

**PARLIAMENT OF VICTORIA**

**PARLIAMENTARY DEBATES  
(HANSARD)**

**LEGISLATIVE ASSEMBLY  
FIFTY-FOURTH PARLIAMENT  
FIRST SESSION**

**25 November 1999  
(extract from Book 3)**

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Languiller, Telmo	Sunshine	ALP	Wilson, Ronald Charles	Bennettswood	LP
Leigh, Geoffrey Graeme	Mordialloc	LP	Wynne, Richard William	Richmond	ALP

<sup>1</sup> Resigned 3 November 1999



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**Thursday, 25 November 1999**

The **SPEAKER** (Hon. Alex Andrianopoulos) took the chair at 9.36 a.m. and read the prayer.

## NATIONAL ROAD TRANSPORT COMMISSION

### Annual report

Mr **BATCHELOR** (Minister for Transport) presented report for 1998–99.

Laid on table.

## PAPERS

Laid on table by Clerk:

National Parks Act 1975 — Report on the workings of the Act for the year 1998–99

Premier and Cabinet Department — Report the year 1998–99.

## MEMBERS STATEMENTS

### Small business: survey

Ms **ASHER** (Brighton) — I wish to draw to the attention of the house the Yellow Pages *Small Business Index* put together by the respected economist, Dr John Marsden. If the first economic casualty of this minority government was Victoria's AAA rating being put on hold by the Standard and Poor's ratings agency, its second is the plummeting of small business confidence in Victoria.

The figures in the latest small business index speak for themselves. Business confidence in Victoria was high in February, May and August 1999. In August 54 per cent of small businesses had confidence in the state, but in three short months confidence has plummeted to 45 per cent.

According to that survey, nearly half of all small business proprietors think the election result is a bad outcome for small business.

The survey was taken one month after the election of the minority government. Small businesses were asked for their approval of the state government's policies, and that approval rating slumped 25 percentage points.

## Comet Hill Primary School

Ms **ALLAN** (Bendigo East) — I bring to the attention of the house the performance of students from the Comet Hill Primary School in my electorate of Bendigo East when they participated in the national Tournament of Minds in Adelaide recently. The students were from grades 4 to 6 — two from grade 4, one from grade 5 and four from grade 6. The students who competed in Adelaide were Monique Hooper, Sam Foura, Dylan Stanyer, Michael Darcy, Amy Fisher, Josh Kerr and Tiliesha Booth. I say to those students, congratulations on a job well done!

Seven students per team competed in three different categories — maths/engineering, social science, and language and literature. The teams were given six weeks to work on a project and competed at the local level at La Trobe University. The Comet Hill students won the local level maths/engineering competition; they entered at regional level and two weeks later won the statewide final. That gave them the opportunity to jump on a bus and travel across to Adelaide to compete in the Australian finals.

That was a fine performance by students of a primary school that is situated in a less well-off area of the Bendigo East electorate. The students also performed very well at the national level: they were in the top two or three best teams and did the town proud.

### Schools: Boronia and Upper Ferntree Gully

Mr **McARTHUR** (Monbulk) — I raise a matter on behalf of the Boronia and Upper Ferntree Gully primary schools. The former Department of Education recommended major upgrade works for both schools. The recommendations were accepted by the previous Minister for Education a few months ago when he agreed to provide \$1.85 million to enable the two schools to undertake much-needed capital works to provide better facilities for the staff and students of those schools.

The schools are very well regarded in the Boronia and Upper Ferntree Gully communities. They have strong parental and community support and provide excellent programs for their students. The education department recommended capital works for the upgrades, and I call on the present Minister for Education to ensure that this high priority project is carried out in the interests of the communities of Upper Ferntree Gully and Boronia, in the interests of the students attending the two schools and certainly in the interests of the staff who have to teach there. The funds would provide significant works for classrooms, art and craft rooms and a library at

Boronia Primary School, and for an art and craft room, staffrooms, an administration area and classrooms for Upper Ferntree Gully Primary School. The previous minister promised \$1.2 million for Boronia. I ask the new minister to make that money available.

### Amy Duncan

**Mr LIM** (Clayton) — I wish to pay tribute to one of the most vibrant and dedicated constituents of my electorate, Amy Duncan.

Amy is a woman of real substance who has spent her life fighting against injustice in all its forms, particularly racism and discrimination against women. Her fight against apartheid in her native South Africa resulted in her having to flee to England in 1966.

Since migrating to Australia from the United Kingdom in 1976 Amy has continued her struggle for justice. She is at the forefront of the reconciliation movement, advocating for Australia's indigenous people and attending countless meetings and rallies.

Amy is an active member of many community groups, including the Friends of the ABC, Southern Women's Action Network, Clayton Fitness Centre, Fab 50 and many other groups, particularly women's groups. Amy does not simply attend a meeting and pass motions to make Australia a better place. She used her past professional talents and experience to organise and run a women's health group. She has spent countless hours of voluntary work teaching literacy. Her achievements in teaching literacy were recognised in 1997 when she received the Frank Field Award for the best volunteer teacher of the year in literacy.

In short, Amy Duncan is an example to us all, combining a burning passion and desire for a better society with a vigorous work ethic that would put many members opposite to shame. I particularly pay tribute to her now, knowing that she is caring for her ailing husband, Basyl.

### South Gippsland: planning scheme

**Ms DAVIES** (Gippsland West) — I wish to notify the house that I will give the Minister for Planning copies of a petition signed by 1082 citizens of the Shire of South Gippsland regarding its proposed new planning scheme. The petition is not in a form that can be tabled in the house. It reads:

We the undersigned object to the new planning scheme which places unwarranted restrictions on rural lands containing less than 40 hectares.

We believe this will have an adverse effect on land values in the whole of the shire and as a result will cause an overall increase in shire rates. We believe that the scheme will have a detrimental effect on the commercial and rural sectors of the shire.

We call upon the shire and the minister to amend the proposed planning scheme to encourage (rather than discourage) rural living.

South Gippsland Shire Council has acknowledged the concerns of the signatories to the petition and accepts that clarification of its rural living policy is necessary. Most people now acknowledge that the scheme needs to be approved. I hope that with continued goodwill and consultation we can settle most of the concerns of those residents.

### Non-government schools: integration funds

**Mr VOGELS** (Warrnambool) — The Warrnambool community fully supports the integration of students with disabilities into regular schools. The initiative sits comfortably with the community's basic educational philosophy. However, funding for that initiative in Catholic schools is woefully inadequate, and authorities and people in my electorate continue to raise the matter with me.

The amount available to Catholic schools for children requiring integration is 20 per cent of that available to state schools for similar children. Catholic schools receive \$2500 per student, which compares poorly to the \$12 000 per student allocated to state schools. It is important that students in Catholic schools are not further disadvantaged by the level of funds available for their education.

Will the minister address this as a matter of priority and put a more equitable process in place? Catholic schools educate 33 per cent of children with special needs against an enrolment of 23 per cent of regular students.

### Patricia Cornelius

**Ms DELAHUNTY** (Minister for the Arts) — I congratulate local Northcote writer Patricia Cornelius, who has been offered a special grant from the Arts Development Fund to assist her in the development of her stunning novel, *My Sister Jill*. An independent panel assessing the applications found that the strengths of the artistic concept of the novel and the quality of the writing warranted the development fund grant.

Patricia Cornelius is a well-known and very active writer, playwright and director in the area of Northcote. She well deserves this award and I know that she will use it to great effect. It is also pleasing to me as the

local member that Patricia is being acknowledged in this way not only for her strength as a writer but also for her representation of the thriving arts community in Northcote.

### **Russell Tucker**

**Mr KOTSIRAS** (Bulleen) — On Thursday 18 November in unexpected and tragic circumstances Russell Harold Tucker passed away while working for the Northcote Lions Club. He leaves behind his wife, Joyce, daughters and sons-in-law Glenda and Bruce, Wanda and Earl, Denise and Stephen and grandchildren Clint and Rebecca.

Russell joined the Lions Club in 1964 and during his 35 years as a member was a tireless worker for the club. Russ, as he was better known, was club president in 1991 and 1992 and served as a director for many years. He was chairman of Licola and of the economy shop committee, and donated thousands of hours and considerable amounts of money to the cause of Lionism.

Mr Tucker was a true Lion who lived by the Lion's motto 'We serve'. He will be missed by the Lions Club and he will be missed by the local community. He leaves all members of the Northcote Lions Club, of which I am a member, with enormous sorrow and emptiness. An inspirational and tireless worker, Mr Tucker gave his unswerving loyalty to many communities and charities, including Northcote's multicultural community.

### **Maisie Harper**

**Ms DUNCAN** (Gisborne) — I take this opportunity to highlight some of the achievements of the outstanding people in my electorate. This being the International Year of Older Persons, I recognise in particular the great input older people have in our communities.

I congratulate Maisie Harper of Kyneton, who was honoured in Canberra this month with a Commonwealth Recognition Award for Senior Australians. Maisie has had an amazing life and has dedicated much time and effort to the community to which she belongs. She served with the Australian defence forces as a nurse during World War 2. As a member of the ex-service association Maisie edited the association's newsletter for 25 years. Maisie's work with the Red Cross earned her a service award and a distinguished service award.

In 1971 Maisie became a councillor with the Shire of Kyneton. She served as shire president from 1972 to

1973. For 12 years she represented Kyneton on the sewerage authority and the water board trust.

Maisie Harper has been involved in regional tourism committees, and in 1971 she put her energy into establishing the first Daffodil Festival, Kyneton's annual spring festival which continues today. Maisie was instrumental in establishing Windarring, an organisation in the town of Kyneton that does good work in providing residential housing for the intellectually disabled. She has been active in the historical society — —

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

### **Scoresby freeway**

**Mr WELLS** (Wantirna) — My statement relates to the fear among many people in the outer east that the land which represents the Scoresby freeway reservation will be sold by the minority Labor government. The land reservation stretches from Frankston, through Scoresby, to Ringwood. Whenever one opens a *Melway* street directory one notes it is clearly marked as the proposed Scoresby freeway. The land has been reserved since the early 1960s — almost 40 years ago — when the Bolte Liberal government had such vision that it predicted the outer east would desperately need a north-south freeway.

People fear that the reason the Labor minority government will want to sell the Scoresby freeway reservation land is, firstly, that the government is totally opposed to proceeding with the freeway, which would create employment and investment and would reduce traffic congestion; and secondly, judging from the way the Labor minority government is promising funds for a wide range of issues, the massive surplus left by the Kennett government will be whittled away and the cash-strapped minority Labor government will look at selling the freeway reservation land to prop up its hollow promises.

### **Schools: Dromana**

**Mr DIXON** (Dromana) — My concern relates to school maintenance in my electorate. Some \$1.9 million worth of maintenance is required in 13 schools in my electorate. The Tootgarook Primary School, which is in one of the poorest areas of the state, has \$93 000 of maintenance works remaining. I call upon the minority government, over the next two years, to address that maintenance backlog. The schools in my electorate waited patiently as the more urgent cases left

over from the previous Labor government were met — —

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

## WATER (WATERWAY MANAGEMENT TARIFFS) BILL

### *Second reading*

**Ms GARBUTT** (Minister for Environment and Conservation) — I move:

That this bill be now read a second time.

Catchment management authorities were formally established in 1998, when the Water Act 1989 and the Catchment and Land Protection Act 1994 were amended to combine the roles of existing catchment and land protection boards and waterway management authorities. Catchment and land protection boards were regionally based advisory bodies that made recommendations on land management issues such as erosion control and weed management. Waterway management authorities were authorities established under part 10 of the Water Act and provided services such as building and management of levee banks and the management of drainage schemes.

Catchment management authorities were able to draw on the powers available under the Water Act to set rates across their respective catchment regions, which were defined to be their waterway management districts. As a result, all but two catchment management authorities chose to set a charge applying to all rateable properties within their regions — effectively a completely new tax imposed on Victorians outside the metropolitan area.

This government recognises the importance of healthy catchments to both the environmental and economic wellbeing of the state. In recent weeks salinity and other problems associated with the degradation of catchments have again been identified as being the major land use issue facing governments and landowners in Australia. In Victoria we are facing every year the problem of algal blooms in the Gippsland Lakes system because of land management issues in the catchments which feed the system. We are all aware of the plight of the Snowy system, with flows diverted to other uses which, in their time, were seen to override completely the competing use of environmental flows for the river system. We know now that questions of catchment health are more complex and more difficult to resolve than anyone dreamed earlier in this century.

It is because this government is committed to healthy catchments and waterways in Victoria that it believes the catchment management levy must be abolished. Funding for catchment health should be provided from whole-of-government funds, not from levies imposed on local communities. It is the responsibility of government to set the strategic direction for catchment management in Victoria, recognising also that some of the issues of catchment management must be resolved in cooperation with other states.

The government will work in partnership with local communities in promoting and managing the benefits of catchment health. It recognises that there are issues on which the best advice will be drawn from local communities and that they need to have involvement in the decisions that will affect them. However, the work of local communities needs to be clearly connected to wider statewide strategies and funding priorities.

The work of waterway management bodies in providing drainage and waterway services to local communities is recognised by the government and the continuation of this work is provided for in the bill before the house. However, the government is committed to ensuring that only those services which can be demonstrated to be of specific local benefit will be funded through tariffs set in this way. The bill ensures that a tariff may only be set in respect of properties to which a direct service is provided.

I can advise the house that using my powers as minister administering the Water Act I have advised catchment management authorities of my intention to issue a direction that they are to suspend the proposed catchment management levy for the current financial year. The government has undertaken to provide funding to support the continued work of the authorities and discussions are taking place with each authority to determine its works priorities for the remainder of the financial year.

In appearing before the Public Accounts and Estimates Committee during the last Parliament, the then minister advised that the catchment management levy contributed only around 10 per cent of the total amount spent on catchment management services, with the remainder being provided through the Department of Natural Resources and Environment and from commonwealth funding through the National Heritage Trust. The reason advanced for the levy by the then minister was that, although the contribution was small, it 'gave the community some ownership of those programs'. This government does not believe it is necessary to impose a tax in order to confer community ownership.

Ownership comes from genuine consultation and understanding and this government is committed to ensuring that that takes place.

The bill also provides power for revenue already collected from this year's assessments to be refunded, in order to ensure that the benefits of the government's decision apply across the state.

The government has made a commitment to further consider the role and accountabilities of catchment management authorities. I will be consulting at a later date on how best the requirements of catchment health can be met by partnership between government and local communities. As a tangible financial symbol of the government's desire to fulfil its commitments to the people of Victoria, I have pleasure in introducing this measure to remove the catchment management levy.

I commend the bill to the house.

**Debate adjourned on motion of Dr NAPHTHINE (Leader of the Opposition).**

**Debate adjourned until Thursday, 9 December.**

## **PUBLIC PROSECUTIONS (AMENDMENT) BILL**

### *Second reading*

**Mr HULLS (Attorney-General) — I move:**

That this bill be now read a second time.

In Victoria the position of Director of Public Prosecutions was created by the Director of Public Prosecutions Act in 1982. Up until then, prosecutions for indictable offences were handled by the Criminal Law Branch of the Crown Solicitor's Office. Presentments were signed by the Attorney-General, the Solicitor-General or Prosecutors for the Queen.

As Mr Ian Cathie said in his second-reading speech, on behalf of Mr John Cain who was the Attorney-General at that time, a major aim of the Director of Public Prosecutions Act 1982 was:

... to remove any suggestion that prosecutions in this state or, indeed, the failure to launch prosecutions can be the subject of political pressure.

The Director of Public Prosecutions Act 1982 achieved this aim by establishing the DPP as an independent prosecuting authority whose salary and conditions of employment are equivalent to a Supreme Court judge and who can only be removed from office by a resolution of both houses of Parliament.

In 1994 the Director of Public Prosecutions Act 1982 was repealed and replaced by the current Public Prosecutions Act. Members in this house may recall the circumstances at that time.

In particular, they may recall that the enactment of the Public Prosecutions Act followed indications that the then Director of Public Prosecutions, Mr Bernard Bongiorno, QC, was considering initiating contempt of court proceedings against the Premier at that time, Mr Jeff Kennett, for comments that Mr Kennett had made following the arrest of an alleged serial killer. The new Public Prosecutions Act contained a provision, section 46, stating that — with limited exceptions — only the Attorney-General may initiate such proceedings.

Section 46 was the subject of extensive debate in this house. In the course of that debate the then Attorney-General, Mrs Jan Wade, appears to have relied upon two arguments in favour of section 46.

Her first argument was that contempt proceedings are unusual in that they raise wider issues than other proceedings. They involve a balancing between the need for a fair trial, which could be jeopardised by publication of certain prejudicial material; and the right to freedom of speech. It was suggested that the Attorney-General, rather than the DPP, is in a better position to strike this balance.

In the government's view it would be wrong to suggest that the DPP is unable to properly perform such a task. Clearly a decision to prosecute for contempt in such circumstances involves a consideration of the public interest; but so do many other decisions to prosecute in relation to other offences.

The former Attorney-General's second argument in favour of section 46 was that, since most contempt proceedings are brought against third parties to ensure that the defendant receives a fair trial, it is wrong for the DPP to be responsible for prosecuting the defendant while at the same time also being responsible for ensuring that the defendant's trial is fair by deciding whether or not to bring contempt proceedings against third parties.

The government rejects that argument on three grounds.

Firstly, without any foundation the argument assumes that the DPP would disregard his or her duties under the Public Prosecutions Act and under the prosecutorial guidelines. Secondly, if the DPP considers that he or she does face a conflict of interest in such a case, the Public Prosecutions Act enables the DPP to refer the case to the Attorney-General. Finally, it has to be

remembered that the DPP is not the only person who can bring contempt proceedings. So even if a DPP did disregard his or her duties by deciding not to refer the matter to the Attorney-General and by deciding for tactical reasons not to bring contempt proceedings, it would still be possible for the Attorney-General — or for that matter the defendant — to bring the contempt proceedings anyway.

This brings me to another aspect of section 46 that was not debated by Parliament at all when it was introduced. Section 46 not only removed the right of the DPP to bring contempt proceedings, it also substantially reduced the common-law right of ordinary people to bring contempt proceedings. This aspect of section 46 was highlighted in 1995 when a group of Papua New Guinean villagers tried to bring contempt proceedings against BHP regarding its behaviour during a case brought by the villagers against BHP in the Supreme Court of Victoria. The Supreme Court found that BHP had committed a contempt, but when the case was appealed to the Court of Appeal it was found that section 46 had removed the villagers' right to bring the contempt proceedings at all.

The bill before the house repeals section 46. In so doing, it expressly revives the common law with regard to the bringing of contempt proceedings that applied in Victoria before section 46 came into force on 1 July 1994.

The bill also strengthens the independence of the position of Director of Public Prosecutions by in effect transferring the provisions dealing with the appointment of the DPP and the terms and conditions of that appointment from the Public Prosecutions Act to the Constitution Act 1975. Clause 10 of the bill entrenches those provisions in the Constitution Act so that in future they may only be repealed or amended by a bill passed by an absolute majority of members in each house of Parliament. The transitional provisions in the bill ensure that the present incumbent, Mr Geoff Flatman, QC, retains his position as DPP on the same terms and conditions.

The bill substantially enhances the independence of prosecutorial decision making in Victoria from governmental or political interference and in so doing it implements a key election policy.

The bill represents an important component of this government's strategy to promote open and accountable government in Victoria.

I commend the bill to the house.

**Debate adjourned on motion of Dr DEAN (Berwick).**

**Debate adjourned until Thursday, 9 December.**

## MELBOURNE SPORTS AND AQUATIC CENTRE (AMENDMENT) BILL

*Second reading*

**Mr PANDAZOPOULOS** (Minister for Major Projects and Tourism) — I move:

That this bill be now read a second time.

The purpose of the bill is to amend the Melbourne Sports and Aquatic Centre Act 1994 to rename the Melbourne Sports and Aquatic Centre Trust and extend the functions of the trust to manage the State Netball and Hockey Centre and, potentially, other sports, recreation and entertainment facilities and services.

The Melbourne Sports and Aquatic Centre Act 1994 created the Melbourne Sports and Aquatic Centre Trust, whose functions were to oversee the design, construction and operation of the Melbourne Sports and Aquatic Centre at Albert Park.

The trust is recognised by both the public and the industry as highly capable in facility management. The trust delivered the construction and commissioning of its primary facility on time and on budget. Since opening, that facility has exceeded operational targets and attendance projections for both major sporting events and the general public.

The trust has considerable facility management experience which may be better utilised by the state. The bill will establish a framework to permit the involvement of the trust in the development and management of the State Netball and Hockey Centre and, subject to the approval of the minister, other key sports, recreation and entertainment facilities and services, should this be appropriate at some future time.

The trust has a strong record in community consultation in Albert Park, in conjunction with the City of Port Phillip, and has achieved an excellent balance between elite sports, including events, grassroots sport and community recreation programs at the Melbourne Sports and Aquatic Centre.

The development of the State Netball and Hockey Centre in Royal Park is a key element in Melbourne's ability to stage major sporting events such as the 2002 World Masters Games and the 2006 Commonwealth Games as well as state and national sporting competitions.

Importantly, an estimated 270 000 people will utilise the redeveloped Royal Park facilities each year, more than 90 per cent of whom are involved in club level activities. The trust will work closely with tenant sports, the Royal Melbourne Zoological Gardens and the City of Melbourne, to ensure a coordinated approach to event scheduling, car parking and traffic management within Royal Park.

The bill expands the responsibilities of the Melbourne Sports and Aquatic Centre Trust and amends its name to the State Sport Centres Trust, with powers to manage the State Netball and Hockey Centre and to carry out functions at other locations in addition to Albert Park and Royal Park.

The bill will enable the trust to undertake management responsibilities at the State Netball and Hockey Centre, including facility design, fit-out and refurbishments, the development of operational systems, negotiation of licence and lease agreements with principal user groups and the power to make by-laws with respect to entry fees and charges.

The government is sensitive to the range of stakeholder interests in and around Royal Park. To provide an ongoing consultative framework, the bill provides for the establishment of an operational advisory committee incorporating representatives of the trust, the City of Melbourne, the Zoological Parks and Gardens Board and other interested parties for regular consultation on issues of shared concern.

Aside from management responsibilities, the bill contains a range of administrative changes and housekeeping matters which will contribute to the effective management of the centre. These changes include —

the conclusion of the committee of management of the centre once the act is proclaimed;

the establishment of a single fund with two separate accounts to reflect the financial performance of each facility;

the establishment of separate business plans for each facility for the approval of government.

The proposed expanded powers of the trust are consistent with those currently available to the Melbourne and Olympic Parks Trust. The carrying out of those functions and exercise of those powers are to be subject to the prior approval of the minister.

Tenant sports netball and hockey will still retain a great deal of autonomy in the conduct of competition and

programs, with the trust value adding to increase broader access and oversee the maintenance and control of a significant government investment.

The bill furthers the government's commitment to supporting the development and professional management of public sport, recreation and entertainment facilities and is consistent with the government's policy objectives for building Victoria's sporting life.

I commend the bill to the house.

**Debate adjourned on motion of Mr CLARK (Box Hill).**

**Debate adjourned until Thursday, 9 December.**

## FEDERAL COURTS (STATE JURISDICTION) BILL

### *Second reading*

**Mr HULLS (Attorney-General) — I move:**

That this bill be now read a second time.

### **Introduction**

The Federal Courts (State Jurisdiction) Bill is the government's legislative response to the High Court's decision in *re Wakim*, which struck down the cross-vesting of state jurisdiction in federal courts.

The High Court in *re Wakim* considered the validity of certain provisions of the commonwealth Corporations Act 1989 and the commonwealth Jurisdiction of Courts (Cross-Vesting) Act 1987 and the related provisions of the state corporations acts and Jurisdiction of Courts (Cross-Vesting) Act. These statutes collectively provide for the cross-vesting of jurisdiction between federal, state and territory courts.

The majority of the High Court found that the vesting of state jurisdiction in federal courts is ineffective. The decision impacts on the general cross-vesting scheme introduced by the commonwealth and state jurisdiction of courts cross-vesting acts under which state and federal courts have reciprocal jurisdiction. Also affected is the jurisdiction of the Federal Court under the Corporations Law, which operates throughout Australia as state and territory laws, and which is reliant on cross-vesting arrangements. In addition, other state laws associated with commonwealth–state cooperative schemes apply certain federal laws as state law and also confer jurisdiction on the Federal Court. These cooperative schemes include the agriculture and

veterinary chemicals scheme, competition policy scheme, gas pipelines access scheme, National Crime Authority scheme and the price exploitation scheme associated with the federal government's GST. All these schemes are affected by the decision in *re Wakim*.

The effect of the High Court's decision is to render decisions previously made by the Federal Court and the Family Court relying purely on cross-vesting arrangements liable to be set aside for want of jurisdiction. Another effect is to prevent the further exercise of purely state jurisdiction by federal courts.

On the other hand, the cross-vesting of jurisdiction between state and state and territory is not affected. Nor is the vesting of federal jurisdiction in state courts under the commonwealth Judiciary Act 1903. Similarly, the decision does not affect the exercise by a federal court of accrued jurisdiction, where the court has jurisdiction to resolve a whole controversy containing both federal and state law elements.

### Description of the bill

The bill was developed under the auspices of the Standing Committee of Attorneys-General by state and territory parliamentary counsel and Solicitors-General over a lengthy period leading up to the High Court's decision.

The main features of the bill are:

the rights and liabilities of persons affected by invalid decisions of the federal and family courts — 'federal courts' — are declared to be the same as if those decisions had been valid Supreme Court decisions;

invalid judgments of federal courts can be enforced in the same way as Supreme Court judgments; and

matters on foot in the federal courts can be dealt with as though they had commenced in the Supreme Court.

The bill declares that in relation to state matters as defined, the rights and liabilities of a person affected by a judgment of the Federal Court or the Family Court, including an appeal judgment of one of those courts, are the same as if the judgment had been a valid judgment given by the Supreme Court. The bill specifically provides that such rights and liabilities are exercisable and enforceable as if they were rights and liabilities under judgments of the Supreme Court. Similarly, any acts or omissions in relation to such

rights and liabilities are taken to have the same effect and consequences as if occurring under a judgment of the Supreme Court. The Supreme Court is also given power to vary or otherwise deal with any such rights and liabilities.

The bill provides a mechanism for the transfer to the Supreme Court of current proceedings in federal courts relating to state matters where a federal court determines that it has no jurisdiction to hear the state matter.

The High Court decision was handed down on 17 June 1999. The previous government released a version of the bill for consultation and a number of substantial submissions were received from legal and other bodies and individuals relating to the bill. Some changes have been made to the bill in consequence of those submissions. I thank all those bodies and members of the public who made submissions with regard to the bill.

The bill contains consequential amendments designed to remove exclusions of the jurisdiction of the Supreme Court appearing in the Competition Policy Reform (Victoria) Act 1995 and the New Tax System Price Exploitation Code (Victoria) Act 1999. Those exclusions cannot stand now that the Federal Court is unable to hear matters arising under those acts.

It is shortly proposed to finalise a bill containing the remaining consequential amendments to affected acts, including the Corporations (Victoria) Act 1990. The reason for the delay in finalising these less urgent amendments is that commonwealth provisions, which need to be taken into account, are still under discussion.

### Section 85 statement

It is the intention of part 2 of the bill to alter or vary section 85 of the Constitution Act 1975. I therefore make the following statement under section 85(5) of the Constitution Act of the reasons for altering or varying that section.

This is very much a technical provision inserted out of an abundance of caution, and not one that should alarm those members concerned to protect the jurisdiction of the Supreme Court.

Part 2 of the bill does not in terms deem invalid judgments of federal courts to be judgments of the Supreme Court. Rather, what the bill does in clause 6 is

to declare the rights and liabilities of all persons to be the same as if the invalid judgment had been a valid judgment of the Supreme Court. That course has been adopted very deliberately to minimise the potential for challenge to the bill on constitutional grounds. Nevertheless, for technical reasons clause 7 provides that, for the purposes of an appeal, an invalid federal court judgment is to be deemed to be a valid judgment of the Supreme Court. Arguably, this deeming mechanism alters the jurisdiction of the Supreme Court by creating by a legal fiction a judgment of the Supreme Court where previously there had been none.

To take another example, clause 12 provides for functional equivalence between an invalid federal court judgment and an order of the Supreme Court for the purposes of the law of contempt. It might be argued that by doing so, the clause takes away from the Supreme Court's discretion by presenting the Supreme Court with a legal fiction that it must treat similarly to one of its own orders. There might be similar arguments made about other clauses contained within part 2.

To the extent that part 2 alters or amends section 85 of the Constitution Act, it does so purely for the purpose of making better provision for dealing with ineffective judgments of federal courts. Absent the bill, many decisions of the Federal Court and the Family Court given over a period of more than 10 years would be liable to be set aside. Such cases would need to be relitigated, with all the attendant expense and, in some cases, misery, that that might entail. Many litigants would find themselves out of time if forced to recommence litigation in the Supreme Court. The bill deals with this problem both for matters already heard and for matters that are still on foot. The minor and theoretical variation in the jurisdiction of the Supreme Court, in the government's view, is amply justified by the mischief that would be caused by failing to pass the bill.

### Conclusion

This bill will restore certainty to the legal process that has been lacking since the High Court handed down its decision in June of this year. The legal profession, business groups and others have repeatedly called for the legislation to be passed without delay in the strongest possible terms.

The Standing Committee of Attorneys-General is also investigating possible ways to restore the status quo that existed before the High Court's decision. As members will appreciate, there are difficult constitutional and

policy issues involved. There may be call to bring further legislation before this house in this regard in the medium term.

The bill has now been enacted in similar form in the other five states. Passage will put in place the last piece of the jigsaw in terms of the immediate legislative response by the states to the decision.

I commend the bill to the house.

**Debate adjourned on motion of Dr DEAN (Berwick).**

**Dr DEAN (Berwick)** — I move:

That the debate be adjourned for one week.

It is true that the opposition is agreeing — —

**The SPEAKER** — Order! On the question of time.

**Dr DEAN** — On the question of time, it is important to make the point that this is possibly the fourth occasion on which the opposition has been asked to reduce the time of the adjournment from two weeks to one week. One does not have to think back too far to when the government was in opposition and was making all sorts of accusations about short times for debating bills.

While it is true that the opposition is bending over backwards to try to accommodate the government's legislative program, it is bordering on the hypocritical for the government to be constantly asking the opposition to make concessions. The opposition will do so on this occasion but it makes the point.

**Motion agreed to and debate adjourned until Thursday, 2 December.**

### AUDIT (AMENDMENT) BILL

**Opposition amendments circulated by Dr NAPHTHINE (Leader of the Opposition) pursuant to sessional orders.**

*Second reading*

**Debate resumed from 11 November; motion of Mr BRACKS (Premier).**

**Dr NAPHTHINE (Leader of the Opposition)** — I have asked that the amendments be circulated at the start of the debate because the opposition believes they will significantly add to the legislation to provide for a strong and independent Auditor-General to oversee the interests of all Victorians.

In the interest of cooperation between all parties the amendments have already been discussed in briefings with the three Independent members and last night with the Premier and his advisers, at the request of the Premier. It would be inappropriate for honourable members not to treat the debate seriously and in a constructive way, given that the opposition leadership has, by circulating the amendments and discussing them in an open and frank way with the Independents and with the Premier and his advisers, clearly demonstrated its position of establishing a vigorous and independent Auditor-General's office in the interests of Victorians. It would be churlish of honourable members if they sought to take cheap political points or turned the debate into a point-scoring exercise. In the recent state election and in subsequent events since the election, Victorians have called for the Parliament to be a bit bigger than that. This is a real opportunity for honourable members to achieve that.

I notice again with some disappointment that the Premier is not in the chamber to listen to the debate. Earlier this week I raised this point during the debate on the Essential Services (Year 2000) Bill, for which the Premier is the responsible minister. During the debate the Premier did not attend the house to hear the opposition lead speaker. He did not attend much at all during the debate on that significant bill, which shows an abrogation by the Premier of his responsibility to the Parliament. The prime responsibility of the Premier, and of any minister, is in the Parliament, particularly when bills for which they are responsible are being debated.

For all the criticism of the previous government that was made by the current government when in opposition, I suggest a check of *Hansard* will show that the previous government had as a high priority the requirement that all ministers did their duty and were present in the chamber to participate fully in parliamentary debates, particularly on issues for which they were responsible. It is important that the Premier be in the house to hear the debate. Some minutes ago the Premier indicated to me from across the chamber that he had other commitments but hoped to spend some time in the chamber later. I accept what he told me, but I suggest to you, Mr Speaker, to the Premier and to Victorians, that the prime responsibility of any minister is to his or her legislation before the Parliament. That responsibility should be placed ahead of meetings with former federal Labor minister Graham Richardson or anyone else. It is clearly the responsibility of the Premier to be here for the debate on this bill.

The bill is not the sort of legislation that is just going through the motions, or that is perfunctory legislation. It is fundamental legislation that the Premier went to the people with during the election campaign. It is legislation that he was committed to in terms of open and accountable government. An essential part of open and accountable government is the effective operation of the Parliament. In open and accountable government it is paramount that there be effective debate in the Parliament on those issues. The first responsibility for any Premier or minister is to participate in that parliamentary process. This is the house of the people. This is what we were elected to do and this is where the debates should take place. This is where the decisions are being made and where the government and the ministers responsible for legislation should be to actively participate in the debates.

As I said, the opposition has 44 amendments to the proposed legislation, a significant number. I will deal with each amendment and explain why the opposition is moving them.

In summary, the opposition amendments reflect the strongly presented views of the Liberal and the National parties in their response to the Independents charter following the last state election. We have made it clear that we are committed as two parties and as a partnership to a strong and independent Auditor-General. We will be proposing the amendments in this house and, if necessary, each and every one of the amendments will be proposed in the other house because we believe they significantly add to the legislation. The proposed amendments will not substantially alter the general thrust of the legislation as agreed by all parties with respect to the response to the Independents charter. As I deal with each amendment honourable members will see that they add value to the general shape and form of the legislation.

The position of the Auditor-General in Victoria has a long and well-established tradition. The day the colony of Victoria was proclaimed on 1 July, 1851 Mr Charles Ebdon was appointed to the Legislative Council as the first Auditor-General at a salary of £600, or about \$1200 in today's currency. It is interesting to note that he was appointed to the Legislative Council in that Auditor-General's role. His role was to audit the costs, charges and expenses incurred in the collection, maintenance and receipt of revenue under the direction of the United Kingdom Parliament. In 1851 the Auditor-General's office consisted of one chief clerk, one third-class clerk, two extra clerks, a messenger and a housekeeper, so obviously they were fully equipped to do their task.

In 1857 the position of Auditor-General was replaced by a group of three commissioners of audit under the act of Parliament setting out the basis of public accounting sector auditing. In 1901 with Federation and the creation of Victoria as a state came the new Audit Act which re-established the position of the Auditor-General rather than the commissioners of audit and emphasised his independence. The act also confirmed that the duties and responsibilities of the Auditor-General were to perform on the Parliament's behalf. At the turn of the last century the office had 59 staff who audited \$200 million worth of government expenditure. On the eve of the next century we are not sure what staff the Auditor-General's office will have, but the government expenditure in terms of government agencies will well exceed \$20 billion. Since the establishment of the office under Charles Ebden in 1851, there have been 24 auditors. Mr Wayne Cameron is the 24th Auditor-General of Victoria.

The Victorian Auditor-General's Office plays a significant role in providing to Parliament and to the executive government independent and objective reports containing information on the adequacy of financial and resource management systems to public sector organisations. Although the reports often contain suggestions for corrective action, it is the prerogative of the Parliament and the executive government to act on the Auditor-General's recommendations as they see fit. It is clear that the Auditor-General's role is to report and make suggestions or recommendations. Clearly the Auditor-General does not have a role in directing the executive government or the Parliament on how to respond.

Currently, the Auditor-General presents four types of reports to the Parliament each year: a report on the Victorian government's finances, generally during the spring session of Parliament; a report on ministerial portfolios, generally during the autumn session of Parliament; special reports on individual performance audits, and a number are generally tabled each year in the Parliament; and an annual report of the Auditor-General's office, and that annual report was tabled on Tuesday this week.

There are fundamentally two types of reports the Auditor-General undertakes: financial audits and performance audits. The purpose of a financial audit is to add credibility to the financial statements made by the expression of an opinion on those financial statements. The Auditor-General's opinion provides an independent assurance to Parliament and the community that the information in the financial statements of public sector entities is presented fairly.

The Auditor-General's office refers to the fact that one of its roles is to ensure such information is presented fairly and in accordance with Australian accounting standards. It is interesting to note that although the Auditor-General recognises that it is the responsibility of his office to present reports in accordance with those standards, the bill introduced by the Bracks Labor government proposes to delete any reference in his role to the Australian accounting standards.

Financial auditing covers the audit of the government's consolidated financial statements under the authority of the Financial Management Act, and the audit of 540 public sector agencies in accordance with the current Audit Act, including examinations for compliance with legislation and government regulations.

Performance audits are conducted by the Auditor-General's office, or by contractors on its behalf, to determine whether public sector agencies are achieving their objectives effectively, economically, efficiently and in compliance with relevant legislation.

In an explanatory note on its web site the Auditor-General's office describes the various aspects of those financial audits as follows:

Economy is defined as the acquisition of the appropriate quality and quantity of financial, human and physical resources at the appropriate times and at the lowest cost ...

In other words, the office determines whether there are cost savings to be made in the way that a certain action of the government or a government agency is done — that is, whether it is being done in the most economical way possible. The document continues:

Efficiency is defined as making sure that the maximum useful output is gained for any given set of financial, human or physical resource inputs, or is minimised for any given quantity and quality of output provided ...

In other words: is the money being spent in an economic way? Is it being spent well? The document further states:

Effectiveness is defined as the achievement of the objectives or other intended results of programs, operations or activities, i.e. spending wisely.

The area of performance audits has often caused controversy, particularly with the government of the day. I recall the performance audits conducted under the former Cain-Kirner government. Former Premier Joan Kirner and her ministers attacked the Auditor-General over the operation of performance audits, because by contrast to financial audits, which are, with due respect, about numbers and concrete

analysis, performance audits often require a certain degree of subjective opinion. I can understand why, when the Auditor-General or contractors on his or her behalf are looking at areas to determine whether spending is being done as efficiently and effectively as possible and whether programs goals are being achieved, such performance audits will often be the cause of conflict between the Auditor-General's office and the government of the day.

The bill contains a number of changes that are certainly worth considering, discussing and putting into context. The most significant changes are as follows.

Firstly, the independence of the Auditor-General's office is to be enshrined in Victoria's constitution by the amendment of part V of the Constitution Act to insert new provisions encompassing the appointment, independence and tenure of the Auditor-General. It is interesting to consider whether this is a significant change from the current situation. Apart from a few areas, some of which will be the subject of opposition amendments, the government has removed the provisions in the current Audit Act and put them in the Constitution Act. The government has accepted the changes made by the previous government establishing the Auditor-General as an independent officer of Parliament, because the process for establishing the Auditor-General as an independent officer of Parliament was achieved by amendments to the existing Audit Act made by the previous government. In the bill the new government is for the most part merely picking those up and putting them in the Constitution Act.

Some people might say that moving those provisions into the Constitution Act provides the Auditor-General's office with greater protection from future governments and changes. However, as you and most honourable members would know, Madam Deputy Speaker — unfortunately the wider community often does not understand — the Victorian Constitution Act is an act of the Victorian Parliament and can be amended by a bill that is passed by both houses of Parliament. Any incoming government could do it, and it would require no reference to a plebiscite of the people or a referendum.

Moving the provisions that provide for the independence of the Auditor-General as an independent officer of the Parliament out of the Audit Act into the Constitution Act probably gives them no greater significance or protection in any way, shape or form. It is merely a symbolic move. The government cannot claim any greater protection for the Auditor-General by doing that.

Secondly, the Audit (Amendment) Act 1997 is being repealed. Again that is a symbolic move rather than anything of substance. It is being done because it was an issue raised by the Independents in their charter and was bandied around in the community over the past 18 months in respect of a number of issues. When it was passed by Parliament that act amended the Audit Act to incorporate into the Audit Act the amending provisions. Abolishing the 1997 amendment is simply getting rid of a piece of redundant legislation. The effect of in respect of changes in the operation of the Auditor-General's office is to incorporate those changes in the Audit Act. Repealing the 1997 act is useful in ridding the statute books of redundant legislation, but it has no effect on the operation of the Auditor-General's office or the operation of Parliament.

Thirdly, there is the reintroduction of the ability of the Auditor-General to conduct financial and performance audits in his or her own right and the provision of the resources necessary to do that. That is being done largely by the abolition of Audit Victoria and replacing it with the re-established Auditor-General's office.

I make it clear that the opposition supports that change and will continue to support it in the house during the passage of the bill, as it did in its response to the Independents charter. The opposition has also made it clear to the community that it supports the change.

However proposed new section 7E, which is inserted by clause 9, states:

The Auditor-General may engage any person or firm under contract to assist in the performance of any function of the Auditor-General.

The legislation introduced by the Bracks Labor government provides that the Auditor-General may contract out any or all of his or her work. The opposition agrees with that provision. The previous Auditor-General contracted out a large amount of his work — about 70 per cent — to audit firms and major accounting firms. The opposition expects that under the new provisions the new Auditor-General will contract out a significant percentage of his work.

It may be that the new Auditor-General, who comes from New Zealand, where a large amount of audit work is contracted out, may even increase the percentage of Victorian work that is contracted out. I strongly suggest to the new Auditor-General that he look at using the expertise of the major accounting firms to do audit work and, in particular, to conduct performance audits that traditionally have not been contracted out as much as they should have been. He should consider a further contracting out in that area.

The former Cain and Kirner governments criticised the number of performance audits conducted. Under the Kennett administration also there was at times some disquiet about and criticism of the effectiveness and credibility of some of the performance audits done by the Auditor-General's office. That situation can be improved if the Auditor-General contracts out a number of performance audits so that people with the appropriate expertise and skills can be involved in the audits, many of which involve the use of a broader range of skills than are often available among the staff of the Auditor-General's office.

The staff of the Auditor-General generally have a background in economics and accounting and have expertise in financial auditing. Rather than using their skills to conduct performance audits across a range of areas of government and government agency activities — which are fundamentally value-for-money audits where the effectiveness of a range of programs such as kindergarten, child protection, disability, transport and road-building services must be assessed — it may be better and lead to more effective performance audits if people with particular expertise in some of those areas were involved in the audit teams.

The Auditor-General may use the provisions in proposed new section 7E to contract out much of that work in the future. The opposition supports the provision that allows for work to be contracted out. The Auditor-General should have the power to do that.

Other changes in the bill relate to the appointment of the Auditor-General. His or her appointment is still to be made by the Governor in Council. However, the bill provides that any appointment will be on the recommendation of the Public Accounts and Estimates Committee. The opposition supports that productive and positive change.

At the beginning of each financial year the Auditor-General will be required to present to the Public Accounts and Estimates Committee an annual plan detailing the proposed work plan. The opposition's proposed amendments contain suggestions on how that process can be improved and enhanced, and how Parliament can be involved, particularly in receiving an annual plan before the commencement of the financial year to which the plan relates. The opposition's suggestion, if accepted, would significantly enhance that process.

In summary, the opposition supports the general thrust of the bill in that Victoria should have an independent and effective Auditor-General. The bill can be improved and enhanced through the opposition's

amendments, which I now propose to go through to outline the purpose of each one and explain to the house what it seeks to achieve.

The first proposed amendment is simple. The bill largely picks up the provisions about the independence of the Auditor-General now contained in the Audit Act and places them into the Constitution Act. However, the opposition's first amendment about the independence of the Auditor-General relates to part of a subsection which, for some reason not effectively explained to the opposition, has been deleted in the pick-up process. I refer to section 4A(6) of the Audit Act, which states:

Subject to this Act and to other laws of the State, the Auditor-General has complete discretion in the performance of his or her functions or powers —

That provision is picked up in the bill. However, the section in the Audit Act further states:

and, in particular, is not subject to direction from anyone in relation to —

- (a) whether or not a particular audit is to be conducted;
- (b) the way in which a particular audit is to be conducted;
- (c) the priority to be given to any particular matter.

Those three provisions add value to the subsection, and are the basis on which the opposition's amendment 1 has been prepared.

Amendments 2 to 9 relate to the way in which the Auditor-General may be dismissed. The opposition hopes such an issue will never arise, but a situation may arise in which the Auditor-General comes under scrutiny. The legislation contains provisions to allow for the dismissal of the Auditor-General. The opposition is trying to improve the process.

The principal aim is for the Auditor-General to be an independent officer of Parliament; both sides of the house agree with that. That intention was established by the former government with its amendments to the Audit Act in 1997, because honourable members may recall that before that time the Auditor-General was an officer within the Department of Premier and Cabinet. The previous government said that arrangement was inappropriate or inadequate, and that the Auditor-General should be an independent officer of Parliament. The legislation says that situation should be governed by the Constitution Act rather than the Audit Act; I fully canvassed that issue earlier.

Another issue concerns tenure of office. The bill provides that the only way the Auditor-General can be

dismissed, if it is perceived that the Auditor-General is not performing his or her tasks or should be dismissed because of a misdeed, is through a process of suspension by the Governor in Council. The responsible minister would lay before Parliament the grounds for a suspension and Parliament would agree or disagree on whether the dismissal should proceed. That process depends on the actions of the executive government. The Governor in Council, an arm of the executive government, and the minister must initiate any action. The houses of Parliament cannot of their own volition initiate any action to dismiss an Auditor-General in whom they lose faith or confidence.

The opposition believes in the principle that if the Auditor-General is an independent officer of Parliament, clearly Parliament should be able to initiate action of its own volition to dismiss an Auditor-General in whom it loses faith or confidence. The opposition sought advice about how that process could best be achieved. The advice it received was to look at similar legislation for an effective model. The legislation the opposition looked at was the Ombudsman's Act. The Ombudsman is also an independent officer of Parliament, and the provisions for the dismissal of an Ombudsman are significantly different from those proposed by the government in the bill.

The opposition's proposed amendments 2 to 9 relate to that issue. They change the tenure of office provisions by picking up the model in the Ombudsman's Act, which I believe is a significant and positive improvement to the bill.

Amendment 10 picks up what the opposition believes is an omission in the proposed bill. The purposes clause in the current Audit Act provides that:

The purpose of this Act is to provide for the audit of public accounts and reports to the Parliament on those accounts ...

At the forefront of the current Audit Act is a reference to the purpose of the Auditor-General being not only to audit the accounts but to provide reports to Parliament.

The purposes clause of the bill proposed by the government contains no reference whatever to reporting to Parliament. The government has rewritten the purposes clause. Clause 6 of the bill, at page 8 under the heading 'Part 3 — Amendment of Audit Act 1994', substitutes proposed new section 1, which covers the purposes of the new act. Honourable members who read through the whole of the proposed provision will find no reference whatever to reporting to Parliament.

The opposition's amendment 10 inserts in paragraph (b) of the government's proposed new section 1 a clear reference to reporting to Parliament. Under the opposition's proposal that paragraph would read:

- (b) the provision of reports on those audits by the Auditor-General to the Parliament.

The words 'to the Parliament' would be added.

All honourable members would agree that if the government is establishing the Auditor-General as an independent officer of the Parliament it should be clearly reflected in the purposes clause of the bill that part of the Auditor-General's role is to report to Parliament. The opposition's amendment 10 adds significantly to the bill.

Amendment 11 relates to clause 7, which appears at the bottom of page 8 of the bill. It states:

- (2) Section 3A of the Audit Act 1994 is repealed.

Section 3A of the Audit Act is the objectives clause. The new government is proposing to have an Audit Act without any objectives — it is proposing to delete the objectives clause. The opposition believes strongly that the objectives — and I will not read them out as they are lengthy — that have been contained in the current Audit Act for many years should be retained in the new Audit Act.

I trust that was an oversight. However, it is hard to see how an oversight could have resulted in the deliberate inclusion of a clause to delete the reference to objectives. Unfortunately deleting the objectives section of the current act was probably not an oversight but a deliberate policy decision. The opposition seeks to restore to the new act the objectives contained in the current Audit Act.

Amendment 12 relates to how the Auditor-General deals with the parliamentary committee. The parliamentary committee, which is mentioned a number of times in the bill, is clearly the Public Accounts and Estimates Committee — or I presume it to be that committee.

By way of an aside, Madam Deputy Speaker, no parliamentary committees have been established by the government. Parliament has been sitting for some time and still there are no parliamentary committees; in particular, there is no scrutiny of acts and regulations committee. The bill has been introduced without any analysis from a scrutiny of acts and regulations committee. The opposition has had no indication from

the government about whether it will have a Public Accounts and Estimates Committee.

There is clearly a deficiency in the bill. In the interests of good, open and accountable government, the opposition has foreshadowed that it will be bringing forward a private member's bill on that matter to ensure that there is proper accountability and governance in this state.

The opposition's proposed amendment 12 refers to the fact that under the current legislation the Auditor-General:

In performing or exercising his or her functions or powers ... must confer with, and have regard to audit priorities determined by, the Parliamentary Committee.

However, the proposed new legislation of the Bracks government waters down that requirement. The opposition is concerned about that watering down of the positive relationship between the Auditor-General and the parliamentary committee involved.

The bill states that when the Auditor-General is developing the annual plan that sets his priorities — —

**Ms Delahunty** — His or hers?

**Dr NAPTHINE** — Wayne Cameron is the Auditor-General at the moment, and he is a he. Rather than me trying to change the gender of the Auditor-General, I remind the Minister for Education that the Auditor-General, who has been appointed recently, is a male, and that he has been appointed for seven years. Therefore, referring to the Auditor-General as 'he' is probably appropriate for the next number of years.

The bill provides that:

The Auditor-General must complete the annual plan as soon as practical after the passage of the annual appropriation Act for the year to which the plan relates, taking into account ...

That changes significantly the relationship between the parliamentary committee and the Auditor-General. The opposition has received advice that using the words 'taking into account' rather than 'have regard to' will result in a significantly lower standard of relationship. By amendment 12 the opposition seeks to substitute for the words 'taking into account' the original words contained in the act, 'have regard to', which it believes places the parliamentary committee in a more appropriate position in its dealings with the Auditor-General.

I turn to amendment 13 and page 10 of the bill. Currently the Auditor-General must present the

completed annual plan to the parliamentary committee — —

**The DEPUTY SPEAKER** — Order! Does the Leader of the Opposition intend going through each clause one by one, or is he going to wait until the committee stage?

**Dr NAPTHINE** — I am going through each amendment.

**The DEPUTY SPEAKER** — That is fine. I was just seeking clarification.

**Dr NAPTHINE** — I will go through them in much greater detail in the committee stage. One of the reasons the opposition is doing it this way is that the debate will extend over several days, and clearly the amendments have been tabled for consideration not merely in Parliament but also in the community over the next few days. It is important for the community to understand the basis on which the amendments are to be moved.

Amendment 13 proposes that when the annual plan is completed — I make it clear that the annual plan is completed after discussions have taken place between the parliamentary committee and the Auditor-General — it must be not only presented to the parliamentary committee, which is what the current provisions require, but also transmitted through both houses of Parliament, which would reflect the relationship between the Auditor-General and the ultimate master he is accountable to — Parliament.

The amendment also provides a time frame for the completion of the annual plan. If there is no time frame it may be that we could be well into the financial year before we saw the plan for the work the Auditor-General proposes to undertake in that year. The amendment would ensure that the Auditor-General presents the plan to the parliamentary committee and to Parliament before the beginning of the financial year to which it relates.

Amendments 14, 17, 18, 19, 21, 22, 23, 24, 25 and 26 are all consequential on proposed amendment 20, which is a significant amendment. During our discussions last night the Premier was keen to consider a number of the amendments put forward by the opposition and to adopt them as useful and valuable additions to the bill. However, he had some concerns about proposed amendment 20. The opposition believes it is an absolutely fundamental amendment that goes to the heart of whether the Auditor-General is a truly independent officer of Parliament or whether he is merely part of the executive arm of government.

What is proposed by the bill's alterations to the obligations of the Auditor-General? Proposed section 7C states that the parliamentary committee may, by resolution, vary any obligation or requirement imposed on the Auditor-General or the Victorian Auditor-General's Office by or under various sections of the Audit Act, the Financial Management Act or the Public Sector Management and Employment Act.

I will go through the scenario. The executive government, through the minister, may under those provisions impose certain obligations on the Auditor-General or the Auditor-General's office. So the minister and the executive government will say to the Auditor-General that he must undertake his duties in a certain way. The Auditor-General may feel that that is an impingement on his ability to audit freely, fairly and openly in the interests of the people of Victoria and the Parliament. The parliamentary committee is the safeguard to protect the people of Victoria and the Parliament from the executive government placing undue restrictions on the operation of the Auditor-General.

In itself that may seem sufficient, but when one looks at the set-up of the parliamentary committee one sees the dilemma we face. As I said before, the parliamentary committee would be the Public Accounts and Estimates Committee. The Premier has made it clear in the preliminary discussions on parliamentary committees that the government of the day will not relinquish its role of chairing the Public Accounts and Estimates Committee — in fact it will insist on chairing the committee, so it will control the votes.

**Mr Nardella** — Just like you did for seven years.

**Dr NAPHTHINE** — I take up the interjection of the honourable member for Melton. That is the very point!

The government of the day will insist on chairing the committee, so under this bill the executive government may put restrictions on the office of the Auditor-General and the safeguard — in the words of the honourable member for Melton — will be dependent on another power of the executive government. The honourable member for Melton has proved the case. I welcome him to this house because he has proved exactly what the opposition is saying. The safeguard is no safeguard; it will merely be an imprimatur and a rubber stamp for the executive government. That is what the honourable member for Melton has said by way of interjection.

*Honourable members interjecting.*

**The DEPUTY SPEAKER** — Order! I can hardly hear the Leader of the Opposition.

**Dr NAPHTHINE** — I will talk louder.

**The DEPUTY SPEAKER** — Order! You do not have to; we will ask the others to speak more quietly!

**Dr NAPHTHINE** — Let me repeat it softly. The honourable member for Melton has made it absolutely clear by his interjection that the Public Accounts and Estimates Committee will be controlled by the government. His interjection was along the lines of 'just as you guys controlled it'. So, the Public Accounts and Estimates Committee will be a de facto arm of the executive government. The bill supposedly provides for the independence of the Auditor-General as an independent officer of Parliament, but there is a significant opportunity for the executive government through the minister to vary the way the Auditor-General operates, and the safeguard is a parliamentary committee that — in the very words of the honourable member for Melton, who gave the game away — is also a de facto arm of the executive government.

In the interests of the Parliament, the people of Victoria and the independence of the Auditor-General, proposed amendment 20 is intended to ensure that in addition to the parliamentary committee being able to vary certain matters either house of Parliament may also be able to vary them. Any person who believes in the supremacy of Parliament on these issues, which are absolutely fundamental, would support the amendment. If people believe in the independence of the Auditor-General as an independent officer of the Parliament and in the supremacy of Parliament, which I believe in, they should support proposed amendment 20.

I strongly support the supremacy of Parliament. If I were the minister responsible for this bill I would not be out doing other things, I would be in the house listening to and participating in the debate on this critical legislation. When I was a minister in this place and responsible for legislation I listened to and participated fully in the debates on legislation in my portfolio. I suggest that the Minister for Education check the *Hansard* report of those issues.

Amendments 15 and 16 cover an important issue that will be included in further amendments to be discussed later. They relate to the deletion of proposed section 7B(2)(c) at the top of page 11, which provides that in the annual report the Auditor-General must set out the audit standards that the Auditor-General applies or intends to apply. The opposition proposes to delete

that for two reasons. The first is that the opposition believes that, rather than the Auditor-General setting his or her own audit standards, he or she ought to comply with the audit standards of the accounting professions throughout Australia. Amendments 33 and 34 deal with that important issue.

The second reason is that, even if the provision is retained in the bill, it is in the wrong place. It is in the proposed section that deals with the annual report and it states that in the annual report the Auditor-General will report on the audit standards he or she applies or intends to apply. The annual report should report on standards the Auditor-General has already applied — it is after the event. The audit standards he or she applies or intends to apply should be in the plan. It is poor drafting. I will deal with the audit standards later, because that is an important issue.

Amendment 27 proposes to insert a new section relating to audit priorities, budgets and expenditure. The opposition's proposed section 7D(1) states:

In performing or exercising his or her functions or powers, the Auditor-General must confer with, and have regard to any audit priorities determined by, the Parliamentary Committee.

That puts in firm and appropriate language the relationship between the Auditor-General and the parliamentary committee.

Proposed subsection (2) goes to the same issue:

The Auditor-General's budget for each financial year is to be determined in consultation with the Parliamentary Committee.

Proposed subsection (3) states:

Despite anything to the contrary in the Financial Management Act 1994 or in regulations or directions under that Act but subject to any relevant appropriation Act, the Auditor-General may incur any expenditure or obligations necessary for the performance of the functions of the Victorian Auditor-General's Office.

That addition is based on the suggestion of the former Auditor-General, Ches Baragwanath, who felt it was necessary to ensure the Auditor-General had the power within his own office to expend funds for those purposes.

Proposed amendments 28 to 30 are consequential renumberings. Amendment 31 is consequential on amendment 32, which is important. It goes to the heart of whether the Auditor-General has the power to look at and report on performance indicators. As is known — and opposition members applaud this — government departments and agencies are developing performance indicators as a measure of whether they are achieving

their policy direction targets and programs and then measuring their performance against those performance indicators. To ensure that the reporting against the performance indicators is being carried out on a sound and reasonable basis the Auditor-General must be able to audit whether those performance indicators are appropriate and how they are developed.

The Public Accounts and Estimates Committee made significant recommendations on the matter, and I refer to its May 1999 report, its 28th report to Parliament. Recommendation 5.5 is that:

The Audit Act 1994 be amended to provide the Auditor-General with the capacity ... to:

form an opinion on the extent to which performance indicators contained in annual reports are relevant to an agency's stated objectives, are appropriate for the assessment of the agency's performance, and fairly represent actual agency performance; and

report to the Parliament on the results of audits of non-financial information.

Recommendations 5.6 and 5.7 add to the point. Clearly the Public Accounts and Estimates Committee is saying that the Audit Act ought to be amended to allow the Auditor-General to appropriately examine the issue of performance indicators.

The opposition has picked up that recommendation of the Public Accounts and Estimates Committee, and amendment 32 proposes that it be included in the Audit Act. I believe both sides of the house would support that if they wanted the Auditor-General to be effective in his auditing of Victorian government departments and agencies. It is important that the Auditor-General have the power to examine performance indicators.

Proposed amendments 33 and 34 go to a critical issue — the standards by which the Auditor-General will conduct his business. I am surprised at the proposal brought before the house by the government. In fact, I am more than surprised, I am extremely disappointed that the government would bring this forward. Clause 15(3) at page 17 proposes that in section 13 of the Audit Act the words 'general auditing standards as issued by the Australian Society of Certified Practising Accountants and Institute of Chartered Accountants in Australia' be replaced by the words 'audit standards set out in the report of operations of the Victorian Auditor-General's Office'.

The act provides for the general auditing standards issued by those eminent accounting bodies to apply, but the clause proposes that the audit standards set out in the report of operations of the Victorian Auditor-General's Office should apply. Clearly what is

being proposed by the government is a move away from accepted Australia-wide accounting standards. That is unacceptable, deplorable and inappropriate.

The opposition has received correspondence from the executive director of the Australian Society of Certified Practising Accountants that states:

We do not support the proposed amendment to replace 'the general auditing standards as issued by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia' with 'audit standards set out in the report of the operations of the Victorian Auditor-General's Office'.

The explanatory memorandum contains no explanation for this change. The existing legislative requirement reflects the professional requirements of the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants as stated in auditing statement AUS 702 'The Audit Report on a General Purpose Financial Report' issued by the Auditing and Assurance Standards Board of the accounting bodies. The board membership has included representatives from the commonwealth, state and territories Auditors-General.

The letter continues:

The reference to the 'audit standards set out in the report of operations of Victorian Auditor-General's Office' is not specific. We are unaware as to what constitutes such standards, as would users of the auditor report. We do not know whether such standards would comply with the Australian auditing standards.

Australian auditing standards do not prevent higher auditing standards from being applied by auditors. Auditing standards issued by the accounting bodies after due process and compatible with international auditing standards are a minimum benchmark to be applied in the conduct of all audits.

I do not think it can be put more simply than that. Under the current Audit Act it is absolutely clear that the Auditor-General and his or her staff must comply with the accepted industry standards as set by those eminent bodies.

Any different standard would not serve the interests of the Parliament or the people and would flout the principle of open and accountable financial disclosure. It would not, in other words, be in the interests of open and accountable government. No government can justify a range of audit standards that it can flex to suit its purpose. The bill allows for audit standards to be at such variance from the Australian standards as to be difficult to understand and interpret. Under the proposed legislation as it stands, a government could put sufficient undue pressure on an Auditor-General to reduce auditing standards to a level below that expected of an Auditor-General by the community.

Auditors-General in this state traditionally adhere to proper standards, and I cannot believe any Auditor-General would wish to move away from them, because adherence to standards by an Auditor-General is fundamental and is in the best interests of all Victorians. That is why the opposition will propose the amendments circulated under my name. They make it very clear that we want Victoria's Auditor-General to adhere to the standards applying to all auditing bodies in the country and, indeed, around the world.

Circulated amendment 35 proposes to insert into the bill provisions covering the relationship between the Auditor-General and the parliamentary committee. Those provisions currently exist in the Audit Act, but for some reason unknown to the opposition and unexplained by the government, the bill proposes to delete them. Section 16(7) and (8) of the Audit Act provides that the work of the Auditor-General must be developed in consultation with a parliamentary committee and that reasonable costs and expenses of the Auditor-General in conducting an audit under that authority must be paid for from moneys appropriated to the Parliament. Those important provisions need to be retained.

Amendments 36 to 42 are consequential amendments. Amendment 43 concerns performance audit recommendations from a parliamentary committee. I referred to this matter earlier. It proposes to amend the Financial Management Act to allow information about performance audits to be provided to the Auditor-General so that he or she can conduct financial management audits appropriately.

Amendment 44, the last one, restores an important provision that the bill proposes to delete. Section 4EB of the Parliamentary Committees Act outlines the functions of the Public Accounts and Estimates Committee — namely, to inquire, to consider and report to the Parliament on various matters listed in the act relating to the order of priorities for the purpose of the Audit Act. It is inappropriate to delete that definition. The parliamentary committee should report to the Parliament on audit priorities for the purpose of the Audit Act, and the deletion proposed by the bill would reduce the role of the committee.

The opposition takes a responsible approach to the bill and has considered it from the point of view of seeking to improve it. Members of the opposition wish to ensure that the Auditor-General will be able to act truly in the interests of the people of Victoria and the Victorian Parliament. Our objective is to provide honest and appropriate audits of the operations of government

and government agencies, and the amendments are designed for that purpose.

The opposition seeks amendments that will improve the relationship between the Auditor-General and the Parliament, particularly with regard to 'tenure. We seek also to amend the bill to allow an improved relationship — diminished under the proposed legislation — between the Auditor-General and the parliamentary committee and to improve the mechanisms the Parliament has in place to protect the Auditor-General and prevent undue interference from government in the operation of his or her department. Parliament must have ultimate control. Further, we seek to ensure that the Auditor-General in Victoria uses appropriate accounting standards. That is fundamental to open and transparent auditing.

Opposition members will be proposing the circulated amendments both here and in the other place and we will insist on their being agreed to in the interests of all Victorians, because they improve the bill. We trust and hope the government, which has been given advance copies of the amendments, with explanations, will adopt them.

Members of the opposition have acted honourably and with integrity to improve the legislation. We commend the amendments to the house and undertake to support the bill in the interests of an independent, strong Auditor-General if the amendments are adopted.

**Mr MILDENHALL** (Footscray) — Remembrance Day will be remembered in Victoria for many reasons. It was a great day for Victoria when the Premier stood in the house and delivered his second-reading speech on the Audit (Amendment) Bill to restore power, resources and independence to the state's Auditor-General. Passage of the bill will end a dark era in Victorian politics during which the former Premier, aided and abetted by a supine cabinet and backbench — many members of which are still here — sought to emasculate the office of the Auditor-General, one of the principal safeguards of this state's democracy.

The bill does two things. It restores the office and substance of the Auditor-General. It gives back to the Auditor-General his arms, legs and power, and enshrines the office of the Auditor-General in the state constitution. It is gratifying to see that members of the opposition support the essential characteristics of the bill. Their road to Damascus conversion, however, occurred only after a massacre at a by-election and the loss of 13 seats at a general election because of the community's desperate attempt to get the coalition parties to listen to it.

This government listens. It listens even to the coalition. By and large it will accept the amendments proposed by the opposition, except for the ludicrous proposition in amendment 20 and amendments consequent upon it numbered 17 to 26.

Honourable members face the ludicrous prospect that obligations under the financial management and public sector management acts that affect the Auditor-General could be varied by a public accounts and estimates committee and would be subject to further variation by either house of the Parliament. Therefore, a variation could be approved, agreed to by a public accounts and estimates committee, and varied again by the other place and perhaps not agreed to by this place. Such a loop of propositions, agreement and disagreement would result in paralysis.

The opposition parties cannot help themselves; they still want to control the Auditor-General from the other place. They cannot get their hands off him; they want to have their long tentacles of control into the machinery and mechanics of the operation of the Auditor-General. Last time they did it by cutting off his arms and legs, so to speak; this time they want to do it with the extraordinary idea that obligations the Auditor-General may be under could be varied by the Legislative Council.

All honourable members know how the saga started and why the bill has been introduced today. The former Premier and the coalition were hell bent on pursuing the Auditor-General after he questioned the dodgy tendering process for Leeds Media and the process for the closure of hundreds of schools in the state, criticised the Kennett government's forgoing \$174 million in licensing fees collectable from the 150 additional gaming machines approved at the casino, found the Kennett government spent considerable sums of taxpayers' money on totally inappropriate party political advertising and reported uncovering evidence of possible corruption in the rewarding of ambulance service contracts.

The Premier went after the Auditor-General as he went after many other people in public life — Jeff said he wanted a review! It was an old tactic involving the use of the national competition policy as the Trojan horse to try to get the Auditor-General. The then Premier brought forward the date of the review and refused to accept departmental advice that he seek cabinet approval and that the then Public Accounts and Estimates Committee carry out the review. The then Premier appointed his own reviewer.

It was an example of an extraordinarily vindictive act of a leader of a powerful government going after an individual and an office. The then Premier did not listen to his department, his party, the professionals, the grassroots community or the independent contractors — and the supine coalition party room went with him. Don't they regret today having to say, 'We were wrong; we wish the last couple of years did not have to happen'!

At the time a representative of the Main Ridge–Red Hill branch of the Liberal Party wrote:

It seems difficult for us to understand why the government is so frightened of a 62-year-old man called Ches Baragwanath and his modest number of staff. It is quite out of character.

In contrast the more cautious Howard/Costello federal coalition government is actively legislating to strengthen the powers of the Australian Auditor-General. We are both puzzled and disturbed.

A spokesperson for the Mount Waverley branch wrote:

Contrary to denials by the government, our members feel that the Auditor-General's independence will be removed and we (the citizens of Victoria) will have no independent watchdog to safeguard our interests.

It hurts, doesn't it! Members of the coalition parties have to face the music sooner or later. They have had to come back to this chamber and say, 'We were wrong'. The letter from the Mount Waverley branch concluded:

We cannot find any reason, financial or otherwise, for this move to be made. The general impression of the public to whom we speak is that there may be a hidden agenda which is not apparent in the proposed legislation.

Members of the Mulgrave branch of the Liberal Party were more concerned and wrote:

After very careful deliberation we must advise you that the controversy concerning foreshadowed changes to the office of the Auditor-General is not a fringe issue. Substantial numbers of dedicated Liberals are deeply concerned that the proposed changes so far reported might appear to quarantine the office of the Auditor-General from political interference while in fact so reduce the level of independent resources directly under the Auditor-General's control as to render his role ineffective.

They were onto it; they realised that the impact of the proposal would be cutting off the Auditor-General's arms and legs, reducing his budget and so not allowing him to audit. The letter from the Mulgrave branch went on:

By any reasonable interpretation of the future role of the office of the Auditor-General so far articulated by the government, professional bodies or various media, there is a widespread perception that the Auditor-General's independence will be emasculated.

Emasculated was the Mulgrave branch's word for what happened to the Auditor-General! Thank you, members of the Mulgrave branch of the Liberal Party.

Some Liberal Party branch members were more fired up and direct. A member of the Wangaratta branch wrote:

If you do not respect the unanimous decision of the Liberal State Council in relation to the Auditor-General, you should resign and start your own Kennett Party.

He did — it was called the coalition in government, but the branches did not realise that and thought there was still a party structure.

Another response to the proposals shows how much the Premier listened:

As a long-time friend and supporter of you, I thought it would be a good idea to pass on to you a general discussion over the dinner table at our Rotary meeting last night. Six to eight people were involved — and I would say 100 per cent were supporters of the Liberal Party.

There is a real disquiet among our members as to the watchdog being truly independent — not just now — but forever.

The Premier — the listening, caring, accessible Premier! — wrote back, saying:

Tell your friends to keep eating and drinking, while we govern in their interests.

That sums up the former Premier! Only one or two in the party room stood up to him. Former minister Pescott summed up the issue when he resigned in protest by saying:

The auditor's office needs power to make the independent role effective — not just the power to decide in consultation with a government-dominated parliamentary committee, but power to act without the barrage of hurdles the government will be able to put in the way before an audit even starts.

We have a duty to future generations not only to retain but enhance the transparent auditing of government excesses. No-one in government has even attempted to point out how the new audit system will be an improvement. No-one has said that the old system did not work.

As you know I have put trust in your word in the past. That is why I find resignation from Parliament the only effective protest I can make. Like many other Liberals, I wish there were another way.

And don't Liberal Party members wish they'd listened to Roger! Not even a 16 per cent swing in Mitcham changed the former Premier's mind.

The former Premier did not listen to the professionals, either — eminent people and organisations in the field suggested the government was on the wrong track: all

other auditors-general in Australia; the Victorian Bar Council; the Australian Society of Certified Practising Accountants; the Institute of Chartered Accountants; the National Institute of Accountants; the Institute of Public Administration; the Law Institute of Victoria; the National Competition Council, under whose aegis and purported mandate the previous government emasculated the Auditor-General; and even the President of the Legislative Council and the former Speaker of the Legislative Assembly. But did they listen?

A challenge today is to consider the consistency and flow of the arguments of members of the former coalition — over the past two years they have set standards on the issue. In November 1997, for example, the present Leader of the Opposition said:

The independence of the Auditor-General will be enhanced under the legislation. The position was recommended by the review committee and was endorsed by the broader community.

The now Deputy Leader of the National Party said:

The government should be congratulated for the way it has gone about the process.

Did he lose 13 per cent? Later he said:

It enshrines the independence of the Auditor-General and will make him an officer of the Parliament.

Another coalition frontbencher, the honourable member for Mooroolbark, said:

The audit bill, which it would do all members of the opposition good to read, preserves the integrity and the absolute independence of the Auditor-General.

The honourable member for Monbulk said:

The Parliament will be well served in the future by the operation of this legislation ... The bill deserves the support of all members and of the public, and in time the public will come to see that.

That comment would rival Neville Chamberlain's prediction about peace in our time! 'The public will understand', former coalition members said, as Victorians ripped off 13 seats from them!

Last year the honourable member for Box Hill told the house that members of the public were entitled to be concerned by threats to the independence and effectiveness of reporting. However, there were no such threats to that independence in the legislation.

These are halcyon days in the Victorian Parliament. Government members will reflect on November and December 1999 as the time when the Auditor-General's

powers and independence were restored, freedom of information was opened up, and the draconian restrictions of the previous government were removed.

The powers of the Director of Public Prosecutions will be restored to enable the director to operate effectively in the state, as we have just heard in the second reading of the Public Prosecutions Bill. Teaching Service Order 140 has been lifted and Victorian teachers and public servants have their democratic rights restored. The institution of Parliament has been opened up and members of the community are being given a greater opportunity to have their voices heard, to see the machinations of government and to understand what is being done on their behalf. These are great days in the Victorian Parliament and days of which most members should and will be proud.

**Mr CLARK (Box Hill)** — It is well known that political life is conducted on two levels: the first is that of illusion and theatre; the second is that of reality. Members opposite are masters at the first level of politics. The honourable member for Footscray followed in that tradition with his remarks. However, the reality is different. Consider the process in 1997: a review was conducted under the national competition policy principles, proposals were put forward by the review panel, extensive public debate was held on the proposals, modifications were made by the government of the day, and legislation was introduced and passed.

The honourable member for Footscray quoted remarks made during the course of public debate. I well remember the debate and speaking to Liberal Party and other gatherings and explaining the bill. The underlying principles of the legislation were accepted when they had been explained.

My other point about the 1997 debate and the members opposite concerns their belief in a brain-dead public service and the absence of open discussion, review and canvassing of options. When public servants put forward options, as they should do, they are jumped on. When reviews under national competition policy put forward proposals, they are jumped on. The process of public policy formation ought to canvass a wide range of options — even those that finally are judged not appropriate. The whole range must be canvassed before the correct ones can be identified. However, in the interest of pursuing the illusion and theatre of politics honourable members opposite are prepared to undermine the reality that decent outcomes depend on broad, lateral thinking.

The talk of threats to democracy and the independence of the Auditor-General is on the level of illusion and

theatre. Step back from the illusion and look at the reality of what happened. The 1997 debate boiled down to one issue — should it or should it not have been made mandatory for the Auditor-General to contract out audits? Both sides of the debate can be argued. The argument in favour is that it ensured a changing culture in the audit practice and ensured an opening up of the audit office to the widest possible range of experience and input.

**An honourable member** interjected.

**Mr CLARK** — The honourable member talks about cost. Audit reform was never about a question of costs; it was about opening up options and making a greater range of skills and expertise available to the audit process.

As my friend and upper house colleague the Honourable Roger Hallam has often said, the essential test of the correctness of reforms is whether they endure. Honourable members opposite make great play of the changes being made to the audit legislation, but it is interesting to note the features of the 1997 reforms that are being carried forward. That has also been seen in the sphere of privatisation — and honourable members opposite complained about that process. However, they now have on their platform an intention to use the private sector to establish fast trains to the airport. They may not be able to cost that properly, but at least they have adopted the principle. Exactly the same thing was seen in the UK following the change of government there.

Members opposite make great play of abolishing compulsory competitive tendering. However, I have not heard them talk about going back to the bad old days of 100 per cent in-house service provision by councils, when libraries did not open on Sundays and when municipal pools and other services did not have the flexibility that was achieved as a result of compulsory competitive tendering.

Let us look at what is being retained from of the 1997 Audit Act amendments that honourable members opposite have so roundly condemned. At the time the former government asked them, ‘Are you seriously saying you want to go back to the bad old days and put the Auditor-General and his or her budget back under the Premier’s Department? Do you want to do all those things?’. They just said, ‘We will repeal the Audit (Amendment) Act 1997’. The former government said, ‘Hang on, are you sure that’s all you want to do? A lot of good things are in the Audit (Amendment) Act 1997’. But the theatre prevailed; the former opposition had to commit to repealing that act. There

were no qualifications about retaining all the best bits of it and shuffling them somewhere else, it was to go entirely.

However, it is a different matter with the bill before the house — reality has prevailed, even among honourable members opposite. The Auditor-General will be retained as an officer of Parliament, his budget will continue to come from the budget of the Parliament and he will retain the power to engage outside auditors to assist with performance audits — all key aspects of the 1997 reforms. Audit Victoria will be removed, but only after a period in which substantial internal reform and improvement has been achieved within it.

When standing back from the theatre and looking at the reality one sees the essential correctness of the 1997 reforms being reflected in the government’s legislation.

**Mr Hulls** interjected.

**Mr CLARK** — The Attorney-General says we have not learnt; then why are those provisions in the bill his government has introduced to Parliament?

The fact is that a good government has nothing to fear from a capable and diligent Auditor-General. That was maintained by members on this side when we were in government and is still maintained now we are in opposition. The people who do have something to fear from a capable and diligent Auditor-General are those who rely on theatre and illusion and ignore reality. The fact is that reality tends to come back and prevail. Even totalitarian regimes around the world that have manipulated communication channels and have been outstanding masters of theatre find that eventually reality breaks through. Reality will break through very quickly if the truth becomes publicly known.

Two institutions will help ensure that that happens: one is a strong and independent Auditor-General; the other is a strong house of review. As I said, a good government has nothing to fear from a capable and diligent Auditor-General — but the present government has plenty to fear. If they had any sense its members would already be quaking in their boots and devoting their energies to getting on top of their portfolios and marshalling all the skilled support they could to cope with their inexperience and inadequacy. Instead they are continuing to play the role of an opposition. They are playing politics and not settling down to govern. They are driving with their eyes firmly on the rear vision mirror, looking at what has happened in the past instead of looking through the windscreen to the future. They are heading towards an unpleasant crash, which can be expected to occur some time soon.

Government members are continuing to ignore the reality of having to be in touch with the community. They do not provide access to the business community, and they have advisers who record answering machine messages saying they work only from 9 to 5. Businesses are continually complaining to members on this side about how difficult it is to get to talk to and get decisions out of ministers. The government is persevering with its intentions to sack a large number of independent and capable public servants who might have offered it a prospect of coping with its own inadequacies. Public servants such as Yehudi Blecher and John Hickman — capable men who have served governments of both political persuasions with distinction — are being shoved out the door. Those are factors that will result in bad government, which a strong and diligent Auditor-General will quickly pick up and bring to the attention of the public and which will bring the present government undone.

A government that insists on complying with the dictates of the trade union movement will find another source of difficulty. The government has already exposed itself to that by insinuating to public servants that it would be better for their careers if they joined unions. Already there have been break-outs of union militancy in the construction industry that have threatened major projects, as well as attempts to extend union coverage into the residential housing sector under the guise of occupational health and safety. Already there is a threat of Workcover premiums going through the roof because of the determination of the present government to persevere with its policy on common-law actions.

While in opposition the government was intent on raising issues of probity as part of its dedication to theatre and illusion. However, it will quickly find that there is a second element to good government — competence. If it does not start to display competent conduct it will run foul of the Auditor-General.

For those reasons, and provided its amendments are accepted, the opposition is pleased to support the bill. Key provisions of the 1997 legislation are being transferred by this bill from the Audit Act into the constitution. That is absolutely fine, but the provisions remain — the Auditor-General remains an officer of Parliament and the budget of the Auditor-General remains part of the budget of Parliament.

I will briefly comment on other issues raised by the bill, principally the role of the parliamentary committee, which is a paradox. It was a paradox in the 1997 debate, and it remains a paradox. If you say that Parliament should be supreme, you therefore have to say that if the

will of Parliament is that legislation in a particular form be passed, Parliament has expressed its views.

The reality is that, as was mentioned by the Leader of the Opposition, there is an uneasy tension about parliamentary committees because they tend to be controlled by the government of the day. That was confirmed by the honourable member for Melton earlier in the debate. It is therefore necessary to be very careful about the role conferred on a parliamentary committee in the audit process because the majority of the committee is likely to comprise members from the government side of the house. The 1997 legislation was an attempt to strike a careful balance over that issue.

The proposed amendments address a number of deficiencies in the bill. A key one is the possibility of the Auditor-General being subjected to undue influence by the parliamentary committee, which then gives rise to a risk of the Auditor-General being indirectly subjected to the influence of the executive government.

A further significant aspect about parliamentary committees is the tendency for their activities to become highly politicised. The parliamentary committee will have to exercise particular care about the way it conducts the process of recommending appointments of auditors-general in order to ensure that people of ability are not deterred from seeking appointment because of fear of politicisation of the process.

I feel I can speak on behalf of members on this side of politics in saying that we will do our utmost to ensure that the process of appointing auditors-general is conducted in an entirely proper and aboveboard manner that maintains the full confidence of those who seek appointment as auditors-general. I certainly hope that the same will be true of all members of the parliamentary committee when, presumably in seven years time, the appointment of a new Auditor-General is considered.

The issue of audit standards needs to be considered. Honourable members opposite have given no explanation for seeking to remove from the legislation the reference to generally accepted accounting standards. The honourable member for Footscray, who seems to be riding shotgun on this legislation, did not offer any explanation in his remarks. I cannot see why the government would want the Auditor-General to set his or her own audit standards. What is wrong with accepting generally accepted accounting standards? Accounting professionals also ask that question.

Another amendment addresses the important issue of who pays for performance audits. To date the legislation has provided for the performance audits to be paid for from the parliamentary budget. For some strange reason that provision is omitted from the bill. Again, the house has heard no explanation or debate about why the government has proposed that and I will be interested to hear if any honourable members can offer an explanation.

The amendment that empowers the Auditor-General to audit reports on performance indicators arose from a recommendation made by the Public Accounts and Estimates Committee under the previous government. It is a sound recommendation and I hope it will be accepted, because one of the great achievements of the Kennett government was to introduce a significantly enhanced range of performance indicators. That was not done under the previous Labor government; it was initiated by the coalition. Those indicators are evolving and improving. There is further scope to take them forward, and giving power to review that to the Auditor-General will help ensure that the present government does not backslide on what the previous government initiated.

In summary, the opposition welcomes the bill because it carries forward many of the key elements of the 1997 reforms. It means that the situation will not revert to that of the bad old days when the Auditor-General and his or her budget came under the control of the Department of the Premier and Cabinet. It means that those reforms are being carried forward and, subject to the acceptance of the amendments, the bill will earn the support of both sides of the house.

**Mr HULLS** (Attorney-General) — The house has just heard the greatest load of codswallop and hypocritical rubbish that has been presented in this place for many years. Honourable members opposite can offer all sorts of reasons and excuses for why the previous legislation was introduced. All sorts of backsliding can take place about why the opposition will or will not support the current bill, but the explanation for it is very simple. The previous legislation was introduced by the Kennett government to silence an independent critic. There is no other reason for it.

We all know that the Kennett government hated analysis — hated the scrutiny and criticism that went with it and went out of its way to do anything it could to silence critics. The last remaining independent critic in Victoria was the Auditor-General, and the Auditor-General had to be got rid of. It is as simple as that. Therefore all those highfalutin, nonsensical

reasons for the introduction of the legislation are absolute rubbish.

The honourable member for Box Hill and other members on that side, including the honourable member for Bentleigh, who was here earlier, know full well that Kennett wanted to get rid of Ches Baragwanath. Before that he wanted to get rid of the Director of Public Prosecutions for daring to consider instituting proceedings against the Premier for contempt, so the former Attorney-General decided to revamp the office of the Director of Public Prosecutions — to undermine the independence of the former DPP.

The former government wanted to get rid of the then Commissioner for Equal Opportunity, Moira Rayner. It did so — she was an independent critic. The former government wanted to get rid of accident compensation tribunal judges. It did so. The former government criticised church groups and leaders of the community who spoke out against gaming. They were vilified. The last independent critic in this state was the Auditor-General. Kennett said to himself, ‘I’ve got to get rid of him. Will I have a problem getting it through Parliament? No, I won’t, because they are a bunch of jellybacks who jump when I speak; who do not stand up to me. I will get this through this mob; they are gutless’. That is what Kennett was saying to himself — ‘They are gutless’.

He was proved to be right, and aren’t they hypocritical — the honourable member for Box Hill in particular? I have no doubt he is a decent human being. No doubt the honourable member for Box Hill had to suffer many pains in his own mind when the legislation went through, but he did not have to make such a ludicrous contribution when the original Kennett bill was introduced and now try to stick up for the mistakes he made then.

The honourable member for Box Hill knew at the time that it was bad legislation. What he now regrets is that he did not have the guts to stand up to the former Premier. Had he had the guts to do so years ago he may well be sitting on this side of the house, just as honourable members on that side of the house who are nothing but sycophantic jellybacks who did not stand up to the former Premier could have found themselves still on this side of the house after the last election. However, they are now in opposition and they are to be condemned. Long may they remain in opposition for their gutlessness in relation to this issue!

One has only to go back to what some of the honourable members have said to realise their

gutlessness. I know the honourable member for Footscray has already read out some quotes. The Leader of the Opposition, known as Dr Doolittle, did absolutely nothing about the legislation. Remember what he said on 30 October 1997 about the Kennett legislation? He said, 'The independence of the Auditor-General will be enhanced under this legislation'. What a load of nonsense! Talk about Pinocchio's nose getting longer! It was absolute rot and he knew it, and now he attempts to defend the position as it then existed.

He also said that position was recommended by the review committee and was endorsed by the broader community. It was endorsed by the broader community, all right! The broader community in Mitcham certainly endorsed the changes that the former Premier introduced to the audit legislation, and the broader community at the last state election certainly endorsed what the former Premier did. It is absolute nonsense.

Dr Doolittle stands condemned for his support of that previous legislation. How dare he come into this place, now that Labor is trying to undo the former Liberal government's stuff-ups in relation to the Auditor-General, and say, just to be part of the debate, the opposition will go along with it but it will move 44 amendments to the bill! The amendments are not worth the paper they are written on. They represent no more than a feeble attempt by the Leader of the Opposition to participate in the debate. He has been sidelined and he is irrelevant. He is Dr Doolittle, and he and every member of the opposition parties in this house stand condemned for supporting the previous legislation.

We know the previous legislation was an attempt by the former government to undermine the independence of the Auditor-General. We know how important auditors-general are, and that was demonstrated by Queensland's Fitzgerald royal commission into corruption. Mr Fitzgerald made it quite clear that once you start undermining the independence of the Auditor-General you open up the floodgates for corruption to flourish. That is what occurs. That is what started to happen in Victoria. The former Premier, Mr Kennett, opened up the floodgates for corruption to flourish in this state and, had he been re-elected for another term, that is exactly what would have happened in Victoria under the former Premier and a neutered Auditor-General. Under that previous legislation the Auditor-General became a lap-dog rather than a watchdog.

In November 1997 the honourable member for Box Hill had this to say when describing how good that legislation was:

The legislation has been formulated and introduced to Parliament with the strong support of members on this side of the house.

How dare members of the opposition parties now — I do not know who will be speaking after me, probably some born-again Liberal who believes — —

*Honourable members interjecting.*

**Mr HULLS** — It looks as if the honourable member for Cranbourne will speak next. It will be very interesting to hear what he has to say about this legislation — he is not born again! Opposition members will do a quick shuffle, hide from the public the fact that they have had spine transplants, do a backflip, act like rubber men and somehow support the bill. They did not support such legislation in 1997.

The honourable member for Box Hill, who spoke just before me, said in November 1997 about the ill-fated Kennett legislation:

The legislation will be a big step forward in improving the calibre of the audit process.

What absolute rubbish! He now sits here, making inane interjections. Don't you remember who won the election? We won the election. And why did we win the election? We won the election because people were sick and tired of the secrecy taking place under the Kennett regime. Honourable members opposite can sit there and whinge and whine, moan and groan, but they have at least four years of sitting on the opposition benches. They have only themselves to blame — they were a bunch of jellybacks who did not stand up to the former Premier.

The honourable member for Mordialloc, Geoff Leigh, has become the hard hitter on the opposition side of the house. Mr Creampuff Man! He is the hard hitter who comes into this place and makes a fool of himself day after day. I expect he will make a contribution; he will do a double backflip with pike on this issue. He said in November 1997:

The government of the day has used the Auditor-General throughout this process. I believe that the bill will make things better.

He was right, it did make things better — for us, because we are now in government and we intend to stay in government.

The honourable member for Doncaster also made his contribution to the debate in 1997. He is one of those people who walks around the place saying, 'I'm different from all the others, I'm Mr Nice Guy'. He is different from all the others, all right! The fact is that he says he is a real democrat and indeed has insinuated from time to time that he took the fight to Kennett. I do not see any bruises on him. I do not think he took the fight to Kennett. I think he was yet another one of those jellybacks who just sat there saying, 'Yes, Sir, no, Sir, three bags full, Sir'. That is why he is on the opposition side of the house. At least he has been promoted. He should be promoted even higher, but he deserves to stay on the opposition side for the rest of his life. He said in the November 1997 debate:

The greatest anger that seems to emanate from those people towards me —

that is, people who were criticising the previous legislation —

arises from the statement I made on 29 October that the bill would meet the concerns of all reasonably minded constituents. I still believe the bill does that.

What was he saying — that most Victorians who voted for the honourable member for Mitcham against the previous government's legislation are not reasonable? Is he now saying that the people who voted against the Kennett regime are not reasonable? I would like to hear what he has to say because, if he believes that, it is a slap in the face to all Victorians.

A range of contributions were made to the 1997 audit debate. It is important to remind Victorians what hypocrites the now opposition members were when they were in government. I note the honourable member for Forest Hill is in the chamber, pontificating on what it is like being in opposition again — and, we hope, after the next election, again and again. It is really like a spinning door for the honourable member for Forest Hill! In the debate on the legislation he said in November 1997:

A very effective campaign has been waged by a number of people, not least of them the holder of the office of Auditor-General himself, assisted by the ALP, by the *Age* newspaper in particular, the ABC, fellow travellers like Liberty Victoria and other organisations of that kind, and in that process the realities of the situation have tended to become obscured.

What absolute nonsense! Victorians knew what was going on and said, 'We're not prepared to go down the Bjelke-Petersen path. We're prepared to stand up for democracy. We want to get rid of Kennett and his cronies. We want open, honest and accountable government'. And that is what they have. All the people

who are now in opposition who will make a contribution to this debate need to be reminded, day after day, what they said when they were in government. They had the opportunity to have open, honest and transparent government in Victoria but they did nothing, and some of them suffered as a result.

The former member for Gippsland East, Mr David Treasure, who is now buried Treasure — he has gone to God — said on 20 November 1997:

The proposed reforms are definitely in the public interest.

The only thing in the public interest is that he got done and we now hold his seat.

*Honourable members interjecting.*

**Mr HULLS** — One of the Independents, at least, now holds his seat!

The honourable member for Box Hill also said in 1998:

The audit amendment legislation passed last year has significantly improved the role of the Auditor-General. It has enhanced his independence and given him far greater flexibility at an operational level.

That is absolute nonsense! If the honourable member for Box Hill continues to say that is the case and it is the absolute truth, all he has to remember is what the former Auditor-General himself said about the legislation. He said it is absolute nonsense. Indeed, he said that in all the years he had been Auditor-General he found that legislation the most outrageous. He said:

In my eight years of reporting in the public interest without fear or favour, I view this government's action as representing the greatest threat to the independence and even the very existence of my role and to the Parliament's and the community's right to know.

If the honourable member for Box Hill is now saying that he is right, he is saying Ches Baragwanath was wrong, the people of Victoria are wrong and the current Auditor-General — who wants some of these changes — is wrong. The fact is that the honourable member for Box Hill is wrong and that is why he is sitting on the opposition side of the house. He cannot be believed, nor can other opposition members be believed, on this issue. They have absolutely no credibility.

The honourable member for Footscray read out some of the concerns expressed by Liberal Party branches. I know the opposition is dismayed to hear what some of its branch members were saying at the time. I implore members of the opposition to listen to the branches, because those branch members know what democracy

is all about. Members of the previous government were enmeshed by the power of office and lost touch with reality. The Victorian branches of the Liberal Party consist of some good people — although I do not know any in particular — and the opposition should not continue to ignore them. The opposition must listen to its branches. The Syndal branch of the Liberal Party states:

At a recent meeting of the Syndal branch a discussion ensued regarding the Auditor-General. A number of members expressed concerns that the changes to the role of the Auditor-General would curtail an important accountability mechanism for government departments.

The branch was dead right, but the former government refused to listen. The Moonee Ponds branch states:

At its meeting on 16 June 1997 the Moonee Ponds branch instructed me to write to you on its behalf to express its opposition to any change in the law which will remove or weaken the independence of the office of the Auditor-General of Victoria.

The Aireys Inlet branch expressed similar sentiments, as did other branches of the Liberal Party. Jack the blind miner, Liberal Party branches and all Victorians knew what was being done to the Auditor-General's office, but Mr Kennett said, 'Bad luck, I am going to neuter the Auditor-General'. The Victorian Bar Council, the National Institute of Accountants, the Law Institute of Victoria, Dr Barry Perry, the state Ombudsman, Liberty Victoria, the People Together Project and the Victorian Council of Social Service expressed concerns. Every man, woman and child and their dogs were saying, 'Don't turn the independent watchdog into a lap-dog because if you do you will suffer the consequences'.

I would have expected some members of the former government to have stood up to the then Premier and talked some sense into him. I understand the honourable member for Doncaster attempted to point out to the former Premier the error of his ways. If that is the case I admire the honourable member for Doncaster, but if he did that the honourable member misled Parliament.

**Mr Perton** — On a point of order, Mr Acting Speaker, I ask the Attorney-General to withdraw that comment. It is a substantial allegation against an honourable member that he or she has misled Parliament. I have never misled the house.

**Mr HULLS** — You did it again!

**Mr Perton** — Firstly, I ask the Attorney-General to withdraw the earlier comment and I ask you, Mr Acting Speaker, to instruct him not to attempt to slur members

of the house in a way that is in contradiction to the standing orders.

**The ACTING SPEAKER (Mr Richardson)** — Order! I invite the Attorney-General to comply with the request of the honourable member for Doncaster. It would be helpful if he did so and then got on with the job. However, I point out that the serious allegation that must be withdrawn is that an honourable member deliberately misled the house. Misleading the house is less offensive than deliberately misleading. It would assist the Chair if the Attorney-General withdrew and got on with it.

**Mr HULLS** — I withdraw. I keep forgetting how sensitive a chap the honourable member for Doncaster is. I thought in the robustness of the debate it is important to point out the hypocrisy of the honourable member by saying, on the one hand, that he was prepared to stand up to Mr Kennett and noting, on the other hand, that when speaking in the house he turned into a big lump of jelly. The honourable member did nothing to stand up for the independence of the Auditor-General. He stands condemned for that — just as every single member of the former government stands condemned.

I note the honourable member for Hawthorn was not a member of the government at that time. I hope he would have had the guts to stand up to his mate, the former member for Burwood. I look forward to his contribution. He has a chance to show that he is leadership material by supporting the government. By supporting his leader, Dr Doolittle, he will be condemned as nothing more than a silver-spooned Liberal, going nowhere. The honourable member for Hawthorn has a choice — let him show that he has guts by supporting the government on this measure.

**The ACTING SPEAKER (Mr Richardson)** — Order! I make the observation that the Chair regards the continued use of the expression 'guts' to be most undignified and unsuitable in this place.

**Mr ROWE (Cranbourne)** — I thank the Attorney-General for his usual amusing contribution. I also thank the honourable member for Footscray for his comments and confirmation that the government has duly considered the proposed amendments of the Leader of the Opposition, which have been clearly thought out, researched and drafted by parliamentary counsel. It demonstrates good governance on the part of the opposition and the Premier, who in good faith accepted the briefing by the Leader of the Opposition. The Premier accepted the amendments in good faith, as announced by the honourable member for Footscray. I

wonder where that leaves the honourable member for Gippsland West.

Having been given the same opportunity to listen to and be briefed on the amendments, the honourable member ran around the house saying they were nothing but Liberal Party rhetoric and were pedantic, trivial amendments. The honourable member for Gippsland West has been left in the cold because the government has shown it is prepared to accept reasonable amendments that will improve the legislation. Like the Attorney-General, the opposition commends the honourable member for Footscray, who is obviously looking at high office in the Labor Party. He wants to be the Peter Walsh — a former Minister for Finance in the Hawke government — of the state government and become the toecutter. The honourable member is performing well in his new position as Parliamentary Secretary to the Premier for Community Cabinet Meetings.

The government said the introduction of the bill fulfils a commitment to the independence of the role, functions and resources of the Auditor-General. I do not know how much consultation the government had with the new Auditor-General, but when the Honourable Bill Forwood, the Deputy Leader of the Opposition in the upper house, and I met with the Auditor-General he said that he had not seen the final draft of the bill. The Auditor-General said that on coming to Victoria he was astounded at the resources the office had to audit an account that was similar in size to the one he had been auditing for more than 15 years — that being the New Zealand national economy.

The new Auditor-General looked at his office and said he was surprised at the number of staff he had, the resources available to him and the freedom he had to audit. One concern of the Auditor-General was his ability to delegate. The Honourable Bill Forwood and I were of the opinion he should take that up directly with the government.

The arbitrary amount set in the bill of \$1 million of assets will enshrine the restrictions on the timely operation of the Victorian Auditor-General's Office. The audit account or bill for many state instrumentalities audited by the Auditor-General is less than \$5000. That component makes up a little less than 40 per cent of the auditor's work. Up to 80 per cent of the auditor's work attracts a fee of less than \$25 000.

Rather than setting an arbitrary assets level, the government should consider altering the fees charged for an audit. Then local municipalities, small cemetery trusts and various other small boards in the community

such as water boards would not have to wait for months for audit staff to review an audit report — which in some cases amounts to altering just the grammar or punctuation. That is an important consideration for the government. When the Leader of the Opposition and I were briefed on the bill the government made the commitment that this measure would be only stage 1 of amendments to the Audit Act — and that was also suggested to the Auditor-General. One would hope that second bite at the cherry will be not too far down the track, which is a view expressed also by the new Auditor-General as he would like to be provided with additional resources.

The honourable member for Footscray mentioned both Mr Roger Pescott, a former member of the house, and the previous Auditor-General. In our consultations with the previous Auditor-General he said, 'I hope they don't throw out the good bits of the act'. He said also that previous amendments to the Audit Act resulted in achievements he wanted. It is fair to say that a number of the former coalition government amendments were cast after consideration of submissions from the previous Auditor-General.

Again I refer to the amount of consultation on the Audit Bill by the consultative and open former government. I have sought the advice of various professional accounting groups in Australia. They have not been given the opportunity of responding to or commenting on the government's proposals. I have a letter from Mr David Edwards, the executive director of the Australian Society of Certified Practising Accountants. He thanks me for referring the bill to him and his organisation for consideration and comment, and states:

We support the Audit (Amendment) Bill and, in particular, the power for the Auditor-General to conduct audits in his own right and to decide the extent of external assistance required in this regard.

We have reviewed the Audit (Amendment) Bill and the explanatory memorandum. We have concerns in relation to the changes to the application of accepted audit standards (section 15) and the proposed delegation of signing audit reports to third parties (section 7F).

The Australian Society of Certified Practising Accountants has expressed concerns similar to those raised by the Leader of the Opposition in amendments he proposed that have now been accepted by the government. The letter states further:

We do not support the proposed amendment to replace 'the general auditing standards as issued by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia' with 'audit standards set out in the report of the operations of the Victorian Auditor-General's Office'.

The explanatory memorandum contains no explanation for this change. The existing legislative requirement reflects the professional requirements of the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants as stated in auditing statement AUS 702 'The Audit Report on a General Purpose Financial Report' issued by the Auditing and Assurance Standards Board of the Accounting Bodies. The board membership has included representatives from the commonwealth, state and territories auditors-general.

The government proposes removing from the legislation the bodies previously enshrined in it, including auditors-general. They set the standards. The letter continues:

AUS 702 requires 'The audit report should include a section headed "Scope", which includes the following:

- (d) a statement that the audit has been conducted in accordance with Australian auditing standards to provide reasonable assurance whether the financial report is free of material misstatement'.

The society suggests the current standards should remain in place.

The new Auditor-General comes with international acclaim and reputation. His reputation must be protected by the maintenance of a minimum standard. As certified practising accountants and chartered accountants advise, the auditing standard is not prescriptive but sets a minimum standard of audit.

Currently nothing prevents the Auditor-General applying a higher standard of audit. If a minimum standard were not required, the door would be left open for the auditing standards to fall into question at some time in the future. The Auditor-General is now enshrined as an officer of the Parliament. A change in that position will be subject to an amendment of the constitution to ensure that remains the case. On the requirement to maintain minimum standards provisions, the letter states:

Australian auditing standards do not prevent higher auditing standards being applied by auditors. Auditing standards issued by the accounting bodies after due process and compatible with international auditing standards are a minimum benchmark to be applied in the conduct of all audits.

When auditors are contracted to do an audit they will know from the start to what standard they must audit.

At the briefing the reason given for the removal of the auditing standards was to cover the eventuality of the relevant accounting bodies changing their names or amalgamating. The opposition does not consider that to be a relevant position to take.

If the concern is that the bodies mentioned in the legislation might change their names or amalgamate, it is simple to provide in legislation or by amendment that the auditing standard remain the same. The auditing standard is numbered and is varied from time to time after consultation.

When discussing the tenure of the Auditor-General, the government stated previously that providing tenure would enhance his independence from the executive while strengthening his accountability to the Parliament. Where someone can be dismissed or suspended by the executive of the government it hardly enhances his independence; to some extent it makes him beholden to the executive for his job. For example, if the Auditor-General happens to upset the Minister for Finance in some way, the minister, being as powerful as he is within the government, may be successful in having the Auditor-General dismissed.

At some time in the future an Auditor-General may come under the influence of the Minister for Finance or other senior ministers and may lose the confidence of the Parliament. Given that he is an officer of the Parliament, the Parliament should have the right to seek a review of his position, as applies to other officers of the Parliament such as the Ombudsman. The opposition's amendments seek to insert a tenure provision similar to that contained in legislation governing the Ombudsman. Requiring reference to Parliament and enhancing accountability to Parliament and parliamentary committees must be maintained. Hence, amendment 10 inserts in the purposes clause the provision that the Auditor-General must report to the Parliament.

The opposition also believes the legislation should contain an objectives clause. To that end it has moved amendment 11 and consequential amendments 39, 40 and 42.

Earlier the Leader of the Opposition referred to the former all-party Public Accounts and Estimates Committee of the Parliament. That committee's report was voted on by members of the Liberal, Labor and National parties and was adopted unanimously. It would be reasonable to draw from that that the recommendations contained in the report have bipartisan support. On that basis the opposition has included several amendments that seek to enshrine some of those recommendations in the legislation.

It is clear that the bill proposes some watering down of the relationship between the Auditor-General and a public accounts and estimates committee. The

opposition does not believe that should happen and has sought to reinsert those provisions into the bill.

In closing, the opposition's amendments will make the act work much better. In many ways the bill is superficial. The repeal of the previous act is nothing short of both a political stunt and a statement. Although the government has the right to repeal the act its repeal will have no effect at all. I commend the opposition's amendments.

**Mr LONEY** (Geelong North) — I am proud and privileged to join today's debate. This is a great day for the Labor government and the people of Victoria. It is a day on which a key election promise wanted by Victorians will be delivered.

Throughout the debate several opposition members have claimed to be offended and have sought a withdrawal of the bill. The people of Victoria were offended by the actions of the former government towards the Auditor-General and they want the act withdrawn. That is what is happening today.

It is a pity, but not surprising, that not one opposition member has admitted to the Victorian people that the former government was wrong and apologised for its personal, bitter and vindictive attack on the former Attorney-General. If opposition members believe that Victorians do not want an apology they are well and truly living up to their reputation of not listening to anything.

Starting with the 1997 Mitcham by-election, many clear examples exist of the Victorian people demanding something better than the former government was offering. The by-election campaign was about one predominant issue — the powers of the Auditor-General — and resulted in a massive shift away from the former government; the election result was an absolute slaughter!

One should remember why the Mitcham by-election was necessary — that is, because only one government member out of some 90 said no to the then proposed legislation on the Auditor-General. The others just went along with the proposal. The Bracks Labor government is acting today to rectify the situation that resulted from that action.

The legislation is back now because Victorians have demanded that it be fixed — and it is being done. Given the number of opposition amendments, one could say that opposition members have put a bit more thought into this bill than they put into the original bill. There was more discussion in the current opposition's party room than in the party room of the former government,

when the then Premier just jumped up and said, 'This is what we are doing', and they all bowed and said yes.

**Ms Kosky** — Silence of the lambs!

**Mr LONEY** — We have seen lambs with far more courage.

The bill marks the difference between the governing approach of the Bracks government and the former Kennett government. The difference is not just in the rhetoric but in the Bracks government's belief in accountability and transparency. Although true accountability and transparency may at times be difficult for governments, it is right.

**Mr Leigh** — We will find out.

**Mr LONEY** — I take up the interjection because that is precisely the point I am making. The only reason the honourable member for Mordialloc supports the bill is that he believes there is political advantage to his side in it, and his words condemn him to that view. The honourable member for Mordialloc was happy to stand on this side of the chamber as a member of the previous government and say, 'Do away with the Auditor-General. We do not want him. We are in government; we will talk accountability but we will not have it'. Now that the honourable member has taken the short walk to the other side he is an adherent of accountability. He loves it now and thinks it is a good thing. The difference is that members of the government believe in it no matter on what side of the chamber they sit. The honourable member for Mordialloc believes in it only when he is in opposition. If the honourable member were on the government benches, he would have a complete reversal. He stands condemned by his own interjection.

The bill also illustrates the difference between the Bracks government and the former Kennett government on independent scrutiny. Independent scrutiny of actions of the government is at the heart of the issue. That is what the Auditor-General's office was enshrined for 148 years ago. The office remained from that time until the former Kennett government decided it did not want the scrutiny. The Bracks government knows the former government's history of attack; it attacks critics and anyone scrutinising it. The last in the line was to get rid of the Auditor-General and muzzle criticism. The former government's whole approach was based on that, regardless of what former government members now say.

The bill represents an expression of the will of the people of Victoria for something better than that given to them under seven years of the Kennett government

and its attack on democratic institutions over those years. The attack on the Auditor-General became the real symbol of the attack on democracy in Victoria. That is why Victorians were so keen for change. The bill represents their will.

The opposition now says it supports the bill, but I do not think it does. That is just its rhetoric. If opposition members supported it, they would come into the chamber and support it. I have not yet heard one opposition member say he or she supports the legislation. The government cannot believe them until they actually say it. Opposition members say they support it but it has taken them a long time over a fairly bumpy road to reach that view. However, they have demonstrated over time that they are slow learners. Now they want to talk about those matters. Under the previous government we had the reign of silence, or the reign of terror — take your pick, Mr Acting Speaker.

**The ACTING SPEAKER (Mr Richardson)** — Order! Will the honourable member oblige the Chair by making a reference, if only a passing one, to the bill on which he is speaking.

**Mr LONEY** — I am more than happy to. The context of the bill is important — for example, it is important to note what we heard from the current shadow Treasurer when the Audit (Amendment) Bill was debated in the upper house during the last Parliament. When she was a minister in the previous government she did not utter one word on the bill. The shadow Treasurer has not spoken on the bill today, so perhaps she is keeping her record intact. The current Leader of the Opposition did not speak on the bill. The only time he spoke was during the debate on the question of time and whether the public should be given more time to consider the Audit (Amendment) Bill. The current Leader of the Opposition opposed the granting of more time to Victorians to examine the contents of the proposed legislation. The Leader of the National Party did not speak on the bill either.

**Mr Holding** — Which Leader of the National Party?

**Mr LONEY** — The current Leader of the National Party, not the one who is about to become the leader, although he did not speak on it either. The honourable member for Warrandyte could not bring himself to speak on the bill. However, a couple of former government members did speak on the bill. The manager of opposition business, the honourable member for Monbulk, spoke rabidly in favour of neutering the Auditor-General. The honourable member for Doncaster, the opposition's defender of

rights, could not bring himself to defend the Auditor-General's right to independence when the bill was before the Parliament. He just stood up and went along with it. I could continue with each and every member of the former government.

The bill delivers on Labor's key promise to the Victorian people at the recent state election. It ensures that the Auditor-General will have complete control over the managing and contracting out of auditing of all public sector authorities. There is no rhetoric about it; this truly enhances his independence. The bill does not contain the sham provisions that were endorsed by the now opposition when in government. This is real independence for the office and is achieved in a number of ways.

Firstly, the maintenance of the Auditor-General as an officer of the Parliament is picked up and maintained, but it is enhanced and taken further. The appointment is contingent on the recommendation of the appropriate parliamentary committee, so it involves the Parliament. It takes it further.

**Mr Leigh** interjected.

**Mr LONEY** — The poor old honourable member for Mordialloc cannot get over this. The honourable member's problem is not about the legislation but the election result, and he will suffer like this for the next four years!

The house heard bit of a whinge, carp and moan from the Leader of the Opposition in his contribution. Again he commented on committees not being in place, but he forgot to tell the house that they are not in place because he will not allow them to be put in place. He is mucking around with them and trying to sabotage the committee process. The government could have had committees in place, but honourable members opposite will not play ball — they are still bitter about being defeated and want to do everything they can to undermine the operation of Parliament and the government. Before the Leader of the Opposition whinges, carps and moans about parliamentary committees not being in place he had better address his own performance on that issue first, because other people will.

The Auditor-General's position is enhanced under the bill by a clause that will ensure he cannot be starved out of office — his remuneration cannot be reduced. There are the other provisions that deal with how the Auditor-General is to be appointed and protected. A hypothetical future government — the sort of government that might occur if the honourable member

for Mordialloc were to become Premier — could not deprive the Auditor-General of a salary, force him out of office or get around the other provisions of independence. It is an important provision that will ensure the Auditor-General's remuneration cannot be attacked.

The bill also gives the appropriate parliamentary committee the power to vary any obligation or requirement imposed on the Auditor-General or his office — again, it is the working of a number of clauses that will ensure Parliament has primacy in these things — provided that those variations are tabled in Parliament within six days and are subject to disallowance by either house. The clause is a belt-and-braces approach. It will determine where the real power lies and ensure the Auditor-General has real independence. It will ensure Parliament's control over the destiny of the Auditor-General will provide a balance against possible arbitrary executive action.

The bill enhances the role of the Public Accounts and Estimates Committee (PAEC) in its dealings with the Auditor-General. Firstly, the PAEC will recommend the appointment of the Auditor-General and the way in which that will occur. Secondly, it will have the power to comment on the Auditor-General's budget and annual plan, which he will be required to present to the committee. The committee will go through the plan and provide comments on it to Parliament. It will have the power, if necessary, to exempt the Auditor-General from complying with legislative requirements, again with the proviso that any such exemption must be reported to Parliament. The primacy of Parliament is enhanced and enshrined in the arrangements.

Although the PAEC will be given those new powers, there will be no loss or restriction of its existing role and powers. It is a substantial and clear indication of how the government views both the independence of the Auditor-General and the role of Parliament and parliamentary committees in ensuring that independence.

The bill will ensure both the primacy of Parliament and greater accountability and openness by requiring the Auditor-General to present an annual plan for comment. That requirement will ensure the Auditor-General has a clear understanding that his primary relationship is with Parliament rather than with the executive. It is reasonable that the parliamentary committee should take on the role of Parliament in the first instance, given that it will deal with how government expenditures should be properly made and scrutinised. The plan will set out the intended work for the year and the way the resources allocated by

Parliament are to be applied, all of which will be subject to comment and debate by the PAEC.

Opposition members have commented on accounting standards. That is hypocrisy. I recall the previous government sold an entity called United Energy. The then Treasurer signed off on a contract that said, firstly, that the Auditor-General did not have to audit the accounts of the public company because the new buyer could do that, and secondly, that in doing the audit the company did not have to comply with Australian accounting standards. Members of the former government supported that. The former government signed off on that — it is in writing in the contract.

In another attack of hypocrisy — —

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

**Mr THOMPSON (Sandringham)** — There has been quite a lot of high rhetoric in today's debate. Words such as 'lap-dog' and 'watchdog' have been used. It is important that the issues of mange and rabies not be injected into the debate and that there be elements of objective dialogue.

It is interesting that historically not everyone in the Labor Party has placed the office and the role of the Auditor-General on the pedestal. On 26 November 1996, in an article published in the *Herald Sun*, Steve Crabb, a former senior Labor government minister, had this to say about the role of the Auditor-General:

Every taxpayer will be worried by Auditor-General Ches Baragwanath's protestations about facing competition ...

Throughout the housing commission's corrupt land deals in the 1970s it always got a clean bill of health.

They never noticed railway clerks putting pensioner-free travel vouchers down as trips to Mildura and pocketing the difference.

They didn't remark on the Department of Labour and Industry inspector who became a millionaire on a \$20 000 salary.

Or the conservation officer with the thriving home business — placing orders with himself and authorising payments to himself ...

And the auditors were no better at discovering waste. Two \$10-million locomotives that were too heavy to be used on our rails missed their notice. That the entire fleet of silver trains were 15 cm too wide for the tracks didn't rate a mention. Nor did the new police station garage with a roof so low that the divvy vans couldn't get in. You might wonder what these auditors do. They used to make sure all the forms had been filled in correctly, and all the columns added up. They discovered performance audits. We were delighted.

**Mr Leigh** interjected.

**Mr THOMPSON** — The honourable member for Mordialloc just wanted to clarify for the parliamentary record that these remarks are not mine but they are the remarks of a former senior Labor minister, Steve Crabb. He might be working as an adviser to the present government. Or, in the light of these remarks he may not. I do not know. The article continues:

And the Auditor-General's department, in my experience, was more concerned with supervising the performance of ministers than of the public service.

**Mr Leigh** interjected.

**Mr THOMPSON** — From our side of the house the honourable member for Mordialloc has again sagely noted that the government will need all the help it can get.

Steve Crabb was not the only Labor Party figure who had commented on the role of the Auditor-General. The then Labor Party leader in the other place, the Honourable David White, had noted:

At no stage during the 1970s or 1980s were issues of public importance — whether they were issues before the Gowan inquiry, the Frost inquiry or the Tricontinental royal commission — ever uncovered in any Auditor-General's report ...

No Auditor-General over the past 20 years has raised major issues that subsequently have been referred to a royal commission. They have never been exposed by an Auditor-General.

It is quite clear — and it is the view I have held for more than 15 years about the adequacy of the professionalism within the junior and middle ranks of the audit office — that they will most likely be brought into question as a result of the work of Fergus Ryan.

**Ms Davies** — On a point of order, Mr Acting Speaker, on the question of relevance, the honourable member is talking about events of 20 or 30 years ago. I ask you to have him return to the bill.

**Mr Leigh** — On the point of order, Mr Acting Speaker, latitude is allowed in a second-reading debate. Before you took the chair latitude of at least 11 minutes was allowed to the honourable member for Geelong North. It is entirely appropriate for the honourable member for Sandringham to raise issues about what others have said on auditors-general auditing state departments. He is quoting former ministers of the Crown and, therefore, ministers who dealt with auditors-general. The contribution is within the realm of a second-reading debate.

**The ACTING SPEAKER (Mr Savage)** — Order! There is no point of order. The honourable member for Sandringham is raising an issue relevant to the debate.

**Mr THOMPSON** — I may add that, although my remarks span 30 years, the remarks made by David White were made in 1992. He further notes:

We have raised this issue —

that is, about the expertise within the middle ranks of the Auditor-General's office —

many times in the house. It has been raised with every Auditor-General during the course of discussions with auditors-general and in the process of interviewing prospective appointees to that office. It is a view that is generally shared within the accounting profession.

That remark was made on 21 May 1992. At about the same time David White further noted:

The fact that the Auditor-General's office failed to uncover any aspect of a debt that resulted in a \$2.7 billion deficit to State Bank Victoria is a reflection on the Auditor-General's office.

Those are not the remarks of Liberal members but of Labor ministers — people with good minds who were competent administrators in many spheres of their work. David White further stated:

It is quite clear that at no time did the Auditor-General draw the government's or Parliament's attention to any matter affecting Tricontinental. As a consequence it is quite clear that one has to draw the conclusion that the Auditor-General's office is quite good at finding incidental information, as it did when it was looking at the Alfred Hospital, and putting unsubstantiated discussions that occurred in the medical staffroom in the Auditor-General's report, but at no time over the past 20 years has it fulfilled its responsibilities to the Parliament in respect of substantial financial transactions.

That remark was made in May 1992.

When the Kennett government came to office it had an obligation to the Victorian community to reform the public sector and to try to achieve good outcomes for the good governance of Victorians.

**Mr Holding** interjected.

**Mr THOMPSON** — The honourable member for Springvale says I should address the provisions of the bill. Second-reading debates provide the opportunity for wide-ranging discussion on bills. During the committee stage the chamber goes into closer examination of clauses. My remarks are highly germane because I guarantee not one government member would have read the Maddock report following the review of the Auditor-General's office a few years ago, yet the house has to listen to the high rhetoric of lap-dog and

watchdog which belies the substance of actual reforms implemented in days gone by.

**Mr Holding** interjected.

**Mr THOMPSON** — Mr Acting Speaker, I am taking on board the concerns of government members. The only people I have quoted in the debate so far are former Labor ministers. I apologise — but one must let the record stand! There should be some objectivity in the debate.

I shall give some history about the role of the Auditor-General which again places the reforms of the 1990s in a particular context. Victoria's first Auditor-General was Charles Ebdon, who was appointed by the Legislative Council in 1851 to undertake audits. He later became the honourable member for Brighton and was a member of Victoria's first Legislative Council. The first Audit Act was entitled 'An act for the better government of Her Majesty's Australian colonies'. It provided that financial matters were:

... to be regulated and audited in such a manner as shall be directed by the commissioners of Her Majesty's Treasury of the United Kingdom of Great Britain ... and in such manner as shall be directed by laws of such governors and councils.

On 2 October 1857, following the passage of the Victorian Constitution Act on 23 November 1855, the colony's first Audit Act was proclaimed. Features of the act at the time included the abolition of a single Auditor-General and the appointment of three commissioners of audit. The Public Service Act 1893 changed the duties of the commissioners to include the Public Service Board.

In 1901 the Audit Act was passed; it abolished the commissioners of audit and reverted to the sole office of Auditor-General. In 1957 major revisions of the then audit legislation were incorporated in the Audit Act 1958. In 1994 a new Audit Act was introduced in Victoria.

It is interesting that in debate on the implementation of the 1901 Audit Act reference was made by Mr Peacock to the fact that the Auditor-General should be a first-class officer who should be placed in such a secure position as to be able to do his duty fearlessly in administering the acts. It was said that he should certainly be free from any political control on the part of the ministry of the day. Those features were still inherent in the legislation when it was last amended.

A proposed amendment to the bill at that time provided that inspecting officers must hold a certificate of the company's auditors' board or of some society or

institute of accountants recognised by the board. In that 1901 debate Mr Hennessey asked:

Do you go outside the public service?

Another gentleman of the day, Mr Fink, replied:

It only applied to officers within the service.

When its last review was undertaken the office of the Auditor-General employed about 140 staff and had a total expenditure budget of about \$17 million. The reviews of 1997, initially announced at the end of 1996, were based in part on the context of national competition policy and the Hilmer reforms. In that context I refer the house to the following words:

Government has traditionally been seen as a provider of services. Today government can also be about purchasing services on behalf of its clients, and it will look increasingly to buy from the most efficient supplier, whether from within the public sector or externally. As our experience with contracting ... grows, there is likely to be continuing pressure to extend contestability within the public sector as a device to improve efficiency and, at the least, maintain the effectiveness and client focus of program delivery.

Those remarks were made by the present federal Leader of the Opposition, Kim Beazley, during his 1994 Sir Robert Garran oration given on 23 November 1994 to the Royal Institute of Public Administration national conference in Adelaide.

At the initiative of the Labor Party the new view was taken about the Hilmer reforms and overall benefits. In that context all Australian acts had to pass through the prism of national competition policy. As a result of the Victorian Audit Act being referred for independent review by a respected academic, Professor Maddock — —

**Ms Kosky** — On a point of order, Mr Acting Speaker, the honourable member has been speaking for 7 minutes, but has not yet begun to address the bill. His history lesson is of interest, but at some time he should return to the bill.

**The ACTING SPEAKER (Mr Savage)** — Order! The honourable member for Sandringham has been labouring the point. I ask him to reflect on the bill.

**Mr THOMPSON** — I appreciate the nuance, obviously intended, Mr Acting Speaker, about labouring the point, because the people I have relied upon in my contribution so far are former Labor ministers Crabb and White and, more recently, the federal Leader of the Opposition, the Leader of the Labor Party. As to the overall context of the reforms, I note the comments of Roger Evans, the immediate past

state chairman of the Institute of Chartered Accountants, about the audit model that the bill will actually review.

In a letter to the editor published in the *Age* of 14 November 1997, he comments:

First, the Auditor-General's independence is enhanced by the changes. The Auditor-General will be responsible to Parliament, not to the Office of the Premier and Cabinet. Funding will come from Parliament, not from the Premier's office.

The Auditor-General will be the only reporting entity to Parliament. This means that the Auditor-General signs off on all audit reports. Taking this point further it means that as far as the external audit firms are concerned the client is the Auditor-General and their performance will be assessed.

He concluded by saying:

The draft bill has no underlying theme other than to enhance the Auditor-General's independence, improve competition, put the Auditor-General in the mainstream of audit and accountability but remove Audit Victoria from his control.

He went on to note that the removal of control over Audit Victoria was the only negative aspect from the perspective of the Auditor-General of the day.

As I understand the way the reforms have been operating in Victoria over the past couple of years, essentially the Auditor-General has had full independence. He has reported to Parliament. His job has been to earmark what has to be audited in the state of Victoria. His office has done the scoping work. Having done that, the work has gone out to private tender, giving the best minds in the state the opportunity of tendering for it.

It is clear from my earlier remarks that according to Mr White there was a view that at certain levels the Auditor-General's office did not have the expertise that may have been available in the private sector. I note that a number of honourable members on the other side of the house have some legal expertise. One could draw an analogy between the alternative of using the expertise available in Victoria Legal Aid for a particular matter or putting a brief out to the Victorian bar. There would be a greater skills base at the bar as a result of specialisation in unique areas than there would be at Victoria Legal Aid, where lawyers have the legitimate role of working full-time on that agency's behalf. In technical terms, some strategic advantages were created by the reforms that were implemented.

Another aspect of the reform model was that historically 75 per cent of audits were conducted by private sector auditors. The reform model enabled 100 per cent of audits to be undertaken by the private

sector. That approach was recommended by the Maddock review as being compatible with the proposed reforms and in accordance with national competition policy principles.

At the end of the day it is imperative that the Victorian people are well served by a fearless Auditor-General who has adequate resources to hand to undertake his or her work and who can audit the operation and performance of ministerial offices and government departments to ensure that their work has been undertaken honestly and competently.

The opposition has proposed a number of amendments to the reforms mooted by the government in the bill. It will be of interest to see whether those amendments are accepted by the government in its attempt to further strengthen the office and role of the Auditor-General.

It should be emphasised that the debate has been conducted with highly emotive rhetoric without there always being a clear understanding of the facts. Under the 1997 act the Auditor-General had full control over the audit process in terms of the scoping of work. If dissatisfied with or concerned about an audit report, the Auditor-General could reissue a new contract for the further auditing of a government department.

The criticisms made of the former officers of the Auditor-General's office may well have been unduly harsh, given the ambit of some of their audit functions. On my understanding it is impossible for the Auditor-General's office when reviewing the work of government to review every file unless it is specifically drawn to the attention of a member of the office. It works on percentages and sampling, which the officers go through before undertaking the audit work.

It is notable that both Mr White and Mr Crabb commented on the oversights of the office of the Auditor-General when referring to the loss of major institutions in Victoria, in particular Tricontinental and the State Bank, and the economic losses that represented to the state. It is to be hoped that the government's proposed reforms and the opposition's proposed amendments will build on the 1997 act and continue to strengthen the role of the Auditor-General so his or her work can be conducted fearlessly and in the interests of all Victorians.

**Ms DAVIES** (Gippsland West) — I support the government's Audit (Amendment) Bill. Before I discuss the bill, I refer the house to comments made by the honourable member for Cranbourne when speaking about the bill and about my discussions with the opposition.

I refer firstly to comments he made when the previous government was in the process of removing the powers of the Auditor-General. Somewhat prophetically, the honourable member for Cranbourne referred at that time to the fact that the political cycle would turn and that one day his government would be in opposition again. He said then he was confident that when that happened and he was a member of the opposition, as he now is:

... the Auditor-General will be as powerful as or more powerful than he is today —

I am referring to 1997 —

because he will have the resources of the private sector to bring to bear upon governments of the day.

I suggest to the honourable member for Cranbourne that he was wrong. The reason the Auditor-General will be more powerful, or as powerful, as he was in 1997 is simply because the honourable member for Cranbourne is now a member of the opposition, as he and his fellow members so well deserve to be.

I support the government's Audit (Amendment) Bill with a sense of enormous satisfaction and relief. I am happy with the role I and my fellow Independents were able to play in ensuring that the powers of the Auditor-General were properly restored.

I will not forget the enormous community trauma that was generated by the previous government over the issue. Opposition members must never forget the consequences of giving a leader too much power. I hope the full and complete consequences of that lack of spine remain indelibly imprinted on the minds of the members of the opposition for many years.

The previous government's removal of the powers of the Auditor-General were an excessive use of an excessive level of power. The fact that members of the Liberal and National parties are now on the opposition benches should help them remember that fact.

The very first issue that we three Independents agreed to when we first came together after 18 September was that the Auditor-General's powers should be restored. The very first issue that we three publicly declared our commitment to was that the powers of the Auditor-General should be restored. The very first issue over which the current opposition had a sudden discovery of conscience was that the powers of the Auditor-General should be restored.

The consequences of our commitment are: one, this government; two, this bill; and three, the fact that we have bipartisan support of that bill, which is good.

The Leader of the Opposition said he hoped members of Parliament would not make cheap political points during the debate. I suggest that a direct translation of that statement is, 'Please don't remind us of our shame'. I say to the Leader of the Opposition that we should refer often to that shame, and we should not forget, because that will ensure that no government of whichever political persuasion ever repeats that terrible error.

The bill will result in future auditors-general being appointed on the recommendation of the Public Accounts and Estimates Committee. The Auditor-General will be an independent officer of the Parliament who will submit draft and completed annual plans and reports to Parliament and a parliamentary committee, control the conduct of audits, and, importantly, have the staff necessary to give him or her the practical ability to conduct proper audits of government activities.

Audits can be delegated, particularly when they involve lesser amounts. The Independents negotiated with the previous Auditor-General, the current Auditor-General and the government to establish an appropriate level at which that delegation could and should occur. I am pleased with that negotiation. However, it is fundamental to the Auditor-General's powers that he or she have full and proper capacity to undertake proper audits from within the Victorian Auditor-General's Office. That is vital to ensure that audits are not affected by commercial considerations, a lack of detailed specialist expertise or a lack of willingness to confront a particular government. Those things could be experienced by a private firm, but they will not be experienced by the permanent staff in the Auditor-General's office.

I was pleased to participate in discussions with the Leader of the Opposition about the amendments his party has suggested. I listened carefully. When I am bemused, as I was with some of the suggestions, I tend to ask questions. However, no opposition member should take that as an outright rejection — I merely prefer to ask rather than maintain my silence.

I was quizzical about some of the proposed amendments. I especially liked the amendment that effectively inserts a whole paragraph to convey the same meaning as the words 'complete discretion'. That is the first of the suggested amendments put forward by the opposition — that the bill should provide that the Auditor-General:

... is not subject to direction from anyone in relation to:

(a) whether or not a particular audit is to be conducted;

- (b) the way in which a particular audit is to be conducted;
- (c) the priority to be given to any particular matter.

I would have thought that the two simple, clear words ‘complete discretion’ say exactly the same thing as that fairly complex paragraph.

Another good example of the Liberal Party amendments is the proposal to omit the words ‘taking into account’ and in their place insert the words ‘having regard to’. I really love the English language, and I pride myself on having a fairly good understanding of some of its nuances, but I must say that I cannot see any substantive difference between the two phrases. I would prefer that future amendments be limited to changes of real substance.

I am happy to participate in discussions with the opposition on proposed amendments to bills because my theory is the more minds that look at the bill the more likely we are to end up with good legislation. I will take serious amendments seriously. In fact, on this bill I am even happy to support the trivia that has been suggested, and I advise the government that it, too, should be happy to support some of the trivia.

I am also happy to support a couple of issues of substance that were raised in the amendments. However, I do not believe that unreconstructed dinosaur of past privilege, the upper house, should be given any power at all to vary the obligations of the Auditor-General, and I will not support that amendment.

I conclude my contribution with two memories. On 18 September 1997 I tabled a petition in this house. That petition had 21 068 signatures on it, which is enormous. It was organised by a group called Defend Democracy, which is led by Mr James Wingate, and it called loudly for the restoration of the powers of the Auditor-General. Exactly two years after that date, on 18 September 1999, I was re-elected to this place by the people of Gippsland West. They knew and supported my clear commitment to democracy and accountable government in Victoria. I say to the signatories of that petition and the people of Gippsland West: your support and great efforts were worth it.

The second memory I wish to refer to is that of the Honourable Peter McLellan. The previous member for Frankston East went further in his opposition to the removal of the Auditor-General’s powers than any other member of the Liberal Party or the National Party.

**The ACTING SPEAKER (Mr Savage)** — Order!  
The honourable member for Brighton is crossing between the Chair and the member on her feet!

**Ms DAVIES** — The previous member for Frankston East had to face incredible pressure from his supposed colleagues. In the end he abstained from the vote — he did not feel able to vote against it, but he abstained. I have seen no other member of either party do that in this house. He faced the wrath of the previous leader of the Liberal Party, whose nature did not encourage anyone to face him. Mr McLellan eventually resigned to sit on the cross benches as an Independent.

His untimely and regrettable death gave the Independents the breathing space that was needed to develop and negotiate our charter. Because of that we now have bipartisan support for the bill. I am pleased to remember the contribution of the Honourable Peter McLellan — both in his life and his death — to this new, more hopeful phase of Victorian history.

The introduction of the bill was possible because of the commitment of many people across Victoria who rejected the excessive use of power by the previous government. I would like to congratulate all of those people on their commitment, and I offer my vote of support for the bill.

**Mr LENDERS (Dandenong North)** — It is with a great deal of pleasure that I join the debate in support of the Audit (Amendment) Bill, which is the most significant piece of legislation that will come before this Parliament. It is significant for both its symbolism and the practicalities it deals with.

Opposition members have been particularly scathing during the debate. I have listened to most of the debate today and have heard opposition members accuse the government of being high on rhetoric and low on substance. Clearly those were the lines issued this morning in the speaking notes for the debate.

Although I understand where they are coming from and how they are feeling, on this occasion I take the comment as a badge of honour. To be accused of being low on substance and high on symbolism on this matter is a compliment, because the symbolism is unbelievably important.

As the honourable member for Gippsland West said, the symbolism is strong because it affects many aspects of the politics of the state. If we do not pay attention to symbolism and emotional issues that have great meaning for people, we forget where we have come from and run the risk of going where the previous government went. The symbolism and the substance of

the issue are such that it caused unbelievable turmoil within the ranks of the then government of the day, and many previous speakers have dealt with that.

The controversy resulted in two former government members making the unbelievably difficult decision to abandon the government. The honourable member for Gippsland West referred to what the late Peter McLellan went through. Similarly the former honourable member for Mitcham felt so strongly about the matter that he resigned from this place. The symbolism is important.

**Mr Leigh** interjected.

**Mr LENDERS** — The honourable member for Mordialloc may scoff, but in my inaugural speech I alluded to the rich traditions of the Westminster system, some of which are good and some of which are bad. Unquestionably the things that must be carried forward and cherished most are the concepts of the separation of powers, the rule of law and the right to free speech. These incredibly powerful symbols were tied up in the 1997 Audit Act amendments and had a profound effect on the community.

I congratulate the Independents on their principled position; the decision would not have been easy. In the spirit of the Audit Act the Bracks government will probably be subjected to more checks and balances than any other government in the state's history. The government's position on checks and balances ultimately led to its formation, which is a good way to come into office.

Enormous constraints were placed on the government. In the end the constraints are a hindrance to the executive government of the day, but they are the most cherished things we have if we believe in a Westminster system. Checks and balances are what the debate today is all about.

Perhaps because of my upbringing by the Josephite nuns I genuinely sympathise with opposition members about what an appalling day it must be for them to come to the chamber. They have done the right thing in honouring the commitments they made to the Independents when seeking to form a minority government. To give opposition members their due, they have basically followed those commitments, and that would not be an easy thing to do. In a charitable sense I feel for them today.

I would not like to be an opposition member today and have to come in here and join in the debate on the bill. They are making the best of it. It would be appalling to have to come in here today to defend the indefensible. I

suppose you can reflect on how you would do it if you were in their shoes.

There are two imperatives involved: firstly, there are times when we all have to admit that we are wrong. At the age of 21 I knew everything, and at the age of 41 I have forgotten a lot and can now admit I was wrong about a lot of things. To admit that is a difficult thing, but it is a critical part of our history that we do it. Secondly, I noted with some sadness that the honourable member for Box Hill, when he was discussing the virtues of national competition policy, went through the whole mantra of why the 1997 reforms were so important and all the good things the government of the day had done. I say to honourable members opposite that all the good things they were talking about will remain in the bill; whatever good things came out of that reform will remain there.

The fundamentals that members opposite are forgetting when referring to competition policy and reciting other mantras are the symbolism and the power of the idea of an independent watchdog being muzzled. That is what the debate was about, and that is what the debate is still about. Restoring the powers of the Auditor-General is part of addressing that significant political event in Victoria. The legislation will address those issues.

The government will accept most opposition amendments, but it will strenuously oppose proposed amendment 20, which does not address the fundamental issue. We must go back to the potent symbolism that has been used as a tool of belittlement from the other side of the chamber for most of today, the potent symbolism of checks and balances.

With every piece of legislation I have committed myself to asking what is in it for the constituents of the electorate of Dandenong North. I note with considerable interest the position taken on the 1997 legislation by the Mulgrave Liberal Party branch in the electorate of Dandenong North. Its views on gutting the powers of the Auditor-General were as follows:

After very careful deliberation we must advise you that the controversy concerning foreshadowed changes to the office of the Auditor-General is not a fringe issue. Substantial numbers of dedicated Liberals are deeply concerned that the proposed changes so far reported might appear to quarantine the office of the Auditor-General from political interference while in fact so reduce the level of independent resources directly under the Auditor-General's control as to render his role ineffective.

I further quote:

By any reasonable interpretation of the future role of the office of the Auditor-General so far articulated by the government, professional bodies or various media, there is a

widespread perception that the Auditor-General's independence will be emasculated.

The pertinent point is that in the debate about checks and balances in 1997 not only were all the independent sources and other people we have talked about — the professional bodies — expressing their concerns, but even the branches of the Liberal Party were expressing concern, as did the Liberal Party state council, and, presumably, in the quiet of the party room or in the strangers' corridor — wherever the conversations took place — individual members of the previous government.

This is not a grievance debate, but I grieve for former government members who were incapable of reining in their rampant leader. They were unable to do it; they were totally irrelevant.

**An honourable member** interjected.

**Mr LENDERS** — That is my opinion, and I think it is also the opinion of the vast majority of Victorians.

It is not just a matter of semantics; it is about the powers of the Auditor-General. The issue struck an emotional chord across Victoria. If former government members, while sitting in the party room or wherever else they sat during 1997, did not pick that up, it is an indictment of the Liberal Party organisation because it means they were not in touch with their community. It is an indictment of their polling and their capacity to go around the streets, or it is an indication that the Liberal Party was totally captured by one dominant personality who made the issue into one of his manhood. He would not stand aside.

It is a sad reflection on part of Victoria's history, and it is a lesson that we cannot and must not forget lest it happen again. The Leader of the Opposition would have listened with great interest, and his contribution to the debate would have been particularly difficult. He would have sat at the cabinet table when all the decisions were being made, then loyally gone into the chamber and made comments in solid support of all the changes.

Not all of the 1997 legislation was opposed. What was opposed were the substantive changes that dealt with the independence of the Auditor-General. No-one on this side of the house is opposed to improvements, reforms or measures that enhance the independence of the Victorian Auditor-General's Office.

**Debate interrupted pursuant to sessional orders.**

## QUESTIONS WITHOUT NOTICE

### Rail: ALP commitment

**Mr RYAN** (Gippsland South) — I refer to the government's commitment to completing a full feasibility study of regional rail lines in Gippsland, Bendigo and north-eastern Victoria within the first 100 days of government and ask whether the Minister for State and Regional Development will inform the house of the progress of those studies, including the terms of reference and by whom they are being conducted.

**Mr BRUMBY** (Minister for State and Regional Development) — The commitment made by the Bracks government to new rail infrastructure in Victoria is the most significant commitment made by any government for many decades in this state. The government, working with the private sector, has allocated \$85 million as seed funding to substantially improve the travel times between Melbourne and the major provincial centres of Geelong, Bendigo, Ballarat and Gippsland. In addition, the government has allocated \$40 million from the Regional Infrastructure Development Fund to standardise the rail freight gauge across Victoria.

Here we are in 1999, on the cusp of a new millennium, and still half of the state is operating on broad-gauge rail lines and half on standard gauge. The Bracks government has made a clear commitment to fixing that up. It is getting on with the job and will clean up the mess left behind by the previous government.

In answer to the specific question asked by the honourable member, the government has made a substantial commitment. It is committed to beginning feasibility studies within the first 100 days of government.

**An honourable member** interjected.

**Mr BRUMBY** — The honourable member says we should be completing the studies within 100 days. The studies being undertaken are major, some being six-figure studies that will take months of work. You don't just employ someone for 10 days to write a line about spending \$100 million on fixing up the Melbourne-Ballarat line or the Melbourne-Gippsland line. The government has done everything it said it would. It has committed the \$85 million, plus the \$40 million to standardise the freight rail lines, and has commenced the feasibility studies, which are being overseen by the Minister for Transport — all as the government promised it would do.

The Bracks government does not just talk about it, it gets on with the job.

### Festival of Sail

**Mr LONEY** (Geelong North) — I refer the Premier to the Festival of Sail yacht regatta on Corio Bay and the fact that the 18-foot skiff component was at risk because of the neglect of the former government, and I ask what action the Premier has taken to save this great event in regional Victoria.

**Mr BRACKS** (Premier) — I thank the honourable member for Geelong North for his question and for his continued interest in the matter. He has worked continually behind the scenes to make sure the event will succeed.

The Royal Geelong Yacht Club's grand prix 18-foot skiff event is a major event for Geelong and the Corio Bay region as well as for Australia, and it is televised nationally. It is scheduled to take place on Corio Bay as part of the week-long Festival of Sail, Australia's largest keel boat regatta, in January 2000.

The Festival of Sail attracts over 25 000 visitors to Corio Bay. It is the keystone of a strategy aimed at building Australia's oldest regatta — the Geelong Australia Day Regatta — into a fully fledged national and international week-long event.

Yachties from around Australia and overseas flood into Geelong for the event, giving an estimated \$3 million boost to the local economy and the Geelong region.

Despite the outstanding success of the regatta in the past, it has not received one penny of support from the previous government, now the opposition. Not a penny! But that is not surprising given the former Premier's view of regional Victoria. All honourable members will remember that he characterised regional Victoria as the toenail of the state. That is how he saw the rest of Victoria. 'Get the heart going and eventually we will get down to the toenail'. That is the view of the previous Premier.

Because of the neglect of the former government the grand prix skiff event on Corio Bay was in danger of falling over. It would have been disastrous for Geelong if the event had been lost to Corio Bay. This government, however, unlike its predecessor, is committed to a major events strategy across the whole of Victoria, not just Melbourne.

I am very pleased to announce, therefore, a \$15 000 grant to the regatta.

*Honourable members interjecting.*

**The SPEAKER** — Order! The honourable members for Swan Hill and Mornington! I ask the house to come to order to allow the Premier to complete his answer.

**Mr BRACKS** — As I have indicated, the regatta is a great event for Victoria, and I am very pleased to announce the \$15 000 grant. It will be added to the \$15 000 sponsorship provided by a local private sector organisation based in Geelong, the Sands Group. Sands, in partnership with the state government, will ensure the success of the venture.

The previous government, now in opposition, did not care how much the skiffs event cost to run, and would not have sponsored it anyway because it is not a Melbourne event. This government, through money saved in two ways, has been able to make the grant available to the regatta to ensure its continued success. One source of the savings is cancelled Olympic tickets.

**Dr Napthine** interjected.

**Mr BRACKS** — I can understand the frustration of the Leader of the Opposition — he has asked one question in the last 11 questions.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the Premier to come back to answering the question.

**Mr BRACKS** — I welcome a question from the Leader of the Opposition at some stage during the parliamentary session. The \$15 000 will be gained from savings derived from cancelling Olympic Games tickets for the former sports minister and former minister Birrell and from cancelling the Docklands stadium premium tickets.

My government is serious about supporting major sporting events around Victoria, including country and regional Victoria — in this case in securing the grand prix 18-foot skiffs event in Corio Bay. I am looking forward, as are most honourable members on this side of the house, to attending in January to see the colour of sail across Corio Bay. It will be a fantastic event for Victoria. I am happy that the event will stay in Victoria with support from the government and the local community in Geelong.

*Honourable members interjecting.*

**The SPEAKER** — Order! The house will come to order. I remind all members of the house that applause

in the chamber is considered disorderly except when welcoming a foreign visitor to the gallery.

*Honourable members interjecting.*

**The SPEAKER** — Order! I also point out to the government benches that the Speaker is on his feet. I will not hesitate to use sessional order 10 to ensure that the offences referred to in it do not occur in the chamber.

### Schools: class sizes

**Dr NAPHTHINE** (Leader of the Opposition) — I refer the Premier to the government's repeated commitment to cap prep to 2 class sizes to a maximum of 21 students. The document that the Minister for Education was forced to table last night from which she was reading clearly indicates that the Labor Party is intending to have an average of 21, not a cap of 21 students. Will the government adhere to its commitment to cap prep to 2 class sizes at 21 students?

**Mr BRACKS** (Premier) — I thank the Leader of the Opposition for his second question in the parliamentary sitting this week. I am not surprised that he had to recycle a question that was asked in this place two days ago.

For the benefit of the Leader of the Opposition I will give him the same answer: we will equip schools with the resources for school sizes to be at 21 or less in prep, grade 1 and grade 2. They will receive the equipment and resources to achieve that. The government will be supplementing global school budgets so that every school in Victoria will have the capability, capacity and resources to ensure that class sizes in prep, grade 1 and grade 2 will be 21.

*Honourable members interjecting.*

**The SPEAKER** — Order! The rules apply equally to the opposition benches. I ask the opposition benches to come to order and to cease injecting.

**Mr BRACKS** — I can understand the excitement of the Leader of the Opposition in asking his second question this week. We will give schools the equipment and resources to keep school class sizes in prep and grades 1 and 2 to 21 — resources that the previous government did not allocate. Schools throughout Victoria will have the capability and capacity to achieve class sizes of 21.

### Snowy River

**Mr MAXFIELD** (Narracan) — Will the Premier inform the house of the progress that has been made to achieve an adequate environmental flow for the Snowy River?

**Mr BRACKS** (Premier) — I thank the honourable member for Narracan for his question and continued interest, together with the honourable member for Gippsland East, in the matter. All honourable members would know that the Snowy River is an Australian icon. However, over the past 50 years it has been increasingly degraded as a result of the diversion of its waters for irrigation and electricity generation through the Snowy Mountains Hydro-Electric Scheme.

The waters of the Snowy River have been diverted to the extent that only 1 per cent of its original flow leaves Lake Jindabyne. This has had a devastating impact on the environment of the Snowy River catchment. Increasing flows to the Snowy River is an important issue for Victorians, particularly environmentalists and the people of East Gippsland. I congratulate the honourable member for Gippsland East in his campaign on this matter.

Unlike the opposition, Labor believes it is critical to have a proper environmental flow in the Snowy River. During the campaign — and some months before — we committed to restoring a 28 per cent flow to the Snowy River. That is what we want to and will achieve, what we are setting out to achieve, in our negotiations with the New South Wales and Australian governments.

In contrast, the Kennett government was only ever committed to achieving at best a 15 per cent flow — as the Leader of the National Party knows. The debate has been going on since 1997.

In only four weeks we have achieved more than the Kennett government was able to achieve in one year of trying to get 15 per cent flow. I am pleased to say that the Premier of New South Wales has written to me indicating that the New South Wales government is committed to achieving agreement, if possible, by 31 December on the level of flows in the Snowy River below Jindabyne.

The commonwealth, Victorian and New South Wales governments have established the Snowy Implementation Group to oversee the corporatisation process of the Snowy Mountains Hydro-Electric Authority. As part of that process we will resolve the issue of an environmental flow for the Snowy River. The Snowy Implementation Group is undertaking

extensive economic modelling of the impact of restoring different levels of flow to the Snowy River. This modelling will be shared between the three governments before a joint decision is made. The New South Wales government has established a negotiating team headed by the Honourable John Della Bosca, Special Minister of State and Assistant Treasurer. In Victoria I have decided to set up a negotiating team headed by the Honourable Candy Broad, Minister for Energy and Resources.

**Mr McNamara** interjected.

**Mr BRACKS** — Don't worry; you're retiring — you just sit there and have a good time!

**The SPEAKER** — Order! I ask the Leader of the National Party to cease interjecting. I ask the Premier to ignore interjections.

**Mr BRACKS** — In summary, there is an enormous amount of goodwill between the Victorian and New South Wales governments. I am looking forward to achieving a proper environmental flow of 28 per cent — an achievement the opposition could not commit to and one the National Party could never achieve. We will have the river flowing again as a vital part of the national heritage in Australia and of the region in Gippsland.

### **Dairy industry: deregulation**

**Mr McNAMARA** (Leader of the National Party) — I address my question to the Minister for Agriculture. At a recent state council meeting the minister told the United Dairyfarmers of Victoria that the Labor Party was running a plebiscite on deregulation only because the Premier wanted it. While I commend the minister on his open and honest approach in government, what action will he now take to restore the confidence of dairy farmers in the government's approach when he is not personally committed to it?

**Mr HAMILTON** (Minister for Agriculture) — One wonders what has happened to the lame-duck Leader of the National Party when he asks questions that have no substance and little meaning.

*Honourable members interjecting.*

**Mr HAMILTON** — The government made commitments to the UDV and other groups during the election campaign. The Premier and each minister have declared those commitments will be honoured. The government does not have core and non-core promises. I am proud to be part of the Bracks government — —

**Mr McNamara** interjected.

**The SPEAKER** — Order! The Leader of the National Party is interjecting incessantly. I ask him to cease or I will not hesitate to use sessional order 10 despite his seniority in the house.

**Mr HAMILTON** — I am proud to be part of the Bracks government, which made commitments publicly and in writing and intends to deliver on those commitments. The credibility of the Bracks government will be based on that important aspect of government — its ability and determination to deliver on each and every commitment.

Concern or uncertainty on deregulation is not the fault of the government, which is open, transparent and consultative and uses an appropriate and proper process. The Bracks government will continue to conduct its affairs in that manner — something the previous government forgot to do. That is why we are here and they are there.

### **Business Club Australia**

**Mr HELPER** (Ripon) — Will the Minister for Manufacturing Industry outline to the house details of the previous government's use of taxpayers' funds for accommodation for the Business Club Australia program?

**Mr HULLS** (Minister for Manufacturing Industry) — I thank the honourable member for his question. The previous government registered Victoria for membership of Business Club Australia, a partnership designed to use the Sydney 2000 Olympic Games to promote Victorian business. The up-front joining fee was \$100 000.

Business Club Australia began as a good idea, but it is designed to provide ministers and their mates with a three-week holiday at the expense of Victorian taxpayers. The former Kennett government would have received a display at Darling Harbour for three weeks before and during the games for its money.

The former Minister for Industry, Science and Technology approved the accommodation in Sydney at a cost of more than \$23 000 for the three-week period — almost \$8000 a week. The former minister also had plenty of Olympic Games tickets to go around, including \$4500 worth of tickets for himself.

What did he and the taxpayers get for the \$8000 a week worth of accommodation? For a start, they got a house in trendy Balmain for the use of people involved in promotion activities for Business Club Australia. They

say Balmain boys don't cry, but Birrell will be bawling over this!

**The SPEAKER** — Order! I remind the Attorney-General that he must refer to members of Parliament by their correct titles.

**Mr HULLS** — There is more on the Balmain house. A house in Narelle Street, North Bondi, was reserved for senior Victorian business, tourism and sporting figures — in other words, for those now ex-ministers and their mates — to use over the period of the Olympic Games: Birrell's Business Australia Club-Balmain, and Birrell's Business Club Australia Club-Bondi!

The previous government decided that ministers should host three functions in three weeks — two luncheons and one breakfast — to give some legitimacy to their attendance at the Olympic Games. A punishing schedule! A marathon schedule! They obviously had to allow plenty of time for rest and recreation and to enjoy the sights and the taxpayer-funded seats at the Olympic Games. The total cost of the three functions was to be \$47 000. There they would be in Sydney: showing people the sights, on the harbour, having a wow of a time, going to the Olympic Games and saying, 'By the way, you'd better visit Melbourne.'!

The cost of Birrell's Business Club Australia was to be \$228 000. The breakfast was to cost \$11 800, and that buys a lot of cornflakes and croissants. The lunches were to cost \$17 700 each.

The Bracks government is committed to supporting business and industry and securing new business, industry and investment in the state as part of our commitment to job growth, and is prepared to put in the work to achieve that. Events leading up to and during the Olympic Games will be important in showcasing Australia and attracting new investment, but that was not the way to go.

The government will cancel the accommodation bookings and will review Victoria's involvement in Business Club Australia to ensure that Victorian taxpayers' money is spent carefully and wisely on attracting investment and jobs to Victoria rather than on giving ministers holiday homes in Sydney.

### **Workcover: premiums**

**Mr CLARK** (Box Hill) — Will the Minister for Workcover inform the house what increase in Workcover premiums the government regards as acceptable to be imposed on Victorian businesses to

fund its commitment to reintroduce common-law legal actions?

**Mr CAMERON** (Minister for Workcover) — I thank the honourable member for Box Hill for the interest he has displayed in Workcover since the election. As the Parliamentary Secretary for Treasury and Finance he had a great deal to do with Workcover in the past. That is why the government inherited the \$176 million debt from the past financial year. It is a black hole and an enormous problem, but the Bracks government will fix it.

Yesterday it was announced that a working party has been established to examine the restoration of common-law rights. The working party is made up of various stakeholders and — —

**An honourable member** interjected.

**Mr CAMERON** — You asked the question, you will hear it again. What do you expect?

**The SPEAKER** — Order! The minister should ignore interjections and address his remarks through the Chair.

**Mr CAMERON** — I thank you for your counsel, Sir. The matters the working party is to consider under its terms of reference are: the restoration of common-law rights, a legally fairer system and premium levels that are competitive with other states. The government also wants to ensure there is appropriate encouragement for the resumption of work after injury and a proper recognition of the extent of injury.

It may well be that honourable members opposite are not concerned about the benefits to working people, about the enormous black hole they left behind or about not having a fully funded scheme. But the government is, and it will deliver.

### **Housing: Port Melbourne estate**

**Mr LIM** (Clayton) — What action will the Minister for Housing take to upgrade the Raglan-Ingles estate in Port Melbourne, which was so neglected by the previous government?

**Ms PIKE** (Minister for Housing) — I thank the honourable member for Clayton for his question and for his ongoing interest in the public housing issue. One of the matters drawn to my attention as being of great priority was the condition of the Raglan-Ingles estate. For the honourable member's information, the public housing estate in Port Melbourne was built in the

1960s. It consists of 64 public housing units, each of which has three bedrooms, and is in a four-storey walk-up configuration.

In recent years the estate has had a history of much media coverage, largely about its condition. Anybody who has visited the estate would understand why and would not be surprised that the people who live there have been so concerned and have constantly tried to draw the attention of the media to the conditions in which they live.

When I visited the estate last Friday and met with people who live there it became patently obvious to me that the estate was in an absolutely deplorable condition. Children could easily cut their hands on the raw glass at the tops of windows, fences were falling down, there were holes in the walls, water damp was seeping in everywhere and windows were cracked — it is an absolutely deplorable state of neglect. Not only has there been neglect, but the people who live there told me that for many years they have been on an absolute roller-coaster about their future. They have not known what would happen to the estate or whether they could rely on anything being fixed up. They were really just at the mercy of the previous government.

Those people were put in a holding pattern and made to live in disgusting conditions because the previous government on the one hand could not decide what it was going to do and on the other hand was not prepared to put any dollars into maintenance. It used these people's lives and held them in the middle as pawns in its game, or its plan. What was the plan? The only plan the previous government had for dealing with public housing in the inner city was to sell off large chunks of it to the private sector, increase the gentrification of the private sector and push people on low incomes out.

I am happy to report that I have met with people who live on the Raglan–Ingles estate and have given them an absolute commitment that this government will redevelop their homes. I have also written a letter to people who live on the estate, which they will receive by this weekend, telling them of the plans. The government has established a consultative advisory committee which will — —

**A Government Member** — Another one?

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order.

**Government Members** — Another task force!

**Ms PIKE** — It is not at all surprising to me that the guffaws from the other side of the house come about the use of the word 'consultation', because the thought of actually consulting with the people who live on the estate would not even occur to opposition members.

I have advised the people who live in the estate that they will be part of the advisory committee that will develop the plan for the redevelopment of their homes, that the plan will fit alongside the Bracks government's commitment to ensuring there will be no net loss of public housing in the inner city area, and furthermore, that the government will develop a number of difficult housing situations that the previous government completely ignored and neglected over the past seven years.

### **Parks Victoria: restructure**

**Mr PERTON** (Doncaster) — Will the Minister for Environment and Conservation guarantee the retention of Parks Victoria in its existing structure?

**Ms GARBUTT** (Minister for Environment and Conservation) — In its policy the government clearly said it wanted two focuses in parks: firstly, a national parks and wildlife service with a focus on nature conservation; and secondly, a service basically around Melbourne and regional areas with a focus on urban parks, recreation and tourism. That is what it will implement.

### **Workcover: industrial safety**

**Mr SEITZ** (Keilor) — I refer the Minister for Workcover to Labor's commitment to make Victorian workplaces safer. What action has the minister taken to crack down on dangerous workplaces in the construction and manufacturing industries?

**Mr CAMERON** (Minister for Workcover) — I thank the honourable member for Keilor for his question and his ongoing interest over the years in the protection of the lives, livelihoods, health and wellbeing of Victorian workers.

Unlike the previous government, the Bracks government takes occupational health and safety seriously; unlike the previous government it will continue to take occupational health and safety seriously; and unlike the previous government it has taken immediate steps to bring about better and safer workplaces.

After a fortnight as minister I called together a tripartite body in the building and construction sector.

*Honourable members interjecting.*

**The SPEAKER** — Order! I ask the house to come to order to allow the minister to answer the question.

*Opposition members interjecting.*

**Mr CAMERON** — How many committees are there? Listen to them!

The number of deaths in the building and construction industry this year has increased significantly. I brought together a tripartite body involving Workcover, employers and unions to obtain good advice on how to address the evident problems in occupational health and safety. Honourable members opposite might not care about that, but we on this side of the house care about it.

**An Honourable Member** — Was there an answer?

**Mr CAMERON** — They had no answers, but as a result of speaking to people the government received a report. It acted on that report within the week and has now formed specialist teams in the building and construction industry. The tripartite body will be ongoing to ensure the implementation of those policies and programs over the next few months.

You will appreciate, Mr Speaker, that significant numbers of inspectors are being recruited and trained in skills appropriate to the various sectors of business they represent.

I have also asked Workcover to bring together a tripartite body in manufacturing. Honourable members opposite may be interested to know that, unfortunately, in the past year 23 deaths have occurred in the manufacturing sector, many as a result of industrial disease. In addition, the manufacturing industry has the highest number of traumatic injuries of any sector in the Victorian business community, which makes it imperative to do more in the area of safety. Acting on the advice of employers and unions in that sector will achieve a better result.

The Bracks government will deliver on occupational health and safety. It will take it seriously, listen to people and create a decent system.

## AUDIT (AMENDMENT) BILL

*Second reading*

**Debate resumed.**

**Mr LENDERS** (Dandenong North) — Before question time I was being charitable in my contribution to the debate on the Audit (Amendment) Bill in speaking about how some members opposite must have felt and how difficult it must have been for them to walk into the chamber and to reflect on what had gone wrong. However, now that question time is over I am wondering whether they have listened and learnt.

The Audit (Amendment) Bill is particularly pertinent. The whole reason for the Victorian community becoming as upset as it did in 1997 about the Audit Act and its consequences was that the then government was not prepared to talk, to consult or to listen.

In every instance that occurred today of the Bracks Labor government announcing any form of consultation, opposition members did nothing but ridicule and belittle the concept of actually talking to the stakeholders in society, of finding out from them how things were, and having the courage to stick out one's neck, ask questions and respond to the community. If the now thoroughly disgraced former Kennett government had followed any of those patterns, listened and consulted, it would never have fallen into the mess it fell into over the Audit Act. It would never have run into the groundswell of community opposition that came as a result of the promulgating of that act.

To put the significance of the 1997 debate into context one needs to set the scene. Earlier I alluded to the benefits of the Westminster system. As it evolved, the Westminster system allowed the people to assert through Parliament their rights in relation to the executive. Over time the executive may have changed from being an absolute monarch to being a cabinet government, but the Westminster system was totally based on parliamentary control of the executive.

In the lead-up to the 1997 amendments to the Audit Act a number of things happened. Freedom of speech, which is a critical part of the Westminster system, came under immediate challenge because Parliament met less frequently, thus reducing opportunity for debate. Many of those issues were addressed in the standing orders debate a couple of weeks ago, so I will not go back to them.

The gagging of government critics was a critical factor in causing the community to be as outraged as it was. A number of other Victorian bodies had a role in running the checks and balances necessary to maintain the rule of law and maintain freedom of speech. Those bodies were progressively nobbled and gagged. My colleague the honourable member for Footscray gave a graphic

description of how the former government allowed the arms and legs to be progressively severed from the torsos of some of those bodies. Whether it was the Director of Public Prosecutions, the Ombudsman or internal critics in the Liberal Party, let alone critics in the community, the previous Premier and the compliant team around him proceeded to gag the critics. I might add that 34 members of today's opposition were part of the former Premier's compliant guilty team — members of what I will call a guilty partnership, because they are not a coalition any more.

Why was so much community anger directed towards the changes to the Audit Act? It was because all the critics of the former government were being muzzled one by one. Some of the muzzling was gentle, but most of it was brutal. In that context, any defenders of the Westminster system, of the rule of law and freedom of speech were progressively silenced. Ches Baragwanath, the former Auditor-General, was the last of those offenders, and he copped the full consequences.

The proposed legislation must be considered against that context. One of the aims of the bill is to enshrine the independence of the Auditor-General in the constitution. That clearly leads to a number of other amendments to the constitution such as the way it can be addressed, and I will not go into those because they will become part of the debate on the proposed changes to the constitution which is still to take place.

At least the enshrining of the powers of the Auditor-General is a first step. It is to be hoped it will curtail future excesses of executive government or at least provide some legislative framework because, as we all know, when a government has untrammelled power and the support of a compliant party room, absolute majorities become easy to obtain and the constitution can be amended many times. The challenge is to remove the opportunity for excesses of executive power to occur in the future.

I will now turn to the aims of the proposed legislation. The government accepts most of the amendments proposed by the opposition, with the exception of amendment 20 and the clauses related to its implementation. The government has a problem with proposed amendment 20 because the opposition has not learnt. It still cannot accept that the Auditor-General's office has to be independent. It still cannot accept that fact, despite having lost government because it did not listen to the overwhelming voice of Victorians who wanted an independent Auditor-General.

Members of the Liberal and National parties may not have government anymore and they may not have the

executive power or the numbers on the committees they want to have. But they still have control of the Legislative Council and they want to use the Council to direct the Auditor-General. The opposition is not prepared to accept the legislation in accordance with the principle to which all parties in this place agreed — that is, to let the Auditor-General's brief be varied by the Public Accounts and Estimates Committee, an all-party body with quite a good history. Despite that, the opposition wants to take it one step further, to a point where either chamber can give directions to the Auditor-General.

In theory that sounds fine; it sounds like it is protecting the independence of Parliament. But it is nothing better than an anarchic grenade being thrown into the Auditor-General's office in a fit of pique. Let us think through what it means to have either house giving directions to the Auditor-General. Firstly, the Auditor-General follows the requirements of the Audit Act, which will soon be enshrined in the constitution. That is simple and fairly clear. Where there needs to be flexibility or some redirection according to the times, the legislation leaves that to the Public Accounts and Estimates Committee. That is fine; that is a parliamentary body. At this stage the Auditor-General has two masters — the legislation is set by Parliament, and the further instructions are set by a committee of Parliament.

However, under the archaic amendment proposed by the opposition the Auditor-General would have several more constraints placed upon him or her. The Auditor-General must not only deal with the directions of the act and the directions of the Public Accounts and Estimates Committee, but he or she may also receive directions from the Legislative Council, and he or she may receive contrary directions from the Legislative Assembly. So the Auditor-General would be operating under four masters.

If Parliament wishes to be master of its own destiny, the best and most effective way to give direction to a statutory officer of Parliament is to do it by legislation. If there needs to be an executive variation, it needs to be done by a defined executive. In that circumstance government members accept that the executive should not be the government of the day because the Auditor-General's is an independent office. So we will set up an independent parliamentary committee, the numbers of which have not yet been determined, to monitor that office. That is an appropriate procedure. It follows most normal lines of government.

However, under the proposed amendment two more masters would be set up — two conflicting chambers of

Parliament — which potentially, and in this case almost certainly, have different views on the checks and balances issues. We would be left in a situation where the Auditor-General would probably be emasculated yet again by those 34 guilty members opposite and their supporters in another place, which is not a good thing. The government certainly supports the bill with enthusiasm. It will accept all the amendments, except for amendment 20, and urge the house to support them as well.

**Ms ASHER** (Brighton) — I shall make a brief contribution to the debate on the Audit (Amendment) Bill. Rather than getting emotional over the matter, as a number of people have done, I shall confine my comments to fact.

After the last state election the Independents issued a charter that called for the restoration of the role, function and resources of the Auditor-General by repealing the Audit (Amendment) Act 1997. The Independents charter also called for future appointments to the position of Auditor-General to be made on the recommendation of the joint parliamentary Public Accounts and Estimates Committee.

The Liberal Party and the National Party responded to that charter, and the response documents are public. Our support for the bill now before the house reflects the commitments we made in our response to the Independents charter. The Liberal and National parties agreed in that charter response to restore the role, function and resources of the Auditor-General and to make future appointments to the position of Auditor-General on the recommendation of the Public Accounts and Estimates Committee.

The Liberal and National parties also suggested an addition to the charter, which in our opinion enhanced the Auditor-General's independence. That was to pick up one component from the previous amendments — to ensure the Auditor-General would continue to be an officer of the Parliament, with his or her budget agreed to by Parliament. That was our response to the charter.

The opposition's response to the Audit (Amendment) Bill today is a reflection of its goodwill when it responded to the charter put to both sides of politics by the Independents. A number of things in the bill warrant some comment. The first is that the bill generally increases the predominance of the power of Parliament over the executive via the workings of the Auditor-General. The bill maintains the Auditor-General as an independent officer of Parliament, which I think everyone in this chamber agrees is a very strong step forward in terms of not only

the symbolism but also the actuality of independence for the Auditor-General. It also enshrines the Auditor-General's position in the constitution. That also has symbolism and actuality associated with it in terms of the work of the Auditor-General.

The Auditor-General's appointment is a Governor in Council appointment, on the recommendation of the Public Accounts and Estimates Committee. The Premier's second-reading speech indicates that the role of the committee has been expanded. I am not altogether sure whether the PAEC's role is expanded because we do not know from what starting point it is to operate. Nevertheless that is the claim the government makes.

Certainly the PAEC has a role in this bill in appointing the Auditor-General and commenting on the Auditor-General's budget and the annual plan that is required under the legislation, but I point out — and the point has been made repeatedly in this chamber — that at this stage we have no Public Accounts and Estimates Committee in Parliament; in fact, we have no parliamentary committees at all. Obviously opposition members are keen to see the scrutiny of government. The PAEC would be regarded by everyone as one of the most powerful committees and one that has the capacity to properly scrutinise the workings of executive government. I look forward to an early resolution of that committee structure between both sides of politics. Again, that reflects the agreement made under the charter.

The second point I make is that the second-reading speech mentions the Labor Party's promise to have the Auditor-General report on the day of the budget regarding Labor's commitment to maintain and operate in surplus. That is not in the bill, but it is mentioned in the second-reading speech. That is a new role, and one that many members will look on with interest because it will have the Auditor-General assuming a prospective role, instead of auditing to see that moneys have been spent in the way they were meant to be spent, as has been the case in the past.

During the election campaign and in the second-reading speech the Labor Party has signalled that it will ask the Auditor-General to make a prospective audit to see whether the government maintains a surplus in the budget, which by nature is a projection. Victorians will be very interested to see how it works and whether there are any conflicts between the Auditor-General's prospective role and the role of auditing how moneys have been spent in the past.

My third point relates to the amendments to the Financial Management Act dealing with the annual financial statement which also appear in the bill but which have not been the source of much comment. I understand the Auditor-General asked for those amendments. The opposition has no difficulty with them, but I shall refer to them because they represent a change of procedure.

The Audit (Amendment) Bill calls for a separation of the auditing and reporting requirements in the financial management account, and clause 18, which inserts proposed section 16A, empowers the Auditor-General to make a report on the annual financial statement and also make recommendations to Parliament:

- (a) for the more effective and efficient management of public resources; and
- (b) for the keeping of proper accounts and records of the transactions relating to public resources.

That is a very positive statement that enables the Auditor-General to comment on the annual financial statement, which of course was a Kennett government initiative.

Proposed section 16A(4) allows the Auditor-General to table his reports as soon as practicable after the day on which they were meant to be tabled under section 27 of the Financial Management Act. I point out that those reports were not tabled on the appropriate day as required by section 27 of the act. It is commendable that the Auditor-General will make quality assessments and annual financial statements.

The bill addresses the issue of contracting out, so controversial in the past, probably unnecessarily so. Proposed new section 7E states:

The Auditor-General may engage any person or firm under contract to assist in the performance of any function of the Auditor-General.

Much discussion was made previously about the level of contracting out that did occur under the old routine. Figures have been bandied around of about 75 per cent to 80 per cent of work being contracted out. I am interested to learn how much work was contracted out and how much was done in-house. But I make the point that the bill allows for unlimited contracting out, as the Auditor-General sees fit.

Proposed new section 7F gives the Auditor-General extensive powers of delegation. I will not go through them, except to say that delegation powers have enormous interest for the former Scrutiny of Acts and Regulations Committee. I for one would have been

interested to hear the comments of that committee on the broad powers of delegation incorporated in the bill.

The bill allows the continuation of performance audits, not just financial audits. As a former minister, I know that performance audits are always controversial for ministers, whether they be Labor, Liberal or National. Because of the nature of the quality of assessments involved in a performance audit there will always be differences of opinion. Again I look forward to seeing how the new performance audits will be carried out. There is always an enormous scope in the difference of opinions between ministers and the Auditor-General on those issues because, as the Leader of the Opposition said, financial skills and financial audits are one thing, but performance audits necessarily contain value judgments of government programs that are not simply confined to financial auditing.

The bill proposes a number of procedural processes such as staff transfers and the abolition of Audit Victoria. As already indicated, the opposition supports the thrust of the bill. However, the opposition has suggested a number of amendments put forward in good faith with a view to increase the independence and effectiveness of the Auditor-General.

I shall touch on a number of those amendments. Firstly, the amendments entrench further the role of the Public Accounts and Estimates Committee. The bill removes a range of references to that committee. Many of the proposed amendments seek to re-insert references to the committee. The PAEC is a well-entrenched feature of Parliament and has put forward a range of interesting recommendations. It has a capacity to scrutinise vigorously the workings of executive government — for example, most ministers in the former Kennett government would have appeared before that committee for 2 hours of questioning, which is obviously well beyond the capacity of any question time. The committee has an important role and the opposition's amendments seek to entrench further the powers of that committee in having a constructive role in the independence and powers of the Auditor-General.

Secondly, the amendments seek to augment the role of the Parliament, and while some members opposite have chosen to focus on a number of disparaging comments relating to the Legislative Council, there are a number of additional features regarding the role of Parliament in the Auditor-General's activities — for example, the opposition believes removal from office should be comparable with the removal provision under the Ombudsman Act. There is a clear role for Parliament in that process. I for one am surprised that the parliamentary role is not entrenched in the bill.

The bill contains no reference in the purposes clause to the Auditor-General's reporting to Parliament, yet that is one of the fundamental pieces of rhetoric we have heard by the government in recent times. One opposition amendment requires that the purposes provision should insert reporting to Parliament, rather than requiring copies of the Auditor-General's plan to be given to the Public Accounts and Estimates Committee. The opposition's amendments envisage a much greater role for the Parliament than does the government's bill.

The amendments also call for the reinstatement of the objectives of the Audit Act. Section 3A of the Audit Act has five objectives relating to determining whether moneys appropriated by Parliament have been spent correctly and so on. It is odd to have an amending bill remove completely the objectives of the Audit Act. An opposition amendment seeks to reinstate the objectives provision into the act.

The opposition's amendments also make significant references to auditing and accounting standards. Amendment 34 seeks to substitute proposed new section 16(5C), which states:

An audit under this section must be conducted in accordance with the performance auditing standards issued for the first time being by the Australian Society of Certified Practising Accountants and the Institute of Chartered Accountants in Australia.

The bill refers to the accounting standards devised by the Auditor-General's office. Reference has been made to correspondence received by the opposition from David Edwards, executive director of the Australian Society of Certified Practising Accountants, a body that is involved in setting accounting, auditing and probity standards for the profession. The society does not support the amendment to replace the accepted auditing and accounting standards with the auditing standards devised by the Auditor-General's office. In fact, the society notes that there has been no explanation for this change. The letter goes on to say:

The reference to the 'audit standards set out in the report of operations of Victorian Auditor-General's office' is not specific. We are unaware as to what constitutes such standards, as would users of the auditor report. We do not know whether such standards would comply with the Australian Auditing Standards.

Mr Edwards goes on to say that the international standards, which are the substance of the opposition's amendments, recommended by the society should form part of the bill and are a minimum benchmark. If the certified practising accountants do not know what standards the Auditor-General has in mind being issued from his office and there are internationally recognised

standards, in the opposition's view, to get the standards for accounting and auditing right is an important feature of the amendments.

I also refer to amendment 1, which entrenches the absolute independence of the Auditor-General and calls for the Auditor-General not to be subject to direction from anyone as to whether an audit is to be conducted, the way it is to be conducted or the priority given to any particular audit. The opposition does not agree, as the honourable member for Gippsland West said, that this is playing with words. The opposition believes it is a fundamental right of the Auditor-General to be free from direction, which is why the opposition has suggested the amendment ought increase the Auditor-General's independence.

Amendment 32 relates to the adoption of a recommendation from the Public Accounts and Estimates Committee. Notwithstanding the bipartisan or all-party nature of the former Public Accounts and Estimates Committee, this was one of the many examples of members on both sides of the house suggesting recommendations that make for better budgetary outcomes. The proposed amendment calls for the Auditor-General to be given the power to determine whether the performance indicators in the budget documents are relevant to the objectives of the authority, appropriate and fairly represent the authority's performance.

Although it may have been to my detriment, when Minister for Small Business I tried to have included in budget paper no. 3 performance indicators that reflected what instrumentalities then under my authority had to do. I cite some changes I made to the performance indicators to make them more relevant and appropriate. In trade measurement I inserted a target for the number of traders' premises inspected because I considered that was a fundamental role of the trade measurement instrumentality, which was part of Small Business Victoria.

If the Auditor-General had the capacity — which suggestion the opposition has indicated it is prepared to adopt — to comment on the relevance of performance indicators that ministers and departments are judged on and the power to work out whether performance indicators are appropriate for assessment of the performance of a department, the result would be better documents and better benchmarks for departments and ministers to aim for. As is always the corollary in such matters, around budget time there could be better opposition scrutiny, with appropriate targets being met, not just targets that in some instances have been frankly inappropriate.

I am delighted to reiterate the opposition's support for a landmark bill in the sense of the amount of public comment it has attracted. Obviously its provisions were a key component of the Independents charter and the response from my party to the Independents. The opposition has suggested with goodwill and in good faith a range of amendments which will bolster the independence of the Auditor-General. I look forward to the passage of the bill and the amendments, and I look forward to Victoria having an independent Auditor-General and increased scrutiny of the workings of the executive of the Parliament.

**Mr ROBINSON** (Mitcham) — I suspect that the Deputy Leader of the Opposition and other members on her side of the Parliament look forward most to putting some distance between themselves and the events of the past two weeks. This would be a most uncomfortable debate for opposition members to sit through, but they will have to endure it.

Today is a red-letter day for the Mitcham electorate. I am enormously pleased and proud to be participating in this debate and to deliver a speech I have been waiting to make for more than two years. The Audit (Amendment) Bill is the culmination of a protest over two and a half years by members of the Victorian community, who in large measure kept the faith and maintained a belief that government accountability is paramount.

The Victorian community had to endure the contempt of the former Premier, who wrongly insisted on doing things his own way and maintained that any form of consensus on the issue was a bad thing. Reflecting upon question time today and the attitude of members opposite to the very suggestion of action of a consensual nature, it is apparent that members opposite still have some way to go in addressing the legacy of their former leader.

The bill is a clear example that democracy in Victoria has triumphed. On 18 September not just the Labor Party was victorious — so was democracy. Victorian citizens have incredibly strong democratic instincts. I am sure that generations to come will look back on the events of 1997 and 1999 and be in no doubt about the strength of the democratic instincts of the people of this state.

Opposition members should be hanging their heads in shame that it was ever necessary to introduce the bill. In the course of this debate they have been forced to say more on the issue than they said over the past two and a half years in debates both inside and outside this chamber.

I welcome the contribution of the Deputy Leader of the Opposition, who to a not inconsiderable degree voiced some good sentiments. But why has it taken two and a half years for those sentiments to be expressed publicly? This debate would be a cathartic exercise of sorts for her. I recall earlier in the debate the honourable member for Dandenong North talking about the instruction the Josephite nuns gave that a confession must be made with a pure heart. The contributions of members opposite have a confessional element, but government members are not convinced that they are speaking with a pure heart; nonetheless, for their sins they have been given a penance of four years in opposition, which is a just punishment for their omissions.

**Mr Cameron** — Twenty!

**Mr ROBINSON** — Twenty!

This excellent bill contains numerous safeguards that will serve the Victorian community well for many years to come. The bill is a tribute to hundreds of thousands of Victorians but three individuals in particular. For a moment or two I will refer to the role of those three individuals over the past two years in the lead-up to the presentation of this bill.

The first person I mention is the former honourable member for Mitcham, my immediate predecessor and — let it be known and remembered — the Deputy Leader of the Liberal Party during a former coalition spell in opposition. He was a courageous individual. In the past two years many members opposite have sought to renounce him. They have spent a great deal of time trying to vilify him for the steps he took, but he showed rare courage. Perhaps the previous speaker, now Deputy Leader of the Opposition, should beware the tendency of members of the opposition to vilify those holding the position of Deputy Leader of the Opposition. It is an unhealthy opposition trait. The Deputy Leader of the Opposition sits precisely where the former Deputy Leader of the Liberal Party sat for some time.

That former Deputy Leader of the Opposition put succinctly in his letter of resignation his views on the role of the Auditor-General. I will briefly quote — —

**Mr McArthur** interjected.

**Mr ROBINSON** — You can keep knocking him if you like, but let it be understood that the resignation of that former Deputy Leader of the Opposition triggered a series of events that have resulted in the Labor Party sitting on this side of the Speaker — it does not matter how much members opposite try to devalue his vital

contribution over a number of years in this place. They have four years ahead of them of looking at the Speaker from that side of the Parliament; I am sure that will encourage them to consider those previous events in a different light.

I quote from the letter of resignation of the former honourable member for Mitcham:

Principal among my reasons is the government's intention to alter the role and function of the Auditor-General. Having watched the government's position unfold, I have been uncomfortable from the beginning. I expected commonsense to prevail. It has not. In my considered view, the government's proposals compromise the system of checks and balances which are at the core of our system of government. To me, they run fundamentally counter to the public interest.

I say, 'Hear, hear' to what the former honourable member for Mitcham wrote in his letter of resignation; he could have put it no better.

His remarks were in contrast to those of his then leader whose views were considerably different. I can clearly recall that in the lead-up to the 13 December 1997 Mitcham by-election the former Premier suggested that his government would not prostitute its principles to any sectional interest groups. He wanted the voters of Mitcham to be thought of as a sectional interest group. If people look back over the past two years to see how the debate on the Auditor-General has turned around they might have a different view as to which individual had prostituted principles.

The second person who played an important role in the lead-up to the bill being introduced and to whom I refer in my preliminary remarks is the late former honourable member for Frankston East. Peter McLellan showed great courage in resigning from the Liberal Party on the strength of his opposition to changes to the Auditor-General's office. I did not know Peter McLellan well. The contributions made in the condolence motion speak to his courage. Although some may say it was a courage born of stubbornness, it was a well-recognised courage. I suspect his view would have been that the circumstances surrounding his resignation from the Liberal Party should never have arisen, but they did.

The third individual whose contribution over the past two years needs to be recognised is the former Auditor-General himself, Mr Ches Baragwanath. It is interesting to note that on all the occasions the former Premier spouted about the professionalism of the public service and held it up as an example, he rarely, if ever — and I am open for correction — cited the example of Mr Baragwanath although I cannot think of

a better example of professionalism. People talk about the public service and its long tradition of offering advice without fear or favour. If anyone in the state's history has demonstrated a capacity to deliver advice without fear or favour it would be Mr Baragwanath.

I fortuitously bumped into Mr Baragwanath at a recent event and he told me he was pleased the amendments would be made to the legislation. He said that as he had retired he was now simply a feather duster and no-one would listen to him. He is some feather duster — Victoria would do well if there were more such feather dusters!

As I said, I am enormously proud to speak in support of the bill. I was elected in late 1997 by the 34 000 voters in Mitcham in the by-election that resulted in a record 16½ per cent swing against the government. Had honourable members on the other side listened to the desires of decent hardworking Victorians that the office of the Auditor-General be protected and enhanced and not watered down, they would in all probability have remained in government longer than they did.

**Mr Wells** — What was the swing against you at the last election?

**Mr ROBINSON** — I will comment briefly on that interjection. In an earlier contribution I cited the 1999 result in Mitcham with the 11 per cent swing since 1996 to the Labor Party in two Blackburn booths and I gave credit to the former planning minister for that. I said I did not think I could have done it without him. On reflection, the former Premier must take a great degree of the credit because the 1996–99 swing in Mitcham was some 6 per cent. That was a healthy result — obviously enough for me to remain in this place and for government to switch from the honourable member for Wantirna's side to mine. I am grateful for the opportunity to give my collective thanks to former ministers and members opposite for their contribution to my election and re-election.

**Mr McArthur** interjected.

**Mr ROBINSON** — We might talk about that, too — the question is whether you will pay up, unlike your former leader. I might have to put out a spotter's fee on him.

**The ACTING SPEAKER (Mr Phillips)** — Order! Interjections are disorderly.

**Mr ROBINSON** — I address part of my contribution to the comments of the honourable member for Box Hill, which I heard from my office. I recall that he was talking about the illusion and theatre

of debate, which was a fascinating aside. When I think of illusion I think of David Copperfield, the magician. However, I do not think even he could have created the illusion, as did the honourable member for Box Hill, of managing to cause some \$130 million of Workcover money to vanish. The Minister for Workcover might agree with that. David Copperfield would have been enormously proud of achieving such a feat. When reference is made in this place to illusion and theatre, all would agree that the honourable member for Box Hill would have to be the resident expert in the field. Nevertheless, he maintained a revisionist line — —

**Mr McArthur** interjected.

**Mr ROBINSON** — You know him better than I do.

**Mr Wells** — When was the last time he made a joke?

**Mr ROBINSON** — It might be more to the point to ask when was the last time anyone laughed at one of his jokes!

Nevertheless, the honourable member for Box Hill wanted to maintain a revisionist line that the whole debate over the past two and a half years was about only the degree of contracting out by the Auditor-General's office. I did not realise that the honourable member for Box Hill also performed vaudeville acts — that is really from where such a line would come! He suggested that the whole debate that has absorbed the interest of all Victorians and gone to the heart of their democratic instincts is simply about the degree of contracting out of the Auditor-General's work.

I suggest that a debate that leads to a record by-election swing of 16½ per cent that over the course of two years enables the government to change is something greater than a debate over the degree of contracting out. I am being generous in my remarks on the contribution of the honourable member for Box Hill when I describe it as novel.

The bill deserves the wholehearted support of honourable members on both sides of the house. As time is short I will not detail the bill's numerous safeguards which are included in the second-reading speech. I doubt if any bill — certainly not one dealing with the Auditor-General's office — has previously been presented to this house with so many safeguards in it.

The opposition's amendments are worthy of support apart from amendment 20 and the consequential amendments. The opposition is having enormous

difficulty in holding back the old Tory line that when the Labor Party finally has the numbers in the Legislative Assembly the Legislative Council has a use. They declare the upper house has a use only for those relatively brief moments throughout the state's history when the conservatives cannot get the numbers in the lower house. In the longer periods when they have the numbers in the lower house no such argument is put forward. The position is entirely disingenuous and does not deserve support.

This is a red-letter day. It is rare in Victorian politics that the relief of the voters will be so palpable as it will be on the passage of the bill. In the long careers of government members — and I am confident many of the new members will be here for a long time — there will rarely have been a more satisfying debate than this, and rarely a more satisfying day than the day that sees the passage of the legislation. On behalf of the Mitcham electorate, I am proud to support the bill.

**Mr WELLS** (Wantirna) — I am pleased to join the debate on the Audit (Amendment) Bill for a number of reasons — firstly, because I am an accountant and a member of the Australian Society of Certified Practising Accountants; and secondly, because I was a member of the Public Accounts and Estimates Committee in the previous Parliament. Other members of the committee included the honourable member for Monbulk, the current Premier, the current Attorney-General, the honourable member for Geelong North, and the Honourables Theo Theophanous, Neil Lucas and Bill Forwood. We had a good working and effective relationship with all parties but especially with the former Auditor-General, Ches Baragwanath.

The committee had many meetings with Mr Baragwanath. He would issue a report and explain the reasons for his report to the Public Accounts and Estimates Committee. The committee asked him questions and Mr Baragwanath discussed an annual plan of what he was proposing to do over the forthcoming year with regard to audits. He would seek the input of the committee, and we would discuss matters openly and frankly. He was a man I admired. Without doubt, he would audit without fear or favour, as any proper auditor should do.

One has only to consider things such as the World Trade Centre fiasco that the previous Cain-Kirner government was tied up in and the mess the Auditor-General was left to pull apart. In that financial transaction I believe the government was left with a 14.4 per cent interest rate swap which was well above interest rates at the time. The government was faced with all the financial risk when it should have been

pushed over to the private sector. It was in that role that the Auditor-General was able to, without fear or favour, audit those books and bring it to the attention of the public and the Public Accounts and Estimates Committee, which was able to account for the debacle.

Last year, or perhaps the year before, I remember having lunch with Ches and a group of other people when I asked him, 'If you were in the private sector you would be earning twice the amount that you are on; why do you do this job with this pressure for this amount of money?'. His simple answer was, 'Kim, you are an accountant yourself. Why did you become a member of Parliament?'. He probably has a fair point.

I will be closely watching the way the Independents vote on the amendments the opposition has brought forward. The Independents and the general public have made it clear they want changes made to the Audit Act and it is for that reason that the opposition is supporting the bill. Opposition members have raised a number of concerns and I will speak later at greater length about the Labor Party's departure from accounting and auditing standards.

I will be closely watching which clauses the Independents vote for because they cannot be seeking open and transparent government with an Auditor-General that will work with substandard auditing standards. Interestingly, from my reading of the bill the minority Labor government has not spelt out the reasons why it wants to depart from recognised international and Australia-wide auditing standards.

The independence of the office of the Auditor-General is to be enshrined into Victoria's constitution by amending part 5 of the Constitution Act 1975. The opposition supports that. Not many people understand that when mention is made of enshrining something in the constitution, a referendum is not necessary, unlike the recent referendum on the republican debate. When a change is made to the constitution an absolute majority is needed in both houses of Parliament. When something is enshrined in legislation and in the constitution it can be changed later by the government having a majority in both houses of Parliament.

The bill details the functions and powers of the Auditor-General, but the main objective is to introduce an ability for the Auditor-General to conduct financial and performance audits in his or her own right and to provide the resources to do so. That is the crux of the issue that was before the general public. Under the 1997 legislation the Auditor-General had to contract out all his financial audits, whereas before he was

contracting out between 75 and 80 per cent. The 1997 legislation said he had to outsource 100 per cent.

The other interesting part of the legislation is that Audit Victoria will be abolished and replaced by the re-establishment of the Victorian Auditor-General's Office, and that will come under the full control of the Auditor-General. It is interesting, and I guess ironic, that our current Auditor-General is a New Zealander. The system in New Zealand has a separate Audit New Zealand and Auditor-General's office. The difference in New Zealand is that the Auditor-General maintains control over both Audit New Zealand and the Auditor-General's office. Under the 1997 system there was a difference and a break in the tradition of a service being purchased and provided.

The terms of the appointment of the Auditor-General contain a number of differences, but the appointment of the Auditor-General is to be made by the Governor in Council. That will be on the recommendation of the Public Accounts and Estimates Committee. Another new provision in the bill will prevent the remuneration of the Auditor-General being reduced.

It is worth while making some reference again to the 1997 act. In theory the Auditor-General can again conduct all his financial and performance audits in his own right and have complete control. In practice I am not sure how much will change. As I said before, in 1997 the Auditor-General was outsourcing 75 per cent to 80 per cent of his financial audits, which was pretty much in line with national competition policy. However, when the Auditor-General was outsourcing those audits, he still maintained absolute control. He wrote up the specification of the audit; he alone decided which government departments or organisations would be audited; he selected the auditor, supervised the audit, and reviewed the audit; and if he felt obliged to do so he would write another supplementary report to the audit. However, at the end of the day he would sign off on that audit. The signing off of the audit to Parliament will remain the same as it was in 1997, although the opposition acknowledges that the Auditor-General needs to be able to audit some government departments in his own right using his own staff.

I was interested to note that in the Labor Party's Treasury policy document it was going to make a raft of changes to the Audit Act and I thought it would have put them in this bill. However, it now says they will be introduced at a later time but before the next budget.

My concern about the government's promises in its Treasury documents is its proposal to have the Auditor-General oversee the budget to ensure a surplus

is maintained. I am not sure whether the government understands what should be the role of an Auditor-General. An auditor audits historical figures against a budget or against accounting standards. I am not sure how one would audit a budget because a budget is simply a plan — it is a proposal for how money will be spent. The only way an auditor can audit a budget is simply by adding up the figures. I have a serious concern that the government does not understand the role of an auditor.

If a budget is submitted to an auditor, the auditor will say, 'I will check all the figures to make sure they all add up and that the government has a proposed surplus of, say, \$101 million in the first term' — and any figures can be put in that budget. It is not quite right to say that the Auditor-General will guarantee a substantial budget surplus every year overseen by an independent Auditor-General with new constitutional powers. It is not realistic and demonstrates that the Labor government does not understand the real role of an auditor.

**Mr McArthur** — You should ask where the minister is — that is, the Premier. There is something wrong about this — he has to be in here somewhere.

**Mr WELLS** — It is good to see that the Premier is listening so intently! The government talks about an independent Auditor-General. How can the Auditor-General be independent if he helps frame the budget in one period — checks the figures, adds them up and makes sure that you have a surplus of, say, \$101 million — and 12 months later has to work out the historical figures against the budget he has approved? I would like the Premier or the next government speaker to explain how he can be independent. A direct conflict of interest would arise if the person who authorised the budget was the same person who checked the historical figures against that budget. It does not make sense.

I am not sure how many government members have been involved in accounting or business. The traditional role of an auditor should be to examine historical financial data to assess whether the financial reporting of the entity's financial transactions reflects the true and fair financial position of that entity. An auditor can examine actual results against budgeted results, but that is done from an historical perspective. It would introduce a future orientation to the Auditor-General's role to direct him to assess whether a budget met a commitment to maintain an operating surplus and also direct him to recommend any additional action to ensure consistency with the government's core

financial principles, including the commitment to operating a sustainable surplus.

The minority Labor government needs to make that very clear. In time I should like to hear the position of the Auditor-General, Wayne Cameron, on the issue. I suggest to him that he should not under any circumstance be involved in the current account or capital account budgets because a direct conflict of interest would arise.

The opposition will introduce a number of amendments and I hope the Independents and the Labor government will support them.

I do not understand the part of the legislation that deals with the Labor government's proposal to do away with the Auditor-General's abiding by recognised auditing and accounting standards. The government has not given any explanation for that in the second-reading speech, which is where one would expect the government to state its intentions — —

**Mr Mildenhall** — Because it is not necessary.

**Mr WELLS** — The honourable member for Footscray has interjected and said it is not necessary. The government says it relies on transparency and open government, but when it comes to adhering to internationally recognised Australian accounting and auditing standards the honourable member for Footscray says they are not necessary. It raises the question of what the Auditor-General will audit against.

Auditors from KPMG audit against recognised accounting and auditing standards, but when it comes to the Auditor-General the minority Labor government now says, 'We can compromise on his standards'. That raises an issue of inconsistency. Consistency and uniformity of figures are important to accountants. Can the minority Labor government please explain what accounting or auditing standards government departments will use in drawing up their figures? You would think they would be the standards the Auditor-General will audit against.

If a government department draws up accounts with regard to AAS29, for example, and the auditor says, 'I no longer need to audit against AAS standards. I can audit against my own standards', there is immediately an inconsistency, and a uniform result across the board will not be achieved. The situation is fraught with danger. I suggest strongly that the minority Labor government take the opposition's advice and retain recognised auditing standards.

**Mr Mildenhall** — But we agree with you.

**Mr WELLS** — It is quite ironic. The situation having been raised by the opposition, the minority Labor government now says it supports it. If the opposition had not put forward its amendments to the legislation the government would have got it through in a misleading and deceptive way.

Accounting and auditing standards are minimum requirements. Any variation to a standard is in addition to the bottom line auditing or accounting standards introduced by the Australian Society of Certified Practising Accountants.

I hope the amendments will be agreed to. Proposed amendment 20 is causing a bit of angst among government members. It states:

Clause 9, page 11, line 29, after “Committee” insert “or either House of the Parliament”.

If members of the minority Labor government are genuine about transparency why are they so spooked about giving the chair of the Public Accounts and Estimates Committee to one of their own?

If the government examined the situation in, for example, South Africa or the United Kingdom it would discover that the chairmanship of the public accounts and estimates committees in those countries is given to the opposition party or parties. If the Bracks government is to maintain its claim of transparency, it should do the decent thing and hand over the chairmanship of the Public Accounts and Estimates Committee to the opposition. What is the government concerned about if it is so transparent and open? A fundamental flaw in its proposal is under threat. It is totally unrealistic that it should act in that way. The government is being hypocritical in its proposal. It should ask the opposition — —

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

**Debate adjourned on motion of Mr LANGDON (Ivanhoe).**

**Debate adjourned until Tuesday, 30 November.**

## ESSENTIAL SERVICES (YEAR 2000) BILL

### *Second reading*

**Debate resumed from 23 November; motion of Mr BATCHELOR (Minister for Transport).**

**The SPEAKER** — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of

the opinion that the second reading of this bill requires to be passed by an absolute majority. As there are fewer than 45 members present in the chamber, I ask the Clerk to ring the bells.

**Bells rung.**

**Members having assembled in chamber:**

**Motion agreed to by absolute majority.**

**Read second time.**

**The SPEAKER** — Order! Is the leave of the house granted to proceed forthwith to the third reading?

**Mr McArthur** — Leave is refused.

**Committed.**

### *Committee*

**Clause 1**

**Dr NAPHTHINE (Leader of the Opposition)** — During the second-reading debate the opposition sought assurances from the minister about the way the broad powers in the legislation are to be used. It also asked about a number of issues including the powers of inspectors, delegations and other provisions. The opposition would have liked to turn to those components in the committee stage and have its questions answered. As the time is now 3.57 p.m. and the government’s guillotine will come into effect at 4.00 p.m., the opposition will not have an opportunity to do so.

**Mr Batchelor** — Don’t you remember?

**Dr NAPHTHINE** — The government argues it is the champion of open and accountable government, but it is now using the procedures of the house to curtail debate on this bill. The opposition would have liked to deal with the bill in the committee stage. That could have been done this week, but unfortunately the government has chosen to adopt a different approach to the debate today.

**Mr Thwaites** interjected.

**Dr NAPHTHINE** — I spoke to the Leader of the House last night.

**Mr Batchelor** interjected.

**Dr NAPHTHINE** — I said we wanted to come back to this.

**Mr Batchelor** interjected.

**Dr NAPHTHINE** — In the 1 minute left I ask the Premier to respond to issues raised in the second-reading debate and, if the opportunity presents itself to have the bill dealt with in the committee stage, the opposition can go through the bill clause by clause, as it would have liked to do.

**Mr BRACKS** (Premier) — I give the Leader of the Opposition the assurance that further time will be made available privately to discuss the matters — for example, the powers of inspectors — raised by the opposition in the second-reading debate. As the Leader of the Opposition will understand, the provisions are substantially no different from those in the essential services legislation. The bill contains a sunset clause. The year 2000 situation is an extraordinary one that requires inspectors to have unusual powers.

I give the Leader of the Opposition the assurance that the powers will be used properly in the interests of the Victorian public. If he has any concerns about that, I give him an assurance that I will have departmental officers assist him in ensuring that those concerns are met.

**Clause agreed to.**

**Debate interrupted pursuant to sessional orders.**

**The CHAIRMAN** — Order! The time allocated for debate on the bill has expired.

**Clauses 2 to 35 agreed to.**

**The CHAIRMAN** — Order! The question is:

That I report the bill to the house without amendment.

All those in favour say aye — —

**Dr Napthine** — On a point of order, Madam Chair, as I understand it the motion was that the committee report progress. That is what the committee has passed. You cannot now report the bill without amendment. You have put the question that progress be reported, and that has been carried by the committee.

**The CHAIRMAN** — Order! I started to say that, but when I was advised that that was the incorrect terminology I changed to the appropriate wording. The question had not been put at that stage.

To ensure there is no confusion, I will resubmit the question. The question is that I report the bill to the house without amendment. All those in favour say aye — —

**Dr Napthine** — On a point of order, Madam Chair — —

**The CHAIRMAN** — Order! I cannot take a point of order during this stage. I am advised by the Clerk that under the allocation of time rule the house is now into the adjournment debate.

**Dr Napthine** — I am sorry, Madam Chair — —

**Mr Thwaites** — It was your rule: you brought it in!

**Dr Napthine** — I am trying to get it clarified. There is no division: it is brought on only when there is a division. I am just trying to help.

**The CHAIRMAN** — Order! I am unable to take points of order under the sessional and standing orders. At this stage I am required to report the bill to the house without amendment. I will now call for the Speaker.

**Dr Napthine** — You have not put the question. We called for a — —

**The CHAIRMAN** — Order! I have sought advice from the Clerks. The question was resubmitted. That is their ruling.

**Dr Napthine** — I have raised a point of order, Madam Chair. You did not call for any noes. You called for the ayes and did not call for the noes.

**The CHAIRMAN** — Order! I will clarify it. I will now put the question again. The question is that I report the bill to the house without amendment.

**Committee divided on question:**

*Ayes, 43*

Allan, Ms ( <i>Teller</i> )	Kosky, Ms
Barker, Ms	Langdon, Mr ( <i>Teller</i> )
Batchelor, Mr	Languiller, Mr
Beattie, Ms	Leighton, Mr
Bracks, Mr	Lenders, Mr
Brumby, Mr	Lim, Mr
Cameron, Mr	Lindell, Ms
Campbell, Ms	Loney, Mr
Carli, Mr	Maxfield, Mr
Davies, Ms	Mildenhall, Mr
Delahunty, Ms	Nardella, Mr
Duncan, Ms	Overington, Ms
Garbutt, Ms	Pandazopoulos, Mr
Gillett, Ms	Pike, Ms
Haermeyer, Mr	Robinson, Mr
Hamilton, Mr	Savage, Mr
Hardman, Mr	Seitz, Mr
Helper, Mr	Thwaites, Mr
Holding, Mr	Treize, Mr
Howard, Mr	Viney, Mr
Hulls, Mr	Wynne, Mr
Ingram, Mr	

*Noes, 42*

Asher, Ms	Maclellan, Mr
Ashley, Mr	McNamara, Mr
Baillieu, Mr	Maughan, Mr ( <i>Teller</i> )
Burke, Ms	Mulder, Mr
Clark, Mr	Naphine, Dr
Cooper, Mr	Paterson, Mr
Dean, Dr	Perton, Mr
Delahunty, Mr	Peulich, Mrs
Dixon, Mr	Phillips, Mr
Doyle, Mr	Plowman, Mr
Elliott, Mrs	Richardson, Mr
Fyffe, Mrs	Rowe, Mr
Honeywood, Mr	Ryan, Mr
Jasper, Mr	Shardey, Mrs
Kilgour, Mr	Smith, Mr ( <i>Teller</i> )
Kotsiras, Mr	Spry, Mr
Leigh, Mr	Steggall, Mr
Lupton, Mr	Thompson, Mr
McArthur, Mr	Vogels, Mr
McCall, Ms	Wells, Mr
McIntosh, Mr	Wilson, Mr

**Question agreed to.**

**Reported to house without amendment.**

*Third reading*

**The SPEAKER** — Order! The question is:

That this bill be now read a third time.

As there are more than 45 members present in the chamber and no voices for the noes, I declare the third reading passed with the concurrence of an absolute majority of the whole number of members of the Legislative Assembly.

**Question agreed to by absolute majority.**

**Read third time.**

*Remaining stages*

**Passed remaining stages.**

## CONSTITUTION (REFORM) BILL

*Second reading*

**Mr BRACKS (Premier)** — I move:

That this bill be now read a second time.

The bill before the house is one of the most significant bills to come before the Parliament. It contains measures which have previously been attempted, have been long awaited and are vital for democracy in this state. Mr Speaker, this bill will reform the Parliament and, in particular, the Legislative Council.

The bill has two primary objectives. They are:

- the reform of the upper house; and
- the introduction of a fixed term of four years.

### **Reform of the Legislative Council**

Members will all be aware that Victoria has a peculiar distinction. It is the only state with a bicameral Parliament in which neither of its houses of Parliament is elected on the basis of proportional representation. It is the only state which has not taken advantage of the method of election which encourages community involvement in the parliamentary process. It is the only state in which the electoral system is designed to prevent minority interests and minor parties having representation in the Parliament.

A number of attempts were made in 1987, 1988 and 1990 to remedy that position, but they were not successful.

This bill will, however, overcome that situation, and thereby fulfil the commitment to the people of Victoria made in the recent general election to make the upper house more democratic and representative.

The reform of the Legislative Council will be achieved by amendments to a number of acts, but primarily, the Constitution Act and The Constitution Act Amendment Act. Those amendments will:

- reduce the number of members in the Legislative Council from 44 to 35;
- introduce proportional representation into the Legislative Council;
- reduce the term of the Legislative Council to one term of the Legislative Assembly; and
- remove the ability of the Legislative Council to reject supply.

### *Reduction of members*

Currently the Legislative Council is comprised of 44 members elected from 22 provinces — each province electing two members for a term equal to two terms of the Legislative Assembly, one each election. The bill will reduce the number of provinces to five and each province will return seven members each election, bringing the number of members to 35.

### *Proportional representation*

Members will be aware that the current electoral system for the Legislative Council has not led to the election of an independent member or a member from a minor

party for many years. Even today, when three Independent members have been elected to the Legislative Assembly, the Legislative Council is still dominated 100 per cent by the three major parties. This unacceptable position will be ended by the bill before the house, which introduces proportional representation to the upper house.

Introducing proportional representation requires a number of amendments to The Constitution Act Amendment Act which are modelled on those in the Commonwealth Electoral Act in relation to Senate elections. Under that method a candidate must receive a minimum number of first-preference votes, or quota, to be elected. The quota is calculated by dividing the total number of voters by one more than the number of seats to be filled. Thus, in a seven-seat province a candidate will need just over one-eighth, or 12.5 per cent, of the vote to be elected.

Members will appreciate that, as a result of this measure, the days of the major party dominance of the Legislative Council are ended.

#### *One term*

Currently, the term of Legislative Councillors is equal to two terms of the Legislative Assembly. The introduction of proportional representation into the Legislative Council will achieve what the existing rotational election method has never achieved — broad-based Legislative Council representation, and an effective house of review. For that reason, the bill ends the rotational basis of election for Legislative Councillors.

#### *Supply*

All members and all Australians are aware of the concerns held across the community as a result of upper houses blocking supply to the lower house — the people's house. This occurred in 1975 in Canberra; and Victoria was familiar, in former days, with upper houses abusing their powers by blocking supply and thereby attempting to bring down democratically elected governments.

The bill will end these concerns by providing that the annual appropriation bill is to be presented for assent once passed by the Legislative Assembly. The Legislative Council will retain the power to reject other appropriation and taxation bills as well as the power to make suggestions for amendment of those bills to the Legislative Assembly.

#### **Fixed term**

Currently, the Assembly expires four years after its first sitting day. However, His Excellency the Governor is empowered to dissolve the Assembly in certain circumstances:

- three years have expired;
- a supply bill has been rejected;
- a bill of special importance under section 66 is twice rejected by the Council; or
- a vote of no confidence has been passed by the Assembly.

There is a concern in the community that, despite the maximum term of the Assembly of four years, Parliaments have regularly not lasted their full term. Premiers have assisted in this process by using their power to call elections early for short-term electoral reasons.

This position is unacceptable and will be remedied by the bill, which will ensure that the following principle is put in place: a Parliament elected for four years will serve for four years unless the government has lost the confidence of the lower house.

This will be achieved by providing that the only ground upon which His Excellency can dissolve the Assembly is if a resolution is passed by the Assembly expressing no confidence in the Premier and ministers. In the absence of such a resolution, the Parliament will run for its full term of four years.

Members will note that the other grounds for early dissolutions have been removed. One can no longer apply, as the Council will no longer have the ability to block supply. The second, the section 66 bill of special importance process, is also being removed because it provides a mechanism which can be manipulated to justify the calling of early elections.

The bill also ensures that the four-year term commences not from the first sitting day of Parliament but from the date of the general election. As a result of these measures, the gap between general elections will always be, unless there is a vote of no confidence, four years plus the election period — which will be between 32 and 58 days.

#### **Reducing the number of members in the Legislative Assembly**

The bill alters the relationship between provinces and districts. Currently section 27(1a) provides that there are four complete and contiguous districts for each of

the current provinces. The bill ensures that there will continue to be a relationship between districts and provinces, but it alters the number of districts in each province. The bill provides that each province is to consist of 17 complete and contiguous districts.

As a result of that change, the number of Assembly members will be required to be reduced from 88 to 85.

### Election period

As members will be aware, the minimum election period was altered in 1995 from 33 days to 25 days. However, the Electoral Commissioner has advised that that period will not be viable for the tasks required for an election conducted using proportional representation. Accordingly, the bill amends the Constitution Act Amendment Act to increase the minimum period to 32 days, the minimum period considered viable by the commissioner. It also alters the way that minimum period is made up. The period until the nominations close will reduce from 10 days after the writ to 8 days, while the period from the close of nominations to the polling day will increase from 15 days to 24 days.

### Commencement

Members will note that the changes will come into operation in relation to the next Parliament and will not affect the term of the current Parliament or the means available to His Excellency to dissolve the current Assembly. The only effect that the bill will have on the current Parliament is that it will cause the Legislative Council to cease and, accordingly, for the terms of all current members of that house to end once this house expires or is dissolved.

I am sure that all members will welcome and support this bill — in this house we should; if you are honest you would — and recognise it as a major step in the achievement of a democratic parliamentary system for this state.

I commend the bill to the house.

### Debate adjourned on motion of Dr DEAN (Berwick)

**Mr BRACKS** (Premier) — I move:

That the debate be adjourned for two weeks.

**Dr DEAN** (Berwick) — On the matter of time, Mr Speaker, after all that was said by the government when in opposition about the opportunities to debate major pieces of legislation and the adjournment periods they asked for, it is incredible that the Premier could suggest two weeks.

What periods did the then opposition request to debate major legislation — a month, on some occasions two months, as long as four months? Is this a major piece of legislation? Let us hear what the Premier said when he began his second-reading speech:

The bill before the house is one of the most significant bills ever to come before the Parliament.

He proposes two weeks for the people of Victoria to debate and think about the most significant piece of legislation to come before the place. What a joke on the government's reputation that the Premier suggests the people of Victoria have only two weeks to consider the legislation!

This man went the length and breadth of the state during the last election saying, 'We will be the open government. We will give the people of Victoria the capacity to be part of the process'. The institution of Parliament represents part of the people's capacity to participate in the process. This man brings in legislation to radically alter this place and tells the people of Victoria, 'This is your institution and I will give you two weeks to discuss the matter'. What a joke!

What does the Premier want to steamroll through the house in two weeks?

**The SPEAKER** — Order! I remind the honourable member for Berwick and all subsequent speakers on the debate that it is a narrow debate on the question of time. They should not canvass issues related to the bill.

**Dr DEAN** — I do not intend to canvass matters related to the bill. The Premier said this is a significant bill because it reduces the number of members in the Legislative Council — an integral part of Parliament. Reducing the number of members in a house of the Parliament is significant.

It could be said that, as the bill proposes to make an amendment to the constitution, it is a normal bill and the normal adjournment time should apply. However, the bill does not merely amend the legislation on matters concerning Parliament; it amends Parliament itself. It intends to reduce the number of members in the house — the house in which we stand.

The Premier cannot argue that the matter has already been widely discussed in the community or does not warrant an adjournment of two weeks to debate it. Although the principle of the bill may have been part of Australian Labor Party policy, it was not debated during the election campaign by the media or the public. The people get no chance if the government steamrolls a change to the democratic process.

The media will want a role in the discussions on the matter and the opportunity to put forward arguments for and against. That process will be delayed. How can it possibly be said that the sorts of changes proposed, which will intimately affect everything about Parliament and the system people now operate under, can be made in two weeks?

I could have understood if the Premier had asked for four weeks — opposition members would have still said it is not enough time for such a major change, but we could have run with it — but he has asked for just two weeks to discuss the issues. Virtually everybody in the house will want to say something about the alteration of Parliament. Mr Speaker, this is a Parliament of which you are an integral part. I am sure you would want to listen to detailed debate on the issues.

Major legislation is listed on the notice paper to be debated during the next two weeks. How will it be possible for the media and members of this house to in two weeks discuss and argue that legislation properly, as well as slip in an argument about a bill that will change the entire Parliament? That is a nonsense.

I imagine that you, Mr Speaker, would want full debate on legislation that will change Parliament because you are an integral part of the system that will be debated.

Can it be that after only a short four weeks in office the government has slipped so much from the promises it made time and again to the Victorian people and to Parliament, particularly in relation to the charter? I ask the Independents, one of whom is in the house, how the promise they were given by the Premier to give people the opportunity to discuss major pieces of legislation could suddenly slip away to one of allowing just two weeks to debate a bill that will alter the constitution and change proportional representation.

The very nature of proportional representation is a complex matter about which all members of this house, because they are parliamentarians and part of the democratic process, have detailed views about. It is also a matter I am sure most members of the public would find confusing and would want details of. For example, they might want to know whether proportional representation will increase or decrease representation in the country, because that may be an intimate and difficult question for them to decide on.

I am sure the Independents would be saying to themselves, 'We are in country seats; we want to be able to know in detail whether proportional representation would help or hinder us'. How can they

possibly be expected in two weeks to go through such issues, which represent only a portion of the bill — it involves many other aspects besides proportional representation? I do not mean two weeks of debate; I mean the debate will be sandwiched between all the other pieces of legislation that have been listed for the two-week period. That is not to mention a bunch of motions the government has put on the notice paper and which it presumably wants argued before the end of the sessional period. Honourable members who looked at the notice paper and at the matters already listed would have to come to the conclusion that the house will be lucky if more than a couple of hours is available for debate on the matter.

I find it impossible to believe. Can the Premier honestly look opposition members in the eye and say that a bill of such significance deserves only two weeks for consideration in this house when in opposition he argued that bills not nearly as significant and monumental as this should be given at least a month?

What sort of hypocritical nonsense is that? We are talking about where you stand.

**Mr Bracks** interjected.

**Dr DEAN** — The Premier asks, 'What was your response?'. Sooner or later the Premier will have to realise he is in government and he has to make a decision on this matter; he has to decide, as the leader of a responsible government, what is best for the Victorian people. I stand here and ask the Premier now to reconsider giving the house only two weeks to debate the most significant bill to come before Parliament. I ask him to do that.

**Mr Bracks** interjected.

**Dr DEAN** — Through you, Mr Speaker, I say to the Premier that I consider the bill to be so important that if he states he will change his mind because of the way I deliver my request, I will deliver the request in any way he likes, because I am interested in the people of Victoria having the capacity to debate the issue.

I detect in the Premier a hint that if I were to request from him, in an appropriate manner, a four-week adjournment, he would agree to it. I hope that is correct, because he said it depends on how I ask, so I ask the Premier, through you, Mr Speaker, in all humility and responsibility, 'Please will you change your mind and allow four weeks for the people of Victoria to look at the bill?'. If the Premier does not allow that, the reputation that he has been peddling the length and breadth of this state, month after month, that he is a consultative Premier who believes in the democratic

process will be shot forever. He will never be able to look Victorians in the eye and say, 'I changed your very democratic institution and I did it by steamrolling legislation through the Parliament in two weeks'. He will never be able to get the confidence of Victorians on any matter again.

Let him know that if he does insist on the two-week adjournment we will not let him forget on a daily basis the hypocrisy of his stance when in opposition, and we will quote every single instance when he stood up and asked for longer adjournments. We will tell the Victorian people that he does not give two hoots about their house, the people's place.

I therefore propose an amendment to the proposal that we simply get a two-week adjournment on this bill. In doing so I urge, in particular, those who have the control of this house at the moment, the Independents, to consider whether they want to go through a process whereby their electorates immediately have a proportional representation system which may not be useful for their constituents, after a two-week adjournment. Therefore I move, as an amendment:

That the word 'two' be omitted with the view of inserting in place thereof the word 'four'.

That is the absolute minimum amount of time needed to debate the bill.

**Mr BATCHELOR** (Minister for Transport) — I second the amendment.

*Honourable members interjecting.*

**Mr BATCHELOR** — In seconding the amendment, I point out the government would like to demonstrate its bona fides as an open and consultative government. We are not afraid to consult. We are not afraid of our policies standing the scrutiny of the public. It is interesting to note that the mover of this amendment is now squealing like a stuck pig, because he really did not want consultation to take place.

A proposal has come forward and a request has been made. I am happy to indicate the government's support for it. In so doing, I point out the government followed the traditional practice of adjourning debates on bills for two weeks, and it will continue to do so. However, in this instance, because it is changing the constitution and powerful arguments were put to the government, it is prepared to extend the period of adjournment for a further two weeks. I expect when we return after the four-week period of consultation that honourable members opposite will support the bill because they will have had the consultation period that they

requested and will have been able to go out to test and to satisfy all the issues that have been raised by my honourable companion and mover of this amendment, the honourable member for Berwick.

I am sure when the bill comes back on for debate and the vote is taken, because honourable members opposite have had this additional two weeks, not only will they have convinced themselves but they will have heard the message from right across the state that Victorians want change.

My political advice to the Liberal and National parties is that they ought to listen to the people of Victoria. If they had listened in the past perhaps they would still be in government. Certainly they ought to use the adjournment period that they have asked for to grasp the nettle, go out into the electorate and listen and then come back and vote for the bill when it next comes before the house.

I am pleased opposition members have been able to see how easy it is to be consultative in government. They have learnt the lesson seven years too late. If they had had the political nous or the common decency to deal with such issues differently from the way they did when they were in government, they may still be there. We look forward to opposition members joining the government in voting for the bill when the debate resumes.

**Dr NAPHTHINE** (Leader of the Opposition) — I welcome the seconding of the amendment by the Leader of the House. It demonstrates how we can work together, as the Premier and I have done on the Audit (Amendment) Bill. The adjournment of the debate for an additional two weeks provides an opportunity for this significant bill to have some community airing. The opposition looks forward to the opportunity of debating the bill in the future.

**The SPEAKER** — Order! The Premier has moved that the debate be adjourned for two weeks and an amendment has been moved that the expression 'two' be deleted and 'four' be inserted. I shall simply put the question that the amendment be agreed to.

**Amendment agreed to.**

**Amended motion agreed to and debate adjourned until Thursday, 23 December.**

**Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).**

## ADJOURNMENT

**The SPEAKER** — Order! Under sessional orders the time for the adjournment of the house has arrived.

### Greyhound racing: drugs

**Mr KILGOUR** (Shepparton) — I raise for the attention of the Minister for Racing an issue concerning greyhound racing. I have received representations from local greyhound trainers about cheating in the greyhound racing industry from the use of performance enhancing drugs. I have heard that the minister may be attending a greyhound racing meeting at Sandown and I raise the issue so he can make inquiries at Sandown about the use of the drug erythropoietin (EPO). I am sure the minister would not support greyhounds being drugged in order to win a race.

EPO is a synthetic protein that stimulates the production of red blood cells which carry oxygen and, taken as a supplement, loads the blood with more oxygen cells which increases the endurance of the dog. EPO can be purchased via the Internet, and concern is rife among greyhound trainers because they say there is no longer a level playing field. There are those who are using the performance enhancing drug and those who are not, and those who are not are not in the money. It is a major issue, not only regarding people cheating and people being cheated out of their money because a drugged dog may win a race, but dogs are dying because of the use of this performance-enhancing drug.

I ask the minister to talk to greyhound industry representatives about introducing blood testing. Local greyhound trainers tell me that the urine swab will not detect the use of the drug and that EPO can only be detected by blood testing. Although the industry may have to introduce different testing procedures, it is absolutely necessary. Trainers are concerned about a level playing field. Trainers who love their dogs and who do not use the performance enhancing drug are concerned about drug use by other trainers because dogs are dying. Will the minister investigate this issue with the greyhound industry to see what can be done to ensure that EPO is eradicated and trainers can train their greyhounds and know that the dogs will win on their merits.

### Footscray: derelict buildings

**Mr MILDENHALL** (Footscray) — I ask the Minister for Transport to intervene and make good or demolish buildings owned by Victrack in Nicholson Street, Footscray, from the corner of Irving Street running in a southerly direction.

Those dilapidated, empty shops with smashed windows are suspected by the local community of being an informal injecting facility. They are also visual eyesores. There is no sadder sight in the shopping centre than a former amusement parlour with smashed windows and graffiti all over it. The visual amenity does nothing for the viability of the business district. It is an indicator of the neglect of the former government that the buildings, owned by Victrack, are in such poor condition and are reducing the prospect of the redevelopment of the business district.

The demolition of the buildings which, if taken to their logical conclusion would include a telephone exchange in the former electorate office of the Honourable Ralph Willis, are part of the visionary plans for the redevelopment of the Footscray business district. A vital component of that is the open space and the generally poor trading area owned by Victrack around what is called the Footscray station precinct.

Many works are proposed, including major works on streetscapes; a redevelopment of the Footscray railway station, which is heavily used; a modal interchange program, for which the Maribyrnong council is seeking a contribution of \$35 000; and an implementation plan. Public transport services are vital because the majority of visitors to the Footscray business district come by public transport or on foot.

I look forward to the minister considering the proposals favourably, receiving a delegation from the Maribyrnong City Council and committing agencies within his control and those of the Department of Infrastructure to undertaking constructive talks on further planning and feasibility work on the upgrade of the business district and particularly the Footscray station precinct.

### Forest industry: Otway Ranges

**Mr MULDER** (Polwarth) — I call on the Minister for Environment and Conservation to intervene urgently in the timber operations in the Otway Ranges. I was heartened to hear the minister's comments in the house about the timber industry in the Otway Ranges and across Victoria. However, the minister failed to mention that commitments were to a new-found mate in Gippsland East and not the Otways timber industry.

It appears that the thought of getting lost in the Otways again has given the minister cold feet, so she just will not go there. The minister has a responsibility for the timber industry across the state, including in the Otways — not just at Swifts Creek in particular and Gippsland East in general. Mill operators, value-adding

businesses, and employees are waiting to see the minister in my electorate and discuss the timber industry in the Otways, but obviously a visit to the Otways is not on her agenda.

On 2 November I wrote to the minister and I have spoken to her in Parliament, asking her to visit my electorate and talk with people in the timber industry, but she refuses to turn up. What a disgusting attitude to rural business!

South-west Victoria is running on its natural assets, and I will not stand by and let the minister take an axe to a timber industry that supports so many viable businesses and employees in that district. The Premier, Deputy Premier and other government ministers have touted their commitment to rural Victoria, but the Minister for Environment and Conservation will not turn up and discuss something as important as the timber industry in the Otways.

The inexperience of government members is showing through — no-one on that side of the house has any experience whatsoever. More importantly, government members are not prepared to listen to business people. A Liberal MP is fighting for business and blue-collar workers in the Otways, and the Construction, Forestry, Mining and Energy Union is fighting for business and for blue-collar workers in the Otways, yet the Labor government minister has turned her back on workers in rural Victoria.

Perhaps the man of the moment could intervene. As a ratepayer in the Otways, will the Premier come to the Otways to intervene in this process and put a stop to the absolute disaster the minister has created?

### **Ballarat: community kitchen**

**Mr HOWARD** (Ballarat East) — I raise a matter for the attention of the Minister for State and Regional Development. I thank the minister for his attendance in Ballarat last week, when he announced funding for the campaign in the heart of the city to allow for Christmas decorations this year. I commend him on that.

An application has been made for the funding of a community kitchen under the rural community development scheme. I ask the minister to support the application for a community kitchen to be established in Ballarat. The proposal is worthy of funding. It was put forward by BRACE, the adult and further education centre in Ballarat, working in conjunction with the City of Ballarat and the Department of Education, Employment and Training, which owns the land where the community kitchen would be developed.

Many community groups are concerned that new legislation makes it difficult for them to conduct the food-handling activities associated with the fundraising and other social activities that are undertaken in the Ballarat community. This development by the Ballarat community is a sensible and practical way to enable worthy fundraising groups such as schools, scouting groups and others to continue their activities in a kitchen developed especially to meet the requirements of the state's food-handling legislation.

The proposed kitchen will be established in the grounds of BRACE in Urquhart Street, Ballarat, and disabled members of the community will have full access to it. BRACE will roster the times available for use by the many community groups wishing to use the facility.

The cost of the project is \$73 000. The application is on a dollar-for-dollar basis, so \$36 809 is required. I commend the efforts of all those involved in this sensible, practical and intelligent initiative for Ballarat, and I ask for the minister's support.

### **High Street, Doncaster: upgrade**

**Mr KOTSIRAS** (Bulleen) — I refer the Minister for Transport to the reconstruction of High Street between Doncaster and Manningham roads. The former coalition government made funding available for the upgrading of existing arterial roads in Bulleen. However, a number of other projects require special attention to ensure their completion. One of those is the full reconstruction of High Street from Doncaster Road to Manningham Road to a standard that resembles High Street from Manningham Road to Foote Street.

According to the Manningham City Council, Vicroads has approved the majority of funds for the project, which will see two lanes in each direction and incorporate underground drainage, kerb and channel, concrete footpaths, vehicle crossings, and tree planting and nature strip landscaping at an estimated cost of \$5 million. Vicroads TEC funding amounts to \$4.5 million, therefore, a further \$500 000 is required. Costs associated with services and land acquisition are the major contributors to the shortfall. An application to address the shortfall has been made to the chief executive of Vicroads and is supported by Vicroads regional office. The Doncaster Jewish Day School is located in this dangerous section of High Street, and it is imperative that Vicroads completes the project to ensure that no child is at risk.

I ask the minister to ensure that the Manningham City Council's application for additional funding is accepted and supported by Vicroads. I also seek his confirmation

that the project will proceed as programmed by the previous government. A commitment from the minister will ease the anxiety of many residents.

### **Crime: rate**

**Ms BEATTIE** (Tullamarine) — I ask the Minister for Police and Emergency Services to investigate ways to prevent the crime rate from spiralling as it did under the failed Kennett government.

With your indulgence, Mr Acting Speaker, I will read from some notes because the statistics are astounding. The crime rate recorded by the Victoria Police has increased by 11.1 per cent over the past few years with robberies increasing by 88.5 per cent, deception, 42.3 per cent, theft of motor vehicles, 28.9 per cent, residential burglaries, 12.4 per cent, and assaults, 9.9 per cent. I am aware of the Bracks Labor government's commitment to increase police numbers, but my community is concerned that we should be not only combating the rising crime rate but also considering ways to take a proactive stance to prevent crime. The community is also concerned about effective reductions in legal and other services for the disadvantaged. If crime surveys and statistics are anything to go by, the previous responses to the crime rate have had little positive impact on the level of crime.

It is clear that we must search for other alternatives because failure to do so would be at our own peril. Some overseas countries have had dramatic and immediate successes arising out of reducing opportunities to commit crime. Rather than choosing between opportunity reduction and social prevention, a better course may be to develop strategies that incorporate a balance of both. I ask the minister to undertake that investigation.

### **Parliament: sitting hours**

**Mr PHILLIPS** (Eltham) — I refer the Leader of the House to the practice of the house sitting through lunchtime and ask him to use his substantial influence, which I know he has, to convince the government to go back to the old sessional ways of breaking from 1 o'clock to 2 o'clock. I ask the Leader of the House to do that for a number of reasons: firstly, to ensure that ministers have every opportunity to be briefed during question time; secondly, to ensure that all honourable members have the opportunity of getting to question time in an orderly fashion; and thirdly, it would be in the best interests of the staff and honourable members.

In principle the opportunity to work through lunchtime seems a good way of extending the opportunity for honourable members to debate bills. I have not benefited from the additional hour and do not believe — —

**The ACTING SPEAKER (Mr Richardson)** — Order! I remind the honourable member that he must confine his remarks during the adjournment debate to matters relating to government administration, not parliamentary administration. It is legitimate to talk about the effects on ministers and so on, but not legitimate and in order if the honourable member's remarks are related to the running of the house.

**Mr PHILLIPS** — I appreciate that, Mr Acting Speaker. It is a difficult matter to deal with on the adjournment and relate it to ministers only.

**The ACTING SPEAKER (Mr Richardson)** — Order! And I will not make it any easier for you!

**Mr PHILLIPS** — It is to the benefit of ministers to have a break, and therefore to the good working of the house, which would then be in the best interests of the community. It also gives honourable members the opportunity to get a bit of fresh air, to walk around, to be briefed. However, I am also concerned about the staff of this place and the running of the house. This is a good opportunity to at least consider whether the new system has been working in the best interests of the house.

### **Huntly preschool**

**Ms ALLAN** (Bendigo East) — I ask the Minister for Community Services to investigate a problem that has arisen with Huntly kindergarten in my electorate of Bendigo East. The kindergarten, which was opened in 1993, is facing difficulties with enrolments for the 2000 school year, and that is having an impact on its ability to make ends meet financially.

Sadly, Huntly kindergarten has been affected by the changeover from direct to per capita funding, as have other kindergartens across Victoria. The former government cut approximately \$16 million from kindergarten budgets. It was a cruel blow to the children of Victoria and has resulted in parents of kindergarten-aged children having to fundraise just to keep kindergartens afloat.

Huntly kindergarten is in an area in my electorate that is not entirely well off. Parents cannot afford to put their hands in their pockets every time they need to raise a little bit of extra money for the local school, kindergarten or football club to fill the former

government's funding black holes. The change in funding arrangements has placed great pressure on the committee, parents and community associated with the kindergarten. I am sure honourable members can appreciate that the local community takes pride in its kindergarten and is involved with its operation.

At a recent meeting I had with members of the Huntly kindergarten committee at the kindergarten premises they outlined the budget difficulties. I received a lot of information, which I have forwarded to the minister. Enrolments for 2000 have dropped, but they are expected to pick up in following years as a result of significant growth in the area to the north-east of Bendigo. The committee would like to keep its fees at an affordable level, but without an increase in fees the kindergarten will be faced with a significant budget shortfall. With even a modest increase of fees it will still face a difficult financial situation. The parents and friends are good fundraisers, but it is unrealistic to expect the Huntly community to raise thousands of dollars to fill the void.

Already the minister has shown her commitment to kindergartens. I congratulate her on last week's announcement of the \$250 fee subsidy for parents who are health care card holders and have four-year-olds attending kindergarten. Given that Huntly is a good kindergarten that has great parent and community support and the potential for a great future, I ask the minister to assist it in any way she sees fit.

### **Greater Geelong: Belmont traders levy**

**Mr PATERSON** (South Barwon) — I ask the Minister for Local Government to investigate whether an office of local government investigation is required into scurrilous allegations made about the City of Greater Geelong by the Geelong West branch of the Australian Labor Party.

The ALP wrote to Mayor Jarvis on 26 October alleging that a proposal for a traders levy that has been examined by council for High Street, Belmont, is not to assist the promotion of traders' interests in that area at all. The allegation made by Christine Couzens, who is the secretary of the Geelong West branch of the ALP, suggests that the real purpose of the levy is to:

... cover the cost of employment of a person who could be a political organiser for councillors re-election ...

The implication is that the council is attempting to create some sort of slush fund for itself by collecting from traders in High Street, Belmont. Mayor Jarvis replied to Ms Couzens describing the attack as malicious, and saying:

Your question concerning the scheme's introduction as a means to employ a political organiser for councillors re-election is not only distasteful, but it is also not worthy of comment and only brings you and the branch you represent into disrepute.

The letter and the action by the Geelong West branch of the ALP has brought into disrepute every councillor of the City of Greater Geelong by suggesting that the councillors would indulge in such a practice.

I ask the minister to investigate whether the allegations are correct. Given the source of the letter, I suspect they may be unfounded. The author of the letter is also president of the Trades Hall Council branch in Geelong and operates her union and ALP agenda from the electorate office of the honourable member for Geelong in Pakington Street. It would be interesting to know — —

**Mr Trezise** — On a point of order, Mr Acting Speaker, what the honourable member for South Barwon said is totally incorrect.

**The ACTING SPEAKER (Mr Richardson)** — Order! The honourable member will resume his seat. A point of order is not an opportunity to refute what an honourable member has said.

The honourable member's time has expired.

### **Powercor: Geelong office**

**Mr TREZISE** (Geelong) — I ask the Minister for State and Regional Development to draw to the attention of the Minister for Energy and Resources in the other place the loss of 35 jobs to the Geelong area as a result of the private provider of electricity, Powercor, closing its Geelong customer service office in Malop Street, Geelong. The closure will have a twofold effect. Firstly, Geelong will lose 35 valuable jobs which, presumably, will be transferred to Melbourne, and if the people who hold the 35 jobs move to Melbourne, Geelong will lose the 35 families and the ongoing economic benefits to the community.

Secondly, that service facility loss to Geelong will be noticeable to visitors and residents because Powercor's office is in Malop Street in the centre of the city. Already offices have closed in areas of the south-west region, particularly in Colac, Hamilton, Casterton and Camperdown.

The former Kennett government gave Powercor the contract to deliver electricity to nearly 55 per cent of the state, including to Geelong and the south-west region. That contract allows Powercor to make about \$130 million profit a year — and I wouldn't mind a

slice of that! The electricity customers of Geelong contribute significantly to the bottom line.

At present the employees of Powercor, the relevant trade union — the Australian Services Union — and the federal member for Corio, Gavan O'Connor, are fighting to save the 35 jobs — as are the honourable member for Geelong North, a Geelong Province member of the other house and I. The jobs are vital for Geelong, and I ask the minister to assist in saving them by writing to Powercor and outlining the concerns of the Geelong community.

### **Knox: platypus habitat**

**Mr LUPTON (Knox)** — The matter I direct to the attention of the Minister for Environment and Conservation concerns the platypuses that inhabit the Corhanwarrabul and Monbulk creeks in the City of Knox. The platypuses live there in quite large numbers. Concern has been expressed by Greening Knox that because of the proposed development of the Waterford Valley golf course and residential area, the habitat of the platypuses could be disturbed and they could move elsewhere. The concern is about disruption to the habitat for the entire length of Monbulk Creek.

Greening Knox fears that as development occurs in the area the habitat of that native animal species will be damaged. Will the minister consider establishing another committee to investigate the situation and decide whether open space could be created on either side of the creeks — —

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

### **Responses**

**Mr BATCHELOR (Minister for Transport)** — The honourable member for Footscray raised with me the significant matter of an upgrade of the Footscray retail precinct in the heart of his electorate. He referred to the plans that have been developed by the Maribyrnong City Council and the important role that railway infrastructure plays in those plans.

I understand the number of people who travel to the Footscray retail area either by foot or by a combination of foot and public transport is in percentage terms one of the highest for any retail area in Victoria. It is important when redeveloping any area that an established fact such as that is taken into account in the development plans so the area can be further developed and fostered.

The council has developed an urban framework for central Footscray and the honourable member has asked that the Department of Infrastructure and I assist in a number of different ways. In the first instance, I give an undertaking that we will cooperate with the council in working up plans and establishing what is needed in the area. If it would help, we will receive a delegation and have discussions at officer level.

The task is made a little harder than it might otherwise be because of the process of privatisation of public transport initiated by the previous government. It not only privatised but fragmented public transport. That means a number of private companies and various agencies need to be brought into the discussions and adds a layer of complexity to the process. However, through the auspices of the Department of Infrastructure, the government will try to encourage those private companies, National Express in particular, to gain an understanding of what is going on and play a role in the facilitation and bringing to fruition of the dreams for the retail heart of Footscray.

The government will also be talking to Victrack, which has responsibility for developing the assets of the former Public Transport Corporation. As the honourable member for Footscray so accurately stated, those Victrack assets are still publicly owned. I suspect it is a miracle they escaped complete privatisation. Because Victrack has responsibilities in the area the government will be seeking its active participation in bringing the plans to fruition.

In essence the honourable member for Footscray is looking for support with infrastructure works in relation to Barkly, Hopkins and Leeds streets for the railway station redevelopment, and particularly importantly, support for a modal interchange program to help maintain the public transport focus of that important retail area.

The government will do whatever it can. It considers it an important area for development and will work as closely as it can in facilitating the plans. It will take on board the requests for financial assistance, but as the honourable member would understand, the government is not in a position to commit itself to those at this time.

The honourable member for Bulleen raised with me a matter of road reconstruction. In particular he referred to the section of High Street between Doncaster and Manningham roads and called for Vicroads to provide assured funds and, in particular, to cover a shortfall. That section of road is an important part of our road network, and I will undertake on behalf of the honourable member for Bulleen to contact Vicroads to

get a full report and get back to him about how the problem can be addressed.

The honourable member for Eltham raised a matter in an eloquent and skilful way — —

**Mr Hamilton** — He got away with murder.

**Mr BATCHELOR** — He did because of his skill. As Acting Speaker he has learnt such things already — how to drive issues through the adjournment debate.

He raised with me the issue of the sitting hours of Parliament. As all honourable members and staff of Parliament know, a significant change has occurred in the spread of the parliamentary sitting hours. We are starting earlier, sitting longer and sitting through the lunch break. Without wishing to extend the sitting hours tonight — —

*Honourable members interjecting.*

**Mr BATCHELOR** — I will take up some of the interjections. Let's work around the table and take up the interjections.

I will give consideration to the views put forward by the honourable member for Eltham. He sought a change to the sitting hours to allow extra time for ministers to do their work, and I know the shadow ministers are desperate for extra time to carry out their parliamentary duties. Longer continuous sittings require a big ask of the staff. To their credit the staff have got on with the job and are facilitating the extra demands placed on them by the adoption of the new sessional orders.

The government will have a look at the demands placed on the staff and members of Parliament and will discuss the issue. I am happy to see whether we can reach a broad consensus across the Parliament. If we are unable to reach a broad consensus we will have to pursue the issue. A number of options could be considered. For example, we could take a shorter meal break or we could start earlier on Tuesday. A number of creative options could be looked at. I do not want to pre-empt the discussions other than to say that if members on both sides of the house are finding it difficult or if they would like some respite, which would also assist the staff, the government will look at the situation.

However, we need to recognise that a legislative program needs to be adopted, and given that the numbers in the chamber are now much more evenly balanced a much higher level of consultation and negotiation will be required, as has already been demonstrated, and there will need to be a recognition by all members of Parliament that the government must be able to get through its legislative program. A lot of

recognition will need to be given to that, and if people prefer to use their time in the chamber constructively instead of being obstructive, I would be prepared — without committing the government — to at least have some discussions on a without-prejudice basis to see whether we can reach a broad consensus.

**The ACTING SPEAKER (Mr Richardson)** — Order! I call on the Minister for Racing, who I am sure wishes to reach the committee room without delay. I will ask the Minister for State and Regional Development, as he is in the leader's chair, to speak last and pick up the matters that relate to ministers who are not present. I am not aware that you are also going to the dogs, Minister!

**Mr HULLS** (Minister for Racing) — The honourable member for Shepparton raised a serious matter, and I thank him for raising it in a bipartisan way. He knows, as I do, that drugs in sport should not be tolerated. The honourable member showed me the courtesy of raising the matter with me yesterday, and I have been able to obtain a briefing from the department, a copy of which I will furnish to the honourable member for Shepparton.

The honourable member would agree that the unlawful use of drugs in greyhound racing is strictly prohibited by the rules of greyhound racing. As is the case in all codes of racing, the rules provide that animals presented at race meetings must be drug free. However, two specific classes of drugs have created difficulties in the greyhound racing industry, one of which is anabolic steroids. The anabolic steroids are needed by the greyhound racing industry to prevent greyhound bitches from going on heat. Injectable or oral anabolic steroids are used to control the breeding cycles and allow the bitches to continue racing.

However, some of the anabolic steroids have been used inappropriately on male dogs, and the Greyhound Racing Control Board is leading the greyhound racing world in a joint initiative with the Commonwealth Serum Laboratories to develop a specific vaccine for controlling the breeding cycles of greyhound bitches, which will remove the need to use anabolic steroids. The board is confident the initiative will succeed in the next 6 to 12 months.

The drug referred to by the honourable member for Shepparton is EPO, which is a naturally occurring human and animal blood glycoprotein. It is available as a prescription drug for the stimulation of red blood cells in humans suffering from anaemia. Illicit use of the drug has occurred in human athletes — notably cyclists — in the belief that it enhances performance by increasing stamina.

**Mr Kilgour** — The Tour de France.

**Mr HULLS** — The honourable member mentions the Tour de France, which had a major problem — he is dead right. The thickening of blood caused by the drug has resulted in the deaths of cyclists, as the honourable member for Shepparton would know.

To date no laboratory anywhere in the world has been able to develop a test for positively confirming unnaturally high levels of EPO in horses or greyhounds. There is no scientific evidence to support its performance-enhancing properties in animals.

The honourable member for Shepparton raised the blood testing of greyhounds, and I will certainly take up that issue with the relevant authorities. I am told the Greyhound Racing Board does not believe there is any widespread use of EPO in greyhound racing, but now the matter has been raised by the honourable member I will seek further advice on that.

Racing Analytical Services, as are other racing laboratories around the world, is conducting collaborative research on the detection of the drug. I agree with the honourable member that drugs in sport, no matter whether they involve human or animal endeavours, should not be tolerated. The illicit use of drugs must be clamped down on very hard, and I will do everything I can as Minister for Racing to ensure Victoria has a drug-free racing industry.

**Mr BRUMBY** (Minister for State and Regional Development) — The honourable member for Ballarat East raised with me the question of funding a grant for a community kitchen based on an application that has been made through the Ballarat City Council under one of the state government's industry support and regional development programs. He put a persuasive case in support of funding the project.

I am pleased to say that two weeks ago in Ballarat I met with the honourable members for Ballarat East and Ballarat West, the Mayor, Cr John Barnes, and the CEO of the City of Ballarat, and we discussed a number of projects for Ballarat, including this one. One of the other projects we discussed is the Heart of the City project, an excellent major marketing and urban renewal strategy for the City of Ballarat.

Last Friday in Ballarat I announced that the state government had provided about \$42 000 for the city's banner project to help with better marketing of the city, particularly during such times as the Begonia festival and the Christmas festival, which was launched last Friday amidst bands, fanfare and so on. The launch

advertises the retail opportunities and strengths of Ballarat during the run-up to Christmas.

The project raised by the honourable member is what is known as the community kitchen. It involves a number of cooking facilities that have been built to comply with all the stringent requirements of food regulations and are made available for community groups to use. I am pleased to say that, having looked at the application submitted through the council and heard the persuasive arguments presented tonight by the honourable member for Ballarat East, the government has approved a grant of \$36 810 to the City of Ballarat in support of the project.

A broad range of groups have shown interest in the facility, and the funds raised by the use of the kitchen will be invested back into the community. The project deserves to be encouraged because it will benefit the wider community and will prove useful for many years to come. The total cost of the project is being shared on a fifty-fifty basis between the state government and the Ballarat Adult and Further Education Centre. It is a good project and the government is committed to it. I will be writing tomorrow to the mayor of Ballarat, John Barnes, confirming that commitment.

The honourable member for Geelong asked me to raise with the Minister for Energy and Resources in another place his deeply held concern and anger at Powercor's decision to close its Malop Street office in Geelong and, in the process, to shed 35 Geelong jobs. It is not a matter that comes within my portfolios, but I will certainly transmit his comments to the Minister for Energy and Resources, along with his request that the minister write to Powercor expressing the government's concern about the decision.

It is a matter of regret that this has happened only 10 days after cabinet members visited Geelong for an extremely successful day meeting community and business leaders throughout the city. Ministers visited widely on that day, and a community reception was held in the afternoon. The round of visits was coordinated by the honourable members for Geelong and Geelong North. It is a pity that a decision made by Powercor, announced only 10 days later, should take away from the positive work being done in Geelong by the Bracks government, the council and others to boost job opportunities.

I know the company will not have taken the decision lightly, but I assure honourable members that the Bracks government is deeply disturbed by it, particularly in light of its commitment to providing \$8 million in south-western Victoria to assist Powercor to upgrade its electricity infrastructure as well as to

improve efficiency in the dairy industry. These things are always a two-way street: the government is helping Powercor with infrastructure; the company should be conscious of its job responsibilities in regional Victoria.

I thank the honourable member for raising the matter and assure him that it will be communicated to the Minister for Energy and Resources along with his request that she raise, in the strongest possible terms, her concern about the decision taken by Powercor.

**Ms GARBUTT** (Minister for Environment and Conservation) — The honourable member for Polwarth raised a matter about the Otways. The new member certainly has a lot to learn. The matter he raised was full of exaggeration and lack of content, and his grandstanding revealed a lack of knowledge. The honourable member should rethink his presentation tactics.

The government has been in office for five weeks, three of which have been parliamentary sitting weeks. The Swifts Creek issue arose when we were in opposition. I visited Swifts Creek and the Otways when in opposition and I intend to visit them and other parts of Victoria again. There was not much content in the honourable member's contribution, but I believe the matter he raised concerned logging in the Otways.

The previous government ruined the national forest agreement process. Over the past few years there has been continual protest about the activities of the previous government. I have already put in place methods to improve the regional forest agreement process by sitting down with all the stakeholders from the Otways and other parts of Victoria, the timber industry, the union and tourism representatives and environmentalists. It is called consultation. The honourable member does not know what consultation is because it was not seen for a long time in this state. I wish to improve the process.

Criticism has been expressed about the long process period being secretive, with no access to information to help those concerned to make decisions or submissions. The previous government pushed through the process without proper consultation. I am putting in place a consultation process that will meet much of the criticism of the industry, stakeholders and the residents the honourable member purports to represent.

Unlike its predecessor, the Bracks government is committed to regional and rural Victoria, to increasing jobs and economic activity and supporting rural towns. I do not want our parliamentary term to have the employment record of the previous government. In its last three years only 2 per cent of new jobs were created

in country Victoria while the remainder were created in Melbourne. That is a disgraceful record, one that the current government will remedy. The Bracks government is committed to improving the standards of those in rural and regional Victoria and to open and honest government. We will deliver. That is a far more substantial commitment than the cheap political shots being taken by the honourable member for Polwarth.

The honourable member for Knox raised the damage that may be caused to the habitat of platypuses in Monbulk Creek. Greening Knox expressed concern and asked about open space being created along Monbulk Creek. One of the most encouraging aspects of living around Melbourne is that platypuses have increased in numbers in the creeks close to the city and suburbs. There are problems with many of the suburban creeks. The government hopes to address those problems with its stormwater policy, which sets out to improve the health of urban streams. I received a letter from the honourable member for Knox outlining his concerns and offering suggestions. I have asked my department for advice on how to resolve this issue.

**Ms CAMPBELL** (Minister for Community Services) — The honourable member for Bendigo East raised the matter of Huntly preschool, and has done so on previous occasions. As a result of concerns expressed by the committee of management the honourable member visited the preschool soon after her election. She briefed me within the first week of being elected and has spoken to me on the matter a number of times in Parliament.

Last Wednesday, at the Department of Human Services regional office in Bendigo, we spoke with the regional director and the children's services officer about the concerns expressed by the Huntly preschool committee of management. The preschool has a dedicated parent committee and staff team — the children are happy and receive appropriate care and education. Huntly, which is on the outskirts of Bendigo, is experiencing a slight dip in enrolments for next year, creating problems for its financial viability.

The previous government cut \$16 million from preschool allocations and then handed over an underfunded system to the committees of management. The new Bracks government is addressing the matter and has undertaken to increase the per capita allowance for health care card holders next year.

To assist the preschool and ensure that enrolments increase, fees are affordable and the children continue to receive the high standard of care and education they currently enjoy, I will work with the committee of management, the regional office, children's services

officers and the honourable member for Bendigo East. One other group — local government — is crucial to increasing enrolments.

I congratulate the honourable member for Bendigo East on having raised the matter again and I will again raise it with the regional office.

**Mr HAERMEYER** (Minister for Police and Emergency Services) — The honourable member for Tullamarine raised the issue of the rising crime rate in the state and took the commendable attitude that a more preventive approach to crime is needed.

The attitude of the previous government was to build more prisons. Unfortunately, that is a sad example of shutting the gate after the horse has bolted. One of its solutions to crime was more prison beds; another was denial that the crime rate was rising and that there was a serious growing crime problem. The former government told us there was a decreasing crime rate and quoted the Australian Bureau of Statistics figures. It argued that Victoria's crime rate in 1997–98 had decreased by 0.3 per cent. Selective statistics were used because the ABS figures represent only nine categories of offences across Australia.

The statistics used to measure crime in the state are the official figures published by the Victoria Police each year. Those figures show that over the past four years the crime rate in Victoria increased by 11.1 per cent, with some alarming increases in categories such as robbery — up 88.5 per cent; deception — up 43.3 per cent; theft from motor vehicles — up 28.9 per cent; residential burglary — up 12.4 per cent; and assault — up 9.9 per cent. While that was occurring the previous government was busy cutting police numbers. It took some 800 police officers out of Victoria Police while the crime rate was rising in the manner I have described.

Police officers are not employed only to react to crime. They have an important and proactive role to play in preventing crime — getting out into the community and doing the proactive patrolling to stop crime before it occurs. Beyond that, a broader and more overarching approach to crime needs to be taken. Unfortunately when a government cuts thousands of teachers from the education system and the year 12 retention rate drops, some 20 per cent many of the affected children will end up as crime statistics and drug casualties or in prisons. That is the sad tale of what happened with the cuts the previous government made to the social infrastructure of the state.

The Bracks government is about looking at and taking care of crime across all portfolios. It is a responsibility

of the whole community. The government is about providing education and community services — and it is about addressing the causes of crime. To that end it will establish a crime prevention agency within the Department of Justice. Its role will be to identify, develop, promote and evaluate effective crime prevention programs and to establish an electronic catalogue of some of the best crime prevention ideas and programs available both here and internationally. The information will be published on the Internet and the resource will be able to be accessed by country people, local government, local communities and individuals.

In addition, the crime prevention agency will have the role of developing a crime prevention strategy. It will work closely with government agencies, the police force, the corrections system and local communities to develop local crime prevention initiatives that are specifically tailored for the needs of those communities. It will also support early intervention programs for young people who are at risk of graduating to offending behaviour later in life.

The Bracks government has a comprehensive and integrated approach to dealing with crime. It is not just about enforcement and imprisonment; it is about tackling the causes of crime. That is the approach it will take. I commend the honourable member for Tullamarine for recognising that dealing with the crime that affects her community is about more than just building more jails.

**Mr CAMERON** (Minister for Local Government) — The honourable member for South Barwon raised a matter concerning a Belmont traders levy. It appears the levy has been controversial among traders and others. I understand that the honourable member asks that I conduct an inquiry. You will appreciate, Mr Acting Speaker, that the office of local government can conduct inquiries into a council. However, I understand that that is not what the honourable member is seeking.

While the opportunity exists I should set out that the view of the government is that inquiries into local councils should occur only in the most exceptional circumstances. The view of the government is shared in many parts of the nation — that is, that local government is the legitimate third tier of government, and that local matters are best handled at the local level.

**The SPEAKER** — Order! The house stands adjourned.

**House adjourned 5.50 p.m. until Tuesday, 30 November.**