

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE COUNCIL  
FIFTY-FIFTH PARLIAMENT  
FIRST SESSION**

**6 June 2003  
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**Tuesday, 3 June 2003**

**The PRESIDENT (Hon. M. M. Gould) took the chair at 2.03 p.m. and read the prayer.**

**CONDOLENCES**

**Hon. Richard Elgin McGarvie, AC**

**Mr LENDERS** (Minister for Finance) — I move

That this house expresses its sincere sorrow at the death, on 24 May 2003, of the Honourable Richard Elgin McGarvie, AC, and places on record its acknowledgment of the valuable services rendered by him to the people of Victoria as Governor of Victoria from 1992 to 1997.

Richard McGarvie sadly passed away on Saturday, 24 May, just a few days after his 77th birthday. He is a man who will be dearly and sadly missed by the Victorian community.

He was born on 21 May, 1926 in Colac. He was educated at Camperdown High School, where he was dux in 1942. He worked on his parents' dairy farm in the Western District until the age of 18, when he enlisted in the Royal Australian Navy Reserve. He trained on HMAS *Cerberus* and served on board the Australian destroyer HMAS *Arunta*. Following the end of the Second World War he was a member of the allied occupation forces in Japan until 1946.

The following year the Commonwealth Reconstruction Training Scheme offered him an opportunity to study law at the University of Melbourne, and he graduated from there in 1950 with honours in every subject, taking first place for the year and thereby gaining the award of the Supreme Court Prize. Two years later he was admitted to the Victorian Bar. He became a Queen's Counsel in 1963 — at the time Richard McGarvie was just 37 years of age. In ensuing years he pursued further academic studies at the University of Melbourne to take a Bachelor of Commerce degree with honours.

It was here that the community around him first saw his real passion for the law, something that came through for the rest of his very distinguished and illustrious career. He was a member of the Faculty of Law at the University of Melbourne from 1957 until 1988. For 1967 to 1975 he was a consultant to Monash University, joining the Monash University Council in 1980, and it was in that capacity as a member of that council that I first met him in the mid-1980s. He held the position of chancellor of La Trobe University from 1981 to 1992.

He is widely published on a broad range of legal and constitutional matters, including books, journal articles, lectures, speeches and presentations to the media up to the days before his sad and untimely death. He held honorary doctorates from the University of Melbourne, from Monash University and from La Trobe University. He was also a fellow of the Hebrew University of Jerusalem.

His contributions to the legal profession are well known. From 1960 to 1965 and again from 1970 to 1975 he was a member of the Victorian Bar Council, serving as a vice-chairman of the council from 1971 to 1973 and heading the council as chairman from 1973 to 1975. From 1971 to 1975 he also served on the Australian Bar Association, and he was a member of the executive of the Law Council of Australia from 1973 to 1976, including a two-year period as treasurer of that council.

He served on several official advisory committees, including the committee on fair consumer credit laws from 1970 to 1972; the National Committee Against Discrimination in Employment and Occupation, of which he was a foundation chair, from 1973 to 1976; the Law Reform Advisory Council of Victoria from 1974 to 1975; and the Australian Judicial System Advisory Committee from 1985 to 1987.

Mr McGarvie was also a co-founder of the Australian Institute of Judicial Administration, of which he was a council member from 1976 to 1986, deputy chair from 1980 to 1984 and chair from 1984 to 1986. He also led delegations of Australian lawyers and officials to other countries, notably the 1982 delegation to China on criminal law and procedure and in 1985 the Amnesty International mission to Indonesia to plead for the release of political prisoners, and he was also a life member of Lawasia.

These are just some of the details of Richard McGarvie's legal career, and I know well that I cannot do justice to all of his achievements in this area alone but even greater achievement were still to come in his life.

In 1976 the Hamer government appointed Richard McGarvie a Justice of the Victorian Supreme Court, a position in which he served with great distinction for 16 years. Mr Justice McGarvie went about his duties as a judge of this state's highest court in the same manner as he approached all other official duties: with a well-informed and sharp mind and with the interests of the community at heart.

In his speech at the Equality and Justice Conference in Ballarat in 1995 he put his understanding of a judge's role in a nutshell, when he said:

... judges must view justice not through their own eyes but through the eyes of the people it affects.

In 1992 he was called to even higher office when he was appointed Governor of this state. He served Victoria and its people in this position until 1997, demonstrating again his meticulous attention to detail, his passion for matters legal and constitutional, and his belief in the importance of educating the citizenry, especially the young, about the value of our constitutional framework, its institutions and offices.

In June 1994 he was recognised with the award of the highest rank of Australian honours, the Companion of the Order of Australia.

His community involvement extended to other areas as well. He was a former Deputy Prior of the Most Venerable Order of St John of Jerusalem, his support of the Returned Services League was recognised with honorary life membership of the RSL, and he was a highly esteemed member of the Melbourne Cricket Club, the Royal Automobile Club of Victoria and the West Brighton Club.

Holding public office did not prevent him from expressing views of a political nature; he often engaged in major debates of his time. Richard McGarvie joined the Australian Labor Party in 1949. During the 1960s he was secretary of the Participants, a group of party reformers who wanted to see the extremist and highly unpopular executive removed. In 1970 Richard McGarvie resigned from the party to increase pressure on the federal party executive to intervene in the Victorian branch, which happened just a few months later. He later rejoined the ALP without a loss of membership continuity.

The republic debate brought Richard McGarvie back into the national limelight. The McGarvie model received the second-largest number of votes at the Constitutional Convention in Canberra in 1988, and his subsequent book, *Democracy: Choosing Australia's Republic*, will be of lasting importance and interest. I note that during our own debate here on the constitutional reform bill some months ago, Richard McGarvie arranged to see me, gave me a copy of his book and went through some of the sections involving vice-regal prerogatives and discretions with great passion and enthusiasm at that time.

In conclusion, all who knew Richard McGarvie were affected by him. I first met him in the mid-1980s when

I was a student and he was there as a far more venerable and senior member of the council of Monash University. I got to know him much better during 1997 when I had the privilege of being involved in the Williamson community leadership program where Richard McGarvie, along with Davis McCaughey, actually spent time with younger people — I felt young at that time! — taking them through the duties of civic life and the role of the vice-regal representative at that time, particularly in terms of the constitutional debate.

On behalf of the Victorian government and the parliamentary Labor Party I offer sincere condolences to the family of Richard McGarvie: his wife, Lesley, his sons, Richard and Michael, his daughters, Robyn and Ann, and his seven grandchildren.

**Hon. PHILIP DAVIS** (Gippsland) — I am honoured to support this condolence motion moved by the Leader of the Government for the Honourable Richard McGarvie. I do so not just because I am here as Leader of the Opposition but because I had the good fortune to get to know Richard McGarvie only as a member of Parliament would ever have known him. He was born in Colac on 21 May 1926 and passed away on 24 May 2003 — three days after celebrating his 77th birthday.

He came from humble beginnings. He was the son of a returned serviceman from the First World War who was a dairy farmer at Pomborneit East in the Stoney Rises. For people who have an interest in agriculture and understand the topography of farming, ideally you would not select the Stoney Rises as a place of intense farming activity. This probably made Richard McGarvie much stronger, because as part of the family he had to meet the challenges that went with it. He was apparently the first student of his primary school to go on to secondary education. He was educated at Camperdown High School and then at the University of Melbourne. As we know, he then embarked on a lifetime of distinguished community service.

That service commenced when he enlisted in the Royal Australian Navy in 1944 and served aboard the *Arunta*, including service in Japan at the end of World War II. In 1950 Richard McGarvie graduated from the University of Melbourne with the Supreme Court prize for the top honours student in law. He then commenced an eminent career in the administration of justice.

Richard McGarvie joined the Victorian bar in 1952 and became a Queen's Counsel in 1963. Later in 1973 he became chairman of the Victorian Bar Council, and he was appointed to the Supreme Court bench in 1976. When he left the bench in 1992 to become Governor of

Victoria he took up a role he genuinely relished. He saw his role as being the custodian of Victoria's democracy. He made it his duty to emphasise and strengthen the community's confidence and understanding in the democratic process. He also worked industriously to take the role of Governor to rural and regional Victoria, and he worked as a roving Victorian ambassador leading trade and cultural delegations overseas.

Along with many other country members of Parliament I am sure, it was my good fortune to have met Richard McGarvie on those many tours of country Victoria on which he and Lesley McGarvie embarked during that period. On a six-weekly cycle, I think, they would visit some part of country Victoria to take the role of Governor out to the people. Richard McGarvie had a very natural affinity with country Victoria because that was where his roots were. He enjoyed that, and he made a particular attempt to get to know members of Parliament. He had a great device of asking members of Parliament to join him and Mrs McGarvie for dinner with their spouses. Inevitably that was an invitation that was very hard to refuse. I had the opportunity to meet with Richard and Lesley McGarvie several times during those informal occasions, which were very different from those occasions when we met with him here at Parliament as part of the President's dinner.

As other members who have participated in those dinners will attest, they are very formal, so I enjoyed the informality of the other opportunities. I not only enjoyed those opportunities but also enjoyed engaging with the then Governor in the community liaison roles in which he was involved.

I particularly remember a visit to a scout camp at Strathfieldsaye near Stratford in Gippsland which Richard McGarvie attended in his role as chief scout for Victoria. I observed in him a genuine interest in and empathy with young children. He took all his duties as Governor seriously, but one of the great marks of Richard McGarvie was that he was also a very warm person who enjoyed the company of young people enormously. We know he was also a great family man who enjoyed his grandchildren.

I also had the opportunity to see him in action at the opening of the Royal Melbourne Show in 1996. He was, as governors are, the patron of the Royal Agricultural Society and on this occasion I represented the Premier at the opening of the show and had my family with me. My children were around four and seven years old at the time, and we all know how fascinated children are by show bags. What interested me about Richard McGarvie was that in the time we

had together on that day he was not just — as most people are — courteous to the children hoping they do not interfere with the day's proceedings. He put aside some of his time during this formal occasion to sit down with my daughters, talk to them and go through their show bags with them. This indicated to me that here was a person of genuine warmth and sincerity, and so I never felt that in any of the roles he played that he was doing it just to fulfil a task; he took on the role because he was a very genuine person. He came from humble beginnings to arrive at a very senior role in our society, a role he took seriously and dedicated himself to making it a success.

What distinguished Richard McGarvie was that he worked industriously to make sure that things turned out for the best, and this was characterised in his lifelong commitment to community service and his devotion to his family. He was an unusual mixture in that while he was humble and self-effacing he also voiced strong opinions. Most people who tend to be opinionated, as we know in this place, are not modest and those who tend to be humble often do not actively espouse strong opinions.

One opinion expressed by Richard McGarvie was demonstrated in his commitment to his preferred model of an Australian republic. At the Constitutional Convention held in 1998 he argued that only straightforward changes would be required for Australia to convert to a republic. Mr McGarvie was convinced that his model was the best way to protect the Australian constitution. His model was essentially based on our Governor-General becoming the head of state with a panel of three ex-governors-general automatically approving his appointment. Despite meeting opposition from those who sought a directly elected head of state, Mr McGarvie passionately advocated the merits of his model.

As we know, in earlier years Richard McGarvie was also an activist in the Labor Party, but he did not let his party affiliation sway him in the discharging of his duties. He was not daunted by the idea of taking on the party either, as we heard from the Leader of the Government. He was a fearless man, and he was patriotic. This came to the fore when his own party, the ALP, was recently in full cry against the Governor-General. He spoke out with great bravery for what was not a popular position.

He truly demonstrated the courage of his convictions. When people talk about having the courage of your convictions they often mean simply repetition, volume or persistence. However, real courage is when you speak out against prevailing or popular opinion and that

is precisely what Mr McGarvie showed in his defence of Dr Peter Hollingworth.

I think it is clear that Richard McGarvie leaves behind a legacy of service, loyalty and intellect. Richard McGarvie is survived by his wife, Lesley, his sons Richard and Michael, daughters Robyn and Ann, and seven grandchildren. On behalf of the opposition I extend sympathy to the family and pay my respects to a man who dedicated his life to Victoria and Australia. I am sure he will be sorely missed by many.

**Hon. P. R. HALL** (Gippsland) — I have the honour this afternoon to add the National Party's support to this condolence motion for the late Honourable Richard McGarvie, AC. Richard McGarvie left a positive impression on all those people who got to know him. He was born on 21 May 1926 in Colac. He was very much a country boy and never lost sight of those country roots. He was the son of a dairy farmer, as has been said, and went to Camperdown High School.

Like all country lads Richard McGarvie was keen to serve his country and he went on to do so in many different ways throughout his life. As has been mentioned, one way he did that was by joining the Australian navy as soon as he had the opportunity to do so at the age of 18. After the war Richard McGarvie studied law at Melbourne University, going on to practise law and later becoming a judge. From 1992 to 1997 he served most capably as Governor of Victoria.

Throughout his life Mr McGarvie demonstrated a strong commitment to public affairs. The Leader of the Government and the Leader of the Opposition have already outlined some of those commitments. I remember well his role as Governor and the capable way he performed those duties. I am also aware that for a period he served as chancellor of La Trobe University. His contribution to the republic debate is well known and was also outlined earlier in this condolence motion.

However, I wish to say that I felt that Richard McGarvie's commitment to public affairs was probably surpassed by his love of and commitment to his family. The tributes by family members and those close to him clearly exposed Richard McGarvie as a man of great love and warmth. His wife, Lesley, his four children and his grandchildren were the recipients of this love and affection. I particularly liked the story of Richard McGarvie and a tradition in the McGarvie household. I understand it became a tradition to play hide-and-seek with the young children and later the grandchildren in the McGarvie household every Sunday morning. I was delighted to learn that even the shift to Government

House did not curtail that regular Sunday morning tradition. One can envisage the great fun the young grandchildren would have had playing hide-and-seek in an establishment like Government House.

Richard McGarvie was a person who liked to follow proper process. Some of my colleagues in the National Party who were ministers at the time Mr McGarvie was Governor of Victoria have many stories to tell of his attention to process and how it was not uncommon during a meeting of the executive council for the ministers of the day to be questioned extensively by Mr McGarvie as to the contents of legislation that he was expected to approve. My colleague the Honourable Bill Baxter informs me that on one occasion he was inspecting a bridge at Cobram when he received a phone call from Mr McGarvie wishing to know details of a bill that was soon to be the subject of discussion in executive council. Such was his attention to detail and proper process.

I knew Richard McGarvie only as Governor and not as a judge, but I think he would have been an excellent judge. To me he came over as a very learned person but also as a person who demonstrated consideration, compassion and understanding. He was unpretentious and made people feel comfortable no matter what position in society they held.

He never lost his love for his roots in the country and I very much enjoyed his visits to my country electorate, as I know he did. He also ensured that others enjoyed those visits — he made them feel comfortable and relaxed so that they enjoyed the company of himself and his wife, Lesley. Richard McGarvie always wore a smile. He was always gracious with his comments. From my perspective, he is well remembered for the sometimes eccentric hats he chose to wear on occasions.

Richard McGarvie died on 24 May and will be sadly missed by us all. On behalf of my colleagues in the National Party I also wish to extend our sincere sympathies to his wife, Lesley, his four children, his seven grandchildren and their families.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I wish to also be associated with this condolence motion for Richard McGarvie, who I think it is fair to say was both a great Australian and a great Victorian.

I had the pleasure of being on the Executive Council in 1992 as a minister in the Kirner government. I therefore attended a number of Executive Council meetings which were presided over by Richard McGarvie

between 23 April 1992, when he was appointed Governor, and the election on 3 October of that year, when there was a change of government. I knew him in that context, and as a minister you would almost look forward to the Executive Council meetings because of the discussion Richard would always have with you about the events of the day and how he saw the world. It was an enjoyable time to spend with him and get his perspective, which was a unique perspective from somebody who had what we now call the common touch.

I also knew Richard from our mutual connection to La Trobe University — I was on the La Trobe University council and before entering politics I taught at La Trobe when Richard was the chancellor, one of the many roles he had over the course of his life. I must say that Richard was passionate about intellectual rigour and academic scholarship — I think these two things were his passion.

He was always keen to discuss what he was reading or what he was working on. I remember talking to him at Government House about his library and his then current projects. I recall his taking me into his study area, and I saw that this was an area where he was obviously working and producing. Even though he was the Governor and had so many official functions and other things to attend to, he was still working on academic pursuits, writing pieces, reviewing books and so on.

Richard applied his considerable skills to developing his own model for a republic, and thus he contributed immensely to that debate. His model was not put, but he remained convinced to the end that ultimately Australia would adopt a model very similar to the one he proposed. That is yet to be seen, but the fact that he was able to propose his own model and have it accepted as a legitimate model for debate says a lot about the intellectual capacity of the man.

Although he was a Kirner government appointee, I believe he came to be respected by all sides of politics, and what we have heard today illustrates that even further. Indeed he served most of his term not under the Kirner government but rather under the Kennett government and gained respect from ministers, members of Parliament and the general community.

As I said, he was chancellor of La Trobe University, and he also served on the bench of the Supreme Court. He had many other achievements, but the achievement I admired the most and on occasion talked to him about was the courage he displayed when, along with a few others in the Labor Party, he recognised that the Labor

Party had to be reformed, whatever the personal cost to some individuals. It was this courage in supporting the Whitlam reform agenda which led to one of the great Labor government's federally. I personally admired him for this and drew much inspiration from his actions and life.

I was deeply moved at the funeral by the testimonials to his courage in facing the final challenges in his life as his health deteriorated. I was also moved by the obvious respect and love he enjoyed from his family and friends. It is a great thing to walk with kings yet not lose the common touch and not forget the important things in life, like family. Richard had these qualities and many more.

To his wife, Lesley, to whom he was married for nearly 50 years, to his four children, Ann, Robyn, Michael and Richard, and to his grandchildren I pass on my deepest condolences.

**Ms ROMANES** (Melbourne) — I am honoured to speak to this condolence motion and to join members of this chamber in acknowledging the achievements and mourning the passing of Richard McGarvie, former Governor, Supreme Court judge, loving family man and friend of many.

Last Friday many hundreds of people gathered at St Paul's Cathedral to give thanks for the life of Richard, better known to many of us as Dick, McGarvie. He was an extraordinary man, a man who served the people of Victoria with great humility and respect for others.

The wonderful thing about being at the funeral service at St Paul's was the opportunity to hear the full story of Dick McGarvie's life told by those who knew him best. What was said connected strongly with the Dick McGarvie I knew from my own more limited contact and experience.

One side of his involvements that was not mentioned on Friday was his interest in overseas aid and development, and global justice. I first met Dick and Lesley McGarvie in 1982, when I had the opportunity to travel to India with them for a month. I was the leader of a Community Aid Abroad study tour visiting CAA-supported projects in villages in India, and Dick and Lesley were part of the tour group of over 20 Community Aid Abroad members who travelled together at that time.

For Dick McGarvie it was an important journey because it was in the footsteps of his mother, who had made a similar journey to India on one of the very first CAA tours some two decades before. As a new young

member of staff at Community Aid Abroad at the time I remember finding it daunting to be leading a group which included a Supreme Court judge and his wife, but of course, typically, Dick McGarvie was never anything other than deferential and supportive of my role.

I have two abiding memories of that trip: the first is of endless hours of train travel crisscrossing the subcontinent and sitting across from Dick McGarvie as he kept detailed notes of our Indian experiences in his journal and at the same time kept up a lively conversation on a wide range of topics, including world poverty, development and culture. The second is of our attendance at the people's court in a large village in Gujarat state. There a significant leader of the ashram, a man called Harivallabh Parikh, more commonly known as Bhai, sat all day under a spreading banyan tree and presided over a local court dispensing commonsense judgments in a range of family and community conflicts which people brought to him to resolve.

I remember clearly that Dick McGarvie was fascinated by this scene and the very local, efficient process which assisted the maintenance of social harmony in that village. Not surprisingly the two judges and their families were to become firm friends over the next 20 years, with Bhai eventually visiting Dick and Lesley at Government House, an evening my husband, Graham, and I had the privilege of sharing. Dick and Lesley McGarvie provided great support to Bhai's son, Yogesh, in many ways while he undertook studies in Melbourne and later worked here. Yogesh and his wife were at St Paul's on Friday to pay their respects to a friend who has meant a lot to them.

I am left with an overwhelming sense of what a good man Dick McGarvie was. Like so many other friends of the McGarvie family, our family will miss him a lot and remain grateful for his life and what he taught us. I offer to Lesley and to Richard, Michael, Robyn and Ann and their families my deepest sympathy.

**Ms HADDEN** (Ballarat) — I also wish to extend my sincerest condolences to Mrs Lesley McGarvie and family. The late Honourable Richard Elgin McGarvie, QC, AC, was born on 21 May 1926 at Colac to Richard Fleming and Mabel Catherine McGarvie. He was raised on his parents dairy farm at Pomborneit East in Victoria's Western District and went to Camperdown High School where he was dux in 1942. He enlisted in the Royal Australian Navy in 1944 at the age of 17, served on the destroyer *Arunta* during World War II and served with the occupying forces in Japan.

He then studied law and commerce at Melbourne University and graduated in 1950 with the Supreme Court prize for top honours in law. He was admitted to practise as a barrister and solicitor in 1951. He joined the Victorian bar in 1952 and took silk in 1963. He married Lesley Kerr, a music teacher and musician, in 1953.

Richard McGarvie was appointed to the Supreme Court in 1976 by former Liberal Premier Rupert Hamer, and he spent 17 years on the bench. He was both widely and highly respected as a courteous, impartial, hardworking, fair and just judge. He was chancellor of La Trobe University from 1981 to 1992. He was a member of the Monash University council in 1980 and a consultant in industrial and contract law from 1965–75 at that university. He was chairman of the Victorian Bar Council from 1973–75. He was a member of Amnesty International from 1975–96.

Richard McGarvie was a member of the faculty of law at Melbourne University from 1957–88. He also published widely on contract law, consumer credit law, judicial administration, the independence of the judiciary, citizenship and ethics, as well as on republican issues.

He was chairman of the Victorian ALP disputes tribunal from 1973–75. In 1970 Richard McGarvie resigned in protest his membership of the ALP of 27 years, and he supported Gough Whitlam's push for federal intervention in the Victorian party. Back in the fold of the party he joined the protests over Labor Prime Minister Whitlam's sacking by Sir John Kerr in the 1975 constitutional crisis, warning that the blocking of supply in the federal Senate could bring about changes capable of leading to a totalitarian government within a decade.

Richard McGarvie was appointed by Labor Premier Joan Kirner as Victoria's Governor from 1992–97, and he saw that role as his greatest challenge. In 1998 he was a delegate to the constitutional convention, and he was a staunch advocate of his minimalist approach for a republic, known as the McGarvie model. His greatest fear was that a head of state elected by the Parliament would be so powerful that he or she would not be able to be dismissed.

During his governorship Richard McGarvie became the roving ambassador for the whole of Victoria. He maintained his genuine love of country Victoria and visited Ballarat on many occasions.

Richard McGarvie, QC, AC, died on 24 May 2003 aged 77 years. He was a very fine Supreme Court judge, lawyer and legal educator and a great Governor of Victoria.

A great job well done! Farewell, and may he rest in peace.

**The PRESIDENT** — Order! I too wish to be associated with the condolence motion for the Honourable Richard Elgin McGarvie, AC, former Governor of Victoria from 1992 until 1997. Richard ‘Dick’ McGarvie not only fulfilled a distinguished working career but continued in his later life with enthusiasm for constitutional change with the proposed formation of an Australian republic.

He was born in 1926 in Colac and chose his career path in law, following a brief term in the navy. At the age of 37 he was appointed Queen’s Counsel and was later appointed to the Supreme Court.

In 1992, together with his wife Lesley, he moved to Government House upon being appointed Governor of Victoria — a position he held with distinction until 1997. I fondly recall his unassuming presence and jovial nature at the head of the table at presidents dinners in my early days here in this house when I was the Deputy Leader of the Opposition. Those were exciting dinners with Dick about.

As members have indicated, those who attended his funeral at St Paul’s Cathedral heard what a loving family man he was. And, to follow on the words of the Leader of the National Party, the story was told at his service last week about what happened when his grandchildren came to Government House to play hide-and-seek. The youngest one was very concerned that their grandfather would not find them in Government House, because it was so large; so they ensured their grandfather would know exactly where they were hidden — but he was not to find them first, because they did not want to be caught. Of course, Dick was always ‘he’ and had to seek out the grandchildren.

During his term as Governor, the highest position in the state, he opened up Government House to the people of Victoria. He took Government House out to the people and travelled around country Victoria, as has been indicated by previous speakers.

Dick was also a constant visitor to Parliament after his term as Governor, often using the library facilities for his research needs, about which we have all heard.

The Honourable Richard Elgin McGarvie is survived by his wife, Lesley, and children Richard, Michael,

Ann and Robyn, and their families. I join with all members in honouring his recent passing.

**Motion agreed to in silence, honourable members showing unanimous agreement by standing in their places.**

## ADJOURNMENT

**Mr LENDERS** (Minister for Finance) — I move:

That as a further mark of respect to the memory of the late Honourable Richard Elgin McGarvie, AC, the house do now adjourn until this day at 4.00 p.m.

**Motion agreed to.**

**House adjourned 2.42 p.m.**

**The President took the chair at 4.02 p.m.**

## ROYAL ASSENT

**Message read advising royal assent to:**

**27 May**

**Dandenong Development Board Act  
Fair Trading (Amendment) Act  
Melbourne (Flinders Street Land) Act  
Regional Infrastructure Development Fund  
(Amendment) Act  
Summary Offences (Offensive Behaviour) Act  
Transport (Miscellaneous Amendments) Act  
Water (Victorian Water Trust Advisory Council) Act**

## APPROPRIATION (2003/2004) BILL

*Introduction and first reading*

**Received from Assembly.**

**Read first time on motion of Mr LENDERS (Minister for Finance).**

## QUESTIONS WITHOUT NOTICE

### Commonwealth Games: chairman

**Hon. ANDREW BRIDESON** (Waverley) — My question is to the Minister for Commonwealth Games. I refer to last week’s criticism by the federal Labor Party of the Commonwealth Games chairman, Ron Walker, over his handling of advertising at the grand prix and also to today’s reports that the government is to rein in Mr Walker’s powers. Given federal Labor’s criticism and the minister’s own moves to curb his power, does Ron Walker retain the full confidence and support of

the minister and the government to deliver the Commonwealth Games on time and on budget?

**Hon. J. M. MADDEN** (Minister for Commonwealth Games) — I welcome the question from the Honourable Andrew Brideson. I thank him for the question, because Ron Walker enjoys the full confidence of this government in his role as chairman of Melbourne 2006. He enjoys that confidence because he is a man of great vision, and he has probably the best experience in terms of delivering the best major events of anybody else not only in Australia but in the world. He has extensive networks within the business community and also bridges the political divide in relation to state and federal governments.

On that basis alone I compliment the member for his question because I share his interest in issues about the Commonwealth Games, particularly those involving federal-state relations. We look forward to the opposition supporting us in our approach to the federal government in relation to funds for the Commonwealth Games. We will get on with the job of governing for all Victorians and making sure that the games are delivered on time and on budget.

**Public liability: government assistance**

**Hon. KAYE DARVENIZA** (Melbourne West) — I refer my question to the Minister for Finance. Can the minister inform the house how the government has provided certainty for community organisations seeking to obtain public liability insurance cover?

**Mr LENDERS** (Minister for Finance) — I thank Ms Darveniza for her question and her ongoing interest in and strident advocacy for community groups in her electorate as she works with the government to seek to solve what has been a particularly difficult 12 months for community groups and many professional bodies.

As members of the house will be aware — and I have referred to this before — there are a number of reasons why we have had insurance problems. Firstly, the collapse of HIH Insurance meant that the largest supplier in our insurance market went out of business and took its records with it. It had been aggressively undercutting others in that market.

Secondly, with the events of 11 September approximately one-third of international insurance capital evaporated in that one tragic day.

Thirdly, over the last couple of years there has been the terrible hit made by international equities and its effect on the capital of insurance companies. As members in this house would be aware, the practices of some

insurers — not all, but some — of actually costing policies were not good. They operated by accumulating capital and investing that capital in very good returns on equities and then used that cash flow to ride them through. With the deterioration of the equities markets that has given those insurers grief.

Fourthly, there were within jurisdictions the issues of how the insurance industry administers itself, its efficiency with claims, its risk mitigation and judicial inflation, which I have touched on before.

They all came together and withdrew insurance from a lot of areas in our state. Those who suffered the greatest were our small community groups, which are the absolute fabric and foundation of our community.

In May last year the state government, in cooperation with the Municipal Association of Victoria, the Our Community group and Jardine insurance brokers, put in place a product under ourcommunity.com which assisted more than 800 small community groups to get insurance. But sadly the MAV informed the government some time ago that that product could no longer be offered because of the uncertainty and difficulty in obtaining reinsurance.

Partly as a consequence of that and other problems in the insurance market, the government acted and got on with the job. Two weeks ago the government announced its package of insurance legislation to deal with these issues. Consequently part of the introduction to the threshold on general damages and statute of limitations, plus the ongoing work of the government in introducing two insurance packages dealing with these small groups, meant that the good news came on Friday last week for community groups when the MAV announced it would not only be extending its scheme for a further three years but would be maintaining prices for at least the first year.

As a result small communities groups in Ms Darveniza's electorate and everyone else's electorates will know with certainty that the insurance product will continue for another three years and at the same rates for the first of those years.

This was a direct result of the government's decisive action in legislating and moving legislation in this area. A news release from the Municipal Association of Victoria states:

Cr Brad Matheson —

the association's president —

attributed the salvation of the scheme to the swift action taken by the state government to introduce a general damages

threshold and reductions in the time limit for making a claim, after it was announced that the scheme was under threat.

Secondly, an article on page 8 of the *Herald Sun* of 31 May states:

Keep Australia Beautiful general manager Brian Klemm said the scheme had saved his 10 000-strong organisation from shutting its doors.

By the government's action 800 community groups again have insurance. We hope this scheme will extend. We hope it will go further than it has. This is the lifeblood of Victorian communities, and the government's action has saved these groups.

### **Surf Coast: administration**

**Hon. J. A. VOGELS** (Western) — I direct my question to the Minister for Local Government, Ms Broad. Several months ago the minister announced the appointment of Terry Maher to undertake a detailed investigation of the operations of the Surf Coast Shire Council. Has the minister received a report and recommendations following Mr Maher's investigation, and if so is it the minister's intention to table this report and act on its recommendations?

**Ms BROAD** (Minister for Local Government) — In response I can indicate to the member that this important report will be tabled in the Parliament. I have received it and I expect to be able to table it in the house tomorrow.

### *Supplementary question*

**Hon. J. A. VOGELS** (Western) — Is the minister undertaking or intending to undertake any further investigations into any other municipalities?

**Ms BROAD** (Minister for Local Government) — It is not entirely clear to me what the connection is between the first question and the supplementary question. Following the tabling of the report I will be indicating my response to the matters outlined in it. However, at this time I do not have any further investigations under way or planned.

### **Small Business Commissioner: role**

**Hon. J. G. HILTON** (Western Port) — I refer my question to the Minister for Small Business. Earlier this year the Council passed bills to effect the small business reform package, new retail leases and the Small Business Commissioner. Can the minister advise the Council how the new Small Business Commissioner is going after one month in the job? Can

the minister also advise if there have been any major developments that will affect his role?

**Hon. M. R. THOMSON** (Minister for Small Business) — I thank the member for this question. The Small Business Commissioner commenced work on 1 May, as honourable members will be aware from the effect of the legislation. Members may also be aware that the role of the Small Business Commissioner is now being publicised so people in small business are aware of where they can go for assistance and advice.

The greatest area of concentration placed on the Small Business Commissioner at this point in time is the new retail leases legislation. I am pleased to inform the house that the Small Business Commissioner has been getting on with the job. In the first four weeks he, or rather his office, has received 270 calls which have all dealt with retail leases. It is obvious how important to the community the new retail leases are. People want to understand how they work.

But that is not all the Small Business Commissioner has been doing. He has begun to talk to various business associations and groups about the role of the commission. He has also undertaken discussions with the Australian Competition and Consumer Commission about the way in which the ACCC and the Small Business Commissioner's office will work together on issues that affect small business. This is vitally important.

As I said at the time of the introduction of the legislation, it is vitally important that the Small Business Commissioner has a very strong relationship with the ACCC, and it is pleasing to see that in these initial stages it appears that will be the case. That can only be to the benefit of small businesses in Victoria.

We also know that in recent times there has been an announcement for the replacement of Professor Allan Fels, who is a champion for fair competition for small business and has been quite vocal in support of strong legislation to enable small businesses to compete in a fair marketplace.

The federal government and the Treasurer, Peter Costello, recently announced the interim appointment of Graeme Samuel to replace Professor Fels, an appointment the Victorian government supported. I am hopeful that Mr Samuel will follow the lead of Professor Fels, and the early indications in the weekend press are that he will, because he was reported as saying he believed there was a need to investigate the issue of market dominance in the retail grocery area. That is a good signal of the role Mr Samuel will play. I am sure

Mr Samuel will ensure the relationship between the Small Business Commissioner and the Australian Competition and Consumer Commission is strong and is one where there is a rapport and work being done to benefit small businesses in the state.

It is critical that the Trade Practices Act gives the power to the Australian Competition and Consumer Commission and, through our draw-down provisions in the trading act, the power for us in Victoria to act. It is unfortunate that the federal government missed the opportunity through the Dawson inquiry to ensure that the intent of the Trade Practices Act was being met with the legislation. It was a missed opportunity and has not seen the protection of small business in the way it should have.

This government supports a fair, competitive marketplace, and we urge the federal government to strengthen the Trade Practices Act to ensure that occurs.

### Gas: rural and regional Victoria

**Hon. P. R. HALL** (Gippsland) — My question without notice is to the Minister for Energy Industries. I refer the minister to his government's previously announced policy outlining a \$70 million natural gas pipeline extension program, with the initial towns to benefit under the program being Barwon Heads, Bairnsdale and Creswick. Will the minister explain to the house the exact process by which the \$70 million is to be allocated for pipeline extensions to each of these towns?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I thank the Leader of the National Party for his question and his party's new-found interest in delivering gas to regional Victoria. As the member has indicated and as I said at the Public Accounts and Estimates Committee hearing — I am not sure that there was a National Party representative at that hearing; I do not think there was —

**Hon. P. H. Hall** — Mr Baxter.

**Hon. T. C. THEOPHANOUS** — I do not think Mr Baxter was there. The interest from the National Party did not extend to coming to the estimates hearings to ask those questions of me, but they were asked by Mr Forwood, and I gave extensive responses to those questions. I encourage the honourable member to look up the transcript of the estimates hearings at which I outlined the process that will occur.

Next Wednesday it is the intention of the government to have a major announcement for which we have asked

mayors, councillors and interested persons around Victoria to come to Bendigo where the Treasurer and I will outline the process that will be adopted for the natural gas extensions to regional Victoria. As the member has indicated, we — —

**Hon. Bill Forwood** interjected.

**Hon. T. C. THEOPHANOUS** — Well, getting back by question time will be a challenge.

As the member has indicated, there are a number of towns including Barwon Heads, Bairnsdale, Creswick, Woodend, Gisborne and Romsey which are on the list for delivery. Also, obviously, any other town or region will be able to make application under the processes we will be outlining. Those processes will form the basis for judging to which towns it should be delivered first: the nature of the application, which proportion of the application is non-commercial and should be paid for by the government and so on. All of these issues will be decided.

The details of the process itself will be announced by the Treasurer in Bendigo next Wednesday. Obviously I will not pre-empt those announcements here today; but I can say that the process will allow each and every region and country town to make an application. Those applications will be examined on merit through a process, and decisions will be made. Commitments have been given in relation to the actual rollout of the \$70 million over the period of the project.

### *Supplementary question*

**Hon. P. R. HALL** (Gippsland) — I thank the minister for the answer to the question. We will be patient and wait until next Wednesday to hear some of the finer details of this proposal. May I simply ask by way of a supplementary question: can the minister give the house an assurance that the target figure listed in the 2003–04 budget papers of four new towns to be connected to the natural gas grid will in fact be achieved in that financial year?

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — Yes, as the member has indicated there is a target which is in the budget papers and which has been referred to both by myself and by the Treasurer — namely, having four towns connected in that financial year. We have not, however, committed to any particular four towns in terms of which will be the first four or, if you like, which projects will be the most readily achieved within that time frame.

But rest assured we are intending to roll out this program. It is to the benefit of regional Victoria. It is

something which I hope the National Party is able to get behind. I note the Liberal Party is already behind it, and I am hoping the Nationals will come on board in an appropriate way in the not-too-distant future.

### **Brothels: worker exploitation**

**Hon. W. A. LOVELL** (North Eastern) — My question is to the Minister for Consumer Affairs. I refer to an article in the *Herald Sun* of 25 May regarding the appalling situation of up to 300 women who have been brought from Asia to work in brothels against their will and in awful conditions. These women are working in legal brothels and are employed by brothel owners who choose to turn a blind eye. Is the minister aware that this is a huge problem in the legal brothel industry?

**Mr LENDERS** (Minister for Consumer Affairs) — I thank Ms Lovell for her question. Any issue of illegal activities in brothels in Victoria is one that this government has considerable concern over. As I explained in answering a question from Mrs Coote recently, as Minister for Consumer Affairs I am responsible for licensed brothels in Victoria. Anything relating to unlicensed brothels is the responsibility of the Chief Commissioner of Police.

The issue of women being exploited in legal brothels is something about which we have considerable concern. Indeed, we are concerned about any exploitation. My ministerial concern is, however, for licensed brothels, and they are certainly something Consumer Affairs Victoria continues to monitor. If there are any breaches of the law in licensed brothels, then obviously the licence is under threat and we will act decisively if we have evidence of that.

### *Supplementary question*

**Hon. W. A. LOVELL** (North Eastern) — I advise the minister that these are licensed brothels. According to the research and support group Project Respect, there has been no prosecution for sex slavery, even though on 8 May the minister claimed there are a range of tests and checks done so that this does not happen. Why is the minister not acting to stamp out this shameful practice that is exploiting women and undermining the legal brothel industry?

**Mr LENDERS** (Minister for Consumer Affairs) — I have responded to that question, but if Ms Lovell can quote any particular instances I would be happy to forward them to the director of consumer affairs or the Chief Commissioner of Police.

### **Victorian Initiative for Minerals and Petroleum**

**Hon. H. E. BUCKINGHAM** (Koonung) — I refer my question to the Minister for Resources. I refer to the recent launch of the 15th Victorian Initiative for Minerals and Petroleum data release. Could the minister outline for the house how the Bracks government's commitment to this program has resulted in attracting significant expenditure on minerals and petroleum exploration.

**Hon. T. C. THEOPHANOUS** (Minister for Energy Industries) — I thank the honourable member for her question. The Victorian Initiative for Minerals and Petroleum (VIMP) is a very important program that promotes mineral exploration in this state. It has been developed and funded by the current government. This government is committed to ensuring that Victoria's world-class mineral and petroleum industries are successful for the long term and continue to create jobs and prosperity across the state. The government recognises the crucial importance regional geological data plays in encouraging exploration in these industries. That is why it is backing a new wave of mapping and imaging systems that provide world-class geological information.

On 26 May I had the pleasure of launching the 15th data release for the VIMP program. This release includes new geological mapping, geophysical surveys and interpretation, the first digital model of the Latrobe Valley brown coal fields, and for the first time online access to geographic information systems.

These exciting new mapping techniques allow us to see below the surface as it were. As I have indicated on other occasions, my department is about looking below the surface. VIMP has been highly successful in improving Victoria's data coverage and attracting exploration. This exploration for gas has led to six new discoveries onshore and three major discoveries offshore that add significantly to the security and diversity of Victoria's gas supply.

Oil and gas exploration increased dramatically to \$190 million last year, and mineral exploration expenditure has also grown strongly, largely as a result of the government's initiatives, including VIMP. In 2002, mineral exploration expenditure was \$39.2 million, or nearly 5.8 per cent of national expenditure, and it has not been anywhere near that figure for many years. This represents a tripling of the proportion of national mineral exploration expenditure in Victoria over the last decade.

I believe we are on the cusp of a new era in mining in Victoria, an outcome that can largely be attributed to the VIMP program and the government's approach in encouraging exploration. We have seen a long-term increase in mineral exploration expenditure, over 4 million ounces of gold added to the state's resource base and new and important mineral sands finds in the Wimmera and Mallee regions.

I indicate for the benefit of honourable members that when this government came to power the state had a gas system with few gas supply alternatives, and very little was happening in the mining and resource area.

That is what happened. We now have a new gas pipeline, new sources of gas supply, a growing mineral sands industry, and we are on the verge of a second gold rush in Victoria. That is our record, and that is the record of members opposite.

### **Aboriginals: stolen generations**

**Hon. J. H. EREN** (Geelong) — I refer my question to the Minister for Aboriginal Affairs, Mr Gavin Jennings. Can the minister inform the house what the Victorian government is doing to assist the stolen generations of this state?

**Mr GAVIN JENNINGS** (Minister for Aboriginal Affairs) — I thank the member for the question. I am sure that in the spirit of reconciliation all members of the house will be very keen to hear of an important initiative announced last week as part of the government's response to Reconciliation Week. I hope all members wore the badges I distributed to all members of the Victorian Parliament to be worn last week.

Victoria's bipartisan approach has set the standard across Australia since as far as back as 1997 when the *Bringing Them Home* report, an important report by the Human Rights and Equal Opportunity Commission, was tabled in the federal Parliament. It told the very sorry tale, replicated time and again around Australia, of the tragic separation of Aboriginal children from their families and their placement with other families and institutions, never to be returned to their loved ones.

In 1997 the Victorian Parliament responded in a bipartisan fashion and said sorry. I think the Victorian Parliament should be proud of that. I hope the ongoing contribution of the Victorian Parliament and the role it plays in the community will be to continue in the spirit of reconciliation, to say sorry and to make amends for that sorry history. On Sorry Day last week, on behalf of

the Victorian government, I responded to a report commissioned by the government from the stolen generations task force. This task force was established by my predecessor as Minister for Aboriginal Affairs, Keith Hamilton, in 2002 to provide advice to the government on the best way it could provide services to the stolen generations into the future.

The task force reported to the government at the end of March and provided it with an opportunity to introduce a new organisation which will be run by members of the stolen generations in the interests of the stolen generations into the future. A number of programs have been funded at the commonwealth and state levels over the past few years to address this issue, but the task force provided the government with advice that those services are not very well integrated, that they do not provide an easy gateway for members of the stolen generations to research their personal circumstances, to find their loved ones and to reconcile with their loved ones and start the healing process that has been so sorely denied to them.

I would have thought that in the spirit of reconciliation members of the Liberal Party would not say that they do not want to be part of this program, that they do not want to provide support to members of the stolen generations. I think they should encourage their federal colleagues to get with the importance of this issue, to say sorry and to move on.

In the future this stolen generations organisation will provide support to individual families. It will provide counselling and mechanisms to link up families which have been separated in tragic circumstances over the years. In addition, it will provide a public education mechanism so that all in the community can understand the special needs of these individuals and families, not only the families they left behind but often also the families that received them.

**Hon. D. K. Drum** — What are you going to do about it? Are you going to help them?

**Mr GAVIN JENNINGS** — The organisation will do all the things I have been talking about. The government has supported it with \$2.1 million over the next three years to achieve — —

**The PRESIDENT** — Order! The minister's time has expired.

### **Budget: Small Business Commissioner**

**Hon. R. DALLA-RIVA** (East Yarra) — I direct my question without notice to the Minister for Small Business, the Honourable Marsha Thomson. Could the

minister advise what funding has been provided for the Small Business Commissioner?

**Hon. M. R. THOMSON** (Minister for Small Business) — The Small Business Commissioner has over the next four years a budget of \$8 million, with \$2 million for each of the subsequent years starting with 2003–04.

*Supplementary question*

**Hon. R. DALLA-RIVA** (East Yarra) — At the Public Accounts and Estimates Committee hearing the minister clarified that the budget figures attributed to the Small Business Commissioner of \$1 million and \$2 million were both wrong. Is it not true that the budget for the Small Business Commissioner is actually \$1.9 million?

**Hon. M. R. THOMSON** (Minister for Small Business) — No, the budget for the Small Business Commissioner is \$2 million — it is \$8 million over the four-year period, and some of that is made up of new money and some of it is made up of reallocation.

**Aquatic facilities: funding**

**Mr SOMYUREK** (Eumemmerring) — I refer my question to the Minister for Sport and Recreation, who is also the Minister for Commonwealth Games. I refer to the minister's demonstrated commitment to improving sport and recreation opportunities, and I ask the minister to advise the house of what action he has recently taken to improve aquatic facilities across Victoria.

**Hon. J. M. MADDEN** (Minister for Sport and Recreation) — I welcome the member's question, and I welcome his interest in improving aquatic facilities across Victoria. In its second term the Bracks government continues to remain committed to strengthening communities. This government has already significantly improved sport and recreation opportunities across Victoria, particularly in regional Victoria, by increasing access to community sport and recreation facilities. We are getting on with the job and delivering even more opportunities for all Victorians.

Opposition members might wish to take an interest in this, because it might refer to some of their own electorates, but we suspect they do not care, just as they did not care during the last term of our government. I am pleased to advise the house that I recently announced the outcome of the Better Pools program for 2003–04.

A total of 37 applications was received from 37 local councils, and 19 were successful. These range from the larger projects, such as a regional indoor leisure and aquatic centre in Hamilton, to smaller projects, such as a grant of just over \$33 000 to the West Wimmera Shire Council for renovations to three pools.

I had the great pleasure of visiting the Southern Grampians region last week where I was able to personally announce Bracks government funding of \$2.5 million for the Hamilton pool project. As I say this I can see a smile coming across the face of David Koch, because he knows we as a government are delivering for all Victorians right across Victoria, including those in rural and regional Victoria. The Southern Grampians Shire Council can now proceed with a \$7 million makeover of the Hamilton leisure centre. This will transform the existing centre into a modern, regional indoor hub and a base for many sport and recreation community groups. The main features are the addition of an eight-lane heated indoor 25-metre pool and a second indoor leisure program pool with beach entry.

I also congratulate members in relation to another pool I had the great pleasure of announcing funding for: the Cardinia shire aquatic recreation centre in Pakenham. Together with the local member for Gembrook in another place, Tamara Lobato, I announced Bracks government funding of \$2.5 million for this project. I would also like to congratulate upper house members, Mr Somyurek and the Honourable Geoff Hilton, for lobbying extensively on behalf of the Cardinia shire for this facility. It will transform the existing YMCA-managed centre into a modern indoor hub for many sport and recreation community groups.

This proves that we can deliver not only the big facilities but also the small facilities to regional areas — to the outer regions and to the greater metropolitan area. This reinforces again that we are delivering facilities for all Victoria and governing for all Victorians whilst the opposition, in stark contrast, shows that it does not care.

**QUESTIONS ON NOTICE**

**Answers**

**Mr GAVIN JENNINGS** (Minister for Aged Care) — I have answers to the following questions on notice: 115, 124, 133, 143, 145, 152, 350, 380–2, 430, 455, 461, 520.

## MEMBERS STATEMENTS

**Hawthorn Aquatic and Leisure Centre**

**Hon. ANDREA COOTE** (Monash) — I would like to talk about an event I attended last Friday to celebrate the 150th member of the Living Longer Living Stronger program at the Hawthorn Aquatic and Leisure Centre. The program is run in conjunction with the Council on the Ageing to promote strength training for older people. The program is unique in the world and has been a huge success.

The Council on the Ageing is working in partnership with 90 gyms and fitness centres across Victoria. When the Hawthorn Aquatic and Leisure Centre program first started last year it had 20 members, and last week it celebrated its 150th member.

Strength training assists with weight loss for older people with diabetes and difficulty with mobility, and it increases bone density and general mental health and wellbeing. I would like to see the Minister for Aged Care, Mr Gavin Jennings, supporting programs for positive ageing. It was very disappointing that in the recent state budget there was only \$300 000 for the next financial year to encourage older people to participate in sport and leisure. It was disappointing that the minister was not there.

I make special mention of one particular participant who had been going for a long time. He said that not only is it giving him fitness but the pleasure of being involved with other people is enhancing his whole outlook on life. He made a wonderful comment when he said that not only does the leisure activity help with his fitness program, but it is a place of love and support as well. I congratulate — —

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

**Iraq: conflict**

**Hon. J. G. HILTON** (Western Port) — Some weeks ago I mentioned the failure to find weapons of mass destruction in Iraq. They have still not been found, and now the truth is beginning to emerge. The presumed existence of weapons of mass destruction was a pretext used to convince a sceptical public in the United Kingdom, the United States of America, Australia and throughout the world that the war was justified.

Essentially we were conned, or in the words of a former UK cabinet minister 'duped'. This should come as no surprise to people in Australia, as our current federal

government largely won re-election on the demonisation of asylum seekers through the children overboard affair, which again subsequently has been revealed as a manipulation of the truth.

Taking the Australian people for fools may be seen by some as smart politics. I would call it something else: I would call it reprehensible; I would call it a disgrace!

**Ducats Food Products**

**Hon. W. A. LOVELL** (North Eastern) — In 1917 on a small dairy farm in Ardmona a dedicated father and his sons began to realise a dream. Percy James Ducat and his sons, Don and Sid, milked cows by hand on their Grahamvale and Ardmona farms and distributed the milk by bicycle, using billy cans to carry the milk.

In 1926 the family established a milk bar in Shepparton, and its focus turned to milk distribution in Shepparton. The Ducats name and the Ducats green and gold packaging featuring the famous Ducats contented cow became a feature in every household in Shepparton. In the 1970s the business expanded beyond milk to become the vibrant and innovative food service company it is today.

The business is now run by Percy's grandson, Ray, and great-granddaughter, Michelle, and the Ducat family is well known for its generosity in supporting community projects and local sport through sponsorship.

Last Thursday the Ducat family announced the sale of its milk manufacturing business to National Foods. National Foods will continue to source milk from local suppliers and will process the milk to the same formula used by Ducats. The milk will arrive back in Shepparton packaged in the Ducats green and gold carton for exclusive distribution by Ducats Food Products.

The move away from processing to distribution will allow Ducats to expand its distribution business and will see the Ducats brand spread into households outside the Goulburn Valley.

This is an exciting time for the Ducat family as its members embark on a new chapter in the family dream. I know everyone in the Goulburn Valley would join me in thanking the Ducat family for their service and community spirit.

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

### **GBC Scientific Equipment Pty Ltd**

**Mr SOMYUREK** (Eumemmerring) — I rise to congratulate the Dandenong firm, GBC Scientific Equipment Pty Ltd, and its managing director, Mr Ron Grey, for being inducted into the Manufacturing Hall of Fame by the Minister for Manufacturing and Export.

The Manufacturing Hall of Fame was established in June 2000 to recognise and celebrate the success and achievements of the state's champion manufacturers. GBC was nominated for this award by the Victorian Employers Chamber of Commerce and Industry. GBC Scientific is the first Dandenong firm to be inducted into the hall of fame. There are some excellent firms in Dandenong, and I hope the success of GBC Scientific will inspire confidence in other Dandenong firms in the future.

GBC designs, manufactures and markets a range of scientific instruments, including atomic absorption spectrometers. I understand that GBC has been operating for 25 years and during this time has demonstrated a sustained contribution to manufacturing excellence. The company exports an incredible 95 per cent of its output to over 85 countries throughout the world and employs 120 people. GBC is truly tangible proof that Victorian companies have the expertise, skill and creativity to successfully compete with the best in the global marketplace with respect to high-tech industries.

Sustainable growth and quality jobs for Victorians will only be achieved through the efforts of innovative firms such as GBC Scientific, which has a global focus.

### **The Great Chase, Bendigo**

**Hon. D. KOCH** (Western) — I, along with one of the members for North Western Province, Mr Drum, and his family attended a unique charity event last Friday evening when greyhounds raced for their community. Staged at Bendigo and supported by Greyhound Racing Victoria, The Great Chase was developed in conjunction with Vichealth. The Great Chase was designed to provide community groups supporting people with disabilities the opportunity to be involved in the exciting sport of greyhound racing and to share in some substantial rewards.

This event, a revamp of the former Provincial Cup, was the culmination in regional Victoria of 10 feature events, the winners of each being starters in The Great Chase. As well as receiving \$6000 for the final, community beneficiaries will continue to receive 10 per cent of the earnings for the following year from The

Great Chase starters towards their organisations. The grand final of The Great Chase took place last Friday night at Lord's Raceway, Bendigo, and was won by Brumby Lad, owned and trained by the Bushell family of Newcomb in Geelong. Brumby Lad was matched with Pennyweight Park of Ballarat.

Congratulations go to the Bendigo Greyhound Racing Club for such a novel and successful event, and to Jan Wilson, chairman of Greyhound Racing Victoria, for relocating the former Provincial Cup, now The Great Chase, to regional Victoria.

### **Michael Devola**

**Mr PULLEN** (Higinbotham) — One of my constituents, successful Brighton businessman and cricketer, Michael Devola, has resurrected the Victorian Banjo Club, which closed in the mid-1970s.

Michael, who is a member of the fine jazz band, the Darktown Strutters, is an accomplished banjo player and learned to play the banjo at the club as an 11-year-old in 1964. He is concerned that the banjo could die out if something is not done about it. Michael tells me the great thing about the banjo is that it is a happy instrument and you cannot play a sad song with it. Besides being played in jazz music, the banjo can be played in pop bands and — this is what I like — in country music groups.

Michael's biggest concern is that it is difficult to purchase good banjos in Australia, and he is appealing to anyone who may have a banjo, old or otherwise, to contact him. Michael needs to get the banjos to teach anyone, particularly children, how to play the instrument. Michael tells me the banjo is an exciting instrument. It is unlike a guitar, which is often played as an accompaniment to voice. If anyone can help or wishes to join the club, they can contact Michael at level 1, 630 Hampton Street, Brighton, or by phone on 9592 3755.

### **Devilbend reserve, Tuerong**

**Hon. R. H. BOWDEN** (South Eastern) — Last week I attended a public meeting at the Moorooduc hall that was organised by several concerned community groups about plans that are believed to have been put in place by Melbourne Water to sell a large area of land in the northern part of the Mornington Peninsula called Devilbend reserve. The reserve is 1057 hectares or approximately 2500 acres, and it is believed that Melbourne Water has advanced plans to sell more than 60 per cent of this area of land.

There is absolutely strong community opposition to the sale of this Crown land, and there is absolutely no doubt that the land is Crown land. There is serious doubt as to whether Melbourne Water has the ability to sell it on the plan that it already has. This large area of land is one of the few remaining public land areas of great size on the Mornington Peninsula. It is home to lots of birds and native animals and its loss to the community would be incalculable if it were to be subdivided.

I strongly oppose any attempts to subdivide this land. I want it kept in 100 per cent public ownership, and I will be writing to the ministers involved to make sure that the government knows that it is totally unacceptable to the community to sell and subdivide the land at Devilbend.

### **Goulburn Ovens Institute of TAFE: graduate interpreters**

**Hon. KAYE DARVENIZA** (Melbourne West) — I want to let members of the house know how very pleased I was to represent the Premier on 22 May at the Goulburn Ovens Institute of TAFE in Shepparton. The occasion was the presentation of National Accreditation Authority for Translators and Interpreters badges and certificates to Arabic graduates of the Arabic paraprofessional interpreters course that was conducted at the Goulburn Ovens Institute of TAFE in Shepparton.

The Victorian government recognised the need for a course in Shepparton and provided the funds so the course could be run by TAFE. Of the 17 students who started the course, 13 successfully graduated, and it was a very exciting day for those students and their families. Many Iraqi refugees have chosen to settle in Shepparton, and there is a very real need to improve the supply and the quality of interpreters in this area, especially in emerging languages and in other rural and regional areas.

The presentation ceremony was also attended by the Honourable Gary Hardgrave, the federal Minister for Citizenship and Multicultural Affairs; John Williams, the state director of the Department of Immigration and Multicultural and Indigenous Affairs; the mayor of the Greater Shepparton City Council, Ann McAmish; and Vicki Mitsos, the president of the Ethnic Communities Council of Shepparton and District — —

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

### **Agriculture: envirodrums**

**Hon. B. W. BISHOP** (North Western) — I have just received a request from Warrick Grey, a progressive young farmer from the Ultima–Meatian area, who is also the secretary of the Ultima branch of the Victorian Farmers Federation. Warrick informs me that chemical companies have recently placed an extra fee of from \$18 to \$20 on all envirodrums. This fee makes chemicals bought in these drums dearer than the same chemicals bought in conventional containers, leading to farmers refusing to buy chemicals in envirodrums.

When the drums were first introduced farmers had to invest upwards of \$1000 in on-farm infrastructure to enable them to use the chemicals in these returnable, refillable drums. Most farmers did so, and the subsequent decreased use of the old plastic and steel non-refillable drums has benefited the environment and the whole community. The increased financial burden now imposed on farmers who wish to use these environmentally friendly containers is not only unfair but is turning farmers away from using them, so I request both the Minister for Agriculture and the Minister for Environment to address this situation so that the continued use of envirodrums is maintained in our communities.

### **Australian Red Cross: Ringwood blood donation centre**

**Hon. C. D. HIRSH** (Silvan) — I want to speak today about the Victorian branch of the Australian Red Cross blood service and pay tribute to the work that it does. In fact it will provide a service in Ringwood on the Queen's Birthday public holiday. The Ringwood donor centre will be open from 9.00 a.m. to 12.30 p.m. on 9 June to help minimise the impact of low blood stocks over the long weekend. Representatives of the centre said they hope the centre will take 60 blood donations on this public holiday, so I pay tribute also to Ringwood residents who are prepared to give blood on a public holiday when they could be off enjoying themselves.

**Hon. A. P. Olexander** interjected.

**Hon. C. D. HIRSH** — Well, I hope you will be involved.

**Hon. A. P. Olexander** — Perhaps you could join me, Ms Hirsh, if they still allow you to do it.

**Hon. C. D. HIRSH** — I have normally given blood at Boronia, at the Bayswater West Anglican Church.

**Hon. A. P. Olexander** — Anybody can do it. It is all for a good cause.

**Hon. C. D. HIRSH** — It is for a good cause, and I thank the honourable member for his contribution to my 90-second discussion. I congratulate the Victorian Red Cross.

### **Minister for Corrections: statement**

**Hon. R. DALLA-RIVA** (East Yarra) — I place on record a statement made to the AAP Newswire by the Minister for Corrections on 25 May 2003. The minister referred to my comments on the issue of prisoner numbers. He said that claims that the prison system is dangerously overcrowded are totally dishonest.

I obtained the figures I put on the record from a hearing of the Public Accounts and Estimates Committee (PAEC) which I attended. The figures stated that as at 15 June 2003 the prison system was housing 3713 inmates. I raised the issue and compared the number of prisoners against the design capacity. Page 34 of the annual report for 2002–03 of the Department of Justice noted that the Victorian prison system had an original design capacity of 2875 beds. At the PAEC hearing the minister claimed that over the 2002–03 year the government had supplied 297 additional fixed prison beds.

I put on record that I reject claims that I said anything dishonest. I am bringing these issues to the attention of the Victorian community, and I am sorry the minister needs to resort to personal abuse. I will not shy away from my responsibilities in dealing with this important portfolio and will continue — —

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

### **Textile, clothing and footwear industry: jobs**

**Hon. S. M. NGUYEN** (Melbourne West) — I congratulate the workers who organised today's march outside Parliament and the concern they have about the textile, clothing and footwear industry. Victoria would like to call on the Howard government to reject the Productivity Commission's recommendation, which will mean that Victoria will lose about 20 000 jobs if the recommendation is adopted.

The Victorian government made six recommendations to the commission: labour market adjustment; maintaining a critical mass of manufacturing base; improving export market access; providing incentives for increased innovation and research and development; developing a highly skilled and cooperative work force;

and encouraging inter-firm collaborations. In my area of the western suburbs there are many migrant outworkers. Like other Victorians they need jobs. If the tariffs are increased a lot of jobs will be lost.

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

### **Better Rail Action Group**

**Hon. D. K. DRUM** (North Western) — Last night I had the opportunity to go to the Better Rail Action Group public meeting at Campbells Creek near Castlemaine. Four first-class national authorities spoke on all aspects of rail, fast rail and rail development. The lead speaker was Professor Peter Newman, director of sustainability in the Department of Premier and Cabinet in Western Australia. The meeting was attended by approximately 160 interested and vocal commuters who were extremely anxious about a number of issues. Despite invitations, nobody from the government or from the Department of Infrastructure was available to attend the meeting.

The Bendigo arm of the fast rail project will cost in the vicinity of \$185 million, and this rail upgrade is desperately needed. However, two areas of concern had unanimous support across the floor at last night's meeting. Firstly, they are horrified that the government is going to pull up one of the two lines connecting Kyneton and Bendigo. Secondly, they cannot believe that the Victorian government will not follow the lead of the South Australian government in using gauge-convertible sleepers which will enable the state to convert this rail line to standardised rail at any stage in the future. A resolution was passed at the meeting to lobby the government on these issues. I congratulate members of the Better Rail Action Group on their work and wish them success with these two issues.

### **Lorne Community Hospital: redevelopment**

**Hon. D. McL. DAVIS** (East Yarra) — My comment relates to the important redevelopment of the Lorne Community Hospital which has again stalled. This is a sad tale of Bracks Labor government incompetence and mismanagement. You would have to say it is a saga. Mr Vogels and Mr Koch agree that this is a very sad tale of great mismanagement.

The fact is that Lorne hospital had \$9 million set aside for its redevelopment, a project the Kennett government supported prior to 1999 and one the Labor Party said it would support also. I understand that when this government came to power in 1999 it rejigged the process and forced it to be started again, including some

new consultancies. But the new process has turned up only one tenderer who has put in a bid of more than \$12 million, about 40 to 45 per cent over the amount that was allocated before this tender process.

The reality is that this project is in deep trouble. The hospital chief executive and the board remain committed to ensuring the redevelopment goes ahead. If this process had not been fiddled with the project would have gone ahead and it would likely have been built by now. I ask the Minister for Health to meet urgently with the hospital and quickly come up with a solution that guarantees this project goes forward.

### **East Gippsland: Rotary bushfire appeal committee**

**Hon. PHILIP DAVIS** (Gippsland) — I bring to the attention of the house a matter relating to the East Gippsland Rotary bushfire appeal committee and congratulate its members for the work they have done to assist fire-affected farmers in the region. While the fires were burning Rotary swung into action with the support of the district governor, Alan Lyall, of the Dromana and East Gippsland clubs who formed the committee to be led by past district governor Noel Wheeldon.

This committee immediately began to coordinate the distribution of donated hay and supplied drinking water to areas where supplies had been contaminated. Four caravans were purchased to provide temporary accommodation where houses had been destroyed, and work began on coordinating the placement of volunteers to assist farmers with the clearing of fence lines and construction of new fences. Rotary then decided to put the bulk of its effort into the provision of fencing materials by using donated funds, initially setting a target of raising \$100 000. So generous was the response that nearly three times the sum has been spent, including a donation of \$28 000 made by a Japanese delegation when its members attended a Rotary district conference.

Rotary clubs throughout Australia, from as far afield as Darwin, have made generous donations to the appeal. Significant assistance has been received in manpower from the 19 four-wheel-drive clubs in Gippsland and across the metropolitan area with working parties to assist farmers. I congratulate Rotary and East Gippsland Rotarians particularly for the 85 000 steel posts which have been provided to the community of East Gippsland for fencing.

## **SCRUTINY OF ACTS AND REGULATIONS COMMITTEE**

### ***Alert Digest No. 4***

**Ms ARGONDIZZO (Templestowe)** presented *Alert Digest No. 4 of 2003*, together with appendices.

**Laid on table.**

**Ordered to be printed.**

## **PAPERS**

**Laid on table by Clerk:**

Auditor-General — Report on Electronic Procurement in the Victorian government, June 2003.

Essential Services Commission —

Final Report of Inquiry into Port Channel Access in Victoria, May 2003.

Report of Review of 2003–04 accident towing and storage charges, May 2003.

Forensic Leave Panel — Report, 2002.

Gaming Machine Control Act 1991 — Victorian Casino and Gaming Authority Rules — Casino (three papers).

Goulburn Valley Region Water Authority — Report, 2001-02.

Mt Stirling Alpine Resort Management Board — Report for the period 1 November 2001 to 31 October 2002.

Ombudsman — Interim Report on CEJA Task Force: Investigation of allegations of drug related corruption, May 2003.

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

Glen Eira Planning Scheme — Amendment C20.

Hobsons Bay Planning Scheme — Amendment C26.

Indigo Planning Scheme — Amendment C16.

Moreland Planning Scheme — Amendment C44.

Murrindindi Planning Scheme — Amendment C9.

Shepparton — Greater Shepparton Planning Scheme — Amendment C26.

Stonnington Planning Scheme — Amendment C3.

Whittlesea Planning Scheme — Amendments C40 and C44.

Wodonga Planning Scheme — Amendment C16.

Psychologists Registration Board of Victoria — Minister for Health's report of receipt of the 2002 report.

Rural Northwest Health — Report, 2001-02 (two papers).

Statutory Rules under the following Acts of Parliament:

Domestic (Feral and Nuisance) Animals Act 1994 — No. 39.

Fisheries Act 1995 — No. 38.

Livestock Disease Control Act 1994 — No. 37.

Subordinate Legislation Act 1994 — No. 40.

Surveyors Act 1978 — No. 41.

Subordinate Legislation Act 1994 — Ministers' exemption certificates under section 9(6) in respect of Statutory Rule Nos. 38, 40 and 41.

Proclamation of the Governor in Council fixing an operative date in respect of the following Act:

Livestock Disease Control (Amendment) Act 2001 — Section 15 — 23 May 2003 (*Gazette* No. G21, 22 May 2003).

## COURTS LEGISLATION (AMENDMENT) BILL

### *Second reading*

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

That the bill be now read a second time.

This bill makes a number of amendments to 'court' legislation to improve the operation of Victoria's courts and to facilitate the appointment of high-quality candidates to the Victorian bench.

Part 2 of the bill amends the Constitution Act 1975 and the County Court Act 1958 so that a person who has served as a judge in a commonwealth or interstate court can have that service taken into account for the purpose of accruing an entitlement to a judicial pension in Victoria.

Part 3 of the bill makes three amendments to the Magistrates' Court Act 1989. The purpose of these amendments is to:

facilitate the appointment of deputy chief magistrates on limited tenure;

allow the court to make diversion orders for minor traffic offences; and

clarify the operation of part 4 of schedule 7 of the act as it applies to persons without a mental disability or impairment.

## **Part 2 — Judicial pensions**

Part 2 of the bill seeks to remove unnecessary barriers for appointment to judicial office and to further the government's commitment to ensuring that there is a wide pool of candidates, representing the best and brightest legal minds in the country, from which to make judicial appointments.

Currently, there is a serious disincentive for judges of commonwealth and interstate courts to accept an appointment to the Victorian bench. This is because the legislation that governs these appointments does not enable judicial service in another Australian jurisdiction to be taken into account for the purpose of accruing a pension entitlement. Such an entitlement arises in Victoria after 10 years of judicial service and upon attaining the age of 65 years (or 60 years if appointed prior to 18 May 1995), or after 20 years judicial service.

At the present time, any interstate or commonwealth judges who then agreed to join the Victorian Supreme or County Court benches would have to 'start again' in terms of their eligibility for a judicial pension. This would be unfair since by accepting a judicial appointment in Victoria, they would have usually forfeited the pension entitlement they had been accruing in the other jurisdiction.

This bill seeks to bring Victoria into line with a number of other jurisdictions, including the commonwealth and New South Wales. Those jurisdictions recognise prior judicial service in another jurisdiction and so are in a position to recruit Victorian judges for positions interstate.

Part 2 of the bill is also fiscally responsible, in that it prevents any possible double dipping in relation to judicial pensions. It provides that if a judge is entitled to a Victorian pension upon retirement, and is also eligible for a pension from another jurisdiction, the Victorian pension is then reduced by the full amount of the other pension.

Part 2 is deemed to commence upon 1 May 2003. This is to ensure that part 2 is fully effective, and that the ability to attract high-quality candidates to judicial service in Victoria is not compromised by any delay in the passage of the bill.

## **Part 3 — Amendments to the Magistrates' Court Act 1989**

### *Deputy chief magistrates*

Part 3 of the bill makes three amendments to the Magistrates' Court Act 1989. The first of these

concerns deputy chief magistrates. Under section 7(2) of the act, the Governor in Council may appoint two or more magistrates to be deputy chief magistrates. Currently the subsection does not permit the Governor in Council to appoint deputy chief magistrates for fixed terms. This means that a deputy chief magistrate holds that office while he or she holds the office of magistrate.

Both the government and the Chief Magistrate agree that the operation of the court will be enhanced if deputy chief magistrate appointments are not made for life. Deputy chief magistrates are vital to the effective and efficient running of the Magistrates Court. They provide assistance to the Chief Magistrate as requested and exercise delegated powers in the Chief Magistrate's name. Fixed terms for deputy chief magistrates will provide the court with flexibility both in meeting its operational needs and by providing a broader range of magistrates with the opportunity to participate in the management of the court. The three current deputy chief magistrates will not be affected by the amendment.

### *Criminal justice diversion*

Part 3 of the bill also clarifies the application of the diversion program to people charged with minor traffic offences. This government is committed to the concept of therapeutic justice and to diverting offenders away from the criminal justice system on conditions that benefit the offender, the justice system and the community as a whole. In appropriate cases, the presiding magistrate may adjourn the charges and place the offender on a 12-month diversion plan. The conditions of a diversion plan are flexible and may include apologising to a victim, compensating a victim, receiving counselling or performing community work. If the offender satisfactorily complies with the conditions of a diversion plan, the court will discharge the offender without conviction.

Diversion orders are made under section 128A of the Magistrates' Court Act 1989. A number of magistrates have formed the view that section 128A excludes any offences which attract demerit points under the Road Safety Act 1986 and the bill clarifies that section 128A should enable people who have committed minor traffic offences to participate in the diversion program. I would like to stress that this provision relates to minor traffic offences only. More serious traffic offences, such as dangerous driving, cannot be considered for the diversion program and so will not be affected by this legislation. Additionally, the bill specifically excludes offences under section 49(1) of the Road Safety Act 1986, which means that people charged with driving

offences involving alcohol or other drugs will be ineligible to participate in the diversion program.

The bill amends section 128A(1) to provide that offenders charged with traffic offences which automatically carry demerit points on proof, could be the subject of a diversion order. Offenders subject to such an order would still suffer the loss of demerit points in the normal way.

### *PERIN matters — power of the court*

The PERIN (penalty enforcement by registration of infringement notice) Magistrates Court is the venue of the Magistrates Court that deals with the processing and enforcement of infringement notices and penalties. Schedule 7 of the Magistrates' Court Act 1989 outlines the procedure for the enforcement of infringement penalties. In 2000 the Bracks government inserted part 4 into schedule 7 of the Magistrates' Court Act 1989 to ensure that a person who fails to pay an infringement notice and who is arrested and taken into custody is brought before the court for a hearing before a sentence of imprisonment can be imposed. At present, clause 24 of part 4 allows a magistrate to make one of the following dispositions in relation to a fine defaulter:

order that the person be imprisoned for one day for each \$100 or part of \$100 the person has outstanding;

order that the person be imprisoned for up to two-thirds less than the time determined above; or

make a community-based order.

As I stated in 2000, some people unfortunately incur infringement notices as a result of suffering from a mental disorder or impairment that prevents them from fully understanding or being responsible for their conduct. To address this, part 4 of schedule 7 specifically enables the court to dismiss a matter in whole or in part where it is satisfied that the default has occurred as a result of a mental disorder or intellectual impairment and the defendant has no means to pay or a reasonable excuse not to pay. This provision was designed to take the special needs of more vulnerable members of the community into account as part of the infringement notice enforcement system.

Since the enactment of part 4 some doubt has arisen over the jurisdiction of the court with respect to the availability of sentencing options for persons without a mental disorder. A number of magistrates have interpreted the provision to mean that the court has no jurisdiction to make a community-based order or sentencing order for infringement notice defaulters who

do not have a mental disability. Clearly this is an anomalous situation. The proposed bill addresses this anomaly by amending part 4 of schedule 7 to remove any doubt about the court's jurisdiction to make a community-based order or impose a term of imprisonment for persons without a mental disability or impairment.

I wish to make the following statement under section 85 of the Constitution Act 1975 of the reason for altering or varying that section by clause 29 of schedule 7, as affected by clause 28(4) of that schedule. The bill, in amending clause 28, necessarily attracts the operation of clause 29. Clause 29 of schedule 7 provides that no proceedings may be brought (including proceedings in the Supreme Court) in respect of any matters that are deemed to be valid or lawful due to the operation of clause 28. The bill inserts clause 28(4) to validate past actions of magistrates who have placed PERIN defaulters on community-based orders or sentenced them to terms of imprisonment, where those infringement notice defaulters were not suffering from a mental disorder or impairment. This amendment is necessary to protect the state and state officials from potential liability arising out of their actions, avoid the prospect of lengthy appeals against the validity of such orders, and ensure that the intention of the legislature in enacting part 4 of schedule 7 of the Magistrates' Court Act 1989 is given full effect.

### Conclusion

The bill will improve the administration of justice in the Magistrates Court and ensure that the best and brightest candidates across Australia are encouraged to apply for appointment to the Victorian County and Supreme Court benches.

I commend this bill to the house.

**Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).**

**Debate adjourned until next day.**

## PLANNING AND ENVIRONMENT (METROPOLITAN GREEN WEDGE PROTECTION) BILL

### *Second reading*

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

That the bill be now read a second time.

### **Second-reading speech as follows incorporated on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation):**

In October 2002 the Bracks government released its vision for the future of Melbourne — Melbourne 2030.

It is a strategy for managing urban growth in a sustainable manner over a 30-year period. It received widespread endorsement and support from the community, from local government, from industry and, indeed, from international commentators.

It was the cornerstone of the Bracks government's policy for planning in the historic November election last year. Attempts by the opposition to discredit parts of the strategy proved futile as the election results amply demonstrated.

As members will be aware, an extensive consultation process preceded release of Melbourne 2030.

A very clear message came out of that process. The people of Melbourne made it very clear that they wanted to see an end to urban sprawl and they wanted to protect the green wedges that surround Melbourne.

This was no idle whim.

The people of Melbourne know the value of these green areas. They are the lungs of the city. They provide for valuable agricultural activity; they contain important natural resources which must be protected for future use; they include significant areas of native vegetation; they provide protection for the water catchments that serve the almost 4 million residents of the metropolitan area.

Any notion of sustainability for our metropolitan area cries out for protection of these green wedges.

And in the past that has been the case. The green wedges were first recognised as an important part of metropolitan planning policy way back in the 1970s.

They were clearly identified as areas to be protected from the encroachment of urban growth. Special attention was to be paid to the important conservation areas of the Yarra Valley, Dandenong Ranges and Mornington Peninsula. And so it was for many years.

But unfortunately for the people of Melbourne the Kennett government undermined this strategy and failed to maintain government commitment to protection of the green wedges.

They did this in two ways. In their reform of the planning schemes — generally known as the Victoria planning provisions or VPPs — they first of all omitted any reference to the green wedge concept in the state planning policy framework which forms part of all the new municipal planning schemes. Certainly there is reference to the environmental sensitivity of areas like the Dandenongs and Western Port bay. But there is no clear policy statement setting out the green wedge concept and giving it statutory protection in the planning schemes.

Secondly, in their desire to reduce the number of zones and to provide for a greater variety of uses in the few zones that did remain, they ended up with a rural zone covering most of the green wedge areas and in this rural zone, the only prohibited

land uses are brothels, cinemas and shops (other than convenience stores or equestrian supplies).

This is simply not an acceptable way to manage green wedge land.

Before explaining the actions the government is taking on this issue, I want to explain the concept of the green wedge areas. They are an important part of the government's approach to managing urban growth sustainably. They are an essential complement to the established urban area and the growth corridors, defined by the urban growth boundary. Within the established urban area and the growth corridors urban expansion can readily occur, and can be serviced efficiently with infrastructure and with community facilities.

In short, the green wedges are the areas between the urban growth boundary and the outer perimeter of the municipalities that form metropolitan Melbourne. The urban growth boundary was established with the release of Melbourne 2030 in October 2002. It is shown on all the relevant planning scheme maps. It exists in a statutory sense. So the green wedge area is clearly established. It is simply the land between the urban growth boundary on the inside and the outer municipal boundaries on the outside.

It is important to understand that green wedge areas were never intended to be 'all green', in the sense that they should be only for conservation and low-impact farming uses. They are also the appropriate location for urban-related uses which should not be located in a built-up area — uses such as quarries and sand pits, sewerage treatment plants and airports requiring extensive separation from sensitive uses. Parts are utilised for intensive farming activities, including intensive animal husbandry such as poultry farms and intensive horticulture. Other parts — in particular the Dandenongs and the Mornington Peninsula — are utilised for combinations of 'lifestyle' agricultural enterprises and tourist accommodation, while yet others are water catchments and storages. And scattered through the green wedges are some 40 urban areas of various sizes, such as Somerville, Emerald and Healesville.

This means that the planning regime for green wedge land must be one which facilitates a range of land use and management approaches appropriate to these differing circumstances yet maintains the basic integrity of those parts which are not already utilised for urban purposes. It also needs to take account of the views of those who see the green wedge areas in terms of economic opportunities and those who would follow a much tighter, conservation-oriented approach.

Members will appreciate that planning in any situation, but particularly in the green wedge areas, involves a very delicate balancing act by councils and the government. A sustainable city is not one where nothing changes. In this environment decisions about development proposals can be highly controversial and involve passionate support and opposition.

To provide a framework to manage this situation better than has been the case in the recent past, the government is implementing a series of measures.

First, an interim urban growth boundary was introduced to planning schemes last October, with the announcement of Melbourne 2030. As I have already noted, this draws the line between the principal urban areas and other parts of the metropolitan region. This boundary was drawn in accordance

with information available at the time, but it was always expected that changes would be needed. Submissions about Melbourne 2030 have referred to anomalies in this urban growth boundary, and once these have been systematically analysed I expect to bring before Parliament, in accordance with procedures I will refer to shortly, an amendment to overcome anomalies.

This urban growth boundary will also need amendment from time to time to accommodate the continued outward growth of Melbourne's growth corridors in accordance with an orderly urban growth program. While Melbourne 2030 emphasises more efficient utilisation of urban land, there will be an ongoing need for growth on the outskirts. This urban growth program will ensure that this is efficiently managed and that as new industrial and residential areas develop they are properly serviced — not only by the 'pipes and wires' but also by transport and community services.

Secondly, it is proposed to make an amendment to the 17 planning schemes which include green wedge land to include a set of core planning provisions to better regulate land use in these areas. These will set out uses which are considered inappropriate in green wedge land other than in township areas or which are inappropriate except where the uses are limited in scale. Therefore the core planning provisions will prohibit these uses in green wedge land, other than in townships and limited special situations.

A draft set of core planning provisions formed part of the Melbourne 2030 package and, like the urban growth boundary, has been the subject of submissions in that context. Once analysis of submissions is complete, the core planning provisions will be finalised and introduced into the planning schemes by a planning scheme amendment.

The third element of the government's response to protecting the green wedge areas from inappropriate subdivision and development is the Planning and Environment (Metropolitan Green Wedge Protection) Bill, which I bring before you today.

This bill does not directly control development of green wedge land. It does not change the land use rules in planning schemes. But it does establish processes to ensure that proposals to change those rules are subjected to a more rigorous examination than has previously been the case, commensurate with the likely impact of that change. In essence what the bill does is this.

It requires any planning authority other than the Minister for Planning to get the approval of the Minister for Planning before preparing any planning scheme amendment that would change the urban growth boundary or otherwise change the planning schemes in relation to green wedge land. No longer will a council be able to prepare and give notice of an amendment which is inconsistent with green wedge principles appropriate to the locality, causing great public concern and leading people to put serious effort into opposing an idea which should never have been given any support in the first place. Nor will project proponents be led to invest resources into a process which must ultimately not be approved. Proposals to nibble away at the edges of green wedges in an ad hoc way will not even reach the stage of becoming part of a planning scheme amendment.

The amendments which pose the greatest threat to the integrity of green wedge areas are those which involve

changes to the urban growth boundary or which in any way increase the subdivision potential of green wedge land. There will be times when such changes should be made. The bill requires that such amendments will not come into effect unless ratified by both houses of Parliament. This is in contrast to the normal arrangement for other amendments, which come into effect when notice is given of their approval by the minister, at which stage Parliament is also notified of their approval. Like any subordinate instrument, amendments can be revoked by Parliament, but members will appreciate that in practice amendments are not generally subject to intense scrutiny.

This bill identifies changes to the urban growth boundary and green wedge subdivision controls as special and therefore subject to special examination. This process is similar to that which applies under the Planning and Environment Act 1987 to the Upper Yarra Valley and Dandenong Ranges Strategy Plan and the Melbourne Airport Strategy Plan.

I referred earlier to the process of considering submissions about Melbourne 2030. Submissions about Melbourne 2030 have amongst other matters referred to the urban growth boundary. At this stage I want to make it very clear that the government fully expects to bring forward changes to the urban growth boundary later this year for consideration by this Parliament.

That will exemplify the purpose of this bill. It is not to stop changes. It is to ensure that for something as important to Melbourne as the green wedges, this Parliament, the democratic heart of the state of Victoria, will be the final arbiter of whether major changes affecting the green wedges changes are well founded and consistent with the overarching policy commitment to protect the green wedge areas from inappropriate development.

Let me now turn to the details of the bill.

Clauses 1 and 2 describe the purpose of the act and provide for its commencement the day after it receives royal assent.

Clause 3 is the heart of the bill. It inserts into the Planning and Environment Act 1987 a whole new part 3AA relating specifically to metropolitan green wedge protection. I will refer to the effect of the proposed new divisions and sections to be included in the act.

Division 1 is introductory. It sets out the 17 metropolitan fringe planning schemes and formally describes what is an urban growth boundary and what is green wedge land. These are all matters I have referred to previously. It also describes a green wedge planning scheme amendment.

Division 2 provides that a planning authority other than the minister may not prepare planning scheme amendments affecting green wedge land except with the authorisation of the minister. This is to avoid councils wasting time and resources on inappropriate amendments which are contrary to the government green wedge policies and local residents being put to the effort of responding to proposals which have no chance of being approved. It will also avoid developers building up unrealistic expectations about possible amendments to facilitate development of green wedge land.

Division 3 provides that green wedge planning scheme amendments which alter an urban growth boundary or increase the subdivision potential of green wedge land come into effect only if ratified by both houses of Parliament. It sets

out the procedure for this. When the minister approves a relevant amendment it must be laid before each house within seven sitting days. Unless it is ratified by a resolution passed by each house within 10 sitting days after it is laid before that house, the amendment will lapse and never come into effect. This is in contrast to the normal amendment process, which provides that the minister must cause notice of an approved amendment to be laid before each house within 10 days of its approval. The amendment may be disallowed on the motion of either house — but the amendment is in force unless disallowed.

Part 4, division 5, of the Planning and Environment Act 1987 establishes a process where a person can request a planning authority to prepare amendment to a planning scheme and at the same time consider an application for a permit under the scheme as proposed to be amended. Proposed section 46AM allows this process to be utilised with minor modifications in the case of an amendment which requires ratification under the new procedures established by this bill. The permit will not come into operation unless the amendment to which it relates is ratified; if it is not, the permit is deemed to be cancelled, in the same way that a permit under part 4, division 5, would be cancelled if the amendment to which it relates should be subsequently revoked by Parliament.

Clauses 4 and 5 provide for consequential procedural matters.

In conclusion, while this bill includes some procedurally complex material, the principle behind it is straightforward. An amendment which excludes land from the green wedge by changing the urban growth boundary or which affects green wedge land should be prepared only by or with the consent of the minister, and if it increases the potential to subdivide land or changes the urban growth boundary it will come into operation only if ratified by Parliament. The government said in Melbourne 2030 and in its 2002 election policies that it would protect the green wedges by legislation, and this bill is an essential part of honouring that commitment.

I commend the bill to the house.

**Debate adjourned for Hon. D. McL. DAVIS (East Yarra) on motion of Hon. Andrea Coote.**

**Debate adjourned until next day.**

## VICTIMS OF CRIME ASSISTANCE (MISCELLANEOUS AMENDMENTS) BILL

*Second reading*

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

That the bill be now read a second time.

**Second-reading speech as follows incorporated on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation):**

As part of the government's commitment to strengthening support services to victims of crime, the Department of Justice has undertaken a review of services to victims of crime to:

examine how those services are currently being delivered; and

determine the best way of delivering services to victims in the future.

The *Review of Services to Victims of Crime Report* was released in February 2002. It found that although there are a wide range of services available to victims of crime, service delivery is fragmented and requires greater coordination.

The report made a number of key recommendations about how services to victims of crime can be improved and better coordinated. A victims services task force has been established to implement these non-legislative recommendations.

The report also made recommendations about the potential to improve and streamline the current processes at VOCAT in order to make it more accessible and responsive to victims of crime. Implementing these recommendations will help redress the current imbalance in the provision of counselling services and access to practical assistance following a crime. This imbalance has occurred as a result of the ease with which victims have been able to obtain counselling through the VRAS-administered victims counselling scheme and the delays that victims seeking counselling have experienced at VOCAT.

The Victims of Crime Assistance (Miscellaneous Amendments) Bill will amend the current legislation by:

removing the current legislative restrictions on making interim awards and enabling some to be made by registrars of VOCAT;

correcting an unintended anomaly in the legislation by widening the circumstances in which childhood victims of sexual assault may be awarded special financial assistance;

enabling VOCAT to determine a matter without a hearing if it relates to making an interim award or if the applicant's consent has been obtained; and

empowering the Chief Magistrate to make guidelines in relation to non-procedural matters.

#### **Interim awards — providing early assistance to support victims**

Currently, in order to be satisfied that an applicant is entitled to a final award, applicants are required to provide the tribunal with a series of documents, including police and medical reports and any other relevant supporting material. It is also preferable that any injury sustained by an applicant has stabilised prior to the tribunal making a final award. In some cases, it may take many months before a final award can be made. For this reason, the tribunal has the power to make interim awards.

When making interim awards under the current legislation, magistrates must be satisfied that the applicant will be, or is likely to be, entitled to receive a final award under the act. To date, a number of magistrates have been reluctant to make interim awards on the basis that if a final award is not made, the act states that the amount of the interim award becomes a debt due to the state.

This bill will make it easier for magistrates to make interim awards by removing these requirements in the act and providing magistrates with a discretion. An interim award will only become a debt due to the state if the tribunal considers it appropriate to make such an order.

This bill will also give registrars of the tribunal the power to make interim awards up to a prescribed limit. This limit will be detailed in regulations. This will enable the tribunal to deal with interim applications more quickly, especially where applicants are seeking urgent counselling or relocation. Registrars who undertake these functions will receive appropriate training.

#### **Childhood victims of sexual assault**

When this government restored compensation for pain and suffering for victims, it recognised the special position of childhood victims of sexual assaults.

The rationale for providing assistance to child victims was explained at the time the original amendments were introduced. It was intended that special financial assistance be made available to victims of childhood sexual assault as they are among the most vulnerable victims in society. Because of the nature of child sexual abuse, cases are often not reported for years. Offenders are often known to the victim and are often in positions of power and trust. Children are generally weaker than their assailants and are often dependent on them. Providing special financial assistance to these victims acknowledges and recognises the courage shown by them in reporting the crime to police and the suffering they have experienced.

The original amendments provided that victims of childhood sexual assault would be eligible for special financial assistance in the following situations:

where the abuse occurred between 1 July 1997 (the date when compensation for pain and suffering was abolished by the Kennett government) and 1 July 2000 (the date the government reintroduced compensation for pain and suffering); and

where a sexual offence was committed against a child at any time prior to 1 July 1997 if a person has been (on or after 1 July 1997) committed or directly presented for trial on a charge for a relevant sexual offence.

This criteria has unintentionally excluded certain childhood victims who were intended to come within the scheme, but who fell outside of it because the perpetrator of the offence was dealt with summarily, rather than by trial, or died prior to summary determination.

The bill corrects the unintended anomaly in the legislation by extending the situations in which victims may apply for special financial assistance to include those where a person has, on or after 1 July 1997, been charged with a relevant offence and:

those charges are heard and determined in the Magistrates or Children's Court; or

the person dies without the charges having been determined.

The amendments will ensure that victims who fit within these categories will be able to apply for special financial assistance.

#### **Determining applications without a hearing**

This bill provides that the tribunal can determine or make a decision in relation to an interim application without conducting a hearing, unless the tribunal considers that a hearing is necessary or desirable.

This amendment recognises that the number of interim applications received by the tribunal has markedly increased. Giving the tribunal the power to determine interim applications without a hearing will increase the efficiency of the tribunal and enable it to be more responsive to victims who present with urgent needs, for example, those victims who require urgent counselling or relocation.

The tribunal does not have the power to decide on a final application without conducting a hearing, unless the applicant has consented in writing to the tribunal doing so.

If an applicant is not satisfied with the tribunal's decision in relation to an interim award, the matter will be revisited when the application is finally determined. Every applicant has a right to apply to VCAT for a review of any final decision made by the tribunal.

#### **Guidelines**

This bill will give the Chief Magistrate the power to issue guidelines for the tribunal in relation to the matters that may be taken into account in determining whether expenses of a specified kind are reasonable.

Guidelines which set out what is reasonable will help to promote consistent practice within the tribunal and assist in managing the expectations of victims. They may also be used as a means of disseminating information to applicants and potential applicants.

It is not intended that guidelines made under this clause will fetter the discretion of magistrates who constitute the tribunal.

#### **Evidence of deemed injury**

The bill amends the current legislation to provide that the tribunal may rely on psychological evidence as well as medical evidence in determining whether a person is deemed to be suffering from an injury as the result of trauma associated with an act of violence. This amendment recognises that evidence from a psychologist is often the best evidence in determining whether a victim has suffered psychological injury.

#### **Conclusion**

This bill is a further example of this government's commitment to improving services for victims of crime. It will ensure that the system in place is responsive to the particular needs of victims and assists them in recovering from the impact of violent crime.

I commend the bill to the house.

**Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).**

**Debate adjourned until next day.**

## **AUDIT (AMENDMENT) BILL**

### *Second reading*

**Debate resumed from 22 May; motion of Mr LENDERS (Minister for Finance).**

**Hon. C. A. STRONG** (Higinbotham) — I would like to open my contribution to this bill by highlighting that the opposition will not be opposing this bill and to also note that the opposition sees the role of the Auditor-General as a key role in the armoury of government in control of this state. There is a need always, therefore, to be looking at the role of the Auditor-General in the context of the way government administration changes, and this bill makes a whole series of amendments which go very much to that point.

When we look at such things as public-private partnerships, et cetera, which involve the government in very considerable expense and risk, which is in many cases transferred off balance sheet and so on, there is a clear need for the Auditor-General to be able to investigate those areas and audit those in the public interest. So there is a necessity, as the role of financing government changes, to ensure that the roles and scope of the Auditor-General are maintained so he can continue this enormously important function of looking after the finances of this state.

I would also like to put on record quite clearly that the Liberal Party opposition is absolutely committed to the importance of and support for the role of the Auditor-General. We have heard various people from the other side of this house say that we do not support the Auditor-General. That is an absolute lie. It is a myth. It is a misrepresentation. The opposition totally supports the Auditor-General in his very important role. Actions that we have mooted in the past when we were in government in no way set out to diminish the role and powers of the Auditor-General. They just simply put in place a different mechanism by which that role and those powers could be used and applied.

So it was in no way, as people try to make out, to nobble or take away the powers of the Auditor-General. We are totally committed to the furtherance of those powers and therefore we intend to not oppose this bill.

As I say, it is important to put on the record what those who claim otherwise from the other side say — those who simply seek to say that because the manner in which the Auditor-General was to deliver his services were different, that in any way implied a diminution or

a desire to diminish the power of the Auditor-General. It did not, and it is a lie and a myth to say so.

**Hon. W. R. Baxter** — One of the great lies of our time.

**Hon. C. A. STRONG** — Indeed, Mr Baxter — one of the great lies of our time. People on this side of the house are committed to the Auditor-General and it needs to be said again and again that these lies by these people opposite will be shown up one day.

I do not intend to spend too much time talking about this bill because in fact the bill is almost the same as the Audit (Amendment) Bill which in fact came into this house and the Assembly on many occasions in the last Parliament.

In fact, there are some minor changes to the earlier audit bill. The opposition moved some minor amendments to that bill and made it quite clear what its views were. However, the government has made its views clear and in proceeding forthwith to implement this bill, which is now being waited on by the Auditor-General so he can get on with his work, we do not intend in any way to delay or hold up the bill for what we still consider is worthwhile finetuning. It is only finetuning, so we will press on with the bill.

I will refer briefly to some key aspects of the bill. One of the things the bill does that is different from the previous bill is to change the definition of who can conduct an audit of the Auditor-General's office. This is a very important issue. Parliament should be able to undertake a performance audit of the Auditor-General's office to see that it is effectively carrying out the role Parliament has given it. The definition of who can do these audits has been changed from an auditor to a suitably qualified person. That is appropriate because this audit is different from normal financial audits, and therefore it is appropriate that such audits need not necessarily be done by auditors. The amendment does not mean auditors cannot do it, but the definition has been considerably widened.

There are amendments to provide the Auditor-General and his staff with a statutory indemnity where they act in good faith, and everybody would applaud the need for that. There are amendments to allow the Auditor-General to do slightly different things which reflect the changing circumstances under which government is carried out. When undertaking his audits the Auditor-General will have a mandate to look at wastage of public resources or any lack of probity or financial prudence. As well as looking at financial issues he can look at the wastage of public resources.

Importantly, where the Auditor-General becomes aware in carrying out his audit of something that may be of a criminal nature or a serious misdemeanour, he will have the authority to report it immediately to whomever he thinks appropriate. He may find some criminal activity in his audit that he will be able to report to the Chief Commissioner of Police during the course of the audit rather than, as currently is the case, at the completion of the audit. That is a very positive amendment.

The Auditor-General will also be empowered to audit entities that are part of the Victorian public sector but did not previously fall under the definition of an authority. The amendment makes it quite clear that the Auditor-General can audit all parts of the public sector. The amendments also clarify that the Auditor-General is able to audit people or bodies who receive grants and other such moneys from the government — for example, the Auditor-General will be able to audit a particular body that receives a research grant to carry out certain works to ensure the grant was used for the purpose for which it was given.

The Auditor-General will be able to undertake audits for other public sector entities. In other words, he will be able to audit as an auditor other public sector entities. Rather than go in as the Auditor-General, he can undertake an audit with the same powers as a private sector auditor would have.

One of the more significant amendments will allow the Auditor-General to transmit his report to the Parliament when it is not sitting. As the act currently stands one of the things that is a disadvantage to members of Parliament and the community in being able to receive Auditor-General reports is that the reports can only be tabled when Parliament is sitting. That means, as we will probably see in the next few weeks, a rush of reports being tabled in the Parliament. That has a number of disadvantages. It can often mean the Auditor-General is put under unrealistic time lines. He may have an audit that is three-quarter finished and knows that Parliament will rise in a week or a week and a half so he must finish that report so it can be tabled in Parliament. It may mean the report has not been done as thoroughly as it should. There are other important audits that are in the public interest that should be made available as soon as they are ready to be published. For instance, there is an audit currently taking place into RMIT University, which is clearly an enormously important audit with considerable public interest and is one the government needs as soon as possible so it can take the appropriate action. In the normal course of events, as I understand it, the Auditor-General would not have it ready for tabling in Parliament so it would not have been available until September. This bill

means the Auditor-General will be able to table his reports when the house is not sitting. There is a procedure set out in the bill for doing that. A key part is the procedure where all members are notified that a report will be tabled, and it will be made available to members and placed on the Internet.

Another important amendment is the one dealing with accounting standards developed in house. There are accounting standards that run across industry, but because government is significantly different the Auditor-General develops his own in-house standards to conduct his work. The act will now require that as well as making known the official accounting standards he also publish his developed in-house standards so it is quite clear on what basis he has made his audit findings.

The Auditor-General and his relationship to the Public Accounts and Estimates Committee is reinforced because he will be required to note in his annual plan any comments in the plan made by the Public Accounts and Estimates Committee that he has decided to adopt. The extent to which he is taking on board the recommendations of the Public Accounts and Estimates Committee will be clear and transparent. In many ways what we see in the bill is a series of small but nevertheless important amendments which will make the functioning of the Auditor-General's office more efficient. It will make its reports available on a more timely basis and will quite clearly show the basis on which the various findings are made by publishing the in-house standards and the quality control procedures the Auditor-General uses. It is with those few comments that I indicate my support for the bill.

**Hon. W. R. BAXTER** (North Eastern) — I join Mr Strong in this debate, and like Mr Strong I do not intend to make a long contribution bearing in mind that the house went through many of these arguments prior to the last election — the only difference being that Mr Hallam was then doing it on behalf of the National Party, and he knows somewhat more about it than I do, I am happy to confess.

I agree with Mr Strong that this is an important piece of legislation. To a degree it is housekeeping. Many of the amendments it incorporates have been agreed through consultation between the Public Accounts and Estimates Committee and the Auditor-General, and taken up by the government to its credit. It can only improve the workings of the audit process in this state and enhance the status of the office of the Auditor-General, and to that degree it is a welcome initiative.

I applaud the move to enable the Auditor-General's reports to become public documents and receive parliamentary privilege when the house is not in session. It is a useful initiative; otherwise the Auditor-General might be put into the unfavourable and artificial position of having to tailor completion of his reports to fit in with parliamentary sittings. As we all know, sittings can be a bit elastic, so to some extent he would be guessing when the house might or might not be sitting. That is important, because it means his reports are current when they become public rather than perhaps being overtaken by events in the hiatus of a long winter — or more likely summer — recess.

I would have liked perhaps more than one day's notice to honourable members before a report's release. I can see no reason why it should be as short as one day. I would have thought three or four days or perhaps a week might well have been meritorious. The fact that the report will now be published on the web overcomes that objection to a degree in that it will not be difficult to immediately become aware of the contents of a report now that we all have the technological capacity, if not the skills, to look it up on the Internet.

I pay particular tribute to the Auditor-General, Mr Wayne Cameron. I think he is serving this state extremely well. I became disillusioned with his predecessor at times in the titling of some of his reports in order to make them catchy. I recall one being titled *Are You Being Served?*. To some extent such titles demean the status of the reports and the office of Auditor-General by trying to turn the documents into populist documents which they clearly are not and ought not be. We do not need any Richard Branson-type media stunts. I am pleased that the current Auditor-General has reverted to titling his reports in a rather more factual manner rather than with some catchy, glib title.

I also want to reiterate and reinforce Mr Strong's remarks about this government and how hypocritical it has been with the office of Auditor-General. It made an art of alleging that the previous government had nobbled the Auditor-General despite the fact that it was the previous government that made the Auditor-General an officer of this Parliament rather than part of the Premier's department. One would have thought that making the Auditor-General an officer of the Parliament was a significant safeguard, and we all had great faith in that. Unfortunately, as noted in the *Herald Sun* of 23 April, our confidence in its being a safeguard for the Auditor-General was somewhat misplaced. The article states:

The Bracks government is forcing the watchdog it vowed to protect into cutting its budget.

The Auditor-General has been told he must take a \$117 000 cut, fuelling concerns that next month's budget will include a cost-cutting blitz across departments.

The government wants to cut \$500 000 from Parliament, which funds the Auditor-General.

But Mr Bracks went to the 1999 election with the promise of making the office of the Auditor-General strong.

Certainly it did, and the government made great play of the fact and made totally unfounded allegations about the then government. Yet here this government has been caught red handed endeavouring to intimidate the Auditor-General by slashing his budget and putting him under financial pressure. The government has been caught red handed, and as a result the Auditor-General's budget has been restored, and he has sufficient funds to undertake the duties and tasks asked of him by the Parliament. It really is unbounded hypocrisy that we hear so much from the government about the alleged attack on the Auditor-General by the former government when this government has been caught out attempting to reduce the Auditor-General — —

**Hon. B. W. Bishop** — Nobbling, that is what they said.

**Hon. W. R. BAXTER** — Yes, nobbling, that is what they said.

As I said by way of interjection to Mr Strong, that was one of the big lies of our time, and as Mr Strong said, in due course it will be accepted as such by the community when it realises it was sold quite a few mistruths by this government in 1999 and again in 2002.

So let me say that we all, I think, in our own hearts uphold the Auditor-General's office as a very basic and important instrument of our democratic process, one that ought to be respected on all sides of the house and by governments of the day whoever comprise them. We all ought to spend less time trying to score political points and more time supporting the work of the Auditor-General.

I commend the fact that the Auditor-General is giving briefings to members of Parliament. It is unfortunate that they are so poorly attended by our colleagues. I think that is regrettable.

**Hon. B. W. Bishop** — There is one tomorrow.

**Hon. W. R. BAXTER** — Yes there is, Mr Bishop. And having said that, I will have to make sure that I am there tomorrow.

I have a concern that the Auditor-General produces a range of very good reports which are not, perhaps, addressed, studied or noted as well as they might by members of Parliament at large. I think we all have to say we have been a bit derelict in our duty over the years in getting to grips with the reports that auditors-general have made over the years to this Parliament. I for one am prepared to admit that I am a culprit. I hope I am able to redeem myself during the course of this Parliament, because I think the reports the Auditor-General is making to us now are very good indeed. They will help us all in our very important work of holding the government to account.

This bill, and the amendments in it as I said, have basically come about by agreement via the work of the Public Accounts and Estimates Committee. That can only enhance the stature of the work of the Auditor-General, and I am pleased to support the bill.

**Ms ROMANES** (Melbourne) — I am also pleased to rise to support the very important Audit (Amendment) Bill before the house this afternoon. I am aware that the intention of the bill is to honour the commitment of the Bracks Labor government to the restoration of democracy and to enhance transparency and accountability in the public sector by expanding the role of the Auditor-General and improving the framework within which the Auditor-General operates. That is the intention: the strengthening of the accountability arrangements through the amendments to the Audit Act 1994; and the provision of a greater scope for the powers of the Auditor-General to promote sound financial management in the state.

The bill also amends the Financial Management Act 1994 and provides for the tabling of the Auditor-General's reports in the Parliament during recess periods by providing for parliamentary privilege during those tablings. That means the tabling of the Auditor-General's reports in the periods when the Parliament is not sitting can be done in a more timely and efficient manner. That is an important step forward.

The audit amendments in the bill before the house today specifically cover a number of main areas that have been elaborated on by my parliamentary colleagues, Mr Strong and Mr Baxter. The bill provides greater statutory protection for the Auditor-General in undertaking his duties; it clarifies the scope of the Auditor-General's powers and functions, including the power to be appointed an auditor of all entities within

the Victorian public sector, which is not a situation that is currently clear; provides efficiency in the operations of the Auditor-General; provides greater accountability to the Parliament for the work performed by the Auditor-General through enhanced reporting through the annual report and the auditor's plan; and provides additional clarification of administrative arrangements of the Audit Act 1994.

It is heartening to hear that the opposition is not opposing the bill, because the bill was before this Parliament in the autumn sitting of 2002 and stalled at that point in time.

**Hon. W. R. Baxter** interjected.

**Ms ROMANES** — I am saying that I am pleased the opposition is not opposing the bill and that it has reaffirmed that the Auditor-General has a key role to play. Mr Strong has also talked about total support for the Auditor-General which is a welcome contrast to the curtailing of powers and resources of the Auditor-General when the opposition was in government. The opposition has rediscovered in opposition the importance of the Auditor-General and the critical importance of that office in the armoury — as Mr Strong puts it — of accountability mechanisms.

It is pleasing that there is tripartisan support today, because the government is committed to being open and accountable. This is evidenced by this very bill, which brings together a number of measures to restore the Auditor-General's powers and to make the Auditor-General even more effective as an independent officer of the Parliament. The Bracks Labor government has nothing to hide and everything to gain by improving the accountability and operations of the Auditor-General's role within the governance and accountability mechanisms of this Parliament and the governance of this state.

I have great pleasure in wishing the bill a speedy passage.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## ESTATE AGENTS AND SALE OF LAND ACTS (AMENDMENT) BILL

*Second reading*

**Debate resumed from 22 May; motion of Mr LENDERS (Minister for Finance).**

**Hon. A. P. OLEXANDER** (Silvan) — At the outset of my contribution I would like to put on the record that the opposition will not oppose this legislation, although it has significant concerns regarding certain provisions within this bill. We have shared concerns with the real estate industry about the practical impact of some of the measures in this bill upon the marketplace and upon consumers. Indeed, it is our reasoned opinion that, contrary to the stated objectives of this bill to act on behalf of and in defence of consumers, this bill could have unintended consequences which may negatively impact upon consumers and the industry at large. We will outline our concerns during the course of debate, but before I do that I would like to very briefly review the key impacts of this bill.

The bill amends the Estate Agents Act 1980 and the Sale of Land Act 1962 and aims to curb dishonest bidding practices by sellers of property and dishonest conduct by buyers' advocates at real estate auctions. It aims to improve consumer protection in relation to advertising rebates and other benefits paid to agents, which under the terms of this bill must be passed back directly to the consumer. It is designed to fulfil the national competition policy commitments of the Bracks government. Also, the bill prohibits anyone other than the auctioneer from bidding in an auction on behalf of the seller or vendor, and requires the auctioneer to declare a vendor bid at the time of its making each and every time a vendor bid is made.

The bill seeks to remove the \$250 000 cap in relation to the right of a purchaser to cool off under section 31 of the Sale of Land Act 1962, but we note that the right to cool off will still not apply to auction sales, non-auction sales of commercial, industrial or farming properties or where the buyer is a real estate agent or body corporate or has obtained legal advice prior to purchasing the property. These are important exemptions.

The bill creates new offences relating to underquoting and overquoting the value of real estate and requires that estate agents record their estimated selling price — that is, an individual price — or a price range on the authority or appointment form which they and the consumer sign at the time of the contract being granted to that agency.

The bill also removes certain uncompetitive practices — or practices which are described as being uncompetitive — as identified under national competition policy. Specifically, it removes restrictions upon the sharing of commissions, requirements that agents' representatives not be employed by more than one estate agent and the requirement that a minimum of 50 per cent of the directors of a corporation applying for an estate agent's licence be licensed estate agents themselves.

Finally, the bill requires that estate agents undergo various specific forms of training and professional development activity from time to time at the direction of Consumer Affairs Victoria.

Key changes have been made to this legislation since it was first introduced to the lower house on 12 September 2002. The opposition welcomes these limited changes; we think they are definitely improvements.

The provision in proposed section 36H of the original bill, which required the auctioneer to declare that the property is on the market when the reserve price had been reached, has been removed. We welcome this change to the original bill on the basis that it would definitely have interfered with true market forces in the property market and influenced the selling price to the seller's disadvantage. We understand that the real estate industry put this case strenuously to the government. To the government's credit, it accepted that argument and removed the offending provision.

In the original bill there were also provisions pertaining specifically to section 47A of the Estate Agents Act requiring real estate agents to provide vendors with a single sale-price estimate. Again, that requirement has been removed from the bill which we see before us today. The opposition, again, welcomes this change; we believe it is a sensible one. The original bill was quite unrealistic in imposing this requirement, particularly in what can be a very rapidly moving and dynamic market.

In those sorts of circumstances, an estimated price range is probably the most reliable method of quoting, although the requirement for a maximum 10 per cent variance from the minimum price may be overly restrictive. The opposition is concerned about this, particularly where a market is extremely volatile or dynamic — where prices are moving rapidly — which occurs from time to time. We have just had a period of that over the last four or five years in Melbourne and other parts of Victoria, and indeed markets are still rapidly moving in certain parts of the state. So the

removal of that provision is welcomed, but we believe the 10 per cent variance might still be too restrictive to be practical in the market as it operates in the real world.

Our specific concerns with the bill probably revolve around four or five points, and I will outline those for the chamber. This bill imposes very stringent sanctions against certain dishonest activities, and financial penalties are very high. Penalties for dummy bidding are maximums of \$24 000 for an individual or \$60 000 for a corporation. Penalties for underquoting or overquoting on a systematic basis — it is still a little unclear to the opposition how the word 'systematic' is defined and we assume Consumer Affairs Victoria will produce some form of guideline as to what systematic overquoting or underquoting activity will be seen to be — are a maximum of \$20 000 for agents who are found guilty of this practice.

The opposition feels very concerned about the difficulty of enforcing these measures in particular, given that they might be largely undetectable in an objective sense. In addition, complaints relating to these types of practices may also be made vexatiously or based on subjective suspicions. Proving that such practices have taken place will be extremely difficult, and we are very concerned about the prospect of this being the case because that will obviously impact upon the effectiveness of this legislation.

Our position generally on legislation is that unenforceable laws are not good laws. If you are putting sanctions of this magnitude into a bill and describing certain offences while at the same time having enormous difficulty in providing any objective and systematic way of proving that those offences have actually taken place then you are really creating a toothless tiger. The opposition is of the understanding that only eight Consumer Affairs Victoria officers will be assigned responsibility for monitoring and detecting breaches of this legislation. When you look at the number of auctions that take place in Melbourne alone on a weekend — something like 400, sometimes slightly more or slightly less, and that does not take into account auctions conducted in rural and regional Victoria — and the number of CAV officers who will be responsible for monitoring those auctions, you can see the inadequacy of this monitoring regime. Laws that cannot be monitored are not good laws.

The opposition is also very concerned about the restrictive requirement for an auctioneer to publicly declare each and every vendor bid during an auction. We believe this has the potential to severely impact in a negative way on the auction system as a viable selling

tool that has been successfully used in this state for many years.

**Hon. W. R. Baxter** — Open and transparent.

**Hon. A. P. OLEXANDER** — We do not believe that it is open and transparent as far as this bill is concerned.

**Hon. W. R. Baxter** — No, the bill is not.

**Hon. A. P. OLEXANDER** — The bill is not open and transparent. The system has been quite successful and quite transparent over the years and has realised a great deal of popular support as a result. We see that selling prices at auctions could be artificially dampened by measures such as this vendor bidding declaration requirement. What that means is that we could see the value of properties sold at auction falling by anywhere between 10 or 20 per cent. There are estimates from the industry saying that that is certainly a possibility. These are not just statistics.

The sale of a home, an apartment or a unit is often the largest sale a consumer will ever make and the biggest investment they have in the world. Therefore, they obviously want to maximise the price they get for such a property. To impose a requirement that could lead to an artificial downward spiral in the price achieved not only impacts on vendors and their returns but also our economy, particularly in what could be a rapidly cooling market if you believe certain pundits. These measures could exacerbate that situation in a very negative way.

The opposition believes the requirement for every vendor bid to be declared could lead to a greater proportion of auctions failing and resulting in more pass-ins. That has financial implications for consumers. Both buyers and sellers are consumers, and often they are the same individual, so more pass-ins will have a negative financial effect on them if that is the result of this legislation.

We believe that many more auctions will revert to Dutch auctions behind closed doors in an effort to salvage sales when auctions fail. This is definitely the worst case scenario because this is not an open and transparent process; it is a process where consumers can be behind the eight ball to a much greater degree than they would be in an open auction system. The opposition believes this particular measure will lead to a greater incidence of that behind-closed-doors type of activity.

We also think that agents commissions will rise as agents try to boost fees in an environment of dampened

auction results. If the value of properties falls, if more properties are passed in, if more auctions fail and if more negotiations are carried on behind closed doors, many agents will make the decision to pass on that risk to consumers by boosting their up-front fees. Currently in Victoria most agents charge somewhere between 2 and 3 per cent for their services at an auction, but this legislation could lead to a rapid rise, possibly overnight, in the prices charged to consumers as agents realise that they need to recoup fees lost as a result of a reduction in their profits. The opposition feels that this will have a particularly bad impact on rural property, because often the number of interested bidders at rural auctions is very limited.

Sometimes there is only one bidder who is a real bidder at a rural auction. If there is no capacity for other bids to be thrown in in a moving and dynamic way, without their being declared each and every time, often there will be no auction, and auctions will fail. We think that failure rate and price dampening effect on property will be particularly pronounced in rural and regional Victoria.

All in all we think these effects on those specific issues have the capacity to hurt consumers. I repeat what I said before: vendors of properties are consumers as well as the buyers of properties, and often they are the same individuals. You sell your property, and you buy another one. When we frame legislation which looks to take on the part of the buyer and is skewed in the buyer's favour we neglect the fact that consumers are also represented as sellers in the marketplace, and they deserve protection and a level playing field as well.

We also believe the economic impact of these measures has the capacity to harm the buoyancy of the Victorian property market including, importantly, our commercial, industrial and investment property markets. We believe the government has not adequately assessed the economic and the consumer impacts of its proposals in this bill, and we are not alone in that view. We understand that the industry also has serious doubts about whether the government has done its homework in this area. The industry has said publicly that it will seek to monitor the economic impacts and impacts on consumers as this legislation comes into force and begins to impact in a real way on the property market and on people playing within that market.

The third key concern area relates to changes to section 48A of the Estate Agents Act, which require estate agents to return rebates from advertising directly to the vendor. We believe in certain circumstances that can be a very unfair provision in that it would generally fail to acknowledge some very significant costs which

are incurred by and carried by agents during the process of a property sale before auction, and indeed until the property is sold those agencies would have to carry those costs.

We believe this measure will likely result in agents' fees rising markedly and will therefore not benefit the consumer. We think the ability of agents to retain such rebates, with the vendors' express permission, should be retained. That is the current situation. At the moment an agent can say to a vendor, 'If we get certain rebates or discounts because of arrangements that we have for advertising your property, can we keep those?', and the permission of the consumer can be granted. This provision removes that ability, and all those rebates must automatically be returned to the consumer.

Any business which is operating in the real world will look at that cost impost and say, 'We need to have another look at the money we are charging for the service we are providing'. We believe that could affect consumers badly.

Clauses 20 and 21 of the bill allow for a corporation to hold an estate agent's licence if only one director holds an estate agent's licence. Under current law at least 50 per cent of the directors of a corporation need to hold such a licence. We think this measure will, in a very real way, erode the quality of estate agency services to consumers and represents what could be described — and has actually been described from within the real estate industry — as a dumbing down of the industry in general. We think the current requirement that a majority of directors must themselves be licensed should be maintained. It was a sensible provision when it was instituted, and it is still sensible, and we do not understand why there is a provision in this bill allowing that only one director should hold such a licence.

Finally, the opposition sees that provisions in the bill which allow commissions to be shared by agents with individuals who are not themselves licensed agents and which allow agents representatives to be employed by more than one employer could lead to potentially serious conflict-of-interest situations, and the industry has echoed that call. You can imagine that if a representative of an agent is working for four or five in the same geographic property market, they will encounter conflict-of-interest situations almost on a daily basis, particularly in a highly competitive market where they are working for all of the main competitors. This bill allows them to do that, in the name of national competition policy and opening up competition. It could result in a market failure, by placing those

individuals so employed in very difficult situations in which they should not be placed.

All up, although we will not vote against the bill in its current form, we think it may have very many negative consequences on the auction system, in particular, and on the economy and consumers themselves. Our concerns are shared by the real estate industry.

About a month ago I made a call for the bill to be referred to a joint-party parliamentary committee for further work to assess the incidence of these certain types of behaviours the bill targets, in the industry itself, and also to take a look at what the economic impacts and the impacts on consumers would be as a result of its imposition on the industry. That call was supported by the Real Estate Institute of Victoria and its chief executive, Enzo Raimondo; Frank Hellier, its president, also supported that call. But unfortunately that call went unheeded by the government, and we still have not had any communication from the government relating to further work to be done on the bill. However, we understand the REIV has put the government on notice that it will be monitoring the economic impacts and impacts on consumers very closely, and it will certainly not be shy in coming forward seeking further changes to the bill as problems arise in the marketplace.

I will briefly quote from a statement released by the REIV on Wednesday 30 April this year. The press release, headed 'Government warned on impractical elements of new real estate legislation', says:

...

'While the REIV endorses key issues such as prohibitions on dummy bidders and under and over quoting property values, the disclosure at all times during an auction of every single vendor bid is unfair to both the vendor and purchaser,' according to REIV President Frank Hellier.

The REIV will be urging the government to reassess the legislation within the next 6 to 12 months as problems become apparent', Mr Hellier said.

It is difficult to understand how the government will be able to monitor compliance with the legislation and as a result, the REIV believes, there may be widespread non-compliance.

Further, it says:

He explained that during negotiations with the government the REIV was concerned to protect the right of the vendor to allow the auctioneer to make bids on behalf of the vendor throughout the auction process, though only below the reserve price.

Later in the press release the REIV makes the very important point that:

Property sellers should have rights too. After all for many of them their investment in a property is the most significant investment of their lives ...

And that is certainly true. The opposition shares these concerns that have been expressed to the government by the REIV and by the Estate Agents Council. We have consulted widely with these industry groups and, although not outwardly opposing this bill, our position largely reflects many of their concerns.

We do so in the interests of transparency in the system. We do so in the interests of protecting consumers who are buyers and sellers of properties. We do so in the interests of a vibrant and growing Victorian economy, particularly a vibrant and growing property market. The opposition does not oppose the bill.

**Hon. D. K. DRUM** (North Western) — I take great pleasure in talking on this bill and hopefully contributing to the passage of various aspects of it. The National Party has consulted extensively throughout the regions and the industry as to the benefits or otherwise of the recommendations put forward in the bill.

It has been pointed out by the Honourable Andrew Olexander that this bill raised its head in the previous Parliament, minus a couple of changes; notably that an auctioneer now no longer has to announce to the crowd that a certain house is now for sale. That information can be extolled to the crowd if the auctioneer so wishes but it now does not have to be. The previous version of the bill contained a clause requiring an additional audit of trust accounts, but that aspect of the bill has also been dropped.

The bill stiffens the penalties in relation to dummy bidding. The penalties will now be \$24 000 for individuals and \$60 000 for corporations which conduct dummy bidding as a deliberate means of trying to mark up the price of a house. I concur with the Honourable Andrew Olexander when he mentioned that consumer protection is about vendors in the housing market and not just purchasers. I think certain aspects of the bill tend to protect only the purchaser in these transactions.

The bill states that all bids by a vendor must be labelled as vendor bids and each and every one of the bids following must be clearly identified as vendor bids. I know certain agents who are currently using this system; in defence, certain agents are already identifying vendor bids as such. However, there is genuine concern in the industry that making it mandatory will bring the price down at auctions and take away some of the attractiveness of taking a house to auction.

In regard to the penalties for individuals and corporations which fail to comply with the new requirements, there will be an opportunity to take complaints regarding dishonest auction practices to the Victorian Civil and Administrative Tribunal and have your say in front of the tribunal. Hopefully that is the way this aspect of the bill will be policed. As it stands at the moment, it is quite difficult to identify dummy bidding or vendor bids, and it will be equally hard, if not harder, to police the same.

We are also in a situation where a purchaser who is found to have made a vexatious or frivolous application for compensation can be held liable for any loss to the vendor, but trying to compensate a vendor or agent for loss of reputation could be exceptionally hard. Once these laws are in place it will very difficult to work out how people can be adequately compensated for accusations that are made.

An interesting aspect of the bill concerns when a vendor bid is the last bid at an auction. This is a commonsense part of the legislation. It will stop a situation where in a genuine auction which has been going in small increments but does not get to the reserve price all of a sudden a vendor bid comes over the top and adds \$50 000 to the price so they can go away and advertise that the house was passed in at auction for a price \$50 000, \$60 000, \$70 000 in advance of the legitimate bidding rate at that auction. There is a commonsense aspect to the bill in this instance. There is a freeing up of responsibilities, providing you are told when the last bid at an auction where the property was passed in was a vendor bid. Agents will be safeguarded from having any wrongdoing coming back to bite them, provided they have passed that information on in their newspaper advertising.

The part about only one director needing to have an estate agents licence has caused some concern. It was pointed out that it will allow large corporations to move into the real estate industry while having only the one director on the board who has an estate agents licence. Giving larger corporations the ability to move in and cost cut could put out of business your standard, regular real estate business, which offers a much grander and much more traditional service, through cost cutting and could effectively create a monopoly. That is something that we need to look very carefully at.

While we have very strong probity laws which will safeguard us against having poor business characters as the backroom boys of real estate agencies, enabling one licensed director to be the front man for a large corporation and thereby allowing cost cutting is a

situation where we need to be very careful. If a large corporation were to initiate price wars and therefore put traditional businesses out of work, we would find that this part of the bill provided the opportunity to create a less competitive real estate industry than we currently have.

Another provision of the bill allows a representative to work for more than one agent. While that seems to be a good practice because it will enable certain representatives to work with different agents from different suburbs on different days of the week and will give them greater flexibility, in practice it creates a messy situation where a representative may be trying to sell the same house to the same people while working for two agents with a joint listing on the property. Goodness knows who is going to fight over the commissions in these instances. I hope that commonsense will prevail and the employment issue will be sorted out at the start, but the possibility is there for an extremely messy situation which could become very difficult to work with.

The fact that commissions are now able to be shared is another area that has struck certain negativity among the people the National Party consulted. I must admit that while the legislation allows for all beneficiaries of any commissions to be identified, and clearly identified at that, it certainly creates a situation where the many people in our community who have exceptional faith in the accountants or lawyers who look after their affairs could all of sudden find their interest being pushed this way or that because of commissions coming back to advisers. It opens up a very dangerous trend that we may not be able to control. It may cause an awful amount of damage before we have to legislate against it if people take advantage of naive consumers and naive purchasers and allow slings, kickbacks and commissions in the real estate industry.

Underquoting and overquoting are major concerns of consumers that I have spoken to, but the predominant concern is the issue of the 10 per cent range. Obviously underquoting will affect purchasers who may be given an unrealistic estimate, low enough to gain their interest and make them believe that they have a real chance to purchase a property and therefore rush off to get plans drawn up, seek out permits and spend their own money in anticipation of purchasing a certain property only to find that when the time comes to put in a bid that is in their price range they are well and truly out of the hunt and are forced either to hock themselves to a far greater degree than they can comfortably pay or simply let good money go down the drain and let the property pass to somebody else.

The main impetus of the bill is to try to combat the so-called cowboys in the industry who go out in search of listings using the deliberate technique of overquoting and trying to impress the vendors with inflated prices to acquire listings and then at a later date have to break it to the vendors that their types of houses are not selling in the market at the rates they previously thought. It has created a lot of concern primarily because honest agents who do not conduct themselves in such a manner are being forced to get their estimates into the 10 per cent window, which many of them describe as being far too narrow in many instances, simply to safeguard the public against the cowboys in the industry.

From my discussions with the government I understand that an agent who is forced to estimate within a 10 per cent range of a selling price and who gets it wrong now and again will be deemed innocent until proven guilty, and that is an important part of the bill. That needs to be stressed to people in the industry, and the government would do well to talk to the Real Estate Institute of Victoria and create a campaign to allay those fears, which are very real at the moment.

**Hon. W. R. Baxter** — The bill does not say that, and maybe the minister will go into committee and make that clear.

**Hon. D. K. DRUM** — The sense of innocence until proven guilty has been very strongly stressed to me, and perhaps that could be repeated by the minister for the benefit of getting it into *Hansard* when he summarises the bill.

In briefings I have spoken to the government about the real example of a lower priced house. In the second-reading speech the example was used that it is quite easy to get within the 10 per cent range where larger amounts are concerned, but using the example of a house that might sell for \$220 000 to \$225 000, the vendor will have a slightly inflated opinion of the house and will probably expect to get \$230 000, which is not unreasonable. The agent would quote \$220 000 to \$225 000, but agents have told me that because of human nature and buying habits the house would sell to someone looking to spend \$190 000 to \$195 000 on a house where the agent would be able to get that person up to \$220 000 and sell the house to them. We do the same thing with refrigerators where we go in with \$1000 and end up spending \$1200. We also do it with cars and clothes, and it is the same with all our buying habits — we go in with a certain amount of money, but we spend a little more.

In this instance we are making it very difficult for agents to operate within the 10 per cent range, and in

the example I gave they would not be able to. Using a price range of \$220 000 to \$225 000 the greatest range the agent would be able to quote would be \$210 000 to \$231 000, and that would leave everyone out of pocket.

In closing I want to talk about the issue of privacy. We are expecting agents to go to someone's house and give an accurate estimate of its selling price within a 10 per cent range. Recently introduced privacy laws mean that councils are no longer allowed to give out current sales data to agents. If word of mouth dries up as a source of information because of privacy laws it will make it difficult for agents to get enough data to put together accurate estimates. They use newspapers, the Valuer-General's office, councils and word of mouth as a way of finding out about recent sales, and that is the information they use to give an accurate estimate of the value of a house. Today I have been told that the Valuer-General's office will be the avenue for agents to acquire necessary data.

**Hon. W. R. Baxter** — They will have to speed up.

**Hon. D. K. DRUM** — They will have to speed up, Mr Baxter, you are exactly right. There are contrasting estimates as to how far the Valuer-General's office is behind in its data. I have had estimates from the industry of between six to nine months. That has been refuted by the department, but it acknowledges that it is as much as 2, 3 or 4 months at the moment, and it is hoping to hurry it up. I again raise that issue with the government. I hope it will keep a close watch on the time frames in which the Valuer-General's office is able to produce recent sales data, so hopefully they will help agents to have enough accuracy in their estimations and honest agents will not be put under extreme pressure by being made do something that they are simply unable to do. So I raise some real concerns with the bill. We have elected not to oppose the bill, but we certainly hope the government can allay our fears when the minister summarises this bill.

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

**Mr PULLEN** (Higinbotham) — The Estate Agents and Sale of Land Acts (Amendment) Bill amends the Estate Agents Act 1980 and the Sale of Land Act 1962. I support the bill and appreciate the support of the opposition and the National Party. The bill covers auctions in Victoria, because Victoria is the auction capital of the world.

**Hon. W. R. Baxter** — But you're going to ruin it!

**Mr PULLEN** — I will tell you all about it in a minute, Mr Baxter! There are other provisions in the bill as well, but I shall concentrate on auctions. As I

said, Victoria is the auction capital of the world; not many auctions are held in places like Sydney, Tasmania and so on.

I shall refer to comments made by opposition members in the other chamber, in particular the member for Bulleen. He said in part that Robert Morley, a director of Talbot Birner Morley, said the new law would lead to fewer auctions, it would take longer for people to sell and would indirectly lower prices. He said that Carmichael and Weber director, Ian Carmichael, said the changes would favour buyers and have a negative impact on the industry.

I do not know those gentlemen, but I know a little about the housing industry, particularly housing finance. I would even say that in the dark past of my life I was responsible for selling up some delinquent home owners. I know a little about the industry and this particular matter. The most important thing to remember in the housing market is that the market is always determined by what people will pay — nothing else. It does not matter what situations come about in relation — —

**Hon. B. W. Bishop** interjected.

**Mr PULLEN** — You are spot on there, Mr Bishop. You are going well! The situation clearly is that the market will always determine the price. I am one of the few commentators who thinks there will not be a downturn in the Victorian housing market. There may be a levelling out for a while, but I do not believe there will be a downturn in the Victorian market because of the strength of the Victorian economy. A lot of people are surprised that the downturn has not come. I do not believe it will come, because people will always have to find somewhere to live.

Mr Olexander, who has just come into the chamber, was concerned that agents would not be caught out by Consumer Affairs Victoria because there are so few officers in the field. That is always the situation. Does he say we should not have laws? I say we should have laws. We have laws against heroin trafficking and against people breaking into homes and so on. They do not always get caught, but at least if there is a law in place we could possibly, and will, catch some of these people.

The facts are that the law is the issue. The member for Bulleen in the other place made the case that if he split up with his wife they might then purchase their own home once again. The situation is that the market will determine the price. He was talking about some person next door hoping their house would sell for a little

more, but I come back to the fact that the market will determine price.

In relation to dummy bidders, we have all been to auctions and seen the trees, the birds and everyone else being claimed to be making bids. There may be a limited number of officers around to check on how auctions are run, but now the people purchasing properties will clearly understand how auctions are to be run. If an auctioneer says, 'Yes, yes, \$10 000, \$20 000, 50 000', the simple facts are that the people at the auction will determine whether the auction is being run right.

**Hon. A. P. Olexander** — So everybody will be a police officer?

**Mr PULLEN** — Believe me, Andrew, it will happen. The market will once again determine that. If people in the area understand that an estate agent is not doing the right thing then clearly he will lose business. We in this house all believe the large majority of estate agents are genuine and reputable people. If they are not operating within the law people will wake up. I know a lot of estate agents, and people will go to the reputable estate agents. That is one of the reasons why estate agents will abide by the law.

With respect to the cooling-off right, the \$250 000 cap is removed, except for auction sales and non-auction sales of commercial, industrial or farming properties. The rebate is a tremendous part of the bill. The Estate Agents Act will be amended to prohibit estate agents from retaining any rebate, commission or benefit paid. This arises from the rebates paid for the coloured parts of certain local community newspapers at the moment.

One of the most important parts of the bill is underquoting and overquoting. It has been covered well by opposition members and Mr Drum. What is important is that when a person wishes to sell a property they will know roughly what price they can expect at auction. We all know that underquoting takes place just to get more people to attend an auction.

As we all know, the biggest financial decision people ever make is when they purchase a home. The bill goes towards protecting purchasers so they will know exactly what they are on about. The bill certainly covers sellers, which has been a concern brought up on a couple of occasions, in that they have to be given a decent idea, within a 10 per cent range, of what the price will be. I support the bill.

**Hon. B. N. ATKINSON** (Koonung) — What Mr Pullen has just indicated is, I think, very true: that real estate purchases are usually the most important

investment most people make in their lives. Therefore it is important to make sure that people make those decisions within an informed environment — that they are in fact able to make logical and not just emotional decisions.

There is no doubt that when it comes to purchasing any commodity, and a house is certainly no different, there is a great deal of emotional investment in the decision that is made, and perhaps none more so than in the context of an auction where people will perceive that they are in a form of competition to win the property.

One of my concerns is that whilst there is a considerable focus in this legislation on auctions, there is no cure, for instance, for an issue where people put in a bid on a property by private sale and have the agent come back and say, 'Well, I have got a higher bid before the vendor at the moment. You will have to reconsider'. You know, does that person exist? Is that person the same phantom tree, dog or letterbox that was the culprit at a previous auction?

I think what we have done here is try to approach the issue of protecting the interests of consumers, being home buyers in this case, with a piece of legislation that really is fairly unworkable. Members of the real estate industry are not at all happy with this legislation because in their experience — and I put it to the house that this is not a matter simply of vested interest and protection of their interests — from that practical knowledge of the marketplace and of the need to maintain an informed marketplace and expertise and advice to consumers, this legislation in many ways undermines all that.

I accept that some aspects of this legislation address national competition policy issues, and I understand where some of the clauses and changes to clauses have come from in the context of national competition policy. But I must say I agree with points that have been put to me by some of the people in the real estate industry that in fact those very changes that might be seen to be more competitive and bring some benefit to consumers are indeed likely to bring considerable disbenefit to consumers. Such things include allowing individuals to work for more than one agent and act on behalf of more than one agent or indeed substantially change. I do not disagree with opening up the ownership opportunities of real estate agencies; they bring greater expertise to those organisations. But the level of opening up that is provided in this legislation is more, from my perspective, than is needed in the interests of consumers.

When we look at this particular legislation we are likely to see consumers face situations where in future some of them will be assisted by people who do not have the same level of market understanding, expertise, qualifications or training, and who may well have an undisclosed conflict of interest, when making the most important decision of their lives. I do not see how that actually advances consumers.

I think the legislation brings the potential for a great disbenefit to a great many people. The focus of this legislation has been substantially on the auction process. I might say it is interesting and rather educational to me to note that the consumer affairs annual report of 2001–02 has recorded on page 31 the fact that there have been 400 complaints in the real estate industry, ranging from minor issues such as time delays and undertaking maintenance work through to more serious breaches such as agents purchasing property when prohibited from doing so, often in competition with those consumers.

The fact is that of those 400 complaints from last financial year not one was lodged by a vendor or a purchaser at an auction — not one complaint! Consider that against the 150 000 sales transactions and over 250 000 rental transactions with approximately 40 000 buyers and sellers using the auction system in Victoria. Not one complaint! And yet we come forward with this legislation to this place, legislation that the industry has told the government will not work, legislation that the opposition has serious concerns about the government's ability to implement.

This legislation has aspects that really are not in the best interests of consumers long term: we walk away from some of the education and training that has been provided by the industry, that has indeed been mandated by the industry for its people; we walk away from those people who have been expected to hold qualifications and skills and expertise to actually run, operate and be directors of real estate agencies; and we now let a great many other people participate in those real estate agencies without bringing any necessary qualifications to the process.

We have this opportunity for commission sharing and, more importantly, the employment of agent's representatives by more than one employer — which, as I said, could very well result in significant conflicts of interest and dishonest behaviour by individuals and certainly act against the interests of consumers. I also wonder if it works in the interests of vendors and of the firms that might employ those individuals in terms of confidentiality and so forth.

The auction system has been remarkably successful and, as Mr Pullen says, Melbourne is the auction capital of the world. It has been a marketing system that has worked particularly well here and I believe the reason why it works so well — the reason why anything works well — is because it has integrity; it has credibility.

There is no doubt that the professionalism of the Real Estate Institute of Victoria and its members across the board has been very effective in delivering a system with integrity for Victorians, a system that has enabled vendors to test the marketplace and to get a good price for their properties but which has also allowed buyers to participate in that marketplace and to look at opportunities to buy properties in areas they are interested in.

It is my experience that people who go to auctions are always a lot better informed about the marketplace than people who drive around in real estate agents' cars to look at the sale properties, because they have usually worked out what their financing is and how much they can afford to pay. They have done the homework on what the property is likely to bring, what other properties in the area have brought and just generally where the market is going. These people are invariably well informed, which is one of the reasons there were no complaints against the system in the last financial year: they are not people who do not understand the system, nor are we dealing with companies that employ charlatans and crooks.

One of the problems with this legislation is that in some ways there are at least some people — the proponents of this legislation — who have set out to try and shackle the real estate industry on the basis of some ideological platform that the guys in it are crooks; they must be, they are making lots of money, they drive round in this car or that and they are doing this or that'. However, the fact is that this system has worked in Victoria for a long time because of the integrity of the market and the integrity of the people who are involved in it.

It is interesting to note that on one of the television news programs tonight it was said that clearance rates for the auction system in Victoria had dropped recently to 71 per cent down from 79 per cent. Now, 79 per cent is a good clearance rate, and 71 per cent is still a good clearance rate, but no doubt it entails some tightening in the financial position. It indicates also the time of year, because no doubt auctions are far more successful in the spring and summer months than they are in autumn and as you enter the winter period. Nevertheless, even on those figures alone, there is a clear judgment by

people that this is a system that works, this is a system that is fair, this is a system that is effective.

In the context of what we have here in the bill, as I said, the real estate institute has expressed some real concern. I accept what the government has talked about in terms of some of the vendor bids and so forth; I understand the arguments. However, at the end of the day you have to wonder whether even that is window-dressing because, as the real estate institute points out from its practical perspective, such things as vendor bids really count for very little in the scheme of things until you get to the reserve price. Presumably because the reserve price is the threshold at which you sell the property, anything that happens before you get to the reserve price — even if a letter box or a budgie bid for the property — will not have a material impact on the property because it is at that reserve price that the vendors say they will sell.

One might argue that if the vendors do not reach anywhere near that price then they have to go back and reconsider their position. No doubt in a situation where properties are not cleared that is exactly what happens, but the reality is that that is the price that they have said they need as a return on that property. Perhaps that is what they have been advised is the return on that property, and in the current marketplace, advised by people who are competent to provide that advice as distinct from this legislation where they might be advised by people who might not have that same competence. Those people are in fact in a position where they have set a price.

What we need to realise in this legislation as well is that when we talk about consumers we do not just talk about people who are buyers but also about people who are sellers, and to some extent their rights and opportunities under this legislation will be hindered somewhat, although I tend to believe, as Mr Pullen said, there is not necessarily going to be a great freefall in this marketplace because, notwithstanding any issues associated with auctions and so forth, it is still an effective way of marketing properties.

I am also concerned about the point that is made in this legislation about rebates and the fact that real estate agents are not permitted to retain them. I understand the thinking behind this point, but in the long run it will again work against consumers and will drive up some of the prices and the fees, because many of those real estate agents who have effective marketing programs have used those rebates to offset some of the costs associated with operating their systems, achieving advertising placements and so forth.

It is an academic point. People could argue both ways on that, and I can understand how opponents of the retention of rebates by a company could argue that this is money that ought not stay with an agent, that it belongs to a purchaser or a vendor or whatever. But in the context of the way this marketing system operates and the way rebates operate in a wide range of industries — I do not understand why we pick out real estate as distinct from a whole range of other industries that are also entitled to receive rebates on marketing investments that they make — it really works against the interests of the consumer. I certainly think the consumer ought to know that it applies, and I think the consumer ought to be in a position to be informed of every charge that is relevant in a marketing program that is offered — an auction marketing program or a private sale marketing program. Consumers ought to be advised of that, and they ought to have the opportunity to negotiate a change in that arrangement if they do not agree to the payment of those rebates or to some other conditions that are contained within those details.

I know, and I am sure many people around this chamber would, of people who have gone to agents and made as a condition of the placement of their properties with those agents a range of different conditions or circumstances that are suitable to their particular needs rather than what the agents might have sought. From that point of view the agents therefore have the opportunity of either listing the properties and undertaking the sale according to the requirements of the consumer or — —

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

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to make a contribution on the Estate Agents and Sale of Land Acts (Amendment) Bill. The bill is absolutely clear about trying to protect consumers. Over the last few years the housing market has been booming. A lot of people have complained because they mistakenly bought properties after people had pushed the price up more than the market value. This did not help the housing market. The people who complained felt they had been set up by some of the auctioneers. We always try to protect consumers. At the same time we want the market to be strong and healthy. We do not want people to be used by the dummy bidder system.

The bill is very clear about the many things we want to tell the community so that when consumers go to auctions they are confident that there are real buyers and the people who are doing their jobs as auctioneers are being honest to the market.

From time to time some people who go to auctions become scared because they think the market is too expensive. The price may be set low, but at the auction things can be different. Markets can become very hot and prices can go up sky high because some people try to lift the price up as much as they can. We have to protect the market. I have been to auctions many times, and I understand how they work. I have helped my family and friends at auctions many times, and I have watched houses go for high prices, sometimes more than the market price. Sometimes the vendor asks for much more than when the house was first put on the market, and that scares a lot of people.

The real estate industry provides a lot of jobs and helps a lot of people. It is important that the community has confidence in the market. When people go to auctions they want to know that everything is protected by the law. If someone tries to market falsely consumers now know where to go to sue and where to ask for legal opinions. The government is trying to make it very clear and straightforward to the community that we will no longer forgive those who break the law and try to lift prices too high.

This bill is mainly concerned with what we have heard about from many other speakers — that is, the requirement that 50 per cent of the directors of a corporation applying for an estate agent's licence be licensed. The bill will make life easier for those who want to set up real estate businesses for the agents who work in their offices. In Sunshine over the last two years more offices have opened and more people are interested in getting into this industry because it is a very healthy and intensive market, especially in the west. Many houses around Footscray have gone up in price and there is much new housing and development on land which has become available nearby. To conclude my brief contribution, the bill protects consumers, but at the same time the government wants to encourage business to do better.

**Hon. W. R. BAXTER** (North Eastern) — This bill is a dog, and it has been brought to this house by a government that simply does not understand the real world and the marketplace. It has been brought in by this government which is influenced by ideology based on the misguided misconceptions we have just heard from Mr Nguyen. It is clear he has no idea about how auctions work. He tried to tell us that houses are being sold for more than their market value. Well, the definition of market value is what the market is prepared to pay on the day you are selling the house. That is the market value, not some figure you might have in your mind, not some figure the vendor thinks it might be worth and not some figure someone who is

out for a bargain might think it is worth. The market value is the price a property makes on the day it is sold — that is, what the market is prepared to sell and buy for on that day.

I am sick and tired of all this innuendo that somehow or other people are using dummy bids to force people to pay more than they should for properties. Dummy bids are dangerous to any vendor if they go beyond the market value because the person making the bid, if he has no intention of seriously buying, is likely to get landed with it if he persists beyond the vendor's reserve price.

I will give Mr Nguyen an example of how dummy bidding can work to the detriment of people who engage in it. It is a minor example, but it is one I have not forgotten. In 1966 I bought a farm and subsequently I attended the clearing sale. In the shearing shed the shearing shed requisites were being sold. As the buyer of the property, I bought the wool table, the wool scales and the grinder, but then it came to selling the wool press, and the auctioneer thought I was going to buy it as well. But I had no intention of buying the wool press, because I had one of my own. What did the auctioneer do? He ran it up to \$250 and then knocked it down to one of his well-known clients. I knew from the look on the face of that man that he had not bid on it.

*Honourable members interjecting.*

**Hon. W. R. BAXTER** — I am not going to compete against this.

**The DEPUTY PRESIDENT** — Order! Any comments should be directed through the Chair. Can we not have cross-chamber conversations.

**Hon. W. R. BAXTER** — I was illustrating to the house how people who engage in dummy bidding can get caught. The auctioneer ran the wool press up to \$250 and then had to knock it down to a well-known client of his. I knew from the look on the man's face that he had not bid for it. When I sold that property 14 years later the wool press was still in the woolshed, and I expect it still is. I never paid for it. The auctioneer presumably paid the vendor out of his own money. That is how you get caught if you want to engage in vendor bids; yet we have this claptrap here tonight.

I want to know how all this will work. There is no definition of dummy bidding in the bill. It might have been interesting if there were a definition of exactly what is dummy bidding. Proposed section 38(3) of the Sale of Land Act says:

For the purposes of sub-section (2) —

which talks about not bidding on behalf of the vendor —

a bid may be found to have been made on behalf of a vendor even though it is not made at the request of, or with the knowledge of, the vendor.

How will that be proved? What evidence will be led for that? Proposed subsection (4) says:

Evidence that a person who made a bid at a public auction had the intention of benefiting the vendor in making the bid is evidence that the person made the bid on behalf of the vendor.

We have all been to auctions and noticed how difficult it is sometimes to get a start. The auctioneer is calling ‘What am I bid? Who is going to start it off?’. I am one of those people who likes to be helpful and quite often I have made the opening bid at auctions with no intention of buying the property. Presumably if I do that now I am exposing myself to committing a criminal act and I will be open to a heavy fine. Is that what is intended? Is it intended that I cannot start an auction simply to get things under way because it will be deemed that I am helping the vendor? If that is the intention it is ridiculous and another indication of the total lack of understanding by this government about how auctions can and should work.

Proposed section 39(2) says:

The auctioneer of land at a public auction must not acknowledge the making of a bid at the auction if no bid was made.

Fair enough as far as it goes, but what is the flip side of that? We are at an auction. The auctioneer accepts a bid. The audience does not know where it has come from so they demand that he identify the person who made the bid. The person who is bidding might not want the world to know that he is bidding, but the auctioneer is now obliged to say not only ‘The bid is on my left’, but ‘The bid came from Bill Baxter’. Is it the intention of this legislation that people who are bidding at an auction but may not particularly want the world at large to know are now going to be flushed out because the auctioneer, in order to protect himself from this particular clause, will be so challenged that he will have to identify where the bid has come from, otherwise he will be accused of having accepted a bid from a tree or the letterbox? Is that what is intended? This bill is fraught with a whole lot of crazy notions from a government that does not understand.

In passing I refer to proposed section 41(3), which I think has a typographical error in it. It says:

It is not sufficient compliance with the requirement under sub-section (1)(c) to identify a bid as a vendor bid if the

auctioneer merely identifies the vendor by name without stating that the vendor is a vendor.

Surely it means ‘that the bidder is a vendor’. The minister may care to look at that between now and the committee stage.

I turn to the auctioneer having to give an estimate of what the property is worth. Mr Drum dealt with this well and at some length. How will it work in country areas? How will it work in some of the villages I represent where property values are very low? What about Cudgewa, where the average property value might be \$70 000? The estimate has to be within 10 per cent. The auctioneer says the property is worth \$70 000 but on that particular day in Cudgewa it makes \$80 000. That is not much more and is still a pretty low value but it is outside the limit. Will the auctioneer then be accused of misjudging it and of making an error?

As Mr Drum and the minister said, they have to be serial offenders. I can see nothing in the bill that gives any defence at all to a so-called serial offender who gets it wrong several times. Yes, there is a provision for rebates. If you transgress three times, then it is three strikes and you are out. I can see nothing in the bill that gives any sort of support or consideration to someone who gets these estimates wrong on a number of occasions. I think it will be very difficult.

Honourable members know how the auction system rises, falls and fluctuates. It only needs two people at an auction on a particular day who decide they both want the property and the price could go way beyond the estimate. Or it could well be that a vendor puts a property up for sale and he thinks he has an idea of what it is worth and the auctioneer has told him what he thinks it is worth but in fact there is very little interest on that day. The vendor might well be a desperate seller or the vendor might, having listened to the progress of the auction, conclude that he had overestimated and be prepared to sell it for a lot less. Again, is this auctioneer going to be exposed in that somehow or other he did not give a fair estimate?

Proposed section 47B of the Estate Agents Act says:

An estate agent or an agent’s representative must not make a false representation to a seller or prospective seller ...

What is the definition of false representation in the examples I have just given? In country areas with low values or in high-value areas in the suburbs where on a particular day the market really takes off and we get an extraordinary price, is that auctioneer going to be accused of having made a false representation?

There does not appear to be any sort of definition in the bill that will enable people to mount a defence to this. In my view they will be accused unreasonably and will have nothing to defend themselves with because the bill just talks about generalities. It does not talk about hard evidence. It gives the director certain powers to make inquiries. That is all very nice but the penalties are horrendous.

This bill provides for fines of up to \$60 000. Are we seriously going to fine corporations up to \$60 000 for some alleged transgression in what is the most open, successful and transparent auction system in the world on the basis of this bill and on the basis of Mr Nguyen's claim that people are being ripped off and there have been a lot of complaints? Did members not just hear Mr Atkinson say there have been no complaints to the consumer affairs department about auctions? There have been complaints about real estate transactions but there have been no complaints about auctions, yet we are going to introduce legislation that includes \$60 000 fines. We should ask ourselves tonight if that is what we really want to do. I suggest it is an overkill and a misjudgement and we should not be doing so.

What will this bill lead to? It will not only lead to the price dampening that Mr Olexander talked about but it will lead to Dutch auctions. It will lead to an auctioneer — or an agent, he might not be an auctioneer — negotiating with a client on the selling price of a house. They may agree on a price of \$189 000 but then he comes back in later on and says 'I have another offer for 193 000; are you prepared to match it?'. The client does not know whether he has that offer or who the person is. The client is exposed and on a hook. He has to then say, 'Yes, I will top him. I will go to \$195 000'. This procedure is going on in secret behind closed doors. That is when consumers will be ripped off, and I agree with Mr Nguyen that in those circumstances we ought to be doing something about it.

As far as going along to a publicly advertised auction and standing out on the footpath with the auctioneer asking for bids I point out that when bidding starts some bids may be made by people such as me who have no intention of buying the property that day unless it goes for an absolute bargain, but I know all the time that the vendor is not going to sell it for less than his lowest price. It allows the process to start; it is open, transparent and people make their own decisions. I agree with the point Mr Atkinson made a moment ago that people going to auctions are far, far better prepared and in a far better position to look after themselves than people who are carted around the suburbs with an agent, being shown homes here and there without any

opportunity to get comparative prices and without any opportunity to have some protection by the sake of the crowd around them. They are subject to what the auctioneer says to them, what pressure he puts on them or what encouragement he gives to them to pay a price that is perhaps in excess of the market value of the home.

While the National Party does not oppose the legislation, it certainly does not support it. I think it will be very damaging to the auction system in the state. I predict that before the life of this Parliament is out legislation will be back in this house to unwind some of the crazy things that have been done tonight.

**Hon. C. A. STRONG** (Higinbotham) — I rise to speak on the Estate Agents and Sale of Land Acts (Amendment) Bill. As other speakers have pointed out, this bill is absolutely loaded with problems, but in the short time available to me I will concentrate only on one problem, the problem of so-called dummy bidding. I put on the record that all the real estate agents and all the people who attend auctions that I have spoken to over the last months on this issue point out that the provisions will be damaging to the consumer. I repeat: these provisions will be damaging to the consumer.

What really annoys me is that we come into this place and often take partisan positions, but what really gets to me is stupidity. This bill is stupid because it masquerades as something that will protect the consumer, but it will be very much to the disadvantage of the consumer. It is stupid because it hurts people and hurts the consumer. It is stupid because it does not understand the auction system. The auction system is the most transparent form of transaction available.

We heard the Honourable Sang Nguyen talk about the auction system. Do honourable members really think a vendor goes into a transaction with any other option than to get the maximum price for the property he is putting on the market? Any vendor clearly goes in with the object of getting the maximum price! Any purchaser clearly goes into the market with the view of buying a property for the minimum price. The auction system puts all that out in the open in the most transparent way possible.

Do honourable members think real estate agents will want to risk the huge fines that Mr Baxter spoke about? They will opt out of the auction system — the most transparent, honest and clear way of transacting a property sale you can imagine. Real estate agents will opt out of it and go back to private sales, because there is absolutely no risk. They will not want to cop the fines. As other speakers said, it means we will go to a

Dutch auction system, the most opaque way of transacting anything you can possibly imagine. People will be totally at the mercy of agents who can tell them anything they like. They can say, 'We've had another offer', so you put in an offer, or 'We have three people interested in the property'. They can bump you up and up to as far as you can go. There is no way you will know what is going on. You cannot use your skills at an auction, and you cannot get people skilled at auctions to see who is the dummy bidder. You will be bumped up in the most opaque way of buying and selling anything that is possible.

The other key issue with auctions is that they inform buyers. Every Sunday and Monday in the newspapers of our city all the auction sales across Melbourne are listed.

**Hon. S. M. Nguyen** interjected.

**Hon. C. A. STRONG** — I said Sunday and Monday — thank you for your correction. On Sundays and Mondays the papers list valuations of the weekend before of all properties across the city. So people interested in property can become the most informed buyers because they can see the value of the properties in the areas, the suburbs or the streets in which they wish to buy. They are informed buyers. If that information is not there and private sale properties are not listed and are not available to the public, people who want to buy or sell have no idea of the value of the properties that are being transacted in their area. If the buyers and the sellers have no idea what the market is surely that is totally opposed to any form of informed buying. One of the big advantages of the auction system is that every week you know the values of the properties in your area and therefore you are an informed buyer and seller.

This bill is stupid because it will not — I repeat will not — help consumers. It will be totally counterproductive for people who want to buy and sell. It is absolutely ridiculous, totally misdirected, anti-consumer and misguided.

**Mr LENDERS** (Minister for Finance) — First I thank the speakers on this bill: Mr Olexander, Mr Drum, Mr Pullen, Mr Atkinson, Mr Nguyen, Mr Baxter and Mr Strong. It has been a passionate debate at times — a bit like an auction. We have been sparring off each other, whether we are dummy bidders or other forms of bidders. I thank members for their contributions to the debate.

I want to sum up some of the issues, particularly those that Mr Drum raised, which I think will address the

need to go further into this. I refer firstly to the issue of the 10 per cent window. Mr Drum specifically asked whether I could give an assurance that a person is innocent until proven guilty. Categorically a person is innocent until proven guilty. I will give a couple of reasons as examples of why that is so. Firstly, the bill specifies an honest estimate. The onus is on the director of consumer affairs to show it was not an honest estimate. There is certainly no reversal of onus. I give a couple of examples that I categorically put on the record. If at the time an estimate was made of the cost, it is at the time. So if an estimate is made in June and the property goes to auction in August or September, clearly it is at the time the estimate was made that is the first starting point and not market forces going up, down or whatever they do. It needs to be an honest estimate.

If an agent, say in Mr Drum's hometown of Bendigo, tells the seller that he will get \$250 000 for his three-bedroom house — it might show my ignorance of Bendigo prices — and tells the buyer it will cost \$150 000 then that is exactly the sort of thing where different stories are being given to different people. That is what the director of consumer affairs will look at when he is making, firstly, the assessment of whether he will prosecute and whether it is an honest estimate or not, and secondly, whether the Victorian Civil and Administrative Tribunal (VCAT) will make a determination on it. I do not think there is any issue at all; the onus has not changed — the person is innocent until proven guilty. There are two steps to this onus: firstly, it needs to be an honest estimate. If the Bendigo newspapers or whatever the evidence is say that this is the price range of houses, the director of consumer affairs will not initiate an action. Of course, what is in the hands of VCAT is a separate issue. That addresses the issue of onus.

I know this has been a passionate debate and a bit like an auction at times, but the intention is unequivocal — to make auctions more transparent. That is the issue from the consumer's point of view. The government has brought this forward because it is confident that that is the case. After further discussion with the Real Estate Institute of Victoria (REIV), stock and station agents and various people in the community the government amended the bill somewhat from the version that went through the lower house in the last Parliament, and it is satisfied that this package is all about making it more transparent. For that reason I think it is good legislation. We certainly listened to the community, including the REIV, individual agents and a whole range of people who had very mixed views as to whether this bill will or will not work. Anecdotally all of us are experts on auctions because most of us have experienced one at

some time or another. I think that sums up the issue of onus.

I would like to thank people for their contributions, and I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## ROYAL AGRICULTURAL SHOWGROUNDS BILL

*Second reading*

**Debate resumed from 22 May; motion of  
Hon. J. M. MADDEN (Minister for Sport and  
Recreation).**

**Hon. D. McL. DAVIS** (East Yarra) — I am happy to make a contribution to the Royal Agricultural Showgrounds Bill. This is an important bill. It has a central role in linking Victoria's country and city areas. In its last term of government the Liberal Party, people will remember, formulated a policy to redevelop the Royal Agricultural Society's showgrounds. I want to pay tribute in that regard to the work of the Honourable Mark Birrell, my compatriot in East Yarra Province for a period of time and former leader of the Liberal Party in this house. Mr Birrell was instrumental in developing for the Liberal Party during its first period of opposition, an early policy for the redevelopment of the showgrounds. This was a very important policy, not only because it displayed leadership and showed that the Liberal Party understood the importance of the showgrounds, but it also indicated that it understood that this was an important part of Victoria's future in an economic sense because it brought people from country Victoria to the city and provided an opportunity to showcase the enormous contribution the Royal Agricultural Show makes to Victoria.

The proposal the Liberal Party formulated at that time took into account the fact that the showgrounds had a great economic contribution to make that was very important in regard to the use of that land and the facility for a much wider range of activities. It would enable that area of Melbourne to attract tourists, and the range of events and activities held at the showgrounds could be expanded.

The main purpose of the bill is to repeal the Royal Agricultural Showgrounds Act 1931. The show has a

long history not only of linking the country and the city and showcasing the best of rural Victoria but also in teaching city people about the importance of country Victoria.

I want to place on record in the context of this bill the importance of country Victoria to the Victorian economy. I think people from city areas have not fully understood that. Much of the traded goods sector and much of the agricultural produce in particular that is so important to Victoria's future and economic success comes from rural Victoria, and it is important that opportunities are made available to develop economic activities in country Victoria in a way that enables us to successfully build our rural economy.

This bill specifically facilitates the upgrading of the showgrounds precinct. As I said, that builds on the work the Liberal Party did three to four years ago. It consolidates the land-holdings and provides for the repeal of the Royal Agricultural Showgrounds Act 1931. I know something about the area of the city in which the showgrounds is located, having worked there over a number of years and developed links with people in Ascot Vale and Flemington in particular.

Some in this house may not know that I practised in that area of the city for the best part of a decade. I know there are many local issues related to the use of the showgrounds for the broad purposes they are used for. I hope as the government progresses with the redevelopments that will occur on this site that it is cognisant and respectful of many of the local amenity issues. There are significant issues of local amenity through that area. There are issues of parking, of noise and of the usage of those grounds, and they need to be thought through carefully. I hope that in the sense that this bill lays out something of the framework and some legal structure for those redevelopments the government treats these issues as significant and is prepared to ensure that the issues of local amenity are dealt with.

I know the bill changes the arrangements with respect to the governance of the showgrounds. It splits it half and half, with the Crown and the Royal Agricultural Society being equal members of the new corporation. I want to place on the record some issues and some concerns the opposition has about how that will operate. We want to ensure that there is a proper arrangement and that the interests of country Victorians are in no way diluted or compromised. I know there are arguments for greater central input into the governance of the new structure and that some of those arguments have merit. However, at the same time there is a real issue with respect to the fact that the Royal Agricultural

Society will no longer have the control some believe it should have over the decision making in and around the showgrounds.

I know this bill also consolidates some of the land ownership and revocation of reserves. It provides some clarification of a number of encumbrances and in that sense provides clarity of title. That should be to the considerable advantage of the showgrounds and the show in the future. There is also a capacity to change some of that, a capacity to sell portions of land. I want to place on record in this second-reading contribution the opposition's concern that that land be treated properly and that it be treated as part of a trusteeship — —

**Hon. T. C. Theophanous** — A brilliant speech you are giving.

**Hon. D. McL. DAVIS** — You just settle, Theo. It needs to be treated as part of the trusteeship of this important land for country Victoria. I would be concerned to see some portion of the land sold in the future where the primary motivation was to ensure a quick profit. I would caution the new authority that it is important that it retains a long-term view of the importance of these facilities and not be prepared to quickly or easily surrender parts of the land for the shorter term financial benefits that could clearly result. We have seen important developments in and around the Flemington and Kensington areas and the significant residential developments. These developments are strongly supported by the opposition but we do not believe land that is linked with the Royal Agricultural Showgrounds Bill should be allowed to be compromised in any way.

Returning to the importance of the show, it is important to look at this from a Victoria-wide perspective. All of us remember the show from our earliest times, from when we were very young I am sure in each and every case. We understand the importance of it — as a city child you learn many things about country Victoria, and as a country child you learn many things about city Victoria. I think that link is extremely important. There are many hundreds of thousands of visitors each and every year.

The commitment of significant financial resources to this project is important, and I believe that is the only way projects of this nature will be successful. I want to say that the Royal Agricultural Society has over recent years developed a very positive and progressive attitude to positioning itself as a body that is prepared to innovate, a body that is prepared to begin maximising its opportunities and a body that is prepared to develop

new processes. The recent use of temporary stands has been quite innovative. Those who have been to the show in the past couple of years will be able to attest to the importance of the new stands and the arrangements they have been able to introduce. They are important in the sense that they provide additional facilities but do so in a very modern way, in a way that is flexible and enables the Royal Agricultural Society to move facilities and not count out the use of the space in different ways. I think there is probably something in that in terms of the future.

The Royal Agricultural Society needs to develop a facility that not only serves the interests of the show as its primary objective but also services country and city Victoria in a different way and offers the biggest variety and the most flexible arrangements for other facilities and functions of various types. Importantly, I think public facilities of this nature need to be used in the most constructive way.

**Hon. T. C. Theophanous** — Do you know what bill this is?

**Hon. D. McL. DAVIS** — Absolutely. I think, Theo, you should just rest.

**Hon. T. C. Theophanous** — Have you ever been on the Mighty Mouse at the show? It is a good ride.

**Hon. D. McL. DAVIS** — I have tried to avoid the Mighty Mouse. I am naturally fearful of these sorts of rides and have taken a great deal of care — —

**Hon. T. C. Theophanous** — I do not want to help you with your speech.

**Hon. D. McL. DAVIS** — You know me, I am like you, Theo. If you start it is very easy to keep me rolling.

**Hon. T. C. Theophanous** — Anything would improve it.

**Hon. D. McL. DAVIS** — I am not sure that conversation about the Mighty Mouse will particularly improve the speech.

**Hon. Kaye Darveniza** — He is reminiscing about the Mighty Mouse.

**Hon. D. McL. DAVIS** — He brought this up. It is clearly an issue, Ms Darveniza, that the Minister for Energy Industries has some sort of fixation on the Mighty Mouse. I let *Hansard* record that.

I want to say that this is a very important project to country and city Victoria. I think the Major Projects Victoria control of the project is sensible — it will

enable the clearest redevelopment to occur. The opposition certainly does not oppose this bill. We note the commitment of significant resources and that it matches the discussions Mr Theophanous will remember took place in this chamber in, I think, early 2000 — I stand to be corrected by some months — when Mr Birrell moved a motion in this place to discuss the Liberal Party's policy to redevelop the showgrounds and the commitment of resources and a structure to enable that redevelopment to occur very functionally.

The other thing about this bill is that the Royal Agricultural Society needs, as I have said, to consult and work closely with local council authorities — Melbourne City Council and Moonee Valley City Council in particular. It needs to look as broadly as possible at the development of the transport in and out. The show is greatly blessed with a really advantageous transport system with the train, and everyone who has travelled to that site will remember that quite well.

In conclusion I want to make a number of very straightforward points about this bill. It is a bill that the opposition does not oppose. It is an important bill for the country and for the city, and it is particularly important in showcasing the economic contribution of country Victoria for the future of the Victorian economy. But it is much more than that. The show is after all a social event as much as anything else, and it is something that people in both the city and the country look forward to. It is something that I have related to very strongly throughout my life.

I want to place very firmly on the record the support of the Liberal Party for the Royal Agricultural Society and its longstanding contribution and for the current committee, which has done a great deal of good work in bringing the show forward and making the society a very progressive organisation. The government must in the process associated with this bill ensure that those things that are important in the show are not lost.

**Hon. P. R. HALL** (Gippsland) — I welcome the opportunity to talk about the Royal Agricultural Society's showgrounds in the debate on this bill before the house this evening, because we all recognise that the showgrounds are an important piece of infrastructure not only for Melbourne but for all Victoria. I say that because one of the main events held each year at the showgrounds is the Royal Melbourne Show, which is an opportunity for the people of Victoria, not just country Victoria, to appreciate the importance of the agricultural sector in this state and the amount of value that it adds to the Victorian economy.

The Royal Melbourne Show is a great annual event held in September, which brings in something like half a million people to look at the exhibits that demonstrate the quality of agriculture in this state. It is certainly a feature attraction of Melbourne's events calendar each year. We should also recognise that the showgrounds are an important facility for the staging of a number of other events of both a recreational and an exhibitional nature throughout the course of the year.

A limiting factor to the extent and quality of activities that can be staged at the showgrounds is the condition of the infrastructure on the site. As has been said, those of us who have visited the showgrounds for different events over the years will have noticed that some of the infrastructure is quite old, most of it having been built between 1918 and 1927. There have been some recent additions and improvements but a significant amount of the infrastructure is rather old, and if we are going to fully maximise the benefits of this great Melbourne facility there needs to be a serious attempt to upgrade a lot of that infrastructure.

I might add there is an urgency to the need to upgrade some of those facilities given that the Royal Agricultural Society each year faces a significant public liability insurance bill. It is because of the condition of some of those facilities that the public liability insurance premiums are so high. Some of the buildings and the other infrastructure there need to be brought up to standard to comply with many of the applicable regulations, which will assist it in not only meeting those regulation standards but also in reducing its public liability insurance premiums. So there is an urgent need to upgrade some of those facilities.

I might also add that the problem of the need to upgrade the facilities does not just apply to the Royal Agricultural Society; it applies to many agricultural societies all around country Victoria where the condition of some of the facilities for local shows is less than desirable. I congratulate the previous coalition government and the previous Bracks government on providing some of the funding to the municipal agricultural societies around regional Victoria to assist in upgrading their facilities, but a lot more needs to be done.

I note that the current government has given a commitment to a \$101 million grant to the Royal Agricultural Society to be spent over three years for the redevelopment of some of the facilities at the showgrounds. That announcement was made on Wednesday, 15 May 2002, in a press release by the Minister for Agriculture and the Minister for Major Projects. In that press release they said that a

\$101 million redevelopment of the showgrounds had been given the green light on the day of the press release with the official signing of a memorandum of understanding between the Bracks government and the Royal Agricultural Society.

It is interesting that the press release does not give any details at all about that memorandum of understanding. It would be interesting to know exactly what is involved, such as whether this \$101 million promised by the Bracks government is conditional in any way at all — for example, whether or not some form of matching funding from the Royal Agricultural Society is required. I am not too sure, and perhaps the minister in his response can clarify that for me.

It is also interesting that the \$101 million was announced in the 2002–03 budget — this promise was given more than 12 months ago and a budgetary allocation was made. I think it would also be informative for the house to know whether any of this \$101 million has been spent yet or whether this is another stalled project that has been sitting around for 12 months without any progress whatsoever. Those questions are interesting, and I would be grateful if the minister in his response might at least be able to tackle those issues and give me an answer to those questions or at least give a commitment to provide an answer in due course.

I want to make mention of comments made in the second-reading speech at page 3 where it says:

Commercial and legal arrangements supporting this partnership venture —

we are talking about a partnership between the government and the Royal Agricultural Society —

are currently being finalised but as a first step the RAS and the state government have agreed to provide in legislation for the consolidation of the land assets at the showgrounds. This is the purpose of this bill.

So it is. What we find at the showgrounds site is that some of the areas of land have a permanent reservation upon them, other areas of land are entrusted to the Royal Agricultural Society and other parts of the showgrounds site are owned outright with a freehold title held by the Royal Agricultural Society.

What we are seeing with this legislation is that all of those existing reservations will be revoked and the Royal Agricultural Society will be required to surrender its freehold titles that it holds to some of that land. In fact, all the parcel of land comprising the current showgrounds will become unreserved Crown land.

We are told that the Royal Agricultural Society will receive a subsequent Crown grant in lieu of surrendering the land. Once again, there seem to be no details of what that subsequent Crown grant will be — is it the \$101 million over three years that is being promised? Is that the Crown grant? Once again, I am not sure. It all seems a loose arrangement to me.

The legislation poses many questions that need to be clarified. Page 4 of the second-reading speech has an interesting twist to the legislation, because it says:

Because a number of commercial negotiations between the state and RAS have not concluded it was considered desirable in this legislation to provide a further assurance to RAS that any changes in land status will not take place without its full support, notwithstanding the passage of the legislation. Accordingly, the legislation makes provision for the changes in land status to be triggered only after the minister administering the act has approved the corporate entity which will be the recipient of the Crown grant. One of the necessary conditions for the minister's approval will be the consent of the RAS.

There is a safeguard in the legislation that if the society is unhappy with the way negotiations with the government proceed then it can pull the pin, so to speak, at any stage and therefore the legislation collapses.

Another interesting twist to this legislation is that if there is no agreement by 31 December 2004 the act is automatically repealed. Once again, it is not a common provision in an act of Parliament that if you cannot come to some agreement then you can forget about the act — so we will have all wasted our time debating it tonight. There seem to be a few strange twists to this legislation and it is not as straightforward as the government would have us believe.

That being said, I re-emphasise that the National Party is totally supportive of the redevelopment of the Royal Agricultural Society's showgrounds. As I said at the start of my contribution, it is an important piece of infrastructure, but I hope we are not playing funny games with this great facility. It is important that the National Party and the opposition — —

**Hon. T. C. Theophanous** interjected.

**Hon. P. R. HALL** — I am not being cynical when I am posing that there are strange provisions in the legislation. Once again it is trust-us legislation — that everything will work out. I sincerely hope it does.

We in the National Party, and I am sure the opposition party, will be watching progress on this matter with a lot of interest over the next few years. This is too important an asset to be fiddled around with and

lessened in importance in any way. It is incumbent upon the government to ensure that its dreams for the showgrounds are realised with some prudent management and negotiation with the Royal Agricultural Society.

They were a few of the issues that we had with the bill. If the minister could respond to those in closing the debate I would be most grateful, but the National Party, as I indicated at the start, will not be opposing the legislation.

**Ms ROMANES** (Melbourne) — I am pleased to have the opportunity to speak on the Royal Agricultural Showgrounds Bill. It was with interest that I read in the preamble to the bill that the Royal Melbourne Show goes back as far as 1853 — so it is an institution that has been around as long as this Parliament — and the site at Flemington and Essendon was permanently reserved on 15 May 1882. It is certainly a place and an event that has a long history, and a place and an occasion that has generated a sense of excitement in the hearts of generations of children.

I certainly look back and remember in my childhood that there were three big events in my life that I can think of: one was the annual Moomba parade, the second was a trip to the Christmas pantomime, and the third was the show. We did not call it the Royal Melbourne Show; it was just the show. Memories of the show are very happy memories in my childhood, such as watching the show-jumping horses in the arena, having a chance to taste that dreadful fairy floss, the smell of cattle in the cattle shed, the beautiful decorated cakes, the Ferris wheel, and, of course, the show bags. That was quite a highlight of the trip to the show.

The show was, of course, primarily — although as a child I was not that conscious of it — an opportunity to showcase the best of rural and regional Victoria. Even today around 500 000 Victorians visit the show and have a chance to see some of the wares, ideas and achievements of rural and regional Victoria.

As we know, the Royal Melbourne Show is having difficulty competing with other attractions in our modern society and also in attracting people to the events at the show. There is a need to find new ways of best presenting and promoting Victoria's strengths in food and agriculture as well as in manufacturing and other innovations and ideas that can be on show at the Royal Melbourne Showgrounds in September of each year.

The buildings at the showgrounds are rather down at heel, most dating to the early 20th century. For some

time the Royal Agricultural Society has had difficulty in maintaining the standard of the showgrounds. Although there have been various government grants for short-term assistance for repairs and maintenance, there has been the recognition for some time of the need to assist the Royal Agricultural Society to find some longer term solutions.

It has been recognised that there is a need for a major capital injection into the site. Opposition members mentioned activity by the former Kennett government and a former member of this house, the Honourable Mark Birrell, in trying to address some of the difficulties faced by the Royal Agricultural Society. I make the comment that the former Kennett government failed to resolve those issues and it has been the Bracks government that has worked closely with the Royal Agricultural Society and the agricultural sector to provide for the show and the facilities put forward in the plans that have been released for the showgrounds. Through the initiative that is captured in the bill there is a way forward to enter into a partnership with the Royal Agricultural Society to develop the showgrounds with the aim of generating new activity and a new multipurpose venue which will attract new interest and events to add to the repertoire of the showgrounds.

There has been some difficulty in coming up with that package because the Royal Agricultural Society, while it owns land, does not generate the capital with which to build new facilities. In fact the Premier announced in 2002 that the state government would commit \$100 million over three years to the redevelopment in partnership with the Royal Agricultural Society.

Part of the site is reserved Crown land which is managed by the Royal Agricultural Society but the society also holds freehold land in its own right. As its contribution to the partnership the RAS will be required to surrender its entitlements over the land. So there have been these negotiations over an agreement between the state and the RAS, and those negotiations are ongoing.

Because there is yet further work to be done on this project — or package — there is within the legislation an agreement that as the commercial negotiations and work on the shape of the corporate entity which will be the recipient of the Crown grant as an outcome of the consolidation of land which is the purpose of the bill are undertaken, there will be no changes in land status and no project in the future unless there is agreement between both parties with the full support of the RAS. In other words, if no agreement proceeds further to the passing of this bill through the house — if it passes this

evening — the act will be repealed after 31 December 2004.

However, there is a strong commitment from the state government. There is also, of course, the self-interest of the Royal Agricultural Society to see improvements happen on the site and the rebuilding of the showgrounds into a venue that is much more flexible and available for a whole range of entertainment and other exhibition purposes. Therefore the bill before the house this evening does take this project a further step by setting out the way in which the land assets and the showgrounds will be consolidated to help make that happen.

The commitment of the Bracks Labor government to the revitalisation of the showgrounds is an indication of the very commitment made by the Treasurer in his recent budget speech that the government will keep working on rebuilding basic services in this state and investing in vital infrastructure across the state. The showgrounds I would classify as vital infrastructure because it is the place where once a year the wares of rural and regional Victoria are shown to the people of the whole state and to this metropolitan area in particular. The showgrounds is a place where, through this showcasing and the exchange of knowledge and ideas relating to the rural sector, a catalyst is provided for improved outcomes for Victorian agribusiness. So not only is it about rebuilding vital infrastructure it is symbolic of the importance of retaining a strong relationship and appreciation of rural interests and achievements amongst city people. For that reason it is a very important bill and I commend it to the house.

**Hon. D. KOCH** (Western) — I am pleased to speak on the Royal Agricultural Showgrounds Bill 2003 on behalf of the opposition. The main purpose of this bill is to repeal the Royal Agricultural Showgrounds Act of 1971 which up to date has governed the use of the land where the showgrounds are currently located, making new provisions for the same site after consolidation of existing lands for similar or greater purposes.

The bill makes further provision for retail, recreation, amusement and entertainment purposes whilst amending the Racing Act 1958. Although not wishing to dispute the earlier speaker's claim as to the starting point of the agricultural show being 1853, which was picked up in the preamble, I point out that the Melbourne show in fact started in 1849, 154 years ago. It started in the form of a ploughing competition on the banks of the Maribyrnong River. Over the ensuing 35 years shows of various sizes happened there on an annual basis.

The show was moved to the current site in 1883, 120 years ago. It moved to the new site under the motto 'Speed the plough', which recognised how the show came into being. Quite obviously the show has moved forward over the last 120 years and is a far greater and larger event servicing both regional Victoria and the state's metropolitan areas.

I think we all recognise the importance of the Melbourne show. Currently it has between 500 000 and 600 000 participants on an annual basis, particularly during the 11-day show period in September. It has an annual turnover of something in the order of \$78 million. The buildings we see at that site were predominantly constructed between the years 1918 and 1927 and, as alluded to in the preamble, only three buildings have been erected on the showgrounds site since 1950. That gives us some indication not only of the age but quite possibly the types of buildings we have — and quite possibly also the maintenance levels of those buildings and how they stand today. They are not good; they are in need of replacement. Some of those conditions quite obviously do not meet the standards today although they certainly did in the days they were put up.

Jack Seymour, the chairman of the showgrounds committee, with the able support of his committee over the years has been endeavouring to obtain a redevelopment of this site. The Premier, with the support of not only the Minister for Major Projects and the Minister for Agriculture but also the Treasurer, put forward that he would support this redevelopment as a staged process to the tune of \$100 million over a three-year period.

To give the government its due the showgrounds committee was in serious doubt as to whether it could carry on the current event. Last year there was some transitional funding for the epicure food hall, which is some 2000 square metres of undercover dining room, to the tune of \$1.08 million. This year further transitional funding will be provided to bring the horse show back from Werribee Park where it had to be relocated this year due to the facilities.

To give an indication of the current state of the buildings at the showgrounds, over the last five years insurance claim excesses have moved from \$1000 per claim to \$20 000 per claim. Most of the sealed areas are now in poor repair and there are many falls during the show period. The show committee now sets aside in excess of \$100 000 to handle claims so it does not have to make any claim on its insurance company.

We all appreciate that the showgrounds today are on a site bounded by Epsom Road, Langs Road, and Fisher Parade, and to the east the railway reserve between the showgrounds and the Victoria Racing Club. Originally the area was larger than that, with private property on the north side of Epsom Road, the west side of Langs Road and the large car park area on the south side of Fisher Parade.

Those other freehold parcels of land have been relinquished over the years to offer the committee the opportunity to maintain and make further improvements to the showgrounds site, but currently three tenures are there: unreserved Crown, reserved Crown and freehold title. Fifty per cent of the area, being 27 hectares or 61 acres, is freehold title in the name of the Royal Agricultural Society (RAS). At this stage 29 different freehold and Crown titles are under the jurisdiction of the showgrounds committee. The estimated value of the freehold land of the showgrounds society is between \$25 million and \$30 million, so it can be appreciated that there will be a consolidation of titles. But from the showgrounds committee's point of view — it has looked at this very seriously over the longer period — a forfeiture of the \$25 million to have a return of \$100 million-plus for redeveloping the site is quite obviously most attractive.

It goes without saying that when these titles are relinquished a corporation will be put in place. The corporation will have equal membership from the RAS and the government — in this case, the Department of Sustainability and Environment. At this stage it would appear there are to be three members of each party in that corporation. The corporation will have invested in it the trusteeship and operational management control over this unreserved parcel of land to continue with a show program.

The main charter obviously will be to manage the site, to enhance agriculture across the state, and certainly to put a business plan in place to enable the further viability of the showgrounds complex to take place. To a very large degree it will be self-supporting.

Importantly, as mentioned earlier, negotiations in relation to this redevelopment are taking place over an extended period. Although it was mentioned earlier that both parties will have to reach agreement, that is not the case. If the showgrounds committee does not accept the negotiations by 31 December 2004 the act will be repealed. So the showgrounds committee has been given a lot of licence in the negotiation process.

We as the opposition are rather concerned about the lack of information in the ministerial briefing on this

bill. We are very disappointed that the further information requested has not come forward, particularly in the area of planning and also about the waiver of fees that will take place in the consolidation.

I have had extensive consultation with the showgrounds committee and also the chief executive officer. I know that further consultation has taken place with the Department of Sustainability and Environment. I think that the members of the showgrounds committee are of the true belief that they will reach a position which will facilitate a redevelopment of the showgrounds that will be of benefit to all Victorians.

I have been going to the Melbourne show since I cannot remember when — in the days when show bags were sample bags. Unlike the Leader of the Opposition with his family and Dick McGarvie and the show bags, we had sample bags in those days and we used to collect them to the degree that we could hardly carry them out the gate. The job has moved forward a bit since those days. When I first started going to the show there was nowhere near the development that has taken place today. We took our family back there and went on the Mad Mouse and the Gravitron and everything else that made me giddy and, on many occasions, quite sick, but we enjoyed the show as a major event in Victoria no less so than we did the grand final. We usually did a double every year that we came to town.

There are many points about the showgrounds that make it a very worthwhile venue. One of the main things about the showgrounds development is that it will keep all regional shows across Victoria very much alive. If the regional champions of our community have no statewide venue to compete and showcase their operations — —

**Mr Lenders** interjected.

**Hon. D. KOCH** — Thank you, Mr Lenders. This one is a little bit close to my heart. On many occasions I can close down very quickly, but I have only a couple of things to say.

From a regional point of view the development of this showgrounds precinct is of great advantage because all our regional show people aspire to bring their own produce to town, to excel in their own right, to showcase their own products and obviously to do their best to benefit their own studs, produce or whatever they happen to bring to town.

For those reasons the opposition certainly does not oppose the bill — in fact it supports it. I wish this bill a speedy passage.

**Hon. PHILIP DAVIS** (Gippsland) — In rising to speak on this bill, I observe that clearly the agricultural show society movement has changed dramatically over 150 years from the early days of local regional or country shows which demonstrated the produce and the technological opportunities that were available on the day to improve production and the comparison of different lines of stock. Today things have very much changed at a regional level. So too has the Royal Agricultural Society as we know it in Melbourne.

What has changed in my lifetime has been the move from the Royal Agricultural Society's annual show being the pinnacle place for the representation of all agricultural machinery, livestock and produce and being the apex of a very well organised structure of showing these agricultural pursuits to a very diverse arrangement today which rests to a larger degree on the agricultural field days such as those at Wimmera, Elmore — —

**Hon. Andrea Coote** — There are great lunches at Longerenong.

**Hon. PHILIP DAVIS** — Indeed! There are the Lardner field days and other field days in Gippsland and East Gippsland. There are the Acme field days at Warrnambool. There is a range of other opportunities to demonstrate technology and for farmers to acquire practical knowledge compared with the arrangements that were in place previously.

In addition, the nature of the Royal Melbourne Show has changed in itself because exhibitors have chosen not to maintain their presence at the annual show but to use other forums to demonstrate their products, particularly those forums where there are practical examples. For example, there may be a harvesting or a ploughing demonstration in association with a field day, which is not possible in the precinct of Flemington where the showgrounds are.

Naturally the whole nature of the show has changed, but it still plays an absolutely vital part in that interface between agricultural communities from one end of the state to the other and between the farming community and the city. It should be noted that the bill before the house is part of a package for which the government has announced it intends to provide \$101 million of funding in relation to redevelopment of the showgrounds. This is vitally needed and has been the subject of ongoing discussion between members of government and opposition parties and the Royal Agricultural Society over the last several years.

Without going into the detail of what has been said, I reiterate that there are some major deficiencies in the infrastructure which need to be quickly remedied because of the public liability hazard which the Royal Agricultural Society directors are exposed to. They are concerned about the reality that if nothing changes then those public liability risks will progressively increase, and that is a serious threat to the show.

There is also the reality of the commercial viability of the activity of the show. It needs to be able to be operated profitably with a cash surplus so that that cash surplus can be reinvested annually to maintain the facilities in the long term to secure the Royal Agricultural Society's long-term future. The showgrounds are a critical piece of Victoria's infrastructure, built as they are on land at Flemington that is proximate to the racecourse.

I pause to reflect whimsically on what has changed. Shortly after I left agricultural college I was involved in working at Newmarket when it was still a bustling livestock selling centre. Today all that can be seen of the remnants of Newmarket are some of the old posts of the cattle yards that remain in a decorative sense in regard to the developments of residential accommodation in that area.

That signpost, if you like, about change is in itself a prospective threat to the long tradition of the showgrounds, and it is my view that the investment which the government has committed to must be implemented expeditiously and that the agreement that needs to be negotiated between the government and the Royal Agricultural Society as set out in this bill needs to be worked on furiously, because we could not possibly have the risk of this legislation lapsing for failure to reach that accommodation. The bill sets out that there must be agreement between the parties by the end of 2004, and if that is not achieved then this legislation will sunset.

I want to ensure that there is an earnest commitment by the government to seeing this project through. The opposition is concerned that there are some outstanding issues which have been canvassed in the debate. Answers have not been provided on some of the detail. We are being asked to take this legislation and the government's intention to implement this process on trust. All I can say is that in discussions I have had with Jack Seymour, the president of the Royal Agricultural Society, he has indicated that he is confident at this point that that process should run. I will take his recommendation on that, but I can assure the house that the opposition will be keeping a very close watch on it.

In conclusion, aside from thinking as I am speaking on this bill that I would like to be whimsical about the fact that I met my wife at the Royal Melbourne Show in 1972 — —

*Honourable members interjecting.*

**Hon. PHILIP DAVIS** — But I will not! Would you like to know where I actually met her?

*Honourable members interjecting.*

**Hon. PHILIP DAVIS** — It might be too much information, so I might tell you privately. At the time I was at agricultural college and I took a team of steers to the show for the steer section, the carcass competition, at the Melbourne show. All I can say in retrospect is that it was a pity that I had a team of steers because my now wife was then in charge of the champion Hereford stud bull!

**Mr LENDERS** (Minister for Finance) — After that contribution mine will be subdued and uneventful. I thank Mr David Davis, Mr Hall, Ms Romanes, Mr Koch and Mr Philip Davis for their contributions. In particular in response to Mr Hall, I will take on board his particular questions about the \$100 million budget issues and the memorandum of understanding and refer them to the minister for a direct response to him. Without further ado I commend the bill to the house.

**Motion agreed to.**

**Read second time.**

*Remaining stages*

**Passed remaining stages.**

## ADJOURNMENT

**Mr LENDERS** (Minister for Finance) — I move:

That the house do now adjourn.

### Seniors: safety

**Hon. ANDREA COOTE** (Monash) — My issue tonight is directed to the Minister for Aged Care. In my shadow portfolio responsibilities for aged care I have met some absolutely super older Victorians, or senior Victorians. Many of them are very dynamic, and I cannot believe the energy many of them have. It has been enlightening for me to have met these people and to have worked closely with them.

Tonight my question is about their safety. I refer to a report from the Australian Transport Safety Bureau

which shows that an alarming number of pedestrians killed on our roads are aged over 65 years. People aged over 65 years represent one-sixth of the total population and one-third of the total pedestrian deaths on our roads, which illustrates how seniors are dramatically overrepresented in this category.

I would not like to see any fines introduced in this area because this government is very keen on fines in every other direction, and I am very concerned about this matter. In Victoria 127 pedestrians over the age of 65 have died on our roads since 1998. The *Herald Sun* of 26 January contained an interesting article titled 'Elderly road toll soaring'. In the government's publication *Making this the Age to be in Victoria*, a key measure for assessing progress of the government's forward plan is increased independence and perceptions of safety for senior Victorians.

Among the numerous fines implemented by this government — I think there were 300 additional fines implemented by the Bracks government in the last budget — one was for jaywalking, and I would be particularly concerned to see elderly people being targeted. How is the criteria mentioned in *Making this the Age to be in Victoria*, the increased independence and perception of safety for senior Victorians, being measured particularly in relation to pedestrian deaths?

### Employment: community jobs program

**Mr SOMYUREK** (Eumemmerring) — I raise a matter for the attention of the Minister for Employment and Youth Affairs in another place concerning the Bracks government's employment programs. I take this opportunity to congratulate the minister on increasing the community jobs program (CJP) by \$38.6 million over four years. This will enable 3500 disadvantaged and unemployed Victorians to find employment. The CJP has successfully achieved many of its objectives, and to date it has provided real work and real training for in excess of 6900 participants with over 62 per cent going on to further training and employment.

**Hon. Bill Forwood** — On a point of order, President, it is well known that the adjournment debate is not a time for set speeches. Mr Somyurek is delivering a set speech written for him in which he is lauding the achievements, so-called, of the Bracks government. The adjournment is a time for raising queries with ministers, and the member is entitled to do so, but he is not entitled to develop it into a set speech.

**The PRESIDENT** — Order! The Honourable Bill Forwood has raised a point of order with respect to set speeches. I have indicated to the house on previous

occasions that the adjournment debate is not an opportune time for members to deliver set speeches. The member is raising a matter for the Minister for Employment and Youth Affairs in the other place, and I remind him of the fact that he should not be delivering a set speech. The member can raise a query for the minister, which I am sure he will get to in the time allocated to him.

**Mr SOMYUREK** — The aim of the community jobs program and all the Bracks government's employment programs is to help ensure that all Victorians benefit from increased job opportunities. Since the budget I have listened to and read accounts of the opposition parties' synthetic indignation. The best came from Mr Drum. With respect — —

**Hon. Bill Forwood** — On a point of order, President, I put to you that the honourable member is flouting your ruling, and that this is absolutely a set speech. He has now moved from the topic on to matters to do with the opposition, which have absolutely nothing to do with the adjournment, and the member knows it. President, I ask that you bring him back and make him treat the adjournment debate with respect.

**The PRESIDENT** — Order! I indicated to the member that when raising matters on the adjournment debate members must make a complaint or a request or pose a query. I ask the member to get to the point of the matter he wishes to raise with the minister, whether it be a complaint, a request or a query.

**Mr SOMYUREK** — This is what the Liberal Party does not want to hear. The Liberal Party in government spent less than half each year — —

**Hon. Bill Forwood** — On a point of order, President, I reiterate my point of order.

**The PRESIDENT** — Order! With respect to the rules relating to the daily adjournment members must raise a matter that relates to recent occurrences. At the moment the member is referring to the previous Liberal government, which I would not say was recent, so he is out of order on that line. If he does not come to the point I will call the next speaker.

**Mr SOMYUREK** — The Liberal Party spent less than half what the Bracks government spends on employment programs. It committed a paltry \$1 million — —

**Hon. Bill Forwood** — On a point of order, President, I put to you that the member is flouting your ruling for the fourth time, and I ask that you sit him down and call the next speaker.

**The PRESIDENT** — Order! The member is halfway through his 3-minute contribution. If he does not come to the point and ask the query immediately I will call the next member.

**Mr SOMYUREK** — I request that the minister continue the Bracks government's proud record on employment programs and remind — —

**Hon. Bill Forwood** — On a point of order, President, I put to you that that is not a proper query.

**The PRESIDENT** — Order! I have not heard the member.

**Hon. Bill Forwood** — That was it.

**The PRESIDENT** — Order! The member has posed a request for the minister, and I did not quite hear it all as there was some interjection. I ask that the member raise his query so that the minister at the table, the Minister for Local Government, can pass it on to the minister in the other place. I had difficulty hearing the member, which is surprising when it comes from the honourable member on his feet as normally I do hear what he says. On this occasion I did not, so I ask the member to come to the point and raise his query for the minister immediately.

**Mr SOMYUREK** — I again request that the minister continue the Bracks government's proud record on employment programs, given that the Liberal Party only committed \$1 million to the community business employment program and the only — —

**Hon. Bill Forwood** — On a point of order, President, I put to you that it is not a request to ask the government to continue to do something. The purpose of the adjournment debate, as you, President, have rightly pointed out, is well laid out in the standing orders. This is an abuse of the process, and I put to you that you should sit him down and that he should not be heard.

**The PRESIDENT** — Order! The member, in asking the minister to continue the practice, is not making a specific request. Unless the member asks something specific, I will have no option but to call the next speaker.

### **Maryborough hospital: redevelopment**

**Hon. J. A. VOGELS** (Western) — I address my issue, through the Minister for Local Government who is at the table, to the Minister for Health in the other place. It concerns the Maryborough hospital. On Melbourne Cup day in November last year, just prior to

the state election, the then Minister for Health, the Honourable John Thwaites, accompanied by the member for Ripon in the other place and various other supporters, announced with great fanfare that \$9 million would be made available in the next budget to complete stage 2 of the redevelopment of the Maryborough hospital. We all know now this was not true, and what the board and the Maryborough community need to know is whether the state government is still committed to providing the funds needed to complete the Maryborough hospital stage 2 redevelopment and whether it will provide the funds necessary to prepare the tender documentation this financial year. The funds needed are estimated to be \$345 000, which will enable the project to be completed by June 2006, thus achieving completion in the term of this government, as promised.

Will the government also provide the funds needed to complete those works that were included in stage 2 but are essential to stage 1? These funds are for a walkway or link between the new nursing home and the existing facilities, car parking and staff facilities — change rooms, showers, toilets et cetera. The Maryborough community understand they were led up the garden path, but it is essential that funds are made available to complete stage 1, totalling \$215 000, and if stage 2 is to proceed and have any hope of being finished in the life of this Parliament the preparation needs to start on tender documentation this financial year.

### **Melbourne University: peace and reconciliation conference**

**Hon. C. D. HIRSH** (Silvan) — I direct a matter to the attention of the Minister for Aboriginal Affairs, and I ask the Minister for Local Government to pass on this request to the minister. My request concerns a very important conference taking place at the University of Melbourne in July as part of the recognition of the university's 150th year. The conference is titled 'International perspectives on peace and reconciliation'. I am hoping that the minister will find time to attend and address this very important flagship conference.

The conference is being organised by five faculties within the university. I know about it through my membership of the Australian Psychological Society interest group on the prevention of war and the promotion of peace — a group of academics in the psychology department who are very involved in the organisation of this conference. It would be of great benefit to the conference if the minister were able to attend.

In discussing peace and reconciliation, the argument for holding the conference is that peace is, of course, an issue on many people's minds today. There is so much unresolved global and regional conflict threatening peace around the world that it is an important time, the organisers suggest, to explore the potential for peace building and reconciliation. Learning from the successful peacemakers around the world is vital to all our futures.

**Hon. Andrew Brideson** — What do you want the minister to do?

**Hon. C. D. HIRSH** — I want the minister to attend. The opposition interrupting the raising of such an important issue shows the level of interest it has in issues of peace and reconciliation.

The keynote speeches will include key themes of indigenous perspectives on reconciliation — extremely important to this Parliament, certainly this government if not the opposition, and to the people of Victoria — international cooperation for human security; education and training; and peacekeeping, building and making. And there are a range of models — people keeping peace and a series of other important issues.

### **Libraries: funding**

**Hon. D. KOCH** (Western) — I raise a matter directed to the Minister for Local Government about the crisis in library funding that needs urgent attention. The Glenelg Regional Library Corporation provides library services to 40 000 people in south-west Victoria, including four static libraries in the major rural sector of Casterton, Hamilton, Heywood and Portland, plus mobile library services to 16 other small communities.

Putting it simply, library services, including the Glenelg Regional Library Corporation, are not adequately funded to provide the information services needed and expected by the community. The current per capita funding formula does not take into account the needs of smaller communities. Libraries in expanding communities are awarded funding under the Living Libraries program where \$12 million is being spent over three years on modernising public libraries statewide. This is only \$4 million per year — peanuts when you consider there are 257 public libraries throughout Victoria. These funds are dedicated to capital improvements for new and existing library buildings.

The government has not kept up with the consumer price index (CPI) on maintaining public libraries or book stocks — essential costs of running the service

they provide. This coming year the government is allowing an increase of only 2.5 per cent in funding compared to Victoria's current CPI of 3.6 per cent. Meanwhile, local councils are expected to pick up the difference. Originally provided with joint fifty-fifty funding between state and local governments, cost shifting has occurred to the degree that the Bracks government now supports only 27 per cent of the funding, with local government expected to pick up the balance. This is not consistent with the message heralded across regional Victoria at the last election.

While I appreciate that yet another library funding review to adjust the funding formula has been completed, the current situation means that regional library services are now in a dire situation where they have to alienate sections of the reader catchment to survive. Community reactions to this plight are frequent, not only to my office but also with many letters to the regional press, expressing individual and community disappointment at government cutbacks in areas recognised as essential services.

I can assure the minister that any fat that existed has long been trimmed. Will the minister provide an assurance that areas of decreasing population will not be further isolated by this government's fiscal misery and provide increased funding so that adequate access to literature and IT is maintained?

### **Textile, clothing and footwear industry: Productivity Commission inquiry**

**Ms MIKAKOS** (Jika Jika) — I direct my question to the Minister for Local Government for the Minister for Manufacturing and Export in the other place, who is the first dedicated minister for manufacturing in Australia. The Bracks government regards manufacturing as a significant industry in our state, and the matter I raise is one that I regard as of critical importance to Victoria and the northern region of metropolitan Melbourne.

Melbourne's northern region has a significant reliance on the textile, clothing, footwear and leather (TCFL) industry, with approximately 20 000 Victorian jobs in the industry. It is estimated by the National Institute of Economic and Industry Research in its 2003 employment estimates that about 32 per cent of the employment is concentrated in Melbourne's north.

Looking at the figures applicable specifically to my electorate, according to 2001 figures provided by the national institute there are 1861 people living in the City of Darebin who work in the TCFL sector. The corresponding figure for the City of Whittlesea is 1428.

As the minister would be aware, the current freeze on tariff reductions is scheduled to end on 1 January 2005. The Howard government has set up a review by the Productivity Commission on the pretext of further reducing tariff levels post-2005.

I want to quote briefly from Peter Costello's terms of reference for the Productivity Commission, as he has asked the commission to have regard to a number of issues, including to:

Identify policy options, including tariff options, consistent with the government's international obligations, such as those under WTO and APEC, which would encourage the sector to adjust to a more viable and sustainable competitive position.

So we see that Peter Costello's terms of reference have a fixed outcome. There is no way under that term of reference that the commission can possibly recommend that tariff levels remain frozen beyond 2005.

I note that the terms of reference ask the commission to consider Australia's international obligations, such as those under the World Trade Organisation and Asia-Pacific Economic Cooperation; however, there is no mention of considering what level of compliance is being undertaken by our trading partners, who in many cases have industry protection and assistance at much higher levels than Australia. The Productivity Commission's — —

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

### **Police: Belgrave station**

**Hon. A. P. OLEXANDER** (Silvan) — I seek the assistance of the Minister for Police and Emergency Services in the other place. The issue I raise relates to the important promise made to the people in my electorate of Silvan Province and the hills generally about the Belgrave police station.

The Bracks government, the Premier and the Minister for Police and Emergency Services have repeatedly promised a police complex at Belgrave that would be staffed as a 24-hour police station. I quote from an article in the Belgrave *Free Press* on 7 November 2001:

Belgrave will have a new 24-hour police station on the corner of Terrys Avenue and Main Street by early 2003. This was the promise made by Premier Steve Bracks when he visited the Terrys Avenue site last week to announce that the \$3.4 million station would go ahead.

Several paragraphs later in the article the Minister for Police and Emergency Services, André Haermeyer, is

quoted as saying that the new 24-hour police station would house 40 officers.

I have information from police sources indicating that Belgrave has been left short of the government's commitment by two sergeants and six other ranks. Due to this shortfall, Belgrave police will not have the resources to run routine foot patrols or to patrol licensed premises and conduct other activities. They will not have sufficient staff at the station to man it with two members between the hours of 11.00 p.m. and 7.00 a.m. This clearly means that Belgrave police station is not a 24-hour station.

There are other significant problems, such as the fact that the new lock-ups that have been built cannot be used, and any offenders picked up in the Belgrave area or the hills will have to be transported to Knox police station or another station much further away.

I ask the Minister for Police and Emergency Services to clarify for the communities in Belgrave and the hills exactly what the situation is in relation to the manning of Belgrave police station. Are these police sources correct when they say that there are insufficient resources available to open and run the station as a 24-hour service to the community, and if this is so, when will the minister ensure that the promise of a 24-hour police station is fulfilled?

### **Commonwealth Games: environment strategy**

**Mr SCHEFFER** (Monash) — I raise a matter for the Honourable Justin Madden, the Minister for Commonwealth Games. On Friday, 9 May, the minister launched the Commonwealth Games environment strategy in my electorate of Monash Province, and I understand the strategy has been widely acclaimed. The minister has committed the government to implementing the strategy in partnership with community and industry.

One of the key major infrastructure projects for the Commonwealth Games is the Melbourne Sports and Aquatic Centre, which is located in Monash Province. I ask the minister to ensure that communities in the vicinity of MSAC will continue to be consulted through their representatives, as well as local industries and businesses through their representative organisations.

Local residents, businesses and industries will be encouraged by the process so far, a process that saw the release in 2002 of the environmental framework and the eliciting of public input into the development of the environmental focus of the games. I note from the

minister's statement that over 100 written submissions were received and considered.

Of particular interest to people living and working in my electorate is the government's commitment to providing new benchmarks for major events by taking up the challenge of environmental sustainability in staging the games. This means the games will be carbon neutral, low waste and water wise.

The benefits of carbon sequestration through large-scale tree planting, the development of an integrated transport strategy, the installation of renewable energy infrastructure and the reduction of overall energy use within the permanent games village residential infrastructure by 50 per cent compared with average 2002 project homes together with the strategies designed to minimise waste, save and recycle water will be significant and strongly supported by the community. This needs careful monitoring by the minister and consultation with affected groups.

It is encouraging to see that the Melbourne Sports and Aquatic Centre will have site-specific environmental management and waste plans, access to public transport, lockable bicycle points and a range of environment-friendly features such as translucent roofs that save power by using sunlight, natural ventilation, high efficiency lifts and office equipment and the reuse of water for flushing toilets and parkland irrigation, et cetera. In conclusion, I ask the minister to ensure that consultation with the community takes place.

### **National parks: fences**

**Hon. B. W. BISHOP** (North Western) — My adjournment issue is directed to the Minister for Environment in the other place. Many of my constituents live on properties adjacent to national parks and have a great interest in their management, particularly since the disastrous fire in the Big Desert National park.

Further, my constituents have observed Parks Victoria employees pulling down fences within the Wyperfeld National Park and have asked me why Parks Victoria is pre-empting the decision of the government inquiry into the recent bushfires. As we all know, these fires severely damaged private property simply because the fires could not be restrained within the parks — because, many would argue, the fuel load was high due to the management process.

A number of submissions, including that of the National Party, prepared by Mr Hall, recommended various fire management measures in good faith to the

government's inquiry, one of which is controlled grazing in some areas to reduce the fuel load.

While we in the National Party are not being presumptuous in assuming what recommendations will be made following the inquiry, Parks Victoria is treating the exercise with contempt as it is now removing fencing when that could easily have been delayed until after the inquiry's findings were known. After approaches to the local manager in Mildura on this issue I was informed that there would be no change to the operations and that the fences will be removed as a matter of course regardless and in spite of the preceding inquiry.

This is in stark contrast to a response from the Minister for Environment in the other place to a letter I wrote on 4 March this year. He said:

Thank you for your letter of 4 March ... regarding the reduction of fire risk to private property from public land in the Big Desert.

The fire management plan and Mildura fire district fire protection plan is to be renewed as it has reached its 10-year limit. Preliminary work has commenced to have the plan renewed this year and consultation in the renewal of the fire protection plan will involve municipal and regional fire prevention committees, other emergency management agencies, interest groups and individuals. The review process will provide opportunity for the community in North Western Province to provide input.

Rehabilitation works that have been planned for the Big Desert fire are consistent with the code of practice for fire management on public land. Chained down areas adjoining private property along the northern boundary of the Big Desert will have no rehabilitation works conducted and will be burnt as soon as practical and maintained on an ongoing basis consistent with established breaks along the southern boundary of the Big Desert.

This is a reasonable response by the minister on this issue. It further highlights the inability of Parks Victoria to recognise our community's concern. May I suggest it illustrates a real arrogance in treating the consultative process via discussion and written submission with absolute contempt.

Through the minister I would request an immediate halt to the fence removal in Wyperfeld National Park until the results of the submissions on controlled grazing are known within the full report resulting from the current inquiry.

### **Inner Western Region Migrant Resource Centre**

**Hon. S. M. NGUYEN** (Melbourne West) — I would like to raise a matter with the Minister for Aged

Care. It is an important matter relating to services for the western suburbs.

I and hundreds of other people attended a public meeting at Maribyrnong City Council in High Street, Footscray, to protest at the closure of the Inner Western Region Migrant Resource Centre after 22 years of service to the community.

The centre was forced to close with 48 hours notice after the federal Department of Immigration and Multicultural and Indigenous Affairs refused to fund the service in the next financial year. This has left the many thousands of clients who have used the centre in the last 22 years without vital services and 20 staff without jobs. The federal Minister for Citizenship and Multicultural Affairs, Gary Hardgrave, visited the Inner Western Region Migrant Resource Centre on 17 January this year and praised its 'impeccable standard' of service, but he is now refusing to give funding to IWRMRC for the future.

In the past 22 years the IWRMRC has been serving 6000 clients and making more than 20 000 contacts annually. It has provided services, advocacy and policy development to many people in need of settlement support and referral. It has also provided a base and support to more than 135 community groups. Further, the IWRMRC has developed migrant resource centre services in nearby St Albans and Hoppers Crossing.

This issue was raised by the member for Warrandyte in the other place on Thursday of the last sitting week. He did not do anything to help the IWRMRC — rather, he was just attacking the committee of management.

I would like to ask the minister to talk to his counterpart about what service the state government will offer the committee. The federal government has refused to act; we have not heard anything from it yet. I would like the Minister for Aged Care to speak to the Minister for Multicultural Affairs about the future services of the Inner Western Region Migrant Resource Centre.

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

### **Children: medication study**

**Hon. D. McL. DAVIS** (East Yarra) — My contribution to the adjournment debate tonight is for the consideration of the Minister for Health in the other place. It concerns a study conducted by Dr Alissa Lim, a paediatrician, the results of which were given at a Hobart conference of the Royal Australasian College of Physicians. This study was conducted by the Royal Children's Hospital last year and asked parents of

1534 students at 30 different government primary schools about the medication their children had been given in the preceding fortnight.

As the study showed, this is a significant public health issue. Indeed, 62 per cent had used at least one type of medication and 14 per cent had taken at least four different medicines. More than 250 different medications were identified in the study as being over-the-counter medications such as paracetamol, treatment for colds and flu, vitamins, asthma therapies and others. However, only 15 per cent of the medications identified by the study were prescription-only drugs.

I know that the president of the Victorian branch of the Australian Medical Association, Dr Sam Lees, has made comment about this and argued that this is a point of concern. I agree with him and with the conclusion of the study, that a significant amount of over-the-counter and other medication is being used. It seems an extraordinary amount of medication in what you would think was a relatively healthy group in the community.

In that context I seek from the minister some indication as to how she and the government may tackle this issue, whether they are prepared to take some sort of action to investigate the level of medication of this type and what steps the minister plans to take to investigate this. I think this is quite an important issue. There is the issue of the interplay of different medications, and given that we know from this sample that 15 per cent of children in that age group who attend government primary schools are on prescription-only medications, there seems to be a significant issue with the various accessory medications. I believe it is worth while in a public health sense analysing these results to establish which of those medications are helpful and which are not.

### **Aquatic facilities: women-only access**

**Ms ARGONDIZZO** (Templestowe) — I raise a matter for the Minister for Sport and Recreation. I have been approached by two independent groups of women in the Manningham area requesting my assistance in trying to convince Aquarena and the City of Manningham to conduct a trial of women-only swimming time. They would be happy with a trial of a few hours per week at a negotiated time, or perhaps the centre could open specifically for this purpose during a time that it is presently closed. I have not personally had any discussions with the council or Aquarena on this issue but I am happy to follow this up with both the council and the swimming centre.

Of the two groups that have approached me, one is representing women with disabilities and the other is a group of women who prefer to swim in a women-only environment. There are many reasons that women prefer to swim in a women-only environment, and if we are going to encourage health and fitness we should cater for these groups.

I ask the minister if he would willingly receive a submission, either from council or the swimming centre, to assist with a percentage of the start-up costs associated with a trial of this nature.

### **Responses**

**Ms BROAD** (Minister for Local Government) — The Honourable Andrea Coote raised for the attention of the Minister for Aged Care the matter of the safety of pedestrians who are older citizens and asked what criteria are being used for the measurement of pedestrian deaths. I will refer that request to the minister.

Mr Somyurek requested that the Minister for Employment and Youth Affairs in the other place continue the government's record in relation to investment in employment programs, and I will refer that request to the minister.

The Honourable John Vogels requested that the Minister for Health in the other place advise him in relation to the stage 2 development of the Maryborough Hospital, and I will refer that matter to the minister.

The Honourable Carolyn Hirsh requested that the Minister for Aboriginal Affairs consider attending an international conference, and I will refer that request to the minister.

The Honourable David Koch raised for my attention the matter of the Glenelg library and the funding of libraries. I thank him for his advice through the media that he was going to raise this matter with me in the Parliament, which he has now done. In response, I indicate to him that in every year since the Bracks government was elected in 1999 funding to libraries has been increased, and the funding for 2003–04 of \$25.8 million is a record amount for libraries.

The member has said on a number of occasions that historically there has been fifty-fifty funding of libraries between state and local government. I point out to him, since he has not pointed this out himself in communicating this information to the public, that the last time fifty-fifty funding between state and local government applied to libraries was for three years in the late 1970s. Clearly during the years that the Liberal

Party was last in government it did not institute fifty-fifty funding between state and local government. Therefore I point out that his references to funding levels in the late 1970s are hardly relevant to funding support being given today. I would also like to point out that the Glenelg Regional Library received \$34 000 through the books program, and it will receive a grant of \$234 000 in the 2003–04 year, which will mean, given that the population it services is static, that the library will be able to continue its programs.

In relation to the Living Libraries program, which the member also referred to, I point out that a grant of \$400 000 is being applied in the region for the renovation and expansion of the Portland library. In summing up I can say that significant support is being provided to libraries in the member's electorate.

Ms Mikakos raised a matter for the attention of the Minister for Manufacturing and Export in the other place regarding the impact of tariff reductions on the textile, clothing and footwear industry, and I will refer that matter to the minister.

*Honourable members interjecting.*

**Ms BROAD** — I am being very generous tonight. The Honourable Andrew Olexander raised a matter for the attention of the Minister for Police and Emergency Services in the other place in relation to staffing levels at the Belgrave police station, and I will refer that matter to the minister.

Mr Scheffer raised for the attention of the Minister for Commonwealth Games the matter of the environmental focus of the Commonwealth Games and requested that the minister continue to consult with the community in relation to that focus, referring particularly to the sports and aquatic centre.

The Honourable Barry Bishop requested that the Minister for Environment in the other place bring to a halt the removal of fences in Wyperfeld National Park until the conclusion of the inquiry into the fires, in particular the Big Desert fire, and I will refer that request to the minister.

The Honourable Sang Nguyen raised for the attention of the Minister for Aged Care the matter of funding for the Inner Western Region Migrant Resource Centre and requested that the minister discuss funding possibilities with the Minister for Multicultural Affairs in the other place, and I will refer that request to the minister.

The Honourable David Davis requested that the Minister for Health in the other place advise him what action is being undertaken in relation to medication

levels and the impact they have on health outcomes, and I will refer that request to the minister.

Ms Argondizzo requested that the Minister for Sport and Recreation, who is also the Minister for Commonwealth Games, receive a submission from Manningham City Council and a number of organisations in relation to the matter of women-only swimming sessions, and I will refer that request to the minister.

**Motion agreed to.**

**House adjourned 10.39 p.m.**