of road that runs for a kilometre in Kongwak. The people up there — Bill Brown, the president of the Kongwak Community Group, and Bill and Betty Anderson, the secretary and her husband — are part of a great community of people. This government has ignored them and has put their lives and the lives of all the others in the community up there at severe risk on this piece of road.

Honourable members interjecting.

Hon. K. M. SMITH — I do not joke. This would be my nomination for the worst piece of road in Victoria because it is so dangerous. I ask the Minister for Sport and Recreation to ask the Minister for Transport to reconsider his position in regard to black spot funding for this piece of road before somebody is killed, because if they are I am going to come back and haunt him!

Police: South Geelong patrols

Hon. I. J. COVER (Geelong) — I ask the Minister for Sport and Recreation to raise my concerns with the Minister for Police and Emergency Services in the other place. The matter involves the increasing incidence of theft from and damage to used car yards in Fyans Street, South Geelong. Colin Bartlett is one of nine motor traders who have contacted me about this issue. There has been an increase in break-ins, thefts and damage to vehicles in recent times amongst these motor traders, and they attribute this to two factors: inadequate police presence and inadequate street lighting. Mr Bartlett has written to me saying:

> Police attending the scene when the break-ins are reported, invariably the following business day, have told us that with only two vans patrolling at night they are often unable to leave the city centre other than to attend to emergency calls. Situated on the city fringe, Fyans Street is not regularly patrolled.
>
> Police officers have told us that they are aware that the crimes are taking place and express a sense of helplessness to stop them, saying that there is little they can do. Over the Labour Day weekend a number of yard owners hired a private security guard to patrol the street. The guard spotted two teenagers breaking into one of our yards but was unable to catch them. The guard notified police, but was told that the police were too busy to attend.

It is the view of Colin Bartlett and these other motor traders that:

> … the only way to curb the rise in thefts from our yards is to have an increased police presence along the street at night and improved lighting.

I share the concern of these motor traders, and I have raised the matter with Geelong police. As a result of the discussions I have had with them I received an undertaking that a crime prevention officer would meet with the traders to discuss ways of improving the situation. I am pleased to have achieved that outcome at least.

But the bigger issue remains — the issue of patrols. I find it difficult to understand — and I am sure the motor traders do as well — that only two vans are patrolling at night when the Minister for Police and Emergency Services in the other place claimed last month that police numbers in Geelong have been increased from 127 to 189. If we really do have all these extra police, can the minister explain to the Fyans Street motor traders why only two vans are patrolling their area in South Geelong at night?

Bayside: rates

Hon. C. A. STRONG (Higinbotham) — My question is to the Minister for Sport and Recreation for his colleague the Minister for Local Government in the other place. I quote from the Leader group's *Bayside Advertiser* of 25 March, which, under the headline 'Rage at mooted rates hike', says:

> Bayside ratepayers are facing a rates hike of 22.4 per cent based on preliminary budget estimates.

The article traces Bayside's history on rates for the past five years. It points out that five years ago it had a 3 per cent rate rise; four years ago there was an increase of 3.5 per cent; three years ago rates went up 6.3 per cent; two years ago the rate hike was 7.4 per cent; and last year it was 10.1 per cent. This year it is mooted to be 23 per cent, so I ask the minister to apply some cap to Bayside rates or perhaps to councils that massively exceed the average rate rises or in some way use his

power to protect citizens from rapacious councils like Bayside.

Polly Woodside Melbourne Maritime Museum

Hon. ANDREA COOTE (Monash) — My question to the Minister for Sport and Recreation on behalf of the Minister for Tourism in the other place is to do with one of the great icons in my electorate, the *Polly Woodside* Melbourne Maritime Museum. It is one of the great Victorian icons that is visited by many Victorians, visitors from other states and indeed many Japanese tourists. Many of us can probably remember the initial fundraising campaign for the *Polly Woodside*, and people in fact gave money to the *Polly Woodside* and those who did were given a model, a replica of the *Polly Woodside*.

The *Polly Woodside* museum is now under threat. Shamefully Victoria has no maritime museum like the highly successful Darling Harbour in Sydney and Fremantle in Western Australia. This is a second-rate government. In fact, the Bracks government is about to evict the maritime museum from two of the sheds it currently occupies, which would be a great loss to Victoria. Some $2 million is required to upgrade the area and protect the exhibits. I ask the minister when will he produce the up to $2 million needed to upgrade this very important icon.

Brothels: licence

Hon. B. N. ATKINSON (Koonung) — I ask the Minister for Sport and Recreation, representing the Attorney-General in another place, to raise with him an article in the *Herald Sun* newspaper which reported the conviction of a Mr Andros Kasapis, a 64-year-old man of Baralyn Road, Mount Waverley, who was jailed for 12 months by Judge Elizabeth Curtain in the County Court on a charge of assaulting an 18-year-old woman.

The circumstances of this charge resulted from a purported interview the woman undertook at a massage parlour which was owned by Mr Kasapis, according to the newspaper article, in Dandenong. This was Mr Kasapis's 10th conviction for indecent assault according to the newspaper article. What I fail to understand is how under the Prostitution Control Act this man could own a brothel.

He was reported to be the owner of a massage parlour or brothel in Dandenong. I understand the Prostitution Control Act has provisions that prohibit people with criminal convictions from being licensed by the board. I draw to the attention of the Attorney-General this matter and ask whether this man was in fact the owner of a brothel and under what circumstances was he able to obtain a licence to manage a brothel or a massage parlour, given the provisions of the act. It appears he is not entitled to own or participate in these enterprises, and he does not seem to be the sort of person we would want to be involved in that industry, as he is obviously a danger to women.

If those reports are correct I urge the Attorney-General, in keeping with the act, to take action to make sure this man and other people of his ilk do not become involved in this industry by obtaining licences from the Prostitution Control Board.

Gas: SEA Gas pipeline

Hon. C. A. FURLETTI (Templestowe) — I raise with the Minister for Energy and Resources the question I asked the minister earlier today during question time with respect to the $5000 inducement being offered to solicitors representing so-called recalcitrant farmers for each signature they procure for easement agreements.

The minister replied she had no knowledge of that conduct. Given the magnitude and significance to Victoria of the project and dubious legality of the inducements to which I referred, has the minister made any inquiry during the afternoon as to the status of those inducements and what has the minister done to stop these inducements being offered since I brought the matter to her attention?

Responses

Hon. C. C. BROAD (Minister for Energy and Resources) — The Honourable David Davis requested that the Treasurer respond to him regarding certain matters relating to stamp duty. I will refer the question to the Treasurer.

The Honourable Elaine Carbines requested that the Minister for Transport investigate upgrading the Black Rock Road–Bluestone School Road intersection in her electorate to improve road safety. I will pass on that question to the minister.

The Honourable Peter Hall requested that the Minister for Environment and Conservation examine assistance to rural councils regarding landfill sites and waste management issues. I will refer that matter to the minister.

The Honourable Wendy Smith requested that the Minister for Transport respond to a certain black spot funding application. I will refer that matter to the minister.

The Honourable Neil Lucas requested that the Minister for Transport respond to him about certain public transport matters in his electorate. I will refer that matter to the minister.

The Honourable Gordon Rich-Phillips also requested that the Minister for Transport respond to him regarding a roundabout in his electorate. I will refer that matter to the minister.

The Honourable Ken Smith raised certain matters for the attention of the Minister for Transport and I will refer those matters to the minister.

In response to the Honourable Carlo Furletti, earlier today I invited him to provide me with any information he might have about the matters he raised. He has not done so. I look forward to his providing me with that information.

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Peter Katsambanis raised for the attention of the Minister for Health staff and client issues in community health centres. He referred to pay rates in those centres and I will pass on his request to the minister.

Honourable members interjecting.

The PRESIDENT — Order! The Minister for Small Business is on her feet and she is entitled to be heard.

Hon. M. R. THOMSON — The Honourable Bill Baxter raised for the attention of the Minister for Health in the other place the Walwa and District Bush Nursing Hospital. He invites the minister to negotiate with his counterpart in New South Wales contributions to sustain the hospital. I will pass that request on to the minister.

Honourable members interjecting.

The PRESIDENT — Order! I ask that the discussion across the table cease so that honourable members can hear the answer of the minister.

Hon. M. R. THOMSON — The Honourable Gerald Ashman raised for the attention of the Minister for Health health services in Knox and in particular issues concerning the Peter James Centre. I will pass that on to the minister.

The Honourable Andrew Brideson raised for the attention of the Minister for Health the fluoridation of water — —

Honourable members interjecting.

The PRESIDENT — Order! I ask the Leader of the Opposition and the Minister for Energy and Resources to desist. I call the Minister for Small Business.

Honourable members interjecting.

The PRESIDENT — Order! I called for both the Leader of the Opposition and the Minister for Energy and Resources to desist. I am not interested in hearing from either of them, but I do want to hear the Minister for Small Business.

Hon. M. R. THOMSON — The Honourable Andrew Brideson asked when it was proposed to fluoridate water in rural Victoria. I will pass on his request to the Minister for Health.

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I will refer the scurrilous accusation made by the Honourable Maree Luckins relating to the City of Monash to the Minister for Local Government in the other place — —

Hon. M. T. Luckins — On a point of order, Mr President, the issue I raised related to a police investigation. I did not make scurrilous accusations. I was granted leave to incorporate in *Hansard* two statutory declarations — —

Hon. T. C. Theophanous — What is your point of order?

Honourable members interjecting.

The PRESIDENT — Order! The honourable member is asked what is her point of order. The house cannot possibly find out because government members are talking over her. I understand the Honourable Maree Luckins said the matter was for investigation by the police and not for the Minister for Local Government.

Hon. J. M. MADDEN — The scurrilous accusations raised by the Honourable Maree Luckins regarding the City of Monash will be referred to the Minister for Police and Emergency Services.

In relation to the request by the Honourable Roger Hallam relating to the Horsham Rural City Council regarding the Dock Lake reserve clubrooms I appreciate the significance of the facility for the local community. On a number of occasions I have endorsed the significance of these facilities, particularly in isolated rural communities and the value those facilities provide to those communities. I will have my officers make contact with the city council to further clarify the level of support we may be able to provide to them.

Although I have not yet sighted the letter through my department, I thank the Honourable Roger Hallam for bringing it to my attention and I look forward to having representatives from the department make contact with that rural city.

I will refer the question asked by the Honourable Cameron Boardman regarding the penguin campaign on Phillip Island to the Minister for Tourism.

I will refer the question asked by the Honourable Ron Bowden regarding the possible extension of the wharf at Phillip Island for cruisers of one form or another to the Minister for Tourism.

I will refer the question asked by the Honourable Ian Cover regarding motor traders in South Geelong and associated security issues to the Minister for Police and Emergency Services.

I will refer the matter raised by the Honourable Chris Strong regarding Bayside City Council rates issues to the Minister for Local Government.

I will refer the matter raised by the Honourable Andrea Coote regarding *Polly Woodside* and associated issues to the Minister for Tourism.

I will refer the issue raised by the Honourable Bruce Atkinson regarding assault issues involving an individual and brothel licensing issues to the Attorney-General.

Motion agreed to.

House adjourned 10.06 p.m.

STATUTORY DECLARATION

I, John Jeffery Davis

Of …

In the State of Victoria.

Do solemnly and sincerely declare that

On Wednesday March 20th 2002 I was advised that Cr F. Smith was pressured to use her vote in support of Cr Geoff Lake for the Mayoralty of the City of Monash that pressure was that if she did not vote for Cr Lake her husband who is a paid employee of the Transport Workers union would be sacked.

The following day I went to the residence of Cr Smith and asked a direct question
Was you pressured to caste your vote for Cr Geoff Lake as Mayor she answered yes I was
I asked was that pressure related to your husband she said yes it was
I asked was it that your husband would get the sack if you did not vote for Cr Lake
Cr Smith said to me yes.
I then said to Cr Smith when I learnt of the threat I was sick in the guts.
I asked, had she told her Husband and she said No. I said you should tell him, your marriage is more important than protecting these scum of the earth people.
I then left.
The following day I rang Cr Smith and ask did she tell her husband she said yes.
Cr Smith in all my discussion with her in regards to this matter was very distressed.

And I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of the Act of Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury/

John (Jack) Davis

Declared at Clayton

this 25th

day of March 2002

Before me P. J. Mahoney JP. 8544

(Signature)

(print) Full Name
Title under which you are authorised
Reg. Number 8544
Address
Justice of the Peace for Victoria
Reg. No. 8544
Patrick James Mahoney
18 Alice St, Clayton, 3168

STATUTORY DECLARATION

I, Thomas Graeme Morrissey

of …

in the State of Victoria

do solemnly and

sincerely declare

THAT

regarding the 2002-2003 Mayoral Election, Cr Smith made an appointment with me (Cr Morrissey) for 10.30 a.m. on 18 March to talk to me alone at my Burwood Plumbing Office. We would both then talk to Cr Peter Vlahos at 11.00 a.m.

Cr Smith said she was having great trouble supporting me. There was so much pressure on her but she would hang in there. She told me that ALP people had told her that I was not to help anybody against Bob Stensholt (ALP member for Burwood), Russell Hannan, who was standing for pre-selection for the Liberal Party, and also not to use any of the billboards that are used for my plumbing business and letters and notes to this effect. We then spoke about Cr Lake ringing her a number of times and pressuring her along party lines. She also told me she was being pressured by Anna Burke (ALP member for Chisholm) not to vote for me and to vote for a Labor mayor, not Tom Morrissey. Cr Peter Vlahos did not arrive so we finished our meeting as I had a 12 noon meeting with David Conran.

On 19 March, Cr Smith rang me to say Cr Lake met with her around lunch time for two hours plus, putting more pressure on her not to vote for me. Cr Smith said it was getting her down and she had a family member to worry about.

That evening in the Monash Civic Centre Function Room we started dining at 6.30 p.m. before the 7.30 p.m. Council meeting start. Seated at my table was my wife, Lorraine, Cr Smith and her husband, Howard Smith, Cr Peter Vlahos and one officer. At about 7.20 p.m. Cr Vlahos left the table — he had been seated on my left, Lorraine next to me on my right. Cr Smith and Cr Magee then came to my side. Cr Smith said she could not vote for me as Howard's job could be affected, i.e. he could lose his job in the Union. With that I said very little. Cr Magee then said she did not want to see me get hurt so she would put her hand up for the Mayoralty. We talked for only about a minute and left the room for the Council Chamber for a 7.30 p.m. start.

Urgent Business was called for election of the Mayor for 2002–03. Neither Cr Magee nor myself (Cr Morrissey) put up our hands so there was no need for a vote.

AND I make this solemn declaration conscientiously believing the same to be true and by virtue of the provisions of an Act of the Parliament of Victoria rendering persons making a false declaration punishable for wilful and corrupt perjury.

DECLARED at Burwood in the
state of Victoria this 26th
day of March
in the year of 2002

Before me: Mark Phillip Von Chrismar,
Acting Sergeant, 24989

Burwood Police Station
64 Burwood Highway
Burwood 3125