

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

4 May 2005

(extract from Book 4)

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By authority of the Victorian Government Printer

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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Wednesday, 4 May 2005

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

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 233 to 240 will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing before 6.00 p.m. today.

NOTICES OF MOTION

Notices of motion given.

Mr PERTON having given notices of motion:

The SPEAKER — Order! I will have a look at the notices given by the member for Doncaster, because they seem to be exactly the same except for the name of the school he mentions in each one. I will get the Clerk to look at them and report back to the house.

Further notice of motion given.

ROAD SAFETY (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

That I have leave to bring in a bill to amend the Road Safety Act 1986, the Road Management Act 2004, the Melbourne City Link Act 1995 — —

The SPEAKER — Order! I ask the minister to move a little closer to the microphone or move it a little closer to him. I think people are having trouble hearing him.

Mr Perton interjected.

Mr BATCHELOR — Pardon? You had a big night? We did! We had a great night: we had a fantastic night. It was a great — —

Honourable members interjecting.

The SPEAKER — Order! It would be good if the Leader of the House introduced his bills; otherwise he can sit down.

Mr BATCHELOR — I move:

That I have leave to bring in a bill to amend the Road Safety Act 1986, the Road Management Act 2004, the Melbourne City Link Act 1995, the Road Safety (Drug Driving) Act 2003, the Police Regulation Act 1958 and certain other acts and for other purposes.

Mr MULDER (Polwarth) — I seek an explanation of the bill from the minister.

Mr BATCHELOR (Minister for Transport) — As the name of this bill suggests, it is a series of amendments to various acts to effect road safety improvements and to continue this government's determination to keep the road toll in Victoria as low as possible and to take initiatives over the life of the government to achieve that objective. In particular it seeks to increase the penalties for offences relating to failing to stop after an accident. We suspect this will be widely supported in the broader community.

Motion agreed to.

Read first time.

TRANSPORT LEGISLATION (FURTHER AMENDMENT) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

That I have leave to bring in a bill to amend the Rail Corporations Act 1996 and the Transport Act 1983 and for other purposes.

Mr MULDER (Polwarth) — I seek a brief explanation of the bill from the minister.

Mr BATCHELOR (Minister for Transport) — This bill, among other things, seeks to establish a viable and effective rail access regime within Victoria. The rail access regime put in place by the Kennett government has been an absolute failure. We have worked with the industry, and we believe we are establishing a rail access regime that will help industry, both primary and secondary, to move goods to our ports and through them overseas.

Motion agreed to.

Read first time.

SEX OFFENDERS REGISTRATION (AMENDMENT) BILL

Introduction and first reading

Mr HOLDING (Minister for Police and Emergency Services) — I move:

That I have leave to bring in a bill to amend the Sex Offenders Registration Act 2004, the Sentencing Act 1991 and the Births, Deaths and Marriages Registration Act 1996 and for other purposes.

Mr PERTON (Doncaster) — I ask the minister for a brief explanation of the bill.

Mr HOLDING (Minister for Police and Emergency Services) — This bill seeks to make some amendments to the Sex Offenders Registration Act and other pieces of legislation to clarify definitions in relation to custodial arrangements. It seeks to provide clarity as to who exactly is subject to registration under the sex offenders registration scheme, and it also addresses a range of operational and procedural matters to facilitate the proper functioning of the legislation.

Motion agreed to.

Read first time.

HOUSE CONTRACTS GUARANTEE (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

That I have leave to bring in a bill to amend the House Contracts Guarantee Act 1987 to establish the Housing Guarantee Claims Fund, to confer responsibility on the Victorian Managed Insurance Authority for the administration of that fund and the Domestic Building (HIH) Indemnity Fund and claims on those funds, to provide for the transfer of the property, rights and liabilities of Housing Guarantee Fund Ltd to the state, to amend the Victorian Managed Insurance Authority Act 1996 and other acts and for other purposes.

Mr BAILLIEU (Hawthorn) — I ask the minister to do his best to give us a brief explanation.

Mr HULLS (Attorney-General) — I knew you would ask that. That is why I have the explanation right here! This bill will provide for the transfer of the assets and liabilities of the Housing Guarantee Fund Ltd to the state. This has been agreed to by HGFL, which, as you should know, is a private company — if you did not know, you know it now. It also provides for transitional arrangements.

The SPEAKER — Order! The Attorney-General should address his comments through the Chair.

Motion agreed to.

Read first time.

GAMBLING REGULATION (PUBLIC LOTTERY LICENCES) BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

That I have leave to bring in a bill to amend the Gambling Regulation Act 2003 and for other purposes.

Mr McINTOSH (Kew) — I ask the Attorney-General for a brief and quiet explanation, if he knows anything about the bill.

Mr HULLS (Attorney-General) — This bill does a number of things: it redefines ‘public lottery’ to limit it to lotteries plus two named sports, it provides that a public lotteries licence can be granted for a term of up to 10 years, and it does a range of other things.

Motion agreed to.

Read first time.

TOBACCO (AMENDMENT) BILL

Introduction and first reading

Ms PIKE (Minister for Health) — I move:

That I have leave to bring in a bill to amend the Tobacco Act 1987 to ban smoking in enclosed workplaces and other areas, to increase controls on tobacco advertising and the supply of tobacco to young people and generally to increase controls on tobacco, to amend the Transport Act 1983 to ban smoking in covered public transport property, to make consequential amendments to other acts and for other purposes.

Mr HONEYWOOD (Warrandyte) — Could we have a brief explanation?

Ms PIKE (Minister for Health) — This bill aims to prevent youth smoking by minimising the influences on initiation of smoking. It also seeks to reduce access to tobacco, reduce the harm caused by passive smoking and improve the operation and enforcement of the Tobacco Act.

Motion agreed to.

Read first time.

PRIMARY INDUSTRIES ACTS (AMENDMENT) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) — I move:

That I have leave to bring in a bill to amend the Prevention of Cruelty to Animals Act 1986, the Domestic (Feral and Nuisance) Animals Act 1994 and the Fisheries Act 1995 and for other purposes.

Mr WALSH (Swan Hill) — Could we ask the minister for a brief explanation?

Mr CAMERON (Minister for Agriculture) — The bill makes a range of changes to those acts. Some of them include arrangements in relation to seizure under the Prevention of Cruelty to Animals Act; the arrangements that should apply when someone is in contravention of a court order; some arrangements around menacing dogs; and also, in relation to the Fisheries Act, arrangements concerning the production of documents.

Motion agreed to.

Read first time.

FISHERIES (ABALONE) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) — I move:

That I have leave to bring in a bill to amend the Fisheries Act 1995 and for other purposes.

Mr HONEYWOOD (Warrandyte) — A brief explanation of the bill would be appreciated.

Mr CAMERON (Minister for Agriculture) — This bill makes arrangements in relation principally to the abalone industry. It relates to the unitisation of licences in the abalone industry and the consequential changes that are needed around that.

Motion agreed to.

Read first time.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

For Mr BRUMBY (Treasurer), **Mr Batchelor** introduced a bill to amend the Electricity Safety Act 1998 in relation to the level of safety to be provided under electricity safety management schemes submitted by network operators, to amend the Electricity Industry Act 2000 in relation to the methodology for determining amounts payable by generation companies for land use, to amend the Gas Industry Act 2001 to provide that a review of VENCORP may be undertaken before 2007 and to amend the Fuel Emergency Act 1977 in relation to proclamations declaring a state of emergency due to a fuel shortage and for other purposes.

Read first time.

EMERGENCY SERVICES SUPERANNUATION (AMENDMENT) BILL

Introduction and first reading

For Mr BRUMBY (Treasurer), **Mr Batchelor** introduced a bill to amend the Emergency Services Superannuation Act 1986 and for other purposes.

Read first time.

PETITIONS

Following petitions presented to house:

Boating: Bass Landing ramp

To the Legislative Assembly of Victoria:

The state government, through Parks Victoria, recently closed the Bass Landing boat launching ramp, a small man-made launching ramp on the Bass River, which has for decades provided access to a very popular recreational boating and fishing area, most of which is on private land. The ramp has very low environmental impact!

We, the undersigned concerned citizens of Victoria, ask the Victorian Parliament and the minister for the environment to allow the Bass Landing boat launching ramp and parking area to remain open to the boat users and fishermen and women of Victoria, who have used this area for many years.

By Mr SMITH (Bass) (160 signatures)

Wonthaggi State Coal Mine: future

To the Legislative Assembly of Victoria:

The petition of Friends of the State Coal Mine, residents of Wonthaggi, residents of Bass Coast shire in the state of Victoria, draw to the attention of the house that Parks Victoria have ceased underground tours at the Wonthaggi State Coal Mine tourist attraction after advice from engineering consultants that haulage and electrical equipment is no longer in line with the new regulations. This means that all underground workings, operations and maintenance done by volunteers have stopped. All tourist mines must now operate to working mine standards.

The petitioners therefore request that the Legislative Assembly of Victoria provides Parks Victoria, Bass Coast Shire Council and Friends of the State Coal Mine with the means to carry out major upgrades to bring all underground operations and equipment up to the same standard as a working mine. We, the undersigned, will gratefully accept every possible assistance you can offer us to have this valuable tourist attraction in working order so that underground tours can resume.

By Mr SMITH (Bass) (2 signatures)

Consumer affairs: used cars

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

The humble petition of Allan Joseph Rimmer.

The undersigned citizen of the state of Victoria.

A change in legislation to protect Victorian consumers by removal of the term 'buyer beware' in respect to the purchase of used cars. Many thousands of Victorians have been deceived by unscrupulous dealers and private vendors by the non-disclosure of extensive cosmetic changes carried out on vehicles. In most instances I refer to respraying that covers areas of deteriorating bodywork and damage sustained in accidents. Vendors of vehicles in my opinion should reveal all work carried out to prepare the item for sale over and above those demanded under roadworthy certificate legislation.

Compression chamber readings should be available, independent reports on the condition of transmissions, and a minimum six-month guarantee on vehicles up to 10 years old, which would serve to remove the lottery factor when citizens purchase a used vehicle.

Further safeguards should be discussed with the consumer protection agency.

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

By Ms ECKSTEIN (Ferntree Gully) (1 signature)

Otway Ranges national park: establishment

To the Legislative Assembly of Victoria:

The petition of the citizens of Victoria draws to the attention of the house that:

The Victorian Environmental Assessment Council has recommended the establishment of one large national park in the Otways but has excluded certain areas of national park status to enable logging to continue. These areas include the catchments of the unique Holywater and Wait-a-While creeks, containing a high diversity of plant species, habitat for endangered species and a unique association of vegetation types, and the headwaters of the heritage-listed Aire River containing dense stands of cool temperate rainforest, popular waterfalls and spot-tailed quoll habitat.

The 'new forest' park land-use category proposed by VEAC, for public land outside the proposed national park, will add another land use category in the Otways and Victoria that will confuse the public and make forest management more difficult. VEAC proposes that 'forest park' will be administered under the Forests Act whereby the national park will be administered under the National Parks Act, requiring two separate management regimes. The public will be under the illusion that the 'forest park' provides greater protection than state forest, which it does not.

The petitioners request that the Legislative Assembly of Victoria ensure that:

- (1) one large national park, containing all the areas recommended by VEAC, plus the catchments of the Holywater and Wait-a-While creeks, and the headwaters of the Aire River be enacted this year; and
- (2) all indigenously vegetated public land not included in the national park be made into a number of regional parks, under the National Parks Act and subject to one management regime.

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

**By Mr CRUTCHFIELD (South Barwon)
(246 signatures)**

Tabled.

DOCUMENTS

Tabled by Clerk:

Audit Act 1994 — Report of the Auditor-General on results of special reviews and other investigations — Ordered to be printed

Prevention of Cruelty to Animals Act 1986 — Code of Practice for the Welfare of Rodeo and Rodeo School Livestock in Victoria (Revision Number 1).

MEMBERS STATEMENTS

Mordialloc Sea Scouts

Ms MUNT (Mordialloc) — A few days ago I had the pleasure of visiting the Mordialloc Sea Scouts. It was my first visit to the sea scouts, who have a lovely

little well-maintained hall on a reserve on Mordialloc Creek. I was there to present a volunteer grant and a certificate from the Deputy Premier. This grant is designed to support all those individuals and organisations in our community who give so freely of their time in participating in our local communities. It is also designed to acknowledge the great work of groups such as the Mordialloc Sea Scouts.

I saw a great group of happy young boys and girls and their dedicated leaders. They looked great in their little uniforms. I had seen them the day before, walking in the Mentone RSL Anzac Day parade down Mentone Parade. You could really only be proud of these children and their leaders and the way they participated in the Anzac Day parade, walking all the way. Congratulations to everyone at Mordialloc Sea Scouts, and I hope to visit you again soon.

Budget: environment

Mr HONEYWOOD (Warrandyte) — Yesterday's state budget does nothing to assist and encourage private landowners to do the right thing with environmental management. When it comes to native vegetation management on private land, all the indicators from the trials of the Bush Tender program in the north-east, north-central and Gippsland regions are that this was an initiative being embraced by farmers, but the Minister for Environment did not provide one dollar yesterday for the statewide rollout of this excellent program.

A separate Bush Broker scheme involving a native vegetation credit registration and trading system will effectively be stillborn, with only \$700 000 being provided in seed funding for the coming financial year and then declining to only \$300 000 by 2008–09. Yet the budget papers claim that this will 'build local government capacity to facilitate the implementation of the native vegetation management framework'. In other words, this will be another excuse to cost-shift the responsibility and real funding for native vegetation management from the state government to poor old local councils and private land-holders. The community has already woken up to this hollow promise by the Bracks government. The green groups issued a combined press release yesterday in which they stated:

Victoria's environment is in crisis, with 44 per cent of its native plants and 30 per cent of its native animals extinct or threatened. We need urgent action. So we are disappointed with the meagre funds for native vegetation management — the \$2.8 million allocated over four years is a tenth of what farmers need to manage their lands.

This comes on top of this inept government's refusal to properly compensate or assist farmers whose properties were devastated by the wildfires in north-east Victoria two years ago. It comes on top of this inept government's refusal to pay its share of the refencing of property boundaries it shares with private landowners, and it also comes on top of the government's refusal to assist farmers in any meaningful way to control wild dogs, foxes and other feral animals.

Commonwealth Games: baton relay

Ms MARSHALL (Forest Hill) — I, along with many of my parliamentary colleagues, attended one of the many simultaneous launches of the 2006 Commonwealth Games Queen's baton relay last Friday at Mulgrave Country Club, where it was announced that in the final 50 days of its epic journey from Buckingham Palace to the Melbourne 2006 Commonwealth Games opening ceremony the baton will visit more than 500 Australian communities and be carried by 3500 relay runners.

Having been a participant in the Sydney 2000 baton relay I have first-hand knowledge of the feeling of pride felt by participants and spectators alike and the relay's ability to bring so many people closer to the excitement of the games. Each and every Australian has the opportunity to participate in the relay, be it through nominating someone they know to be a community runner, lining the roadside to cheer as the relay passes through their region, joining in daily community celebrations or having the honour of running with the baton themselves. The baton itself has a miniature camera that allows pictures of its movements to be beamed to every corner of the world and, through the Internet, to be viewed by anyone at any time. This technology alone is a world first and has provided a fascinating perspective on the diverse cultures that the commonwealth contains.

Telstra's community runner program gives local heroes the chance to carry the baton in their communities. This is where all members can use their extensive contacts to put forward the names of some of the people they have met who make an impact through their contributions at other times. When the Melbourne 2006 Queen's baton relay arrives at the opening ceremony of the Commonwealth Games on 15 March 2006 it will have travelled more than 180 000 kilometres across every continent and every ocean and, for the first time, visited every commonwealth nation. Congratulations to the Bracks government and Telstra for a wonderful way to celebrate the games, and I urge all members to view the baton's epic journey across the globe.

Kialla Primary School: toilet block

Mrs POWELL (Shepparton) — In yesterday's budget the Treasurer said that the government would modernise 50 schools at a cost of \$145 million. I hope that includes a certain school in my electorate. I have been contacted by Mr Ian Martland, the principal of Kialla Primary School, who has been raising with the Department of Education and Training the dreadful state of their school toilet block. A letter was sent to the Minister for Education Services on 13 April 2005 from Gwenda Stephens, the president of the Kialla Primary School Parents Club, advising that the toilet block is an old portable with no disabled facilities.

The school community has a disabled parent who is confined to a wheelchair and unable to help out at the school or attend any of the school functions because of the lack of disabled toilet facilities. It is upsetting to the parent that she cannot play a role in her child's school life. This is the only toilet at the school. The staff, the male principal, the parents and others attending the school share this toilet block with the children. A letter was also sent to the principal by Mrs Jane Weston on behalf of the staff at the Kialla Primary School regarding concerns about the state of the toilet block, with no disabled access to toilets and a lack of privacy for adults and children. Mrs Weston states that the toilet block is continually wet in winter due to condensation, with water dripping from the walls and the ceiling onto the floor, causing safety concerns.

I have been advised that the Australian Education Union is interested in becoming involved due to the occupational health and safety concerns. With winter approaching the situation needs addressing urgently. Mr John Kasciora, the research manager from the Department of Education and Training, has had a number of discussions with the school and has advised that it has a priority listing for the replacement toilets. This is a great school and deserves a new toilet block for the children, with separate staff facilities and disabled access as soon as possible.

Rail: Hurstbridge line

Mr HERBERT (Eltham) — On 27 April 2005 I hosted a community rail forum which discussed improvements to the Hurstbridge rail line. The forum discussed a range of capacity issues affecting the line. These issues have been identified by the state government during the first phase of the Clifton Hill rail group review, which is part of the substantive work which underpinned the government's transport strategy.

In the lead-up to the forum I attended many of my local train stations during peak morning times and distributed some 3000 invitations to local commuters. As I spoke to morning commuters I found that there was a large degree of interest as to what the state government is doing in general for both this line and public transport across Melbourne. The Eltham electorate is an area with very high levels of young families with children who are currently at school, and public transport is a very important part of people's lives.

The forum gave local travellers the chance to have their input into the Hurstbridge line review process and say what improvements they would like to see. I was pleased that over 50 people attended the forum, which attracted a diverse cross-section of opinion. Chris Tehan and Ray Kinnear from the Department of Infrastructure were there to give the forum a detailed briefing. This was extremely helpful, and I thank them for making themselves available. Their presentation revealed some real efficiency issues affecting the Hurstbridge line, and the audience was extremely interested in the information they provided. Attendees were grateful for the opportunity to be heard, and the forum was a terrific success. I wish to commend the commuters who attended the forum and the government for helping to facilitate this very useful community information event.

Hospitals: Mornington Peninsula

Mr DIXON (Nepean) — I would like to commend all those who have signed a recent petition for an improved range of services at Rosebud Hospital. Rosebud Hospital is a great hospital with fantastic staff, but many of the services the hospital provides have been underutilised. Many services, even basic services, had been transferred to the Frankston Hospital over the last few years. This has been very hard on the locals, especially pensioners, because a lot of them cannot drive. It is quite a distance to Frankston, so the lack of public transport is a real issue for them.

There have been some crowding and waiting list issues at Frankston Hospital, so providing more and a wider variety of services at Rosebud Hospital is starting to take some of that pressure off the Frankston Hospital, so it is win for both the Rosebud Hospital and the Frankston Hospital. This, along with the raising of community concerns, including this petition, has seen some services starting to come back to Rosebud. Some of those new services include medical observation beds, a general medical physician, aged care medicine, palliative care and the recent appointment of an emergency physician. This is a good start, but I urge the government to fund Peninsula health so that we can

start to increase the services and keep the momentum going at Rosebud Hospital.

Craig Family Centre, Ashburton

Mr STENSHOLT (Burwood) — Next Monday the Minister for Health will open the rebuilt Craig Family Centre in Ashburton. The new centre is a tribute to the hard work and cooperation of many people over the last five years or so. This project delivers real results for Ashburton and the people of Boroondara through a \$1 million development that provides a new community health centre with four dental chairs, bulk-billing doctors and allied health services, including podiatry, counselling, speech therapy and physiotherapy. Indeed we expect it to be a centre of excellence to look after the young children in the local area. In the centre there will also be a new maternal and child health area, and there will be new offices for the community-based Craig Family Centre, which also provides a range of other services, including a toy library as well as occasional care.

I would like to thank a number of people in particular: Susie Bunn from the Craig centre and Pippa, Elaine and other members of the Craig committee, as well as Rod Wilson, Cathy Johnston and other members of the inner east community health service. I would also like to thank Jeff Herd from the Department of Human Services, who basically saw through the initial work in terms of doing the report to put up this project to the then Minister for Health, who is now the Minister for Environment. It is a great cooperative project between the Department of Human Services, the City of Boroondara, the Craig Family Centre, the local Rotary club and, of course, local residents.

Information and communications technology: tenders

Mr KOTSIRAS (Bulleen) — According to this government's webpage, when it comes to tendering the government's mission is to create a policy framework which achieves value for money while maintaining the highest standards of probity. Last night in the adjournment debate I raised a matter for the attention of the Minister for Information and Communication Technology in the other place. Allegations have been made about the enterprise content management (ECM) tender process. These are very serious, and unless the minister properly investigates the claim, the government's whole tender process will be seen as a farce and a sham.

I have also been advised that the legal adviser in the Department of Infrastructure is aware of the situation

but to date has not instigated a full investigation. I hope I receive a full and detailed response from the minister, as this decision and the manner in which it has been handled will have a significant impact on information and communications technology (ICT) in Victoria for many years to come. Once again Multimedia Victoria is shown to be incompetent and unable to deal with ICT in this state.

Either the minister is to blame for Multimedia Victoria's failure, or the senior public servants are incompetent. The time has now come for the Premier to have a close look at the workings of Multimedia Victoria. Victoria cannot afford to have a bad reputation in information and communications technology nor a flawed tender process. The tender process must be fair, transparent and above board. This is the only way to invoke confidence in the government's tendering process.

Chisholm Institute of TAFE: funding

Mr HARKNESS (Frankston) — On Friday, 22 April, I was delighted to host a visit from the federal shadow minister for education, training and science, Jenny Macklin, to the Frankston campus of Chisholm Institute of TAFE. Jenny was kind enough to officially relaunch my new and improved web site, which can be found at www.aharkness.org, which provides Frankston residents with constantly updated information about my work in standing up for Frankston, and much of the detail about the many great things that the Bracks Labor government is doing for Frankston and Victoria.

Jenny and I were joined by the Honourable Geoff Hilton in the other place, and escorted around the institute by the campus director, Ms Maria Peters, visiting three very different areas of learning — building, furniture studies and multimedia design — all of which require high levels of investment in up-to-date technology for students to be trained for the modern workplace. Ms Peters explained that Chisholm's building and furniture studies area is the largest provider of pre-apprentice and apprenticeship training in the region, catering for the high demand for skilled workers in these industries. Chisholm also has strong links with local schools providing vocational training for years 10, 11 and 12 students. The advanced diploma in multimedia (design) students are also in high demand among employers.

It is clear that the federal government's plans for the introduction of technical schools could deprive the TAFE sector of funds and lead to needless duplication of resources. The workshops that Chisholm provides are of a terrific standard. There is state-of-the-art

vocational training for these students. But I fear for the future of institutes like Chisholm when the federal government introduces its plans for another tier of vocational training. Chisholm has almost 40 000 local and international students and offers a wide array of workplace training and consultancy services for business and industry.

Barmah Muster

Mr MAUGHAN (Rodney) — On Monday of this week I was privileged to attend the final day of the Barmah Muster. Barmah is of course in the Rodney electorate and is the only part of Victoria that is north of the Murray River. For more than 150 years cattle have been grazed in the Barmah Forest, which is the world's largest stand of magnificent red gums. About 50 families run approximately 1000 head of cattle in the 26 000 hectare forest, and at the end of April each year they muster the cattle, remove those who are ready for market and put the others back into the forest for another year. Today, the Barmah Forest is in great shape and is a tribute to both departmental officers and local cattlemen involved in the management of the forest over previous years, with a well-balanced management approach involving controlled grazing, selective timber harvesting, beekeeping and environmentally sensitive tourist operators.

The Barmah Muster itself is a great tourist attraction with hundreds of people and their horses camping in the forest adjacent to the cattle yards, and an estimated 1000 people present at the open-air dance on the Saturday night. The Nationals fully support the Barmah cattlemen and the Barmah Forest Preservation League in their vigorous efforts to oppose the Bracks government's obsession with locking up even more land in national parks. Local cattlemen who know and understand the forest have a proud record of caring for it, in stark contrast to the ideologically driven Bracks government, which by failing to provide sufficient resources allows weeds to flourish, feral animals to run rampant and fires to get out of control.

Bellarine Agricultural Society: grant

Ms NEVILLE (Bellarine) — Last week I was very pleased to present a cheque for \$9426 to the Bellarine Agricultural Society. This state government grant was to cover the cost of construction of a new shed to be housed at the Portarlington reserve, the home of the annual agricultural show. The shed is an important asset for the agricultural society. Currently it has no specific building for its use outside show day. It is an asset that will be utilised as a place to store a number of its

important items, but also as a key feature on show day. This year it was used for craft displays.

The Bellarine Peninsula is well known for its beautiful coastal landscape, food and wine, but the peninsula has a very important agricultural past and future. The agricultural show is an important annual event that celebrates and showcases our agricultural base. Visitors to the region do not get to see this, but they do get to appreciate its benefits including the large, open farming land that creates significant spaces between the various communities on the Bellarine Peninsula. This year's show again attracted thousands of people on a beautiful warm and sunny day in March. The displays and activities were bigger and better than previous years, due to the hard work and dedication of a band of local volunteers. This government has been pleased to offer its significant support to this important show. I particularly want to thank the president, Peter Morton, the secretary, Roma Burns, and the honorary treasurer, Ron Cameron — and I hope his health continues to improve. I thank them for their work on behalf of the community.

Bridges: Sandridge

Ms ASHER (Brighton) — I wish to draw to the house's attention the so-called Sandridge Bridge upgrade, which is a sad and sorry tale so typical of the government's handling of major projects. The original completion date for this project was mid-2003; the current completion date is 2006. Therefore there has been a two-and-a-half-year delay for this project. The project was announced on 5 November 2000, and on 30 March 2001 six bids were announced by the then Minister for Planning, now the Minister for Environment. Members will recall some of these bids: the Ponte Vecchio, the Melbourne eye, the cocoon and so on. Of course, none of these has happened. Subsequently there has been a series of announcements, and in 2004–05 an amount of \$8 million was allocated for the project.

The project was reannounced to the *Herald Sun*, and indeed on 26 April I advised the *Herald Sun* that I felt sure there would be a cost blow-out on top of the time blow-out. Yesterday I found out it had taken one week to have my hunch confirmed. The government announced an extra \$3 million in 2004–05 and 2005–06 for a sculpture called *The Travellers* to be placed on the Sandridge Bridge. Yet another so-called major project completely blown on budget and completely blown on time.

Rotary: Torquay

Mr CRUTCHFIELD (South Barwon) — Last night I had the pleasure of hosting 47 members from the Rotary Club of Torquay for dinner and a tour of Parliament. My thanks to Minister Marsha Thomson from another place, who gave so generously of her time on budget night, and indeed also to the member for Hawthorn, who was kind enough to introduce himself in the foyer.

Well done to president Chris Fryer and organiser and chief stirrer David Mitchell. There would not be many Rotary clubs — if any — from regional Victoria that would stampede the Parliament in these numbers. After a question from David Mitchell to the Premier, I can officially tell the house that the Premier has no intention of changing Victorian car numberplates from 'Victoria on the move' to 'Go Cats'.

In all seriousness, though, Torquay Rotary — of which I am a rather infrequently attending member — is a significant and valued contributor to the Torquay community. I would like to list a number of its contributions on both local and international fronts. The members have: conducted a debutante ball for Nelson Park special school and raised some \$3000 for the school; organised a men's health night, which cost the club some \$3000; provided part funding for mobile cricket pitches for junior teams; provided funding for access for disabled people at Torquay front beach; organised renovations at Torquay scout hall; assisted the Returned and Services League with the conduct of the very recent dawn service; and provided a bursary for students at Oberon High School — and Mary Elliott has done the organ donor awareness campaign.

Schools: funding

Mr PERTON (Doncaster) — In 2003 the Victorian Auditor-General ordered the Bracks government to replace 1000 portable classrooms immediately. Labor ignored him. The Bracks government instead cancelled \$100 million in maintenance funding and \$50 million for replacement of portable classrooms. It has subsequently cancelled another \$200 million in maintenance funding. This year in the budget the Bracks government is trumpeting the fact that it is building new schools in growth suburbs — the job of every state government — and will rebuild a school in the Premier's own electorate.

The question I ask on behalf of a number of communities is, for instance, why has Pascoe Vale Girls Secondary College, which has 40 portable classrooms and a science wing more than 50 years old,

missed out on the funds allocation? Why has Traralgon South Primary School, in which every student is taught in a portable classroom, some more than 50 years old, also missed out? Why has Boneo Primary School, which again is all portables and which has been in existence for more than 100 years, missed out? Why has the Mornington Special Development School, which is a school dealing with kids with very special needs, also missed out in this budget? We will never know the reason, because attempts to gain access to Labor's school priority list have been blocked, with the Bracks government claiming that the list is a cabinet document and cannot be released.

Every school community that has complained of the poor state of its buildings has been told it is on a priority list and must be patient as there are more deserving schools. These schools deserve an explanation from this Premier as to why a school in his electorate deserves an upgrade while they have missed out.

Anzac Day: study tour

Mr MILDENHALL (Footscray) — The recent Spirit of Anzac study tour of England, Belgium and Northern France was an outstanding success. Nine Victorian year 10 students from schools around the state represented their communities, schools and families with dignity, compassion and inquiring minds. Drawing from their prize-winning essays, they made a series of impressive and moving presentations at significant World War I cemeteries and memorials in Belgium, Northern France and England. Tamana Aliyar, from Melbourne Girls College, Karienne Black, from Benalla College, Caitlin Caruana, from Sacred Heart College, Kyneton, Claire Chisholm, from Strathcona Baptist Girls Grammar School, Sophie Eltringham, from Horsham College, Adam Humphries, from Mitchell Secondary College, Wodonga, Megan Stringer, from MacRobertson Girls High School, John Tindall, from Lalor Secondary College, and James Waters, from Whitefriars College, Donvale, are a credit to their schools.

Their work was complemented by the authoritative Major General David McLachlan, AO, state president of the Returned and Services League, and Tony Charlton, AM, the well-known broadcaster and master of ceremonies at many veterans functions. The students were ably supervised by teacher chaperones, Lachlan Lee from Mercy Regional College, Camperdown, and Catherine Remer from Robinvale Secondary College. Finally the tour was very well coordinated by the indefatigable John Coulson, the former principal of Wellington Secondary College. It was an honour and a

pleasure to join the Premier in such a meaningful tribute to our veterans and their heritage.

Anzac Day: Mount Macedon

Ms DUNCAN (Macedon) — This year I again had the privilege of attending the dawn service at Mount Macedon on Anzac Day. There was a record number of people, young and old, attending. It was a very moving and fitting tribute to our fighting forces. I would particularly like to pay tribute to Frank Donovan, Trish Wemyss, Slim and all the members of the Woodend sub-branch of the RSL who coordinated the moving dawn service. I would like to pay tribute to all of our RSLs in the electorate of Macedon — Sunbury, Lancefield, Romsey and Gisborne — for the great work they do in keeping the Anzac spirit alive. I would also like to pay tribute to Caitlin Caruana who was one of the winners of the government's 2005 Spirit of Anzac competition. I would like to congratulate the Bracks government, including the member for Footscray, for making this competition available. I had the privilege of attending a farewell afternoon tea in Woodend for Caitlin and her family. It was put on by the Woodend RSL sub-branch as well.

I would like to read from the letter that the Premier sent to Caitlin and her family:

By providing this special opportunity for the youth of today to walk in the same fields under the same skies as those who fought and died in our names, it is hoped we can even better appreciate the tremendous legacy we have been left to carry on.

I pay tribute to all of them.

Anzac Day: free buses

Mr ROBINSON (Mitcham) — I would like to take the opportunity this morning to congratulate all those involved in arranging this year's very successful free bus transport service to the Shrine of Remembrance for the Anzac Day dawn service. The service resulted in a record number of people, some 1538, who booked seats on the 42 buses which operated. It was a great success. In particular I would like to thank the Victorian bus owners, Alinta, which offered some sponsorship, the RSL; and Mr Stephen Watson from the Department of Infrastructure. We do not often thank public servants enough for the great job they do.

Recycling: Mitcham electorate

I would also like to take the opportunity to congratulate the Minister for Environment on behalf of Mitcham and Ringwood residents involved in the Heatherdale Road action group for his agreement to have the Environment

Protection Authority involve itself in mediation between residents and local industry in the vicinity of Heatherdale Road. What was originally a series of concerns about the conduct of one waste recycling company has developed in recent months into a complaint about the conduct of others. It is creating great distress for a number of residents in that area. The accusations more recently made have been about a massive dumping of industrial rubbish on the EastLink reservation.

The minister's agreement to the request made by me, the member for Bayswater and the member for Koonung Province in another place, Ms Helen Buckingham, is much appreciated.

A Fairer Victoria

Mr HOWARD (Ballarat East) — Last Thursday I was very pleased to join with the Minister for Aged Care, Mr Gavin Jennings, for the Ballarat regional launch of A Fairer Victoria package. As members will be aware, this package identifies \$788 million worth of funding to be applied to address areas of disadvantage across the state.

I am very pleased to see that while the Bracks government has been applying significant support to groups and individuals with special needs across the Ballarat region, it has now announced new strategies that will further address these special areas.

The Wendouree West community renewal project, which has been developed within the electorate of my colleague the member for Ballarat West, is an outstanding project that has led the way in bringing government departments and the community together to address people's needs in ways identified by the community and to assist them in overcoming challenges.

Whilst there are many projects announced within the 14 strategies in the A Fairer Victoria package, I would like to mention briefly the \$101 million allocated to improving child and family support services and the \$45 million worth of projects aimed at turning around the lives of young people at risk as initiatives that I am especially excited about and in which I will be taking an active involvement.

I also recognise the enormous benefits of the \$50 million allocated to help older Victorians remain independent and the \$300 million funding boost to support the disadvantaged and people with mental illness. They are great examples of the way the Bracks

government is supporting disadvantaged people in our community.

Anzac Day: Ringwood

Mr LOCKWOOD (Bayswater) — Over the last couple of weeks I spent some time with the Ringwood RSL. I attended three functions — the Anzac march on 17 April in Ringwood and the subsequent service, the 90th anniversary celebration on 24 April, and of course the dawn service on Anzac Day. Credit goes obviously to those who organised these events, chief among them being Harry Seymour, the president, and Ted Kelly, who acted as marshal of all present. Of course they were helped by various other RSL members, and they ran some very slick functions.

The march was well attended. It is a traditional Anzac event, with a procession of veterans of varying ages from various conflicts, the Ringwood band, dignitaries, community members, and school and scouting representatives. I was pleased to see the respect and reverence shown by members of the public in the area at the time. Various wreaths were laid at the memorial at the clock tower centre in Ringwood, and a service followed.

The dawn service was a much briefer event; it was simple and to the point, as dawn services are. The playing of the *Last Post* is always very moving, and it was very well done. The number of people present was greater than in previous years. I believe we had close to 2000 people squeezed into the space around the clock tower for the wreath laying, a moment's silence and a prayer. This was followed by the usual hearty breakfast, courtesy of the RSL. No doubt this was followed by a few drinks afterwards, although it was a little early in the morning for me to start.

Anzac Day is growing in respect and importance in the minds of Australians. We have passed through the era of glorification and now recognise the enormous sacrifice so many people made. It was Australia's coming of age, and it is commonly seen as more important than our national day on 26 January.

The DEPUTY SPEAKER — Order! The member for Keilor has 1 minute.

Keilor Downs Secondary College: student award

Mr SEITZ (Keilor) — I rise to congratulate Thuong Du, a graduate of 2004 at Keilor Downs Secondary College, who was recently presented with the Premier's Victorian certificate of education (VCE) award for

excellence in English literature. Thuong received a perfect score in this subject and is the first student from the Keilor Downs Secondary College to be presented with the award.

The award is a source of great pride to the Keilor Downs college itself, including the teachers at the college. I attended the school's presentation night and dux of the year awards and noted the tremendous effort being made by that school in the education of our children. It again shows the commitment of the Bracks government to education in the state system so that students can continue their studies and complete their VCE. This is a great achievement for the Keilor Downs Secondary College, and I congratulate the whole school and in particular the student who received this award.

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

Members may have observed that the Chair is operating under some technical difficulties. There will be a short suspension while it is attended to. I am advised this should take only a couple of minutes. The bells will be rung to resume proceedings.

Sitting suspended 10.24 a.m. until 10.33 a.m.

GRIEVANCES

The DEPUTY SPEAKER — Order! The question is:

That grievances be noted.

Water: government policy

Mr PLOWMAN (Benambra) — This morning I join the grievance debate because of what this government is not doing for the water industry in Victoria. The budget actually highlighted the government's inaction, its duplicity and its deception of the Victorian public when it announced that there would be an additional \$227 million going towards the water industry. This is for water conservation projects over four years, but in fact it is only a rehash of what was an announcement in the white paper on water about what is actually a tax on all of us. We are all individually paying a new tax on water, which amounts to this \$227 million, which will come back over the four-year period. It is not a new announcement, it is not new money and it is not an additional commitment by the government to the water industry. It is duplicitous, and I am afraid it is a con of the people of Victoria to suggest that the government is giving an additional \$227 million to the industry.

I can give a few other examples of the gross inefficiency of the government's water management and its management of the water industry. Firstly I would like to touch on the Mowamba borrowings account. I wonder how many people in this chamber, let alone in Victoria, would understand what the Mowamba borrowings account is all about. This government is actually running up a debt, a debt of water, which is very similar to the way it runs things in so many other areas. It is prepared to run up a debt without knowing how it is going to repay that debt. This debt is to Snowy Hydro in order to meet promises made by the Premier to divert water to the Snowy River by the Mowamba aqueduct. That water is coming out of the Snowy scheme. The debt will be repaid before the promised increase of 21 per cent in allocation to the Snowy River can be met. This was agreed to by the Premier under the Snowy water irrigation outcomes implementation deed, which was signed by the premiers of Victoria and New South Wales.

I would like to quote from a letter from the Honourable Warren Truss, the federal Minister for Agriculture, Fisheries and Forestry, which I received on 23 March 2005. He wrote:

Snowy Hydro Ltd has advised that, at the end of 2004, the cumulative Mowamba borrowings were 58.1 ggalitres —

that is, 58.1 billion litres of water —

The requirements for repayment of this debt will be set by the New South Wales Water Ministerial Corporation which issues the Snowy water licence to Snowy Hydro Ltd. The Snowy water inquiry outcomes implementation deed ... states that repayments cannot be at the expense of the joint government enterprise meeting its targeted increased flows —

that is, the promise of 21 per cent increased flows for the Snowy River. It is all very well for government members to make promises of environmental flows to the Snowy, but at the same time they know they cannot meet those promises until they pay off this water debt, which at the moment is 58 billion litres of water — 58 ggalitres!

The second major issue of concern to me is the management of water supplies in the smaller country communities north of Ballarat which are administered by Central Highlands Water. I am talking about the townships of Creswick, Clunes, Allendale, Kingston, Smeaton, Broomfield, Newlyn and Springmount and the effects this will have on those rural communities. In the case of Central Highlands Water administering water to these towns, I would like to point out that there has been a total lack of proper planning, which has led to immense cost blow-outs.

If Central Highlands Water had listened to the locals of Creswick, as it promised to do in 1995, it would have built a treatment plant on the Cosgrave Reservoir at an estimated cost of \$800 000. This would have saved Central Highlands Water millions of dollars — of the order of \$10 million to \$12 million — which the authority now proposes to spend on additional treatment plants. The \$800 000 promised for the treatment plant was replaced by a pipeline from the White Swan Reservoir at Ballarat. Locals now see their water being pumped back into the reservoir to feed the needs of Ballarat. Instead of having a treatment plant on the Cosgrave Reservoir to supply some of those towns, there is now a pipeline coming from the Ballarat water supply — recognising that Ballarat has been on severe water restrictions — and going out to Creswick. Now there is another pipeline from Creswick to take the water from the Cosgrave Reservoir back to Ballarat. It just does not make sense.

In 2000 Central Highlands Water closed off the Cosgrave Reservoir and started to supply the Creswick water supply from Ballarat's water supply. It said the cost of building a treatment plant at Cosgrave — \$800 000 — was too high. Since then it has had to build treatment plants in the area to supply the nearby townships of Clunes, Allendale, Kingston, Smeaton, Broomfield, Newlyn and Springmount. Clunes is the furthest from Creswick, about 20 kilometres away, so additional pipelines have been required. These plants are treating high-mineral bore water, which to meet World Health Organisation standards requires massive treatment, including filtering, softening and disinfection. By placing treatment plants at the Cosgrave and Newlyn reservoirs, Central Highlands Water could have adequately supplied all those towns north of the Great Dividing Range at a much lower cost than that involved in constantly pumping water both ways over the Divide and having to provide for the costly treatment required for the bore water.

The other point about the towns now relying on bore water is the effect this has on the availability of the Ascot aquifer for other users — in other words, the farmers in the area. I have been informed by locals on the ground that since bore water has started to be supplied to these townships the farmers' bores have run dry for long periods of time and their irrigation operations have been halted. They have had to spend a lot of money increasing the depth of their bores. As the area grows, there will be a greater demand on these aquifers to supply these small country towns. That will leave these farmers with even less security.

Central Highlands Water has since offered the farmers access to treated waste water. This would present

additional costs not only to farmers for water licensing but to Central Highlands Water for the infrastructure required to get the water out there. Licensing fees from the farmers would not meet the running costs of the treatment plants, let alone pay the capital costs of the plants and the pumping required. These issues could have been solved many years ago with a suitable planning scheme. This reminds me of the little boy putting his fingers in the holes in the dike to try to block the leaks. Unfortunately it looks like Central Highlands Water will run out of fingers any time soon.

The third issue is the pressure the Bracks government has put on all water authorities to increase the price of water in an attempt to make people use less. This tactic might work in urban situations and may in some cases be justified, but it clearly discriminates against larger families. It also discriminates against those families who have larger gardens and wish to maintain what I think is at the core of the beauty of the city of Melbourne. Victoria is the Garden State, and Melburnians reflect that in their gardens. Any reduction in the standard of gardens in Melbourne that is caused by increasing the price of water will reduce the livability of this city, which is regarded as one of the best in the world.

However, in rural situations this is purely anticompetitive. Northern Victorian Irrigators is adamant that a water-needs review has to be undertaken and that the cost of asset renewals must be included in this review, which needs to be independent and transparent. It could be done by the Essential Services Commission, or it could be done by any other independent review committee. The government cannot rely on increasing prices to achieve water efficiency without sending many farmers to the wall. If price increases are going to be the main means by which this government tries to reduce the use of water, particularly in rural situations, many farmers who are facing debilitating financial situations at the moment will be either sent broke or will have to sell their water, which is their saleable asset — and that will deny them the opportunity to continue to farm their land.

I am also concerned that many irrigators do not realise that the deal on sales water, which was hastily agreed to between the president of the Victorian Farmers Federation and the Bracks government and which has loosely been called the 80/20 deal, will lead to their receiving a maximum of 48 per cent of their sales water entitlements in the future, whereas under normal seasonal conditions in the past they received 100 per cent. In fact, the average is more likely to drop to around about 20 per cent of sales water. This will require a complete overhaul of the financial structure of

very many of these farming operations. This is on top of their very depleted financial situation, brought about by eight years of under-average rainfall and a reduction in the availability of their general water entitlements.

I was delighted to read yesterday about the \$23 million the state government has committed from the Victorian Water Trust for the implementation of the total channel control system to automate the movement of water in the channels in the central and Goulburn irrigation districts. I support the further introduction of the system, which uses a telemetric system to automate the release of water to individual irrigators' properties. However, it begs the question of whether it actually saves water.

It reduces the overruns on the water that is currently let down the channels to meet those requirements, but that water ends up either further downstream or in the Murray so that it can supply either irrigators' needs downstream or the environmental requirements in South Australia. This water is not actually a saving, yet when you read about what this government believes it will achieve in order to provide the water requirements for the Snowy and the Murray rivers, it puts this down as its major saving of water. It is not a true saving.

It is a great system, and it is something I support, but it is a complete misnomer to say that this is something which can then be used as a book saving to offset the water required for the Snowy and the Murray. What is required and is absent from the state budget is major investment to upgrade the old leaking channels and replace much of the infrastructure in the irrigation system, which is 100 years old or older. Unless we line many of the channels that leak laterally or vertically, replace the smaller channels with pipelines or invest much more money in on-farm projects to increase the incentives for farmers to improve their irrigation practices, these real savings of water will not occur.

This is really a city-centric budget, with most of the benefits going back to the city of Melbourne and its residents. There is little in it for country communities, and absolutely nothing in it for the water industry. Given that it is so important, especially for the future of Victoria, it is a disgrace.

Government: financial management

Mr STENSHOLT (Burwood) — I thank the gaffer very much for getting us back on track and on the air earlier today. My main purpose today is to grieve for the people of Victoria, who have suffered from the policies of the previous government and are threatened

by the irresponsible promises and economic stances of the opposition.

Honourable members interjecting.

Mr STENSHOLT — We all know who they are. We all know they are Liberals first and Victorians second. We all know they are unfit to govern, and we all know they are not fit to fill the Treasury benches.

I also have concerns for the people of Victoria because of the economic policies of the Liberal-led federal government, whose policies are supported by the state opposition. Victoria is, of course, very fortunate that the economy is well managed, and we have strong fiscal responsibility here in Victoria. I am reminded by members on the benches opposite that the government has been in office now for five years. Let me tell them: it has been five years of strong economic management; it has been five golden years of fiscal responsibility; it has been five years of balanced budgets; it has been five years of repairing the damage done by the previous government during the seven dark years under Jeff Kennett.

I remind the house of a number of indicators over the last five or so years of strong economic management and very solid fiscal responsibility. The government has maintained the AAA credit rating in Victoria. It has been affirmed and reaffirmed again and again and again and just recently — just overnight — again. Over the last five years the government has continued to provide budgets in the black. The government came to the electorate with a promise that it would keep budgets in the black with surpluses of at least \$100 million a year. The Bracks government has delivered on that promise again and again and again and again and again, and it will deliver on it in the future as well.

The government has also continued the lowering of debt in Victoria. It is now at less than 1 per cent. The government has continued the wise management of the economy and is able to deliver very sound and solid fiscal management, which includes the management of debt. Victoria continues to have a record of strong business investment. That can be seen from the recent figures on construction here in Victoria. Now construction in Victoria is ahead of that in New South Wales. I remind the house that New South Wales has about 1 million more people than Victoria. The economic activity in Victoria is not just proportionately larger, it is actually larger, than that in New South Wales. Victoria also has a strong pipeline in terms of private investment projects. That pipeline is now at record levels in Victoria.

In terms of government investment in infrastructure, the record stands for itself. What did we have during the Kennett period? In its last year there was \$1 billion of investment in infrastructure. What do we have in Victoria now? Over four years \$10 billion will be spent — in other words, an average of \$2.5 billion a year, two and a half times what was spent then. Even allowing for increases in the cost of living — which in terms of inflation are very low, being at between 2 per cent and 3 per cent over the past few years — there has been a 250 per cent increase in infrastructure spending in Victoria. That is a marvellous record.

That is not going to just one or two select projects; there are investments all around Victoria. The previous speaker talked about country and regional Victoria. Let me tell the house that the members of the Bracks government are the representatives of country and regional Victoria. This government has turned around the disaster in the bush and rural areas. Under the previous government those areas were described as the toenails of Victoria. What did the members of the Liberal Party and the then National Party seek to do when they were in power? All they sought to do was clip the toenails of Victoria again and again and again. It was very obvious to the people in rural and regional Victoria that services were lost. More and more services were lost, whether it was the post office or the train, and there was a lack of investment in roads and other types of rural infrastructure. That was done in rural and regional Victoria by the previous government made up of the Liberal Party and the then National Party.

What do we see here in Victoria now? Let us talk about health. We now spend on health services in rural and regional Victoria, where the smaller portion of the population is located, as much as the Kennett government spent in the whole of Victoria. That is one example of where the emphasis is in Victoria with the Bracks Labor government.

What do we have in terms of infrastructure all around the state? It has happened in school after school after school: well over one-third of the schools in Victoria have been modernised or had upgrades. Dozens of schools have been built in Victoria over the last few years. I remember in 1996 or 1998 undertaking a survey of schools in the electorate of Higgins. Hardly anything was being spent in that area on maintenance or modernisation. Many schools in that area have now been rebuilt. That includes what was seen as an urgent repair for the roof of Malvern Primary School, which was not done on the watch of the previous government, at a cost of nearly \$400 000. Malvern Primary School is an excellent school. I believe one of its former pupils

was a Premier of Victoria — I am talking about John Cain. For \$400 000 its roof was repaired under the Bracks Labor government.

I can talk also about the number of hospitals that have been upgraded and built here in Victoria. The Minister for Health, who is at the table, may correct me, but I believe 26 hospitals have either been built or had upgrades. Many of them are new. What has the government delivered, in total contrast to the previous government — more police, more teachers and more nurses.

In practical terms of helping business, to take just one example, WorkCover is now well managed. It has been turned around and is now operating in the black at a fully funded level. It was not previously, and the government had to work very hard in the first couple of years to reform it and make sure it was stabilised and well managed. The government did that in the context of delivering better benefits for the workers. We reinforced that just recently, last year, with further benefits for people who have suffered from workplace injuries. This is also the state with the fewest taxes on businesses. The list goes on and on.

What is the contrast with the opposition? When in government, what did opposition members do? They had a record impact on Victoria — a record impact of slashing and burning. They sacked public servants. Indeed many of the statements that continue to be made in the house show that they hate public servants — they hate them! They are always out there criticising public servants. They show little respect for the dedicated work of so many in the public sector. They sacked the nurses. They ran the hospitals down; they closed the hospitals. Locally, for example, they closed the community hospital in Burwood which happened to have the most efficient operating theatre in the state. It only had one, but it was the most efficient. It got closed down. It was done on the basis of so-called 'bigger is better'. It is just typical of the Liberals; they oppress the small and they try to glorify the large.

At breakfast today businesspeople reminded me of what the Liberals have done to the health system and how much under stress it was in 1999. They had plans to do even further damage to the hospital system — for example, they were going to actually reduce the facilities at Box Hill Hospital. They ran down the jails, they sacked a whole court, they pressured the Director of Public Prosecutions and they promised more police and delivered fewer police. They stood by and said nothing when the federal government took hundreds of millions of dollars out of the dental service. As I have mentioned already, members of The Nationals should

hang their heads in shame at what happened in rural and regional Victoria. Fortunately that has been redressed by the real representatives of rural and regional Victoria, the Labor Party.

What is the current form of the Liberal Party? All spin and no detail, all flip-flop and no substance, both at the state and the federal level. I was reminded of Grahame Morris, of some fame, who said — I will not quote it all, it is probably too insulting — that the current state parliamentarians were the 'most boring batch ... you have ever seen'. They do not have a clue when it comes to economic management or economic policy. Their alternative policies are a joke. On channel deepening, on trying to ensure the future of Victorian commerce and making sure it continues to be the leader in terms of sea trade, what is their contribution? Gilligan's Island! An almost \$3 billion investment in a floating container dock in the middle of Western Port bay, a massive investment of billions of dollars for a very uncertain outcome. It is typical that they have not done the hard thinking and the hard yards. Undergrounding all the power poles would cost almost \$50 billion, another quixotic effort by the Liberal Party.

Mr Carli — How much?

Mr STENSHOLT — Between \$40 billion and \$50 billion. They want sprinkler systems in every room in every school. And the daddy of all irresponsible economic promises is that made by the leader: he wants to rip up the EastLink contract. This has been mentioned many times. He has promised us a study; we are still waiting for the study. We are waiting, we are waiting, we are waiting. Is it going to come? I should note that on October 28 and 29 last year Minter Ellison and PricewaterhouseCoopers were able to provide some advice — but it is now many months later. This is pretty typical of the form of the Liberal Party: lots of talk but no detail, no answers. The fact that the Leader of the Liberal Party wants to rip up a contract, a statement of economic responsibility, puts in doubt the economic credibility of the state — in other words, it opens the state up to sovereign risk.

Of course the Leader of the Opposition has a whole tissue of flip-flops and errors in this regard, and the only way, according to Minter Ellison, he could get out of this contract would be by tearing it up or by coming to ideas of shadow tolling or offering to buy it out. PricewaterhouseCoopers has suggested this would cost somewhere between \$4.5 billion and \$7 billion. What does \$7 billion buy you? Let me tell you, it buys you an awful lot of schools; it buys you an awful lot of police stations; it pays for an awful lot of police; and losing it would actually double the state debt. The loss of

\$7 billion would mean, for example, that we would have to stop treating 128 000 patients every year and we would have to cut 4600 teachers. This is a prime example of economic irresponsibility by the opposition. It is an opposition that is not fit to govern, it is an opposition that is not fit to fill the Treasury benches and it is an opposition that does not stand up for Victoria.

Hazardous waste: Nowingi

Mr WALSH (Swan Hill) — Today I grieve for the community of Sunraysia, and particularly the communities along the Calder Highway, which is going to be the chosen route for the transport of toxic waste from Melbourne and Geelong to the proposed toxic waste site at Hattah-Nowingi. It is very pertinent this week that we grieve for those communities along the Calder because this week the Save the Food Bowl Alliance out of Sunraysia is running the No Mallee Toxic Waste Dump roadshow right along the Calder Highway, which it has renamed the Highway to Hattah. I think it is very important that we focus on the fact that the Calder Highway will no longer be called the Calder Highway; it will actually be the Highway to Hattah. We believe, and the community of Sunraysia believes, it is too big a risk to cart all that toxic waste that huge distance to the proposed site.

Before I go into the detail of what I would like to talk about, could I pay particular credit to Peter Crisp, the chairman of the Save the Food Bowl Alliance, and to the mayor of Mildura, Peter Byrne. Both those gentlemen have gone to great personal effort and cost to lead the community to make sure that we try to stop that toxic waste dump being built at Hattah-Nowingi. As we all know, our rural city councils are struggling for cash, but Mildura city council has gone to significant financial cost on behalf of its community to make sure we can try to stop the toxic waste dump. We are very fortunate to have two people of the calibre of Peter Crisp and Peter Byrne to lead that community.

The proposed toxic waste dump at Hattah-Nowingi is a blight on north-west Victoria and, as is going to be identified this week by the roadshow, it will be a blight on all communities along the Highway to Hattah. At the moment they do not think it is going to affect them, but they will find that there are going to be between 12 and 16 semitrailers a day going up that Highway to Hattah carting toxic waste. I wonder if the member for Macedon, who sits opposite, has actually explained to the people of Gisborne and the people of Woodend that there are going to be 12 to 16 truckloads of toxic waste going through their communities every day. The people of Kyneton, the people of Malmsbury — I wonder if the member for Bendigo East and the member for

Bendigo West have explained to the people of Bendigo that toxic waste will be crossing the Coliban River at Malmsbury and that, if there is an accident, it could eventually end up in the water supply in Bendigo.

Mr Maughan — And Echuca!

Mr WALSH — And Echuca, as the member for Rodney says, the very passionate member for Rodney, who supports his community very well. The town of Harcourt is a significant apple-producing community. Some very fine wines come out of the Harcourt region. Those sorts of industries will be put at risk if there is a major spill from those 12 to 16 semitrailers that will go along that road every day.

If we go further up the highway we come to the town of Marong and then move on to Bridgewater. The Waterwheel Winery at Bridgewater is a major winery. There is significant industry in that area that would be at risk if there were an accident when those trucks are crossing the Loddon River and we ended up with pollution in the river. Quite a few of the towns further up the highway are in my electorate. We go through the town of Inglewood, a beautiful little town with a very narrow main street. With the highway going through the town and those extra truckloads on that particularly narrow street with its tight corners, the danger of an accident involving toxic waste is increased.

If we go further up the highway, we see towns like Wedderburn, Charlton, Wycheproof, and Culgoa. If you go to Culgoa, you see the creek which the highway crosses, so if there is an accident the potential is there for the waste to get into the creek and pollute the waterways of north-west Victoria. If we go further along we see the towns of Berriwilllock, Sea Lake and Ouyen. The roadshow was launched in Ouyen on Sunday night. I will quote from an article in the *Sunraysia Daily*, which reads:

It was standing room only at Ouyen's municipal offices as a large and passionate crowd helped get the toxic waste dump roadshow under way in Ouyen last night.

So the communities along there are very passionate about making sure they do not have the dump in that area. It is particularly demonstrable in the towns along the Highway to Hattah that people do not want it transported up the highway and all the way through. The roadshow is going to finish in Bendigo on Friday with a large gathering in the central business district outside the Shamrock Hotel, where Damian Drum, a member for North Western Province in the other place, will speak to the group. The community of Bendigo might believe it is not going to be affected, but the highway goes significantly close to the town — and as I

said, its water catchment is right along that particular route. This is all about risk — —

Mr Carli — How does it get into the water?

Mr WALSH — If you have a spill or an accident, it could very easily — —

Mr Carli interjected.

Mr WALSH — If it is put in concrete — —

An honourable member — Through the Chair!

Mr WALSH — Through the Chair? The Acting Speaker is not worried, why should you be! If it is cast in concrete into container blocks, it is going to increase the truckloads significantly. It is all about risk, and it is about tonnes by the kilometre. The trip is 500 kilometres — —

An honourable member interjected.

Mr WALSH — It is 500 kilometres.

An honourable member — That is ridiculous.

Mr WALSH — It is a 12-hour, 1000-kilometre round trip, Acting Speaker. Why do we want to have 12 to 16 truckloads a day doing 1000-kilometre round trips? It is absolutely absurd. We are reading constant press reports about the increase in the price of fuel. Given the demand for fuel in the world and with the supply of oil getting tied up, we are going to see the price of fuel continue to go up. I do not believe it will ever come down significantly, so why are we going to lock in the cost of transporting all that toxic waste 500 kilometres well into the future? Why would we send it that far? Why would we take the risk? Why would we inflict that cost on the society of Victoria forever into the future? One of the possibilities that has been mentioned is that we will use this as an excuse to finally spend the money that was appropriated in 2001 to fix up the train line. Perhaps the government will fix the train line to cart it up there. Again, it involves the whole issue of how far we are going to cart it, the cost of carting it and the risks involved in how we do it.

I remember meeting with the chairman of the Environment Protection Authority when all this was first proposed to talk about what was involved. We were told that it was going to be a world best practice waste containment facility. It was going to be a concrete bunker. It is amazing, Acting Speaker, that that has now drifted so that now we are only going to have a plastic-lined, earthen containment facility. We are not going to have world best practice; we are going

to have what we have had for decades here in Victoria — a plastic-lined facility.

We are talking about a site that is next to a Ramsar-listed wetland, and we are talking about a site that is next to one of the Living Murray icon sites, yet we are going to have a plastic-line waste facility there! It is absolutely absurd that we should be spending \$500 million to improve the condition of the Living Murray icon sites along there when we are going to put a toxic waste dump right next to one of them. The New South Wales, Victorian, South Australian and the federal governments are going to spend \$500 million to rehabilitate the likes of the Hattah-Kulkyne National Park, yet we are going to put a plastic-lined toxic waste dump next to it!

Currently there are people who are trying to ascertain the overseas perception of markets on the produce grown in north-west Victoria and the effect that the dump will have on the export market. Let us look at the production figures for the Sunraysia. Something like 30 per cent of the white wine crush in Australia comes out of that area, as well as 18 per cent of the red wine crush, 31 per cent of our navel oranges, 21 per cent of our valencias, 20 per cent of our lemons and limes, 9 per cent of our mandarins, 100 per cent of our tangelos, 54 per cent of our grapefruit, and 99 per cent of our dried fruit. This is all being put at risk by market perceptions. The Minister for Agriculture brought the genetically modified organisms (GMOs) moratorium bill into this house 18 months ago because he was worried about market reaction to GMOs being produced here in Victoria. We have the possibility that overseas perceptions are going to destroy the markets for one of the major horticultural areas of Victoria because of the Hattah-Nowingi toxic dump.

Shortly I will bring a delegation in here to talk with the department about whether we can increase the access of bees to national parks. We have a major almond production facility run by Select Harvests and Timbercorp up there that has now grown to the point where it will be the no. 2 almond producer in the world. There are major concerns about its being down wind from the toxic waste dump and that that will have an impact on the perception of markets as the producers try to export all around the world. India is going to be one of their biggest markets into the future. One of the concerns is that if we have a toxic waste dump facility there, and even if it is cast in concrete the bees you put in there will know no boundaries — in other words, they will not know whether or not it is a toxic waste dump. If they go into that area, pick up some of the contaminants and go back to their hives, what will that do for the future of the area up there?

For the people of north-west Victoria, and particularly for The Nationals who represent that area, it defies logic that we would actually go to all the effort of freighting 30 000 tonnes a year to that area and incur the cost of putting it into a plastic-lined facility when the community was initially promised a concrete-lined, world best practice facility.

My last point in talking about this is to talk about the inept way that this has been handled. The Bracks government was elected to be open, to be transparent, to consult with and to govern for all of Victoria. We had the situation where three sites were originally proposed at Tiega, Violet Town and Pittong and where the people who were affected had their breakfast interrupted by a person serving a legal notice on them which said that their land was going to be acquired to set up a toxic waste dump. Those people were absolutely devastated by that. It galvanised those communities into action, and they have been very fortunate to have been able to stop it being built in their area. But all the time the government was dealing with those three communities, it was sneaking around the back door, looking at where else it could put it, and it has chosen a site on Crown land at Hattah-Nowingi — land which is next to a Ramsar wetland and next to a Living Murray icon site. The people in those communities are absolutely devastated to have a government that believes it governs for all Victoria yet is going to cart toxic waste 500 kilometres and put a major horticultural producing area in Victoria at risk.

I commend the Save the Food Bowl Alliance for its roadshow and for bringing this matter to the attention of all the communities I mentioned along the Highway to Hattah, to let them know that they are also at risk and that there is the possibility of an accident in their area with a spill that could devastate their communities. I hope this house and this government have enough sense at some time in the future to stop this project and get some bipartisan support. The government should go back to the drawing board and set up a proper consultation proposal. We know we produce this waste in Victoria and that we have to find a way to manage it. We have to do the work to make sure that we reduce it at source wherever we can, but we will always have waste product that we have to put somewhere.

Why can we not have an open and transparent process whereby this house can get bipartisan support to put it in a more appropriate place, where it is closer to the source, where it will not have the potential to cause environmental damage to some very sensitive areas and where it will not damage some of our export markets, to achieve a good outcome for all Victorians, without dumping it on north-west Victoria?

Mitcham–Frankston project: funding

Mr LOCKWOOD (Bayswater) — Today I grieve for the people of the outer east and of Victoria because of the Liberal Party's irresponsible promise to pay out the EastLink contract to build and operate EastLink, formerly known as the Mitcham–Frankston freeway.

Mr Smith — What is it called today?

Mr LOCKWOOD — EastLink. It is a great name, and it is a name the consortium likes. The Liberal Party has made an unachievable \$7 billion promise, but it is a promise that it is clearly committed to. It has said over and again that it is going to buy out and tear up the contract, but no-one else in the state has committed to it because it is an irresponsible promise. Seven billion dollars will need to be found in order to rip up the EastLink contract. It would be economic vandalism. It would be a major threat to the economy of Victoria should the Liberal Party ever win government — heaven forbid! It is all about covering the Liberal Party's tracks because it did not build the freeway. It was on the books for more than 30 years, but it never happened.

It took the Bracks government to get the project together and get on with building the road, and it is under construction right now. A huge amount of work is occurring right now. Only the Bracks government is capable of investing in infrastructure and capable of getting such a project under way. It invests in people, and it invests in Victoria.

All the other side can do is rip, cut and slash, not build, not revitalise and not redevelop as the Bracks government is doing. The Liberal Party's record is plain for all to see. Its last seven years in office provided a clear record of the slash-and-burn approach — that lovely phrase 'the seven dark years'. They were the years of disappointment, the years of unfulfilled promise.

The EastLink project will provide \$6.8 billion to the state's gross state product over the life of the contract, and \$13.5 billion to the Australian gross domestic product over the concession period. That is a boon to our economy. Certainly it is a boon at the local level, and a boon to the nation's economy. It will provide 12 000 indirect jobs and 6500 direct jobs. Local governments are taking advantage of EastLink being built — for example, Knox City Council has the Scoresby–Rowville employment precinct planning amendment because of its location next to the freeway. The council is keen to get the planning amendment in place as quickly as it can because it will generate jobs.

That precinct alone is said to have the capacity to generate 8000 jobs. There are two main reasons for that: the kind of industry it will attract, and its location next to EastLink and access to the road.

The Maroondah City Council has told me that all its problem sites appear to have been sold in Ringwood. These were sites that have been a problem to it over a number of years, but which have now sufficiently increased in price because of the project start. There are huge benefits to this project, but, of course, all this will be put at risk by the proposal to spend \$7 billion to tear up the contract and go backwards.

Mr Smith interjected.

The ACTING SPEAKER (Mr Nardella) — Order! I ask the member for Bass, who is to speak next, to be a bit quieter.

Mr LOCKWOOD — The Royal Automobile Club of Victoria, which had been a vocal opponent of the project, has, on the turning of the sod, declared it a red-letter day for Victoria and the outer east. It wants to see the job getting on. Even my parliamentary colleagues in The Nationals have opposed the buy-out of the contract. They would like to see the project continue and the money not be diverted from projects in country Victoria. Seven billion dollars would need to be found in the state budget by either reducing infrastructure or services, although the Liberal Party has plenty of experience in that. It would mean cuts to education, health, community safety and lots of other things. This government has built 25 new schools and many more replacement schools. It has built 34 aged care facilities. It has expanded and rebuilt some 26 hospitals, including — —

An honourable member interjected.

Mr LOCKWOOD — A great place to raise a family, yes. It includes major refurbishments at two of my hospitals, Maroondah Hospital and the Angliss Hospital, both with brand new emergency departments and the other wards that have been added. A lot of money has been spent on both hospitals. It is a great investment in health in this state. We have built 60 new police stations and are investing in more than 1000 sporting facilities and some 90 swimming pools around the state. We are able to do that because we have a strong budget and a strong financial position. All of those achievements would be under threat if we tore up the contract to build EastLink, and progress would be stopped if the Liberal Party proceeded with its \$7 billion folly.

The Bracks government is undertaking the largest infrastructure spending in Victoria's history, with something like \$15 billion or more in economic benefits flowing from this spending. We need effective transport links, both domestic and interstate, and EastLink will connect three freeways, provide enormous benefit to the local area and enormous — —

Mr Baillieu — What roads would it connect?

Mr LOCKWOOD — It will connect freeways, because a freeway is a road without intersections. This government has — —

Mr Baillieu — Has the government opened rail lines?

Mr LOCKWOOD — We have opened rail lines. Ararat and Bairnsdale are open, with more to come. The redevelopment of Spencer Street station will enable it to become one of the best rail stations in the world. These things would not happen if we took the Liberal Party's policy on board. Spencer Street will become a first class transport hub as well as a shopping and commercial precinct for the Docklands. It will exceed all the standards we have seen and will be more like an airport concourse than a railway station. This government will not close schools, hospitals or rail lines to fund the buy-out of tolls.

Honourable members interjecting.

Mr LOCKWOOD — The federal government is still playing politics, is it not? It is playing politics with this state, refusing to hand over the money it has promised and which it has got in its budget for the Scoresby freeway as it calls it, but it is still agreeing to fund toll roads in other states. It is signing agreements with New South Wales to consider more toll roads. It is funding the M7, the Sydney orbital, so it is still playing games with Victoria.

Mr Smith — The government signed the document. It said it was going to be a freeway!

Mr LOCKWOOD — The federal government put a cap on its contribution. It was the first to break the agreement. The agreement meant nothing when it took that particular action.

Closing rail lines, schools, hospitals and police stations — that is the experience of the Liberals — this is what would happen if the buy-out of the tolls occurred. We are funding the project with tolls and getting on with the job. We are getting the project built sooner rather than later, getting the benefits in 2008 rather than 2028. The benefits of the project come from

building it sooner rather than later. The urgency for the project exists. The economic benefits will flow from building the road now, over the next three years, rather than waiting year on year for the road to be built. The government was obviously led to this by a couple of things. One is obviously the \$1 billion black hole in public transport left by the previous government from its failed privatisation program.

Mr Smith — What? Do you want to repeat that?

Mr LOCKWOOD — The great glorious privatisation fell over and one of the companies just handed over the keys and left, leaving the Liberals a \$1 billion black hole. Of course the size of the project has got a lot to do with it, it is a \$2.5 billion construction, Australia's largest ever urban road project. It is a very large project for a state government to finance, even if the federal government did cough up with the money it promised, which, of course, it is still holding out on. It is still playing the games it has been playing for the last several years and dudding the people of Victoria by not handing over the money when it should. The Prime Minister and Deputy Prime Minister are happy to put hundreds of millions of dollars into toll projects in other states, but they still play games with Victoria. They are still withholding the money they have been promising year after year and not coming up with it.

The project EastLink will produce thousands of jobs and generate huge economic activity and will add between two and three percentage points to the gross domestic product of the outer eastern region. It will drive significant new investment jobs and opportunities for the south-eastern suburbs of Melbourne. This is something the opposition will hate, of course, because the Bracks government is getting on with it and the opposition never took on the project. It is different to CityLink in that CityLink closed roads to force people onto the tollway, where this project will not do that. All existing roads will still be there: Stud Road and Springvale Road are carrying lots of traffic and will still be capable of carrying lots of traffic. Tearing up the contract would introduce the notion of sovereign risk and we could not possibly entertain that, subject — —

Mr Smith — We are not talking about tearing it up. We are talking about negotiation. That is what we are talking about. Get the facts right.

Mr LOCKWOOD — To negotiate to buy out the contract one would have to pay out not just the capital cost but the finance costs and future profits. I do not doubt that the contractor would ask a premium price to sell out. Why would any company give away its future,

give away something it has worked hard for, developed and worked on for so long, at a cheap price? It would ask a premium price and that could be up to \$7 billion, as we have heard, and the Liberals would have to find that money somewhere.

Mr Smith — The member made that up, not us — he wants to remember that!

Mr LOCKWOOD — Nobody made the number up. The member for Bass does not like the sound of it.

Mr Smith interjected.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Bass is next on the speaking list. I ask him to remain quiet.

Mr LOCKWOOD — The old Kennett agenda had the sacking of 2000 nurses, the closing of 1000 hospital beds and the closing of 12 hospitals, and that is the kind of thing we are likely to see again if this irresponsible policy is proceeded with. In just five years the Bracks government has invested enormous amounts in health — over \$2 billion in upgrading hospital infrastructure as I mentioned earlier. It is a record investment. It is the largest investment in the state's history. Just take a look around the state: hospitals were being ruined as a result of being run down because the previous government did not invest in health care. In the seven years of the Kennett government investment in health infrastructure was \$850 million, which pales into insignificance compared with the Bracks government's investment. In just five years it has invested \$2 billion — that is, \$850 million versus \$2 billion. It really must hurt to have let that opportunity go. We are proud of our investments, proud of our achievements in health. New hospitals are opening. We have a hospital opening coming up very soon — —

Ms Pike — On Saturday.

Mr LOCKWOOD — In the north on Saturday, and recently we have opened the Casey Hospital, which cost \$80 million and it was on time and on budget. It is a great addition to our health system. The \$7 billion being ripped out of the infrastructure budget would see that kind of investment impossible.

In education we have renovated well over 300 schools since coming to office — major renovations from that investment. We have opened 36 new and replacement schools across the state, and when schools have been destroyed by fire we have been able to act immediately to ensure they are replaced immediately. We have made a huge investment in education and a huge investment

in new schools. Smaller class sizes and higher retention rates are being achieved, and all of these things are being achieved in education because we invest in people, infrastructure and in the state of Victoria. All of this would be under threat by ripping \$7 billion out of the state's budget. Seven billion dollars would have to be found somewhere — by closing schools, hospital beds and police stations. It just would not be possible to continue the investment in this state that has been occurring over the last five years. It is an irresponsible promise by the opposition and it is an irresponsible promise by the federal government not to come good with its commitment to funding.

The Bracks government clearly rejects the proposal to buy out the tolls. It is a contract entered into in good faith, it is going to produce a tollway — a freeway — 43 kilometres of it to be a great road, a very high quality road that will produce a huge economic benefit to Victoria and to the outer east. It will generate jobs, investment, a better community and improve the lives of people in the outer east. The people in the outer east will be glad to see that road completed. Clearly they are glad to see the construction occurring right now.

Sewerage: Bass electorate

Mr SMITH (Bass) — It was so wonderful to listen to that diatribe from the No Tolls Man! I want to talk about something important for 15 minutes — the great work that was done by the Kennett government.

I want to grieve for the people of Victoria who reside in areas that are covered by the backlog sewerage program. I should explain to the house that the backlog sewerage program involves areas that have septic tanks installed, but sewerage has not been connected for various reasons. The backlog sewerage program is putting sewerage into a large number of areas around Victoria and disconnecting septic tanks. One has to look at this as being a major health issue. We can reflect on the recent problems that were caused by septic tanks leaking into the Yarra River. The Minister for Environment said it was dog faeces. He could not quite understand that septic tanks drain to the lowest point and then drain out — in that case, into Port Phillip Bay.

South East Water has a priority list on backlog sewerage. Some 30 areas are listed, and they include the Mornington Peninsula, Frankston, Casey, Cardinia, the Yarra Ranges and Knox. These are in South East Water's area. Not all of these are outlying areas, we would call some of them suburban areas of Melbourne. They are all unsewered and discharging sewage into either Port Phillip Bay or Western Port. It is a disgrace

at this time of the so-called highly concerned and environmentally friendly Bracks government, which sold its soul to the Greens at the last election and the election before that on the basis that it was going to do something about environmental issues. Here is one environmental issue that is extremely important to Victoria and even more important to the people who live in these areas.

It is not just one or two properties that are going to be connected in these areas. Some of these areas have hundreds — in some cases thousands — of unsewered homes and businesses. South East Water has a list of some 23 000 homes and businesses which are connected to septic tanks at the moment and need connection to sewerage, yet the government was not prepared to include these areas in the budget it released yesterday. It is not prepared to expend additional funds in the backlog sewerage areas to get rid of these health hazards.

South East Water is not the only water authority in this situation; so are Yarra Valley Water and three other water authorities around metropolitan Melbourne. Yarra Valley Water has about 17 000 homes and businesses that are reliant on septic tanks and are still to be connected to sewerage. As a dividend to the government Yarra Valley Water has had to hand over approximately \$120 million per year for the last two financial years. Over those two years the water boards have only been able to put \$5 million per year into the backlog sewerage program. If only the government did not take its rip-off dividend from these water boards and not only allowed them but specifically told them to get on with the backlog sewerage program and connect these homes!

South East Water has also been restricted. In 2002–03 it handed over a dividend of \$102.2 million. In 2003–04 it handed over in excess of \$50 million, yet this year's budget papers show there is a requirement to increase by 45 per cent the dividend from public authorities, which includes the five metropolitan water authorities.

I will talk briefly about how much the government is ripping out of these services. In the last year of the Kennett government, 1999, the government got \$49.7 million in dividends from South East Water. The dividends progressed until 2003, when \$137 million that could have gone into extending sewerage services into these areas was ripped out of water boards. The water boards would have been able to invest money into backlog sewerage areas. This government has been ripping money off these companies for so long it is ridiculous. I have just demonstrated how much former Premier Kennett was prepared to take out and how

much this government has been prepared to rip out of these water authorities. It is a disgrace.

The main concern is in my electorate of Bass, where there are a number of backlog areas. In 2002 I was privileged to be invited to attend an announcement for the sewerage of the Nar Nar Goon and Tynong areas, which are two nice little towns. We call them railway towns, because they developed around the railway stations and lines that run to the Traralgon area. Neither of the towns is connected to sewerage, and there are probably a total of 350 houses in the two towns. In 2002 an announcement was made by Bernie Byrne, the president of the Nar Nar Goon Progress Association, who had received a letter from Cardinia shire which said that sewerage was going to be put through the town.

I would like to quote from a letter I received from Bernie, which he read out at that meeting:

Cardinia Shire has worked with South East Water (SEWL) to identify towns where drainage problems and population density suggest that sewer is required. This program includes the municipalities of Casey, Cardinia, Mornington Peninsula and Frankston and, based on the current funding, will take 40 years —

forty years! —

to complete. A scoring system is used to rate each town, based on a number of criteria such as health and environmental impacts, restrictions on development and local interest.

Nar Nar Goon has been recognised as the town of highest priority within the Cardinia shire, with construction of sewer expected to commence in the 2003–04 financial year. We have reassessed Tynong with particular reference to health and environmental impacts and have advised South East Water (SEWL) that the problems in Tynong are similar to Nar Nar Goon, but to a lesser extent, given it is a smaller town with fewer open drains.

Denis Santamaria of South East Water has advised that:

We agree that this score reflects the current situation at Tynong. The Environment Protection Authority (EPA) has supported this and has suggested that the two towns, Tynong and Nar Nar Goon, be seweraged at the same time, particularly if a local treatment and reuse option were adopted. Consequently we (SEWL) are proposing that the two towns be scheduled together and to commence in 2003–04 year.

Absolutely nothing has been done in that period of time. We now have the people from South East Water coming out, talking to people in the town and giving reasons and excuses as to why it has not happened. It has not happened because the money is just not there to allow it to happen. Construction costs are going up but the priority list has not changed. The work is just not being done.

This is just crazy. You have to feel sorry for the people from South East Water, which is paying out huge dividends to the government and in fact will have to pay an extra 45 per cent in coming years because of what the government has put down in its mad grab for cash. The government is now saying that this backlog sewerage program for Nar Nar Goon and Tynong is going to commence in 2008–09, with a probable completion in 2009–10.

These people are wandering around in a country town with open drains running down the street. You can smell the septic tanks leaking into these areas. It is not healthy. The EPA is saying it is not healthy, the council is saying it is not healthy, South East Water is saying it is not healthy and I am saying it is not healthy. What is this government doing? Nothing! It just continues to rip money out of the water boards as quickly and as hard as it can. I wonder where the government is putting it. You really have to ask what the heck this government is up to. What is it trying to achieve by stealing money from the water boards? Why not do something positive with it? It would not take that long.

Why is it, Acting Speaker — and I can see you sniggering — that the government has put out a list that shows towns that are going to be seweraged in 2044. It is an absolute disgrace, Minister. You have schools in that area. You have kids in that area who are able to wander around in drains, and they could catch any sort of disease.

Ms Kosky — Get out of the gutter, Ken.

Mr SMITH — Minister, you should be showing some more care and showing more concern, because the schools in the area — —

Ms Kosky interjected.

Mr SMITH — Through you, Acting Speaker, to the minister, can I say that she should be showing some concern over this, because it is her schoolkids who are going to catch some of the awful diseases that can come from these systems.

We already have more than enough concerns about Western Port Bay, a great area that is partly covered by the Ramsar agreement, which is being poisoned by discharges from septic tanks in all the towns that run along there. It is wrong that that should be allowed to happen.

I feel sorry for the people from South East Water, who are in the position where they have to make excuses. They used to allocate \$7.5 million to these schemes; now they are allowing \$10 million to try and catch up a

bit. The construction costs are getting out of control, and South East Water is not prepared to go and ahead and do the work unless it has the finances. When we look at that \$10 million we also see that the government has been ripping about \$120 million a year out of South East Water. That is 12 years worth of construction money that could be put into one year to catch up on some of these backlog programs.

Among the other towns and areas we have Upper Beaconsfield, which is to be done in 2011–12; Officer, to be done in 2043–44; Clyde, to be done in 2043–44; and Narre Warren North, to be done in 2012–13. These are just fantasy times that the government has put down for the completion of these programs. It is wrong! I do not hear the member for Gembrook or the member for Narre Warren North calling out and saying, 'Let us get our sewerage connected'. I have not heard them express any worries at all about the conditions the kids in these areas are growing up in, with sewage basically running down the streets out of the septic tanks — and a lot of them do not work properly. Some of the members sitting up the back would not understand that.

It is a sad joke that this government is inflicting on communities, particularly two great little communities in Nar Nar Goon and Tynong. They are young communities with a lot of kids running around the streets, and I really have genuine concerns for their welfare. The council in Cardinia is concerned about it and has listed it as its no. 1 priority — and as I said, South East Water has a problem.

The government has to be condemned for its actions in ripping services off to the extent it does. It is not right. This so-called environmentally friendly government is not so friendly. It is behaving like an environmental vandal in doing what it is with respect to sewerage in these areas. I ask members of the government to reflect a little bit on what we have to put up with in our areas. Members will have similar problems in their own areas, including a need for treatment works.

Government members have got to stop ripping this money out of the community water services and allow that money to be used for backlog programs. The water authorities have to be able to do it, and do it properly. If the government gave us more money to be able to do these things, then we would be able to develop proper little towns.

All the towns I mentioned before are in areas that are part of the government's designated growth corridor, and they are not even sewered. VicUrban wants to build a huge development in Officer, and it is a town that does not have sewerage. Government members have to

lift their game, wake up to themselves and put more money into the backlog sewerage program, and they had better do it soon, because if they do not, then the people are going to stand up against them, and they will be throwing what is running down the drain at the people in government.

Mitcham–Frankston project: tolls

Mr CARLI (Brunswick) — I rise to grieve for the Victorian community because of the potential impact of the opposition's irresponsible policy of no tolls on EastLink, the Mitcham–Frankston project. Yesterday we had a responsible budget, which demonstrated enormous investment in both social and physical infrastructure and in services, and that budget would be devastated if the opposition were ever elected and tried to implement its irresponsible policy of removing tolls for everyone on EastLink.

We have to be very clear about what the opposition, the Liberal Party, has said about getting rid of tolls on that project. Basically its members have said it should be free to all users of the road — that is, people with salary packages, primary producers, users of commercial vehicles, interstate businessmen, residents and people coming from interstate to visit Victoria. The argument opposition members have used is that it should be free for all of those users while the rest of the Victorian community should pay for it. And how should it be paid for? It can only be paid for if you cut services, cut expenditure on infrastructure or increase debt. They are the only ways you can pay for the \$7 billion the irresponsible policy position put by the Liberal Party would cost.

For months we have had the Liberals and their leader running round saying that they are doing costings on an alternative to the Mitcham–Frankston, another form of costings that would demonstrate that the opposition could deliver the project. Well, we are waiting for this. Tomorrow is really D-day. It will be the day that the Leader of the Opposition and the shadow Treasurer need to come into this house and basically state what that alternative is. At the moment they are fobbing off Victorians and saying that they are doing some costings, but they never release them. We have been waiting for months and months for these costings, and tomorrow is the day those costings will have to be shown to this house. If opposition members want to have any credibility in this house and with the Victorian people, then tomorrow they will have to present those costings and demonstrate to the house exactly how they intend to fund the Mitcham–Frankston project, what their alternative to EastLink would be, where they would find the \$7 billion and how they would

reconstruct the whole project. I believe tomorrow is the last day they can demonstrate their alternative with any credibility.

Over the last few days there have been rumours about a backflip as far as the opposition is concerned. There have been rumours that members of the opposition intend to water down their commitment to no tolls. There is a potential backflip on, or at least a watering down of the opposition's position, and that has been aired around the place. It was on 3AW's *Rumour File*, but the Leader of the Opposition said that they are still committed to getting rid of tolls and insisted that the opposition is committed to getting rid of tolls for all categories. He insisted that the opposition is not going to limit tolls only to certain categories or provide rebates. The intention is that all users of that road, regardless of whether they are commercial or private users or are from interstate or are primary producers, will have free use of that road. If the opposition is to have any credibility, then tomorrow is the day we need to have it out in this house and have the shadow Treasurer spell out how the opposition intends to fund this road without destroying the fundamental soundness and economic credibility of the state budget.

The Liberal Party is the opposition party, and the shadow Treasurer needs to demonstrate that his party is an alternative government. If members of the Liberal Party are to be a credible alternative and have any credibility, then they have to show this house how they intend to fund that road, what services they will cut, how much debt they will commit this state to and what money they will stop spending on infrastructure in order to pay for the project. We know the sort of investment that the Labor government is committed to. It is \$10 billion of capital investment in this state. We heard that from the Treasurer yesterday.

We also know that Linking Victoria, the transport strategy, is going to deliver new road, rail and port projects to the value of \$5 billion. That is the sort of figure we are talking about. The government's commitment to delivering solid transport infrastructure in this state amounts to \$5 billion, which represents the biggest upgrade to Victoria's economic and transport framework in the history of the state, and I believe it would be threatened by the irresponsible policy of removing tolls on EastLink. It is fundamental that buying out that contract would destroy investments, particularly economic investments, in this state. Those investments will make Victoria more prosperous and ensure that its population has greater mobility. Basically this project will ensure that Victorians have a better life in the future.

We have to remember — as the member for Bayswater pointed out — that one of the fundamental reasons we had to go with a toll system for EastLink was the \$1 billion black hole in the public transport budget. In its privatisation of public transport the previous government created contracts that were completely unsustainable and untenable. They would have meant that all those companies would have collapsed, and we would not have had a functioning rail or tram system in the city of Melbourne or the state of Victoria. We saw National Express come over and throw the keys on the table. It could not work within those contracts, threw the keys on the table and just left. We knew what the black hole was, and we were committed to ensuring that we provided decent public transport in this state. We had to cover that hole, and as a consequence — and this is a major reason for having to go with the toll system — we had to find the means to fund the project. Why did we have to find the means? It is because this project is vital to the economy of this state, and it is vital to the eastern and south-eastern suburbs.

We are committed to the project, and we know it is very expensive — \$2 billion plus — but we also know from consultants' reports and Treasury figures that to buy out that contract now would cost something in the vicinity of \$7 billion. What does that mean? In the context of the \$5 billion for transport infrastructure, it would mean that you would fundamentally destroy it. The transport infrastructure that we need in this state would be fundamentally destroyed, because if you do not invest in this project now and you put it off for another decade it will have enormous consequences for our economy and will be a fundamental dampener on our economic performance, let alone the amenity for people who live around these routes and let alone safety on our roads or safety on our public transport system.

What sorts of projects are we talking about? We are talking about projects that are vital to this state and about projects that are vital to regional Victoria. If the Liberals were ever to get into government and were to fund EastLink by buying back the contract, we would see major projects in regional Victoria collapse. We would see that happen. Not only would regional Victorians have to pay through the tax system to fund the project, but they would also lose vital projects. The sorts of projects we are dealing with include the Pakenham bypass, the upgrade of the Calder Freeway that was announced yesterday, the Geelong bypass, roadworks on Cheltenham, Somerton and Plenty roads and improvements to the South Gippsland and Midland highways. It is an extraordinarily long list because we have made such a massive investment in our infrastructure.

I have only gone through the roads on that list. There are also improvements in our public transport system, including our rail system. We are dealing with vital components of the local economy. I am grieving for Victorians, because those projects and the economic performance of the state are being put at risk as a result of the Leader of the Opposition's continuing to insist, as he did on 3AW yesterday, that the opposition remains committed to getting rid of tolls on EastLink. He is still committed to ensuring that no-one who uses the road, regardless of whether they are in commercial, private or government fleet vehicles or are primary producers, will have to pay a toll. He would rather have people pay through a loss of services or investment in other infrastructure or through the tax system.

We are very committed to EastLink and to the rebuilding of our transport infrastructure. We are pleased with the concession deed negotiated with ConnectEast. It will result in some of the lowest toll rates on any private road in Australia. It involves upgrades to four railway stations in that corridor. Unlike the situation with CityLink, the Bracks government has ensured that there will be no restrictions on government regarding other roads or public transport initiatives in the area. We are ensuring that we will have a system where people will not be automatically fined if they inadvertently use the road, and toll escalation is limited to the consumer price index. We are very pleased with what we have negotiated. The agreement is clearly working, yet the opposition and Leader of the Opposition continue to say that they have an alternative. They say they have done work on it and are committed to going to the next election with a policy of removing tolls on that road, but we have not seen the costings.

Tomorrow is an opportunity for the shadow Treasurer and the Leader of the Opposition to come into this house and explain to members and to Victorians how they intend to fund this road without fundamentally damaging the fundamentals of the state budget. It is an opportunity for them to explain how they intend to do it while ensuring they do not slash services in the state, how they intend to do it without seeing a fundamental reduction in the value of transport and economic infrastructure in the state, and how they intend to do it without massively increasing debt for Victorian taxpayers. There is a big challenge facing them tomorrow.

There has been a lot of speculation and rumour that tomorrow we will hear a watering down of the commitment to remove tolls, that the opposition will move towards some sort of compromise and will try to walk away from a total commitment to providing a free

road for everyone. If that is the case, the opposition should bring it on tomorrow and explain to Victorians exactly what it is committed to. We have had months of speculation. The Leader of the Opposition has been telling us that the work is being done, that costings have been undertaken and that the opposition has experts working on the alternative it will present to Victorians. If this alternative is going to have any credibility, it needs to be presented in the context of the response to the budget.

This is a very credible budget. The Treasurer has presented a terrific budget for Victorians that continues the rebuilding of our social infrastructure and makes a strong commitment to capital investment in this state. This budget is committed to social justice, equity and fairness. It is a budget that we in the Labor Party are very proud of. It is a budget we are proud to take to our communities, our party membership and our constituencies and say, 'This is a great budget and a great commitment from a Labor government'. All of that is under threat because we have a commitment by the opposition that, if it ever got into government, it would find something like \$7 billion to buy out this contract with ConnectEast. That would fundamentally damage the state budget and the ability of the state government to deliver services, meet our infrastructure needs, allow for the development of a prosperous state and increase the strength of the Victorian economy.

I grieve for Victorians, because this is an irresponsible policy on the opposition's part. I ask the opposition to come into this house tomorrow, clear up where it stands on this issue and give us the costings and its perspective for the future.

Bushfires: Crown land management

Mr INGRAM (Gippsland East) — I grieve for my constituents and the people of Victoria. Our community has become extremely urbanised over the last century. As a result we have become alienated from our natural environment. The issue I grieve about today is that of fire management on public lands. To give this a bit of context, my seat covers 14 per cent of the area of Victoria, and 80 per cent of it is either national park or state forest. I have some of the best national parks in Australia and Victoria. I did the sums, and the seats of all the ministers in this place would fit inside just the national parks.

The issue came to a head recently with the Wilsons Promontory fires. They highlighted how we have lost sight of the need for fire in the Australian environment. If you look at the media coverage during and after the Wilsons Promontory fires, you see repeated time and

again the words ‘disaster’ and ‘devastated areas’, when fire is actually a natural and necessary part of the environment of the promontory. I put it to this house that the biggest disaster at Wilsons Promontory is that it had not been burnt for 40 years. Areas of coastal heathland and tea-tree need to be burnt on a rotation of about 7 to 10 years just to maintain their ecological function. The problem we have is that our urban society does not understand the need for fire in the natural environment. The media coverage at the time was about thousands of hectares being destroyed. They were not destroyed, they were burnt. Most of our ecosystems in this country require fire to naturally reproduce and get plants and animals going again.

Ms Asher — Get the animals going again?

Mr INGRAM — I will take up the interjection, although I know I should not. Species like ground parrots are extremely threatened, with only a few populations left in our coastal heathland areas. They require a fire through those environments to create the habitat in which they live and feed. Without fire in those heathland areas we are turning large sections of our coastal heathland environments into tea-tree scrub, which those ground parrots will not colonise. The New Holland mouse requires the same habitat to be burnt on a reasonably regular basis.

Let us look at why we have got into this situation. We have brought to Australia a European fear of fire. We have a policy within our legislation that says that every fire caused by a lightning strike has to be put out as soon as possible. We do that because in our society people live in close proximity to bush, and we cannot stand the risk of fire getting into those areas and posing a threat to human property and life — and they are at risk if we have fires getting away in the summer months. So we go in and put those fires out, but the same area of fire needs to be replaced at other times of the year to ensure the natural processes occur.

A recent forum in Bairnsdale, run by Robert Grant and the Gippsland wildfire task force, had a number of resolutions, or outcomes. I will refer to some of them and will present them to the minister. A very interesting comment was made and very eloquently put. One of the speakers said, ‘What we have to do is get the public of Victoria accepting the fact that fire is a natural and needed part of our environment’. He said that we need to recruit someone like Sam Kekovich, with his famous quotes promoting lamb, to say, ‘Real Aussies love smoke. Real Aussies love fire’. I do not know if we should go to the extent of having him say, ‘The long-haired, left-wing, dope-smoking, vegetarian hippies should bugger off’, but the speaker was saying

that real Aussies should respect the fact that fire is a natural part of the environment of our public lands.

Currently the state government is reviewing the fire code of practice. A number of issues need to be addressed. We need to ensure that it does not overly restrict the managers of public land, as has been done in the past, from going about their jobs. This Parliament should endorse the actions of prescribed burning. The last thing we need are people without an understanding of the natural environment criticising the Department of Sustainability and Environment on its fuel-reduction burning and prescribed fire regimes.

A media release put out by Neville Wright and Allan Mull on behalf of the Alpine Conservation and Access Group states:

ACAG thanks, congratulates and fully supports the ... Minister for Environment, Mr John Thwaites, for having the conviction to publicly endorse DSE’s fuel-reduction burning program. Well done, Minister Thwaites.

Metropolitan media and population must support fuel-reduction burning. To stop is lunacy and will lead to further conflagrations with the loss of life and assets, including our precious flora and fauna. Massive water problems will result, along with untold erosion. Well done again, Minister Thwaites and DSE.

That organisation does not necessarily endorse much of what the government has done, but it probably has got it right. Allan Mull was speaking at the forum in Bairnsdale.

The outcomes or resolutions from the meeting were based on a number of different motions that were put. They include some relating to maintaining water points and using night crews for the management of fire. Others are:

That the review of the CFA act be halted until an independent inquiry into forest service operations in country Victoria is completed.

Government be requested, as a matter of urgency, to provide ongoing and adequate funds to develop and maintain fire access tracks on all public land.

That under current management policy our national parks pose a key threatening process to best practice conservation of our flora and fauna.

Call on the secretary of DSE to implement section 62 of the Forests Act in wilderness areas.

As I said, I will present those outcomes on behalf of the Gippsland wildfire task force.

This is not a new issue. Too often we forget — we have very short memories. It is not so long ago, in 2002–03, that this state suffered one of the most devastating large

fires we have had for a long while, affecting over 1 million hectares of land. It is not necessarily a natural fire that covers an area like that — but the fires are so intense and cover such large areas.

If you look at what has happened in other countries, the United States of America is a classic example. The fire debate that has occurred over there has been almost as intense as some of the bushfires that that country has had. The USA has reached the stage now where its parks officers have lost control of the natural processes of the bush to the extent that they are required to thin national parks in pristine areas to remove the lower vegetation so that they can try to return natural fires. What has happened is that because it is so out of control, when a fire occurs it basically burns everything and kills all the large trees. Historically fires would have trickled through most of those grassland environments.

If you look at the history of our country, you see that the forests in East Gippsland were open grassland ecosystems. Nowadays they are extremely thick and when a fire gets started it is more intense and hotter. That is only because we have removed natural fire from those areas.

One of the interesting quotes is from Dr Phil Cheney, a senior principal research scientist and project leader for bushfire behaviour and management in Canberra, who, in quoting some comments, describes the current situation in the following way:

‘Why should I carry out prescribed burning? All I get is criticism about smoke and destruction of habitat and biodiversity, and my staff is vilified by people who know nothing of fire suppression and don’t give a fig about managing the forests. I (personally) would be better off to let the fuels accumulate, have larger wildfires and have my people hailed as heroes’. Unfortunately suppressing fires while they are small does not attract the attention of the media or the politician, or the money.

I remind the house that those remarks were made by individuals who understand what is going on in the forests. We must ensure that all members of this place really understand and try to consider it so that we do not go back to the bad old days when prescribed fire was frowned upon by members on either side of politics.

A couple of weeks ago I had a discussion with a bushman up in the Tambo Valley. He said, ‘How do we get this message through to the state and other governments?’. I said, ‘One of the real challenges is the spread of our elected representatives in this state’. As I said, the area I represent covers 14 per cent of Victoria. How many seats in this place represent real forested areas? Probably only half a dozen members of

Parliament represent areas that cover a large portion of our state forests and reserves. That is why it is essential that those members who represent metropolitan areas get their minds across this issue and understand it.

Honourable members interjecting.

The ACTING SPEAKER (Mr Seitz) — Order! The honourable member for Gippsland East, without assistance.

Mr INGRAM — I also bring to the attention of the house another quote, from the 2003 Esplin report into the aftermath of the 2002–03 fires:

DSE and Parks Victoria recognise that the current levels of burning, from whatever source, are inadequate for ecological requirements per year.

Managing fire in this country is a real challenge. We have to acknowledge that any fire poses a risk. We must manage that risk and return to a more natural fire regime and even understand what a natural fire regime is. There are two schools of thought on that. We could go back to pre-European history, because it is very clear from all the evidence that the Aboriginals used fire as a tool for hunting and for creating areas to encourage game to feed. Or do we go back to pre-Aboriginal history, because clearly there was a different fire regime then? The greatest challenge we have is implementing a fire regime when there are so many competing interests. When the population does not seem to accept any risk or the financial cost of managing fire in an extremely fire-prone environment, we really need to address the issue.

One of the biggest challenges we have in this country is getting it right. There are many examples in my electorate of fire removal or a lack of fires having caused significant environmental damage to vegetation types. One of the classic examples involves Norman Wakefield, who lived in East Gippsland 50 years ago and travelled around. He was a great naturalist. In his publication *A Naturalist’s Diary* he described the Mount Drummer forest, which was dominated by relatively slow-growing large trees which were common along riparian verges in East Gippsland. It was a very special rainforest, because it was made up of different, overstorey canopy. This area was burnt out in 1939 and also in the 1983 Ash Wednesday fires.

We have changed that rainforest into a different ecosystem, into a rainforest which is dominated by gums. We have done that within 100 years, because we have removed fire from around the area. That rainforest should be protected from fire, but because we have

increased the fuel loads next to it, fire has killed the original forests.

Tourism: business activity statements

Mr PANDAZOPOULOS (Minister for Tourism) — I grieve today for the many hardworking tourism businesses and individuals who work so hard to promote Australia overseas and who, as part of the travel industry, bring hard-earned foreign export dollars to this country. All these businesses and individuals around Australia — and we have a number of inbound tour operators here in Victoria — are pretty much proud of this country, and that is one of the reasons that they are in tourism. They know it adds to jobs, adds to the economy and brings in foreign export dollars. You would think that at a time when we have record current account deficits at the national level we would be doing our utmost to support the tourism industry. The industry is growing globally, and Australia has been taking advantage of that, but we are not growing as fast as others. The reason is that we have not had a long-term investment strategy from the federal government that puts certainty into the dollars it is spending offshore to promote travel.

The latest impost on tourism businesses is in a bill that is currently before the federal Parliament. Thankfully it is being investigated by the Senate's economics legislation committee whilst the Senate is not totally controlled by the federal coalition. This bill relates to the only export earners in Australia that will be required offshore to fill in business activity statements. Travel agents overseas, in other words, who bring visitors to Australia will have to fill in business activity statements — potentially backdated to 1 July 2000 — and send them to the Australian Taxation Office every year simply because they are bringing tourists into this country. We would be the only country in the world which wants to bring in tourists and which requires this of travel agents offshore.

Obviously we are not saying that people should not pay their fare-related GST. The problem is the way the federal government is proposing to do this, because it is botching this up. Rather than treating the GST as an input tax, it is doing it as an output tax. If it is treated as an output tax, then if you are a business in Australia that is fine, because you will be used to filling in business activity statements. However, if you are a business offshore that sells many destinations around the world and suddenly you have to be filling in business activity statements for our federal government, would you be promoting tourism down-under? Obviously, you would not. That is the main dilemma I refer to in this grievance debate.

There is a chance, through this Senate committee, of getting what is being proposed at the national level right. The reason the federal government has botched it up is that it has not consulted the tourism industry. The peak tourism body, the Australian Tourism Export Council, which has great respect around Australia, was not consulted about how this could be delivered. The inbound tour operators were not consulted about how this could be delivered, if change needed to happen. But there is now a chance to fix it up.

Imagine if you were a tourism operator in London or New York or Auckland and a part of your business was selling travel to Australia. Now you will be getting a federal government telling you to do more paperwork, which incidentally runs contrary to most government policies on reducing red tape and paperwork for business. Would you be suddenly saying, 'Gee, 20 per cent of my business is Australia and 80 per cent of my business involves other destinations around the world. Am I going to be spending all my time filling in these business activity statements to send tax receipts to the federal government in Australia, or will I be promoting other tourism products?'

I think you are going to find one of two things: either many foreign tour operators who promote Australia will no longer be doing so or they will be promoting Australia less and maybe only dealing with those who want to come, rather than chasing the business. They could reduce the amount of material and activity they have in their local marketplaces — in other words, spend less on promoting Australia. Or there will be tax evaders selling packages to Australia but not registering and basically thumbing their noses at Australia at the expense of those who might end up doing the right thing.

It is just such a complex and highly competitive field, international tourism, on which we are imposing this. As I said, we would be the only country in the world doing this. There are a lot of countries in the world that have GSTs and value added tax systems. We would be the only ones doing it in a different way. I am really worried about that. At the Australian Tourism Export Council symposium in Alice Springs just last week this was the big topic. It was what all the inbound tour operators in Australia wanted to talk about, because they cannot believe that we are out there chasing business, bringing tourists to Australia and at the same time sending a message to those same businesses that are promoting us to start looking somewhere else.

The other area this will affect is compliance. It will cost any tourism business and any overseas tour operator more to sell tourism to Australia than to other

destinations in the world, adding another burden and disincentive. The fact is that there are many opportunities for the federal government to review this matter — and I thank the Senate for reviewing it — but at the end of the day the federal government has to hear that advice, and there has been a lot of advice in the short time frame that the Senate has been able to hear the matter. The Association of British Travel Agents has made a submission, and the Australian Tourism Export Council and the Hotel Motel Accommodation Association of Victoria, which is a division of the Victorian Employers Chamber of Commerce and Industry, have also made submissions, and they are all saying a similar thing: ‘You can have your cake and eat it on your GST, but make things simpler and fairer so as not to create a disincentive for these inbound tour operators’.

The reality is that overseas tourism is a big export earner for Australia, and we have got a lot more potential to earn even more dollars. We know that in 10 years time, in Victoria’s case, if we maintain the same effort in real terms, we will be able to grow tourism’s share of the Victorian economy from 5.6 per cent of gross state product to about 8 per cent. That would mean that in the future, if we do not put up impediments like this and we maintain our effort, 70 per cent of overnight bed stays in Victoria would be from overseas visitors — who are higher spending visitors than local or interstate visitors. It is obviously a market we should be in. It is a market we need to be working aggressively in, but it is a — —

Mr Baillieu — Do our outbound operators have to fill in elsewhere?

Mr PANDAZOPOULOS — No. You want to speak, don’t you; you want to get up. No, I am going to use my time.

I am calling on the federal government to seriously consider the requests that have been made by the Australian Tourism Export Council for a better way to do what the federal government is doing and learn a lesson from it — to consult and to do things in a cooperative way. The reality is that if they do not cooperate governments do not always get it right. In this case they will get it particularly wrong, and I reckon that within only a year or two we will find many overseas companies who now promote travel to Australia suddenly getting out of the marketplace and simply selling other destinations around the world.

Who misses out at the end of the day? It is the Australian economy, it is foreign income and it is jobs in Australia, and that will have a big flow-on effect on

Victoria, because in each of the last five years we have had the biggest average rate of growth in international inbound visitors of any state. People are talking about us around the country, about how Victoria has done this, how for the first time ever we have now overtaken Queensland in terms of length of stay. In other words, we get fewer international visitors than Queensland but they stay longer in Victoria, and therefore we get more bed-night stays in Victoria than Queensland does. We want to do more with tourism, but this is a major impediment. The reality is that the tourism industry is going to get very aggressive and campaign on this to reverse the federal government’s decision if the federal government does not change its proposed legislation prior to getting the numbers and control of the Senate from 1 July.

The tourism industry is generally a conservative industry. It is an industry that may be more in tune with the current federal government than it is with my side of politics, but at the end of the day it is a huge employer of Australians. The reality is that this is a cooperative industry, and cooperative industries require support from all governments. The federal and state governments and the tourism industry all need to be working together to maximise the abilities and opportunities we have to bring visitors to this country. The reality is that the recent trend under the federal government has been one of no cooperation — not just with us — and we get annoyed when it does not cooperate with us.

Last week the *Australian Financial Review* criticised the federal government about its \$33 million investment over four years for regional marketing in Australia and the fact that last year the state tourism bodies were consulted, but this year there had been no consultation. It is going to dish out money. We are happy for it to be into regional marketing, but there is no use in it doing one thing and us doing another thing. The reality is that it does not have the organisational ability or the contacts on the ground to know where are the best places to put the dollars to get the maximum return and maximum yield for the tourism industry. It is not cooperating with us, and we find that very frustrating, but the reality is that it should also cooperate with business, at least the peak bodies in tourism, such as the Australian Tourism Export Council and the Tourism and Transport Forum.

Mr Baillieu interjected.

Mr PANDAZOPOULOS — I do not know why the member for Hawthorn hates tourism or why he is interjecting in the way he does. He hates tourism!

Mr Baillieu interjected.

Mr PANDAZOPOULOS — That is what I said — he hates tourism. The reality is — —

Mr Baillieu interjected.

Mr PANDAZOPOULOS — Maybe the member did, but not the people whom I have on the board. The people I have on the board love tourism; they are pioneers.

Mr Baillieu interjected.

Mr PANDAZOPOULOS — You are getting in the way, mate.

The ACTING SPEAKER (Mr Seitz) — Order! The minister without assistance!

Mr PANDAZOPOULOS — In conclusion, the reality is that this proposal will certainly generate negative impacts on the export earning ability of the Australian tourism industry. It is going to send a very bad message to our inbound tour operators, so many of which are small to medium enterprises that are investing their dollars and commitment. They are not making a huge amount of money out of it. At the end of the day the Australian economy makes more money out of it than a lot of these guys do. It sends the wrong message to them about being serious about putting in their hard-earned dollars and time to attract international tourism to this country, and it particularly sends the wrong message to overseas companies. They have so many different countries in the world that they can promote, but they choose to promote Australia. Part of the main effort that Tourism Australia has been making with foreign tour operators is to build an Aussie specialist program. That has been really good. It has been running for about 10 years.

We have more travel agents around the world that are Aussie specialists and have Australia as the core product they sell, but now we are telling them to start thinking about promoting somewhere else. If this happens, we might as well kiss goodbye to all the extra dollars any of us have put into the international marketplace, because the reality is that it will not bite in the same way. If we are doing something that is so different to that of every other country in the world which has GST or value-added tax systems, of course they will turn their backs on Australia. That is why I grieve today. It is really worrying me that I have to get up here and go through the detail.

Mr Baillieu interjected.

Mr PANDAZOPOULOS — It is not filibuster; it is something that our tourism industry expects us to do here in Victoria.

Mr Baillieu interjected.

Mr PANDAZOPOULOS — We have not cut funding in the budget. We have got record funding, thank you. The reality is — —

Dr Napthine interjected.

Mr PANDAZOPOULOS — The member understands cash flows. The industry has \$42 million, which is to be compared to the \$32 million core budget we inherited from the previous government. The reality is that we have got a bigger tourism industry than we have ever seen in this state. The Access Economics report released late last year tells us that tourism is now 45 per cent bigger than it was in 1998 under the previous lot. If we have the federal government doing what it is proposing to do with this and continue with its lack of historic investment overseas to promote this country, we are going to have a smaller tourism industry globally. We are going to be sending people into other places around the world. I do not want that to happen. I think the great thing about this country is that we are passionate about this country. We want to share it with people from all over the world, and that is why — —

Ms Asher interjected.

Mr PANDAZOPOULOS — I am pretty insulted by the former Minister for Tourism sitting there telling me to stop and take a holiday. Are these guys on the other side serious about anything? Tourism is normally a bipartisan, non-political issue, but they just cannot help themselves. Everything has to be a political thing for them. The reality is that people in tourism are passionate about this country, they are passionate about their states and they are passionate about their towns which they promote, and they are tourism attractions. That is why they are in the business. The shame is that unless the federal government starts listening, we are going to have even larger record current account deficits as we go into a decline in foreign earnings from overseas tourism.

Question agreed to.

STATEMENTS ON REPORTS

**Public Accounts and Estimates Committee:
budget outcomes 2003–04**

Ms ASHER (Brighton) — I wish to make some comments in relation to the Public Accounts and Estimates Committee (PAEC) report on the 2003–04 budget outcomes. I want to concentrate on recommendation 92, which relates to the Department for Victorian Communities and in particular relates to underperformance in employment programs. I am very pleased to see that the Minister for Employment and Youth Affairs is one of the ministers at the table. Recommendation 92 refers to the fact that there has been an underexpenditure of \$8.8 million for the employment programs output. I am not one to condemn governments for underexpenditure as a matter of course, but it is particularly interesting that underexpenditure has occurred in employment programs at a time when employers are screaming for more skilled staff.

The Public Accounts and Estimates Committee needs to be read in conjunction with the Department for Victorian Communities annual report for 2003–04. I wish to draw the house's attention to what these programs are actually meant to provide. The Public Accounts and Estimates Committee is on to this in a big way. I will quote from page 61 of the annual report. It states:

The output aims to identify skill needs and opportunities in Victoria's labour market and develop and deliver initiatives to meet these needs.

You would think from that descriptor of employment programs that generally those sorts of programs would be supported by every member of Parliament.

The annual report then goes on to outline the underexpenditure of \$8.8 million, and the Public Accounts and Estimates Committee has been able to extract from the minister an itemisation of where that expenditure has occurred within employment programs. I thank the PAEC for the level of transparency that has been extracted. I wish to refer to some of the individual programs. The Community Jobs program has been underspent by \$3.1 million because fewer applications were approved. The Community Regional Industry Skills program, otherwise known as CRISP, which is a program the minister issues a lot of press releases about, has been underexpend by about \$500 000 because there were insufficient applications. The Jobs For Young People program has been underexpend by \$2.4 million, and the minister has announced that unallocated places would be brought forward to ensure

that the overall four-year target of the program will be met. The Youth Employment Scheme has been underexpend by \$1 million.

I have to say I am not particularly concerned about the Youth Employment Link and the other commentaries. But those four programs have been underspent at a time when there is unemployment and employers are crying out for more skilled staff. It is of great concern to me that in regional areas unemployment is 25 per cent up on what the level of unemployment in regional areas was a year ago. I would have thought that underexpenditure on the regional program directed through the Community Regional Industry Skills program would have caused the minister some concern. Of course it concerns the Public Accounts and Estimates Committee. The reports states at page 330:

The committee is concerned about underperformance in these employment programs.

The report draws attention to the fact that spending was underdone, but, more importantly, the committee points out that it:

... was also associated with underachievement in job, apprenticeship and traineeship completion targets set for each program.

So in bald terms the government has aimed to get some people on these employment programs, but it has failed to attract the numbers at a time when it should be attracting them. I call on the government to see whether it is directing these programs to the right areas. The committee's view is as follows, and again I quote from page 330:

The committee believes that it would have been reasonable for commencement targets to increase for all employment programs in 2004–05 so the achievement of final targets is not deferred until the programs' latter years.

So the committee itself, a Labor-dominated committee, has actually made the point that it would have preferred to see more people being trained upfront in these unemployment programs rather than what the minister has done, which is delaying training for the unemployed.

**Public Accounts and Estimates Committee:
budget outcomes 2003–04**

Ms CAMPBELL (Pascoe Vale) — I refer to the report of the Public Accounts and Estimates Committee on budget outcomes that was tabled in the last sitting week of the Parliament. As I briefly mentioned then, this is the first report that the Parliament has ever had where the committee has initiated its own innovative development and put the cost of the report to the

Parliament. This report cost \$82 000, which is almost exclusively staff costs. It offers a range of very good recommendations and key findings, some of which I would briefly like to mention.

Before I take up what I intend to speak about, the member for Brighton needs to be more fully informed than she currently is in regard to pages 329 and 330 of the report. If she goes through those pages, she will note that the Public Accounts and Estimates Committee recognised, for example, that in the community regional industry skills program there were insufficient applications to meet the funding criteria. She also made reference to the fact that funds that were not expended will be allocated to increased places in 2004–05. The fact is that if the Public Accounts and Estimates Committee was greatly concerned about this particular item it would have made a very strong recommendation. The fact is that it did not. It highlighted the fact that the funding applications were insufficient.

It also pointed out that it was pleased to see that any allocated funding from the previous financial year would be transferred to the following year and that the four-year target for the program will be met. As I said, if there were grave concern in any shape or form, the committee would not be averse to putting in recommendations. That is exactly what it would have done, but it did not. It just highlighted the information that had been willingly supplied by the department, and I thank the department for doing so.

The items that I would like to cover briefly in relation to the key findings of the committee are the reference to the Department of Treasury and Finance and the Gateway reviews. Again, in the past the member for Brighton has spent a fair bit of time on Gateway reviews. I am really proud of the fact that this report highlights, in chapter 5 under the heading 'Asset investment initiatives', that:

... the majority of the larger asset investment projects undertaken under the Victorian government's Gateway initiative were being delivered within 2003–2004 budget parameters.

Gateway is a good project, and it has the support of the Public Accounts and Estimates Committee. In fact exhibit 5.6 shows that the time lines set under the Gateway project have been met in the instances outlined in that report. Gateway is proving successful. The committee thinks that the Parliament can be assured that the state's major asset investments are progressing in line with the budget and planned schedules.

In the Department of Premier and Cabinet another recommendation was made in relation to ensuring that government agencies correctly apply the criteria for assessing the performance of executives. In fact when you look at some of the committee's key findings in relation to executive officers you note quite a variation in the executives receiving performance bonuses. The committee thinks it is something that should be revisited. Seventy-three per cent of executives in the Department of Innovation, Industry and Regional Development and the Department of Treasury and Finance received bonuses, compared with 95 per cent of executives in the Department for Victorian Communities and the Victorian Auditor-General's Office. All the executives in the Department of Primary Industries received performance bonuses. Those figures may accurately reflect the correct application of the government's criteria for assessing the performance of executives, but the Public Accounts and Estimates Committee wants to be assured of that.

I place on the record our appreciation of the work of the staff, ably led in this case by Ian Claessen. His work was complemented by all the staff there, including Martin, who has just left us.

Drugs and Crime Prevention Committee: violence associated with motor vehicle use

Dr SYKES (Benalla) — I rise to speak on the inquiry into violence associated with motor vehicle use. This inquiry focused on what is popularly referred to as road rage. One of the key outcomes of the inquiry was to better define that behaviour.

The committee believes that the terms 'road violence', 'road hostility' and 'selfish driving' are better ways to describe the behaviour currently referred to as road rage. Road violence involves spontaneous, driving-related acts of violence that are specifically targeted at strangers or that cause strangers to reasonably feel they are being targeted. Examples of road violence include physically assaulting another road user or intentionally ramming his or her vehicle. Road hostility involves spontaneous, driver-related, non-violent but hostile acts that are specifically targeted at strangers or that cause strangers to reasonably feel they are being targeted. Examples include making obscene gestures at other road users or verbally abusing them. Selfish driving involves time-urgent or self-oriented driving behaviour which is committed at the expense of other drivers in general but which is not specifically targeted at particular individuals. This includes weaving in and out of traffic or passing in the left-hand lane.

The next key outcome of the inquiry was the development of a conceptual framework to better understand the problem. The committee found that road violence was caused by an interaction or mixture of person-related, situational, car-related and cultural factors, as shown in a diagram in the report. The committee goes on to report that in the vast majority of cases there is a specific incident that proceeds an act of violence, such as one driver tooting another or simply changing lanes without indicating. How a person responds to these so-called triggering incidents is determined by four types of factors — person-related factors, situational factors, car-related factors and cultural factors. Each of the factors plays a dual role. First, each can influence the way in which drivers view or interpret specific triggering events, and second, each can affect the way in which the driver responds.

The third aspect of the report involves a series of recommendations, and I believe these can be divided into three categories. The first recommendations relate to better defining the extent and nature of the problem and monitoring changes, including the impact of any preventative measures that may be put in place. It is important to note that in spite of a lot of investigation throughout Australia and in other parts of the world, there is no accurate data on the prevalence of road violence. So in our police reporting system a specific tab needs to be included to record road violence so that we can monitor the current levels and any changes. I am advised by local police that the recording system has the capacity to incorporate road violence. The second aspect of the recommendations is the options for preventing road violence.

In particular, the recommendations that I strongly support relate to an increased emphasis on courteous driving behaviour and being respectful of the drivers during driver training. This provides a challenge. You are not going to change driver behaviour overnight, but we have seen from other examples such as the Slip, Slap, Slop program and the .05 program — —

Mr Hulls — Is it the Slip, Slap, Slop or the Slip, Slop, Slap program?

Dr SYKES — Whatever you like. Those programs have been successful and many people now comply with those messages, although there is the odd trip up in relation to .05.

The third category of recommendations relates to minimising the impact of road rage and the occurrence of reoffending. In particular I think we need to pursue the issue of anger management. In Queensland we saw an example of an anger management program set up

specifically for people who have been found guilty of road hostility or road violence, and from talking to the people who conduct that course it would appear that it runs very successfully. As a minimum people who have committed road hostility or road violence should be directed towards anger management.

In relation to anger management, I must make the comment that there appears to have been a highly successful graduate from the Queensland anger management college last week — a fellow called Jonathan Brown. His awesome performance for the Brisbane Lions last Friday night in kicking eight goals and amassing a large number of possessions shows that he is clearly in control of his behaviour, and he is a credit to the game.

Public Accounts and Estimates Committee: budget outcomes 2003–04

Mr MERLINO (Monbulk) — As a Hawthorn supporter I wish we had Jonathan Brown in our side. I would like to speak to the house on the report of the Public Accounts and Estimates Committee on the budget outcomes for 2003–04. The report includes 97 recommendations to improve public accountability and administration in Victoria, and it is a detailed look at the achievements of the government in the 2003–04 financial year as well as the issues and areas the committee feels need to be addressed.

First and foremost the committee reported that the Bracks government continues to meet its commitment of maintaining a budget surplus of at least \$100 million. As we saw with the budget handed down yesterday, the Bracks government continues that rock solid commitment of a budget surplus. In 2003 the surplus was \$990.1 million, as opposed to an original estimate of \$244.5 million. This was due to higher than budgeted revenue and the increase in expenditure being lower than the increase in revenue. Revenue in that period increased by 6.6 per cent, whereas expenditure increased by 3.8 per cent. It is also important to state that increased revenue was expended in the core areas for this government — health, education and welfare.

While commonwealth grants increased in this period due to increased GST collections, it is important to point out, as I did last year on the previous report, that Victoria receives less from the commonwealth government than it gives to the commonwealth government in GST collections. Victoria receives only 80 per cent of GST collected in this state. The committee considers that the review of GST arrangements by heads of Treasury across the nation is

important for Victoria, and the PAEC will watch this issue closely.

Key finding 2.8 of the committee, which is at page 64, states:

The strong financial position of Victoria in conjunction with the large operating surplus in 2003–04 enabled the government to reduce debt and contribute \$491 million extra towards the state's unfunded superannuation liability and, at the same time, fund infrastructure spending of \$2378.4 million during the year.

In terms of asset investment initiatives — I will also pick up on the points the member for Pascoe Vale raised about the government's Gateway initiative — the Gateway initiative was endorsed in March 2003. It is a process designed to ensure the smooth delivery of major infrastructure projects on time and on budget. It looks at key stages of each project, particularly the identifying of risks, and includes a detailed development of each project business case. There are then a number of Gateway reviews. Those reviews are described in the committee's report at page 127 as 'government strategic objective', 'project identification', 'business case', 'project tendering', 'construction and commissioning' — making sure that it is ready for service — and 'project evaluation'.

In the first 14 months of the Gateway initiative 37 Gateway reviews were completed on 27 projects including the Australian Synchrotron project, the Commonwealth Games Village and National Ice Sports Centre, the Kew Residential Services redevelopment and the Royal Women's Hospital relocation. I refer the house to key finding 5.1 at page 127, which states:

According to departments, the majority of the larger asset investment projects undertaken under the Victorian government's Gateway initiative were being delivered within 2003–04 budget parameters.

As an aside, the committee is also working on a significant report on public-private partnership projects. These types of Gateway initiatives where there is a detailed analysis at each stage of a project are vital in terms of getting things right. I very much endorse the views of the committee in that key finding 5.1.

Finally, I would like to thank Michele Cornwell and her staff for their hard work in producing this document. Next week we start on our budget estimates process, which is the other very significant yearly report of the Public Accounts and Estimates Committee.

Public Accounts and Estimates Committee: budget outcomes 2003–04

Mr BAILLIEU (Hawthorn) — I speak to the Public Accounts and Estimates Committee report and refer specifically to chapter 15, which deals with the Department of Sustainability and Environment. Recommendation 78 at page 295 states:

The committee noted the Auditor-General's concern at the department's lack of progress in dealing with the following issues relating to Crown land-holdings.

It refers specifically to:

... doubts over the completeness and accuracy of the Crown land records ...

The integrity of Crown land records is an essential component of our land system in Victoria. I quote from the 2003–04 annual report on the administration of the Survey Co-ordination Act 1958 by the Surveyor-General. At page 1 the report states:

Victoria's \$650 billion land and property market and the growing spatial information industry rely significantly on confidence in the quality of the spatial frameworks defined by surveyors.

The Crown land records depend on the integrity of the survey control network. Problems with the survey control network have been evident and identified for a number of years, and indeed they were identified by the former Surveyor-General more than three years ago in his report for the year 2002–03, which recorded significant criticisms in this area. The former Surveyor-General retired in July 2003, but before his report was tabled that report was doctored — —

Mr Hulls — Doctored?

Mr BAILLIEU — It was doctored — and I am pleased the minister is here. This was done without the knowledge of the former Surveyor-General, who was author of the report.

It was done against the legal advice of the Government Solicitor. It was done illegally and done deliberately at the direction of the minister. It was done by the very people who are entrusted with maintaining the integrity of Crown land records. That is to be deplored. Only after it was done did the government run around and obtain legal advice to say that it was okay. But the legal advice that was obtained was internal legal advice and not independent in that regard.

Mr Hulls — Independent internal advice!

Mr BAILLIEU — ‘Independent internal advice’, the minister at the table says. Everyone in the department knew this was incredibly dodgy. But they sat on their hands and did nothing — and they should hang their heads in shame for doing nothing. The reality is that they sold their souls in a fundamental breach of the integrity and independence of one of the most important systems we have. It was allowed to go through to the keeper, and the office has been compromised as a result.

All of this was only revealed upon the tabling of the Surveyor-General’s report in December 2003. I initiated an Ombudsman’s investigation of how this occurred. Only after more than 12 months did the Ombudsman return a report to me. The Ombudsman reported eventually, but that report, in my view and in the view of many others, was a whitewash. The investigation was flawed. Interviews were delayed more than six months. There were several changes of personnel, and there was an imperative to wind up the report when those involved finally got around to it. There was a failure to follow up material and a failure to test the internal legal advice. Yet the Ombudsman still found that the Surveyor-General owed an apology and that the doctoring of the report was inappropriate. The Ombudsman’s office has conceded to me that the investigation was a disaster.

In the process the house was misled deliberately by the previous Minister for Planning. The report that was tabled has not been withdrawn, and we have had no apology made to the house. Now, six months late, the 2004–05 report of the Surveyor-General has been tabled. There is no mention of this malfeasance in the previous tabling, only a pathetic letter sent to MPs from the head of department, which fails to refer to the doctoring of the report and changes that were made. Only now has there been a suggestion that an erratum slip be inserted into the 2003–04 report. That is simply a joke! The basic problem is that the report is already out there. No-one is ever going to receive the erratum slip. Where is the department’s apology to Parliament? Where is the original report? Where is the withdrawal of the doctored report? The sad thing about this is that the new minister, who is sitting at the table, has been drawn into this and has allowed this to happen. The tabling of this report is six months late, with no mention at all of the disgraceful episode that went on beforehand.

Economic Development Committee: labour hire

Ms MORAND (Mount Waverley) — This inquiry has considered the extent and breadth of labour hire

employment in Victoria and the consequences of this type of work, particularly in relation to casual workers. The inquiry has focused on occupational health and safety issues associated with labour hire workers. It has also looked at the industrial relations and social impacts of this type of work, again particularly as they relate to the consequences for casual workers.

The committee has heard evidence from a broad cross-section of employers and unions, including the Australian Industry Group, the Victorian Employers Chamber of Commerce and Industry, the National Union of Workers, the Australian Manufacturing Workers Union and the Trades Hall Council.

We have received submissions and heard evidence in public hearings from labour hire companies Adecco and Troubleshooters Australia and representatives of Recruitment and Consulting Services Australia. I would like to thank them and all the other contributors to the inquiry thus far.

We have also heard from the Victorian WorkCover Authority (VWA) and from Chris Maxwell, QC. These meetings occurred during the development of the government’s response to the Maxwell report, which has resulted in significant changes to the Occupational Health and Safety Act. As the minister responsible for the amendments to the Occupational Health and Safety Act is in the chamber at the moment, I congratulate him again on these significant and important reforms.

A few weeks ago a 39-year-old man died in an industrial accident in Melbourne’s west. The *Age* reported that he died after he was crushed by a load of cheese that fell from a forklift:

Police said the man had walked in front of a moving forklift at Oxford Cold Storage warehouse in Hume Road, Laverton North, when the driver saw him at the last minute. The driver is believed to have slammed on the brakes, which caused the load of cheese to fall and crush him ...

The committee has heard evidence from this very company, Oxford Cold Storage, during its public hearings. I do not know if this employee was a labour hire employee, but I am sure the VWA will investigate the circumstances of this sad death.

I want to refer to the data on page 36 of the report. The Victorian WorkCover Authority has provided data to the committee indicating that:

... the labour hire industry has a significantly higher claims frequency than the rest of the VWA’s scheme.

The claims frequency analysis shows:

... the labour hire industry has 0.57 claims per \$1 million remuneration over 2003–04, whereas the figure for the scheme as a whole is 0.38 claims per \$1 million remuneration ...

The comparison is particularly acute in the higher risk area of blue-collar labour hire, which has 1.03 claims per \$1 million as opposed to the general blue-collar figure of 0.62 claims.

This is a very real concern. The nature of the labour hire industry means that workers are sent to unfamiliar environments. This type of employment should necessitate a cautious approach to health and safety in those environments. It might be their first day on the job, or it might be that they are sent to do a job that they are not adequately trained to do.

The benefits of agency work are apparent when you look at nursing agencies as an example. The people who do agency work like the flexibility of being able to work the shifts that suit them, particularly if they have family responsibilities. It is convenient for health services to be able to call upon highly skilled nurses when there is an absence or when they are otherwise needed. The downside of agency nurses is that the permanent nursing staff have to induct new staff on the site. Equipment may vary between workplaces — for example, the procedures and locations of pathology labs may be different in different hospitals. Most importantly, agency nurses will not be familiar with patients and families and the staff in the ward. There are positives and negatives in this type of arrangement. My view is that the agency should only be used for unplanned absences. The committee is now finalising its final report, which will be submitted to the Parliament later this year.

Sitting suspended 1.02 p.m. until 2.02 p.m.

Business interrupted pursuant to standing orders.

QUESTIONS WITHOUT NOTICE

Roads: traffic-fine revenue

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer to the Premier's statement on the Neil Mitchell program yesterday when he said:

... we don't plan to collect any more from speed cameras —

and I ask: is this right or wrong?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question.

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster will cease interjecting.

Mr BRACKS — All the revenue collected from both fixed and mobile speed cameras will be dedicated to the Better Roads Victoria Fund. I was answering a question, as the Leader of the Opposition knows — but, of course, it is his right to take it out of context — in relation to whether speed camera revenue would be over and above existing road funding in Victoria. I indicated that it would not be. I indicated quite clearly, and I reiterate here today, that we will report transparently in the budget on this matter. This means it will go into the Better Roads Victoria Fund and the public will know that all the money collected from any money from speed cameras will be dedicated to road safety and will also go into road measures as well.

Budget: family initiatives

Ms MARSHALL (Forest Hill) — My question is to the Premier. I ask: can the Premier outline to the house how the government's budget will create new opportunities for Victorians and as a result make Victoria an even greater place to raise a family?

Mr BRACKS (Premier) — I thank the member for Forest Hill for her question and her commitment to making sure that Forest Hill has great services, great opportunities and a better way of life in the future. This budget is all about creating more opportunities for as many Victorians as possible to improve their standard of living, their opportunities and their access to services. That is exactly what the budget is about and it achieves that significantly.

In relation to education — and I know the Minister for Education Services will address this issue more broadly — we have some significant initiatives, including creating more opportunities for all government school students in Victoria by ensuring that the 1500 schools, big, small — —

An honourable member — Medium size.

Mr BRACKS — And medium size. Every school, 1500 schools, all those schools, will receive, in an Australian first — no other government has ever achieved this — broadband facilities worth \$89 million, which is earmarked in this budget. Importantly, that has now triggered a further \$100 million investment by Telstra, announced today, as a direct result of the investment we have made as a government. That is good for other communities, local councils, water boards and other businesses associated with the areas where the schools will have fibre optics laid. They will

have the access at a cheaper rate because the capital will be invested by this government and Telstra. We are the only state in Australia to take leadership in reducing the time taken to get onto the Internet through the application of broadband. It will be 60 times faster than it is currently, and that is a good outcome.

We are also building 16 new and replacement schools around Victoria as part of our proposals and we are modernising a further 50 schools. We are investing \$151 million in funding for non-government — Catholic and independent — schools. Could I put this in context — —

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster — —

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster well knows that when the Speaker is on her feet he should cease interjecting. I advise him not to do it again.

Mr BRACKS — It is worth speaking up on behalf of non-government schools. I have to say the Kennett government did not speak up once when it had a funding regime where the funding for non-government schools was the lowest of any state in Australia. That was the legacy you left.

The SPEAKER — Order! Through the Chair!

Mr BRACKS — This increase of \$151 million to non-government schools is the biggest single boost ever in Victoria's history to non-government schools by a Victorian government, and I can tell you, Speaker, that it has been welcomed by the independent school system and by Catholic schools generally around Victoria. They are very pleased that finally a government has addressed it. The opposition had seven years to do this, but left it at the bottom of the funding profile when compared to every other state in Australia. It is all right to speak up now when you are in opposition, but you were not speaking up in government.

The SPEAKER — Order! Through the Chair!

Mr BRACKS — In health, of course, we are also making sure that there are more opportunities for Victorians. As part of our improvements to the health system an extra \$1 billion is going into health in this budget, including starting the rebuild of the Royal Children's Hospital. Forty thousand extra patients will be treated. We have taken measures in this budget to

cut elective surgery waiting lists, and I congratulate the health minister for her initiative.

In safety there is \$78 million to build or complete 54 police stations and 12 mobile stations. If you now look around Victoria, you will see there are not many police stations that have not been upgraded, modernised or rebuilt under this government. We have had a significant building program over the last five years. The budget is a great budget for regional Victoria.

Mr Seitz interjected.

Honourable members interjecting.

The SPEAKER — Order! The member for Keilor will be quiet!

Mr Maxfield interjected.

The SPEAKER — Order! I warn the member for Narracan.

Mr Ryan — On a point of order, Speaker, this re-run of the budget speech has now taken more than 4 minutes, and I would ask you to have the Premier conclude his answer.

The SPEAKER — Order! I uphold the point of order. I ask the Premier to conclude his answer.

Mr BRACKS — I was finalising and finishing my remarks in relation to regional Victoria. Of course the new opportunities that are part of this budget are significant in relation to regional Victoria. In health there is a significant rebuild of and improvements to the Geelong hospital, which are obviously welcome; the upgrade of Goulburn Valley Health; and the upgrade of Bairnsdale hospital with a further \$5 million. Significant regional education initiatives are also part of this budget. This budget is all about improving opportunities for Victorians by improving services and giving opportunities to gain access to those services. This has been achieved in a significant way by the budget, which was delivered yesterday. I welcome it, and I know that Victorians will welcome these new opportunities.

Budget: fees and charges

Mr RYAN (Leader of The Nationals) — My question is directed to the Premier. I refer to the budget forecasts of an \$84 million increase in revenue due to indexation of fees and charges, and I ask: how does the Premier possibly justify this underhanded impost on Victorian families while making the false claims about being a family-friendly government?

Mr BRACKS (Premier) — I thank the Leader of The Nationals for his question.

Mr Thwaites — Where were you? It is just like it was last year.

Mr BRACKS — No, the Deputy Premier is wrong! This was not last year; this was two budgets ago. We are in delay, and I am getting a question about a budget that was two budgets ago — but I welcome the question. We have introduced the indexation of fees and fines; it was a measure we took two budgets ago. We have also indexed our concessions in relation to the benefits which are received for water rates and general rates. We have also extended a whole range of services to Victorians as part of the funds that we receive for indexation. All that has been put back into services in Victoria. As you can see, Speaker, this budget has delivered greater opportunity for all Victorians.

Budget: business initiatives

Mr HUDSON (Bentleigh) — My question is to the Treasurer. Can the Treasurer outline to the house how the government's budget will contribute to prosperity for Victorians by promoting business growth, investment and development?

Mr Perton interjected.

Mr BRUMBY (Treasurer) — Are you talking about yourself, Victor?

I want to thank the member for Bentleigh for his question. The budget which I handed down yesterday contains a number of significant tax reform proposals for Victorian business. Yesterday's budget includes \$823 million in land tax cuts over five years; \$149 million over four years to abolish rental business duty; \$280 million for the implementation of the removal of debits tax; a further 10 per cent reduction in average WorkCover premiums, saving \$170 million a year; and record investment in infrastructure — \$2.6 billion a year in the out years. These changes provide real benefits to Victorian businesses right across the state. I will give an example: take a small chemical business in Dandenong with a land value of \$1.5 million and a payroll of \$8.1 million. That business will save as a result of these reforms \$6800 on its land tax, \$16 200 on its WorkCover bill, and \$5000 with the abolition of debit tax — all up a saving of \$28 000, or 15.2 per cent.

Honourable members interjecting.

Mr BRUMBY — The opposition — the policy-rich opposition! — says, 'What were they paying?'. I will tell it. In Victoria the aggregate of those costs is — —

Honourable members interjecting.

Mr BRUMBY — Yes, the actual example — the aggregate. In Victoria the total cost would be \$156 030; in New South Wales it would be paying \$218 700; and in South Australia, \$273 000.

Let us take a regional example: a large regional food processing business in Ballarat, with a land value of \$4.5 million and a payroll of \$40 million. It will save each year \$20 900 on its land tax, \$60 000 on its WorkCover bill, \$35 000 with the abolition of debit tax and \$20 000 with the abolition of rental duty. That is an aggregate saving of 16 per cent. What would that business pay in another state if it were not in Victoria? It would pay \$819 000 in total costs in Victoria; in New South Wales, \$1.1 million; and in South Australia, \$1.36 million. So what has by far the lowest business costs in Australia? It is Victoria! The opposition hates this because under the Kennett government which state had the highest business costs? Victoria! We are turning this around — —

Honourable members interjecting.

The SPEAKER — Order! I ask members to cease that level of interjection.

Mr BRUMBY — The Australian Industry Group said this about the budget:

The WorkCover, land tax and rental tax cuts will help strengthen industry's competitiveness at a time when we are facing our greatest challenge from surging global competition and the prospect of more difficult economic conditions.

The Property Council of Australia said:

The state budget will encourage investment and jobs growth in Victoria. Land tax, infrastructure and planning announcements ... support economic prosperity in this state.

The Victorian Employers Chamber of Commerce and Industry said:

Today's state budget assists in improving competitiveness during a period in which cost pressures on business have intensified.

We are serious about cutting the cost of doing business in Victoria. We are reforming the tax system; we are cutting WorkCover premium rates. These things mean the most competitive state across Australia for business investment is Victoria.

Motor registration fees: concessions

Mrs SHARDEY (Caulfield) — My question is to the Premier. Will the Premier explain why the budget did not restore the \$80 pensioner concession on car registration?

Mr BRACKS (Premier) — I thank the member for Caulfield for her question. We have, with all the compulsory charges combined — that is, motor registration, the third-party insurance and all the other compulsory charges — the lowest cost for pensioners of any state in Australia. That is the first point. Secondly, we will retain the 50 per cent concession now in place for pensioners in paying for motor registrations. Thirdly, we have increased a number of other concessions. Water rate rebates are now indexed, and concessions on public transport, dental care and general rates have been extended. For the first time in almost 20 years we have extended the number of concessions available to older Victorians. They have a greater number of opportunities to reduce costs to them as a result of the measures we have taken as a government.

Honourable members interjecting.

The SPEAKER — Order! I think question time would proceed better with less noise from the member for Bass. He should cease his level of interjection.

Schools: broadband access

Mr HARDMAN (Seymour) — My question is to the Minister for Education Services. Can the minister outline to the house how the government's commitment to provide all government schools with access to quality broadband facilities will create opportunities for schools and students across Victoria?

Ms ALLAN (Minister for Education Services) — I thank the member for Seymour for his question. As part of the Bracks government's massive \$668 million boost to education — a boost which has been welcomed by schools right across the state — we are embarking upon a very exciting new era for Victorian government schools. This morning the member for Seymour and I joined the Premier, the Treasurer, the Minister for Information and Communication Technology in another place and the member for Yan Yean at Upper Plenty Primary School to discuss some of the benefits of the \$89 million SmartONE initiative first hand with the principal, staff and students. We are excited about this because it is an Australian first and a world-leading initiative whereby every government school in Victoria will be upgraded to fibre optic broadband. No other

state in Australia has a system-wide fibre optic broadband network available to its schools.

The benefits of this to schools are immense. Within four years every school will be upgraded to 4 megabytes of fibre optic bandwidth. For many schools this will be up to 60 times faster than what they have now. It will make an enormous difference in the classroom. The good news for schools does not stop there. With this initiative we are eliminating the city-country bandwidth inequality. It will not matter if you are in remote country Victoria, in regional centres or in outer suburban Melbourne, every school will receive the same high-quality broadband infrastructure. This is something no other Australian government has been able to achieve, and we are very proud of this initiative.

As I said, this opens up a whole new world of learning and teaching for Victorian students. Under this \$89 million SmartONE initiative computers will be able to deliver vital education materials — the new and exciting digital education materials — to students faster and more reliably. The principal of Upper Plenty Primary School told us this morning that her students are enthusiastic users of technology. With this massive investment in technology schools will no longer face an unreliable system where their connections drop out from time to time, the Internet takes too long to access and objects take too long to download. Students also have difficulties when the present system struggles to deal with more than one application at a time.

The principal of Upper Plenty Primary School and principals right around the state are excited about this. The Nationals and the Liberal Party might not be excited about this, but we are, and Victorian government schools are very excited about this initiative. This is something the federal Nationals would love to see happen. The Page Institute would love to see this introduced. It has reported on this, and we are delivering. The Bracks government is delivering something the federal Nationals cannot deliver and the Liberal Party cannot deliver. We are doing it for Victorian government schools. It will mean a whole new world of technology is opened up for Victorian government schools, and we are equipping them for the future.

We are equipping students with the skills they will need for the work force of the future, as well as giving teachers more flexibility in how they teach and more opportunities for collaborative teaching and learning not just within schools but across schools right throughout the state. This will also mean schools can get maximum benefit from other very exciting Bracks

government initiatives in IT for schools: our Australian-best computer to student ratios, the laptops we provide to teachers right across the state and the wireless technology currently being fitted out in every government school across Victoria.

This is a world-leading initiative which will revolutionise teaching and learning for Victorian government school students. It will bring our schools into the 21st century and open up that whole world for Victorian students. This is helping make Victoria the best place to live and raise a family.

Budget: rural and regional Victoria

Dr NAPHTHINE (South-West Coast) — My question without notice is to the Minister for State and Regional Development. Can the minister advise the house why the city-centric Bracks Labor government — —

Honourable members interjecting.

The SPEAKER — Order!

Dr NAPHTHINE — Can the minister advise the house why the city-centric Bracks Labor government — —

Mr Thwaites — How many hospitals did you close in rural Victoria?

The SPEAKER — Order! The Deputy Premier! Once again I ask members to show some courtesy to other members and allow them to ask their questions without interruption — and that includes the Deputy Premier.

Dr NAPHTHINE — My question is to the Minister for State and Regional Development. Can the minister advise the house why the city-centric Bracks Labor government has cut regional development funding by 37 per cent and regional infrastructure development funding by 53 per cent in this year's budget?

Mr Plowman interjected.

The SPEAKER — Order! The member for Benambra!

Mr BRUMBY (Minister for State and Regional Development) — I thank the member for the question. There are a lot of new initiatives for regional Victoria in this budget. We have just heard the Minister for Education Services talking about the \$89 million broadband initiative. If you want something that is going to transform country Victoria and open up new opportunities by giving every country town that has a

government school the same opportunities over time to access broadband as people enjoy in Collins Street and Bourke Street — —

Dr Napthine — I raise a point of order, Speaker, on relevance. The question was quite specific in relation to why this government has cut funding to regional development and regional development infrastructure.

The SPEAKER — Order! The minister is answering the question.

Mr BRUMBY — There is no cut to programs in the regional areas. In fact, there is quite an expansion, with a number of new programs. In the regional infrastructure development area I announced an extra \$10 million yesterday. All the member is looking at is changes in spending profiles.

Honourable members interjecting.

Mr BRUMBY — In many cases projects which have been completed ahead of schedule have been brought forward into 2004–05. If any of the Regional Infrastructure Development Fund areas are behind schedule, they have been pushed back to 2006–07. So there are no changes in programs; in fact the overall programs in aggregate are substantially increased.

I just want to say about the question that there are a few on the other side who either have memory loss — amnesia — or are hard of hearing. The Kennett government closed 12 hospitals in country Victoria.

Honourable members interjecting.

Mr BRUMBY — Is that right? It's wrong! It was more than 12? Fourteen?

Honourable members interjecting.

The SPEAKER — Order! It is inappropriate for the member for Benambra to come up to the table and start yelling across it, even though he may be provoked by the Minister for State and Regional Development. I ask the house to be quiet and allow the member for Benambra to raise his point of order.

Mr Plowman — On a point of order, Speaker, the minister knows that he must refrain from — —

Honourable members interjecting.

The SPEAKER — Order! Without assistance from the government frontbench!

Mr Plowman — The minister knows that he must refrain from debating the question and relate his answer

to government business. He clearly is not doing that, and I ask you to bring him back to the question.

The SPEAKER — Order! I ask the Minister for State and Regional Development to continue his answer relating to Victorian government business.

Mr BRUMBY — As I said yesterday in the budget speech, we have rebuilt 26 hospitals — —

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster!

Mr BRUMBY — I was asked a question about a city-centric government; I am answering the question. I have here a list that is instructive. It is amazing: members of the opposition are happy to get out and make statements in opposition, but they were not so courageous in government. Here we are — —

Honourable members interjecting.

Mr BRUMBY — Were you courageous? Did you stand up for country hospitals?

Dr Napthine — On a point of order, Speaker, the minister is debating the issue. The question was quite specific in regard to why he has cut funding to regional development and infrastructure. I ask you to bring him back to that very specific question.

The SPEAKER — Order! The minister must relate his answers to government business, but he may refer to the situation that preceded his arriving there and what the government has done since then. The minister, to continue.

Mr BRUMBY — I was trying to make the point that we have rebuilt 26 hospitals, but unfortunately we came too late for some — for the hospitals at Eildon, Koroit, Macarthur, Clunes, Elmore, Mortlake, Lismore, Beeac, Birregurra, Fairfield, Altona, Mordialloc, Burwood and Essendon. Fourteen hospitals were closed. Let us not hear about ‘city-centric’. What about country rail lines? What about country schools? What about country services?

Honourable members interjecting.

The SPEAKER — Order — —

Mr Bracks interjected.

The SPEAKER — Order! The Premier! The level of interjection is far too high. I again remind members, including the Premier, that if they interrupt while the

Speaker is on her feet they will be removed from the chamber. The Minister for State and Regional Development, to continue.

Mr BRUMBY — As I said yesterday — —

Honourable members interjecting.

The SPEAKER — Order — —

Ms Asher interjected.

The SPEAKER — Order! The member for Brighton will be thrown out if she is not quiet! The minister, to continue.

Mr BRUMBY — This is a great budget for provincial Victoria. It does not matter where you go right around the state, whether you go to Portland, where there is more money for an aged care facility, whether you go to Mildura, where there is more money for new primary schools, whether you go to Geelong, where there is a \$70 million boost — that is what the front page of the *Geelong Advertiser* says: \$70 million boost — or whether you go to Bendigo, with the full front page and first five pages of the paper, this has been a fantastic budget for country Victoria. In the Latrobe Valley there is \$105 million for an energy technology innovation strategy.

We have not heard a single policy from the opposition. We hear all of this come up day after day, but the fact is that we are delivering and we are investing — and that is what the budget did yesterday.

Budget: health

Ms MORAND (Mount Waverley) — My question is for the Minister for Health. Can the minister outline to the house how the government’s \$1 billion boost to health funding will improve health services and make Victoria a healthier place to raise a family?

Ms PIKE (Minister for Health) — I thank the member for Mount Waverley for her question about one of the biggest health budgets in Victoria’s history. Yesterday the Treasurer outlined a huge budget boost for health. In fact it is a \$1 billion health tonic, according to the *Herald Sun* today. This is on top of the \$2 billion boost for health announced last year. This budget is a major investment in infrastructure and services, and it is possible because of the prudent budget management of this government and all our efforts to continually grow the Victorian economy.

We have already spent \$2 billion on rebuilding our hospitals, and we have already boosted health

expenditure by an enormous amount. With this additional funding our health expenditure goes to \$5.845 billion this year. That is a 71 per cent increase since we came to government. With that resourcing we have been able to employ more than 5700 extra nurses. We will be treating a record number of additional patients, on top of the 1.2 million patients who are already admitted every year into our hospitals.

We are investing \$578 million in new hospital recurrent funding, which will deliver more hospital staff to enable our hospitals to treat an extra 40 000 patients this year. The investment goes to emergency care, dialysis, chemotherapy, intensive care, blood products and all those areas that are part of the growing demand for our health services.

Under this budget, for the first time in Victoria we will be able to establish a statewide 24-hour, seven-day-a-week health assist line. That will mean that our community will have access to immediate help over the phone, using the newest technology, at any time and no matter where people live.

I want to talk a little bit about our capital investment. Again this year there has been another huge boost to capital funding in health, with \$358 million to rebuild hospitals around the state. I have already spoken about the contrast between the previous government's investment in capital funding in health and what we have been able to do over the last five years.

The opposition wants a conversation about health. In the *Age* of 4 April the Leader of the Opposition is reported as emphasising that he was not going to make any promises about the 2006 election. He was calling, rather, for a community conversation about health. The opposition wants conversations — —

Mr Plowman — On a point of order, Speaker, the minister is clearly debating the question. I ask you to bring her back to the question.

The SPEAKER — Order! I uphold the point of order. I ask the minister to return to answering the question related to Victorian government business.

Ms PIKE — In speaking about the huge boost to health funding, as I was asked, I am also highlighting what we are already doing and what we are committed to doing in the capital area. While the opposition might want a conversation about the Royal Women's Hospital, we are actually rebuilding it — and work has already started. It might want a conversation about the Royal Children's Hospital, but we are rebuilding the hospital; and it might want a conversation about demolishing and rebuilding the Royal Melbourne

Hospital, but I can give 160 million reasons why we are going to continue to redevelop and rebuild the Royal Melbourne Hospital. We in fact have invested \$162 million already in the Royal Melbourne Hospital. The opposition wants to demolish all that brand-new work, but we are going to continue to improve it. This year's budget sees an additional \$12 million being spent at the Royal Melbourne Hospital on top of the \$162 million that we have already spent over the last five years.

We also have expanded services at Monash, Geelong, Bairnsdale, Williamstown and Shepparton and at the Northern and Maroondah hospitals. What a list, on top of 26 hospitals redeveloped or rebuilt, on top of the Austin Hospital, on top of the Casey Hospital, on top of the Royal Women's and Royal Children's hospitals, on top of all of these services as well. Our expenditure in health is yet another example of the way this government cares about the Victorian community and cares that we have the appropriate services in health. We are doing this because we are fundamentally committed to making Victoria a healthier place to raise a family.

Budget: multipurpose taxi program

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the budget documents which forecast a surplus of \$365 million for the next financial year, and I ask: will the government now restore the full benefits under the multipurpose taxi program?

Mr BRACKS (Premier) — The forecast for the 2005–06 period is for a surplus in excess of \$300 million, and the outlook for future years is just under \$400 million — about \$390 million. That is a strong and healthy surplus, but it is important and prudent to keep that, given the international conditions and the slowing of the Australian economy which is apparent and clear and will become clear as we have successive budgets. Victoria is doing better than any other state in Australia. Our job growth has been much stronger in jobs generated and our growth figures are strong and robust for the future. We have therefore been able to make improvements to the multipurpose taxi scheme, which I announced recently, which have enabled a greater number of people to have access to the scheme than was previously the case in the earlier changes.

Budget: schools

Mr DONNELLAN (Narre Warren North) — My question is to the Minister for Education and Training.

With more than \$850 million of extra funding being provided for education, can the minister inform the house how this funding will benefit Victorian students?

Ms KOSKY (Minister for Education and Training) — I thank the member for his question and his continuing interest in education. This budget was indeed a fantastic budget for education. There is an increase of \$868 million in the education budget, which brings the total since we have come to office to an extra \$5.23 billion in the education budget. This is fantastic news. We are now seeing fantastic results, where Victoria is absolutely leading the nation in terms of completion rates, literacy and numeracy results, and retention rates — a very good job. It is fantastic news for the students and I know that their parents are also very pleased. Of the \$868 million in the budget, \$280 million is for building, replacing and renovating our schools. There have been 16 new and replacement schools across the state; that is a total of 45 since 1999, in contrast to the closure of 300 schools by the previous government. We have made a major contribution to building new and replacement schools. I know that some members in this house would be interested — —

Honourable members interjecting.

Ms KOSKY — Maybe Henny-Penny is not interested, but some members would be very interested in where those new and replacement schools will be. The new schools are Tarneit Primary School in the city of Wyndham, Mill Park Lakes Primary School and Mill Park Lakes Secondary College in the city of Whittlesea, Nichols Point Primary School in Mildura, Woody Yaloak Primary School in Golden Plains shire, a new campus of Matthew Flinders Girls Secondary College in Geelong, Bendigo Special Developmental School, Newcomb Secondary College in Geelong and Williamstown High School. We are seeing further building stages at seven new and replacement schools that are already in planning or under construction — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is far too high, and I ask members to allow the minister to give her answer without interruption.

Ms KOSKY — These includes the Victorian College of the Arts Secondary School, Wallan Secondary College, Traralgon Secondary College and Barwon Valley School in Geelong, so it is indeed fantastic news for those new and replacement schools. It would take me too long to run through the list of the 50 schools that will have major renovations this year. I would be happy, with the indulgence of the house, to

run through that full list, but I do not think that is necessary.

Honourable members interjecting.

The SPEAKER — Order! I do not think so. The minister, to continue.

Ms KOSKY — I think it is worth mentioning to the house that our capital investment over the previous three years has more than doubled that of the previous government's last three years in office — more than doubled the amount of capital works — so it is indeed something we are very proud of.

In relation to education there is also extra funding for the new student resource package model that we put in place for this year, a new funding model designed to deliver resources where they are needed the most, to those students for whom it costs more to get to the same level as other students. That was recognised by the work Richard Teese from the University of Melbourne did for us, and it really builds on the fantastic work of the social policy statement.

Mr Perton interjected.

Ms KOSKY — It is about literacy and numeracy. It is about making sure that all students get the best opportunities in school — almost \$37 million extra over a four-year period that will be targeted at 306 schools with the neediest students in years 5 to 9. It will make a major difference for those students. We have introduced the new funding model, and we are putting those extra resources in to help those students — something that I would have thought everyone in this house would be interested in.

We have also put in \$151 million for non-government schools, as the Premier has mentioned, \$115 million being for new funding over a four-year period, as well as over \$36 million that is enrolment-based growth funding. It is worth mentioning that this is an historic agreement with the non-government school sector. It is the biggest single state initiative for non-government schools — —

Mr Plowman — On a point of order, Speaker, the minister has now been speaking for an excessively long period of time. I ask you, Speaker, to ask her to conclude her answer.

The SPEAKER — Order! The minister has been speaking for some time. I ask her to conclude her answer.

Ms KOSKY — That is the problem when you have a big budget for education. This funding increase, which is an historic agreement with the non-government school sector, will deliver an average 7 per cent increase every year for the four-year period, and when you compound — —

Mr Honeywood — Off a low base.

Ms KOSKY — Off a very low base from the previous government.

Mr Honeywood — Five years of doing nothing.

Ms KOSKY — For seven years you did nothing.

Honourable members interjecting.

Ms KOSKY — That 7 per cent every four years, when it is compounded, delivers more than a 30 per cent increase over the life of that four-year agreement on the current level of funding — more than a 30 per cent increase in funding — and it provides the non-government schools with funding certainty. They are the group that educate one-third of our young people.

So it is a very good budget for education. It is a major investment in infrastructure and services, and that can really only be done within the constraints of prudent budget management, which we have here under the Bracks government. This is in contrast to the rock-solid, iron-clad promises made by the Leader of the Opposition, which will create a \$7 billion black hole — —

The SPEAKER — Order! Question time has concluded. I apologise for the problem with the microphones. We will try to get them right by the end of the day.

COURTS LEGISLATION (JUDICIAL CONDUCT) BILL

Second reading

Debate resumed from 3 May; motion of Mr HULLS (Attorney-General).

Mr RYAN (Leader of The Nationals) — It is my pleasure to join the debate on this important piece of legislation, the Courts Legislation (Judicial Conduct) Bill. The fact is that the separation of powers is a paramount aspect of the way in which our structure operates — that is, the separation of the executive government of the day from the Parliament and in turn

the judiciary. This is a piece of legislation which touches on the important role of the judiciary.

It is a tough job being a judge, a magistrate or anybody who has to make the call in a judicial or quasi-judicial sense. I have said in this place many times that those with whom I worked when I was practising law and who have subsequently gone to work on the bench have often remarked about the difficulties of being able to do the job, particularly with regard to sentencing. It is a commentary on the extraordinary standard of performance of the judiciary that in the 150 years-plus of the parliamentary system here in this state we have never had a judge dismissed as a result of an application of the nature that is contemplated by this legislation. No judge has ever been dismissed from the bench in this state because of inappropriate performance. That is testimony to the way in which those who are appointed to the bench in this state honour the role that comes to them and go about the important task of fulfilling it.

I must say that during my time in politics, which is almost 13 years now — and every moment of it has been a joy! — and during my time before coming here when I was in the law, which comprised many more years than 13, I cannot remember a time when the judiciary of the state of Victoria has so much felt the need to speak out in its own defence. In a period spanning almost three decades, taking those two periods of service together, I have never known a time when, for example, the Chief Justice of the Supreme Court of Victoria has found it necessary to stand up to the government of the day on behalf of the court with as much regularity as has been the case over the past couple of years. That in its own way is a commentary on the government as well.

Much has been said by the government and by the Attorney-General, from whom we are about to hear in his summing up of this legislation, which is fundamentally to do with the separation of powers, but the fact is that the judiciary in the state of Victoria increasingly feels the need to protect itself from the way this government conducts itself. As far as that is concerned, it is a sad state of affairs when Chief Justice Marilyn Warren in particular feels the need, as she has over these past 12 months — and as chief justices have in the last couple of years — to speak out in the way we have seen and heard in the media.

Be that as it may, the legislation which is before us today is an advance in so far as the interests of the judiciary in Victoria are concerned. That is why, after carefully considering the legislation and the amendments which were circulated late yesterday by the Attorney-General, The Nationals do not oppose

what is proposed to be undertaken. There is an element of the legislation which is a worry — that is, the entrenching provisions in the constitution. But we understand that the judiciary at large has signed off on the proposals in that regard, and accordingly — having again carefully considered the various points of view in that sense — we do not oppose them.

The difficulty with these entrenching provisions is that they are by definition antidemocratic in nature. They mean that the government of the day will essentially be removed from being able to have an influence on those areas to which those entrenching provisions apply, because they will be contained within the constitution. In all the circumstances, while we have concerns about this general principle we will not oppose it for the purposes of any vote which is taken in this place.

The provisions of the bill basically follow the Sallmann report, as it is colloquially known. That report is the result of a study which was undertaken at the behest of the government, and it has been published and is available for general consumption. The intention is that the provisions of this bill will apply to judges and masters of the Supreme and County courts and to magistrates. As a result of the passage of the bill there will be the capacity to remove judges from judicial office, and that in essence will be a two-stage process.

The first stage will be that the Governor in Council will be entitled to remove the holder of a judicial office from that office upon the presentation to the Governor of an address from both houses of the Parliament — and I emphasise both houses of the Parliament — that the removal has been agreed to by a special majority. Under the provisions of the principal act that is a three-fifths majority, and it would have to be a special majority in the same session of Parliament as the one during which the removal of the judicial officer is prayed for on the ground of misbehaviour or incapacity. So there is a series of steps contained therein outlining how the Parliament, through both houses, might ultimately reach the point of determining that a judicial officer should be removed.

There is a second element to this, which is that there will be a capacity, through the process set out in the legislation, for a recommendation, the nature of which I have just described, being declared void if an investigating committee which is appointed under the terms of this bill has not concluded — and I emphasise the words ‘has not concluded’ — that facts exist that could amount to proof of misbehaviour or incapacity such as might warrant the removal of that judicial officer from office.

The legislation sets out the definition of what constitutes a judicial panel, and substantial amendments are to be moved by the Attorney-General with regard to the constitution of that judicial panel. Instead of being seven judicial officers as was originally intended, it is now to be simply seven persons, and instead of the persons who were originally recited as being those to constitute the panel, new definitions will be substituted so that a person will only be eligible for appointment as a panel member if he or she has held a qualifying office but no longer holds one. That is a big departure from the bill in its original form, because originally it was intended that they be contemporary holders of those judicial offices. Now it is intended that they be past members. I think that is a sensible move, because we were faced with the prospect of peers having to sit in judgment upon their contemporaries. That always seemed to me to be prospectively a problem.

A process for the appointment of an investigating committee is also set out in the legislation, and time is against me in dealing with that in much detail. Suffice it to say that the persons who might be on that committee are those who come within the category of occupying what is termed a ‘qualifying office’ — that is, a judge of the Federal Court of Australia, the Family Court of Australia, the Family Court of Western Australia, the Supreme Court of a state other than Victoria and the Supreme Court of the Australian Capital Territory or the Northern Territory. In other words, it can only be those who are of an interstate origin. Otherwise they cannot be directly involved in this.

There is a further provision regarding seniority and other provisions regarding the powers of the investigating committee. One of the troubling aspects of this bill is that the Attorney-General may, if he or she considers it appropriate, cause a copy of the report of the investigating committee to be laid before each house of the Parliament. It seems to me to be in the best interests of this process that under the legislation the Attorney-General be obliged to table that report when it is an issue of the significance that quite properly applies to it. There should be complete openness, honesty and integrity about this, so I think the Attorney-General should not have the option.

There is a further provision regarding the abolition of judicial office which touches upon the circumstance where a court might be abolished. Judges can otherwise be appointed to other courts within our jurisdiction. All in all, The Nationals do not oppose this legislation.

Mr HULLS (Attorney-General) — I thank all members for their contributions to the debate, including the members for Yuroke, Prahran and Macedon. I

understand this bill is supported by The Nationals but opposed by the Liberal Party, and I will deal with some of the issues raised by the member for Kew.

It is a good piece of legislation. It is about ensuring that the judiciary remains independent and that there is a process in place to deal with inappropriate judicial conduct. It is my understanding that the Liberal Party is opposing the legislation on two specific grounds. As I understand it, the first of those grounds is an issue that was referred to by the Leader of The Nationals about the mandated tabling of the report. The member for Kew argued that it should be mandatory for an Attorney-General to table an investigating committee's report prepared pursuant to proposed section 87AAH(3). He obviously has not taken advice from the Judicial Conference of Australia, which has expressed views in relation to this particular matter.

He is right when he says that the Attorney-General has a discretion to table in Parliament a report of an investigating committee. Careful consideration was given to the question of whether the Attorney-General should be required to table a report in all circumstances or only where an investigating committee makes a finding that facts exist that could amount to misbehaviour on incapacity or whether the Attorney-General should have a discretion as to whether or not to table a report. On balance it was considered that discretion vesting in the Attorney-General of the day was most appropriate, and a number of scenarios were considered. I might run through those briefly.

It could be a situation where no facts exist. If the investigating committee finds that no facts exist which could warrant removal, it may be expected that it would not be appropriate to table the investigating committee's report. A second scenario could be where facts exist but the judge resigns from office. A judge may become aware of the outcome of the investigating committee's report prior to its tabling and may be given an opportunity to resign. You would have to ask whether it is appropriate then to table the report. Another situation may be where facts exist but circumstances change — for instance, a judge may have a medical condition causing incapacity for which he or she may have declined treatment in the past, but on becoming aware of the outcome of the investigating committee's report may agree to undertake that treatment. There could be a situation where facts may exist but the case is very weak — for instance, an investigating committee may find that facts exist which could warrant removal but indicate that there may be particular problems with proving the allegations. In those circumstances the Attorney-General may consider

that in his judgment Parliament would, on balance, be unlikely to find that misbehaviour or incapacity exists.

In each of those circumstances I believe it would be unfair to the judge in question to undertake the very public act of tabling a report which may delve into his or her private and personal circumstances. It is important not to underestimate the public nature of tabling a report, or indeed the impact it could have on a judge's career. The Honourable Justice Ronald Sackville of the Judicial Conference of Australia has commented that the process could be devastating for the judge concerned. It is important that an appropriate balance is achieved between the public accountability aspects of the process and the rights of the individual, and I believe this legislation gets that balance right. The Attorney-General of the day would always be in a position to make that call, and his or her discretion should not be fettered — and Parliament should only be required to deal with genuine cases. So on that basis the government decided to maintain the discretion of the Attorney-General.

I also understand the member for Kew, in particular, raised the issue of entrenchment. Clause 3 amends section 18(2)(fa) of the Constitution Act to require a special majority of Parliament to amend any of the provisions relating to the removal of judges. As I understand it, the member for Kew and the Leader of The Nationals touched on this, and certainly the member for Kew believes entrenchment is undemocratic because it could prevent a future government from exercising its mandate. One can only wonder why that entrenchment provision is being opposed when one takes into account the previous history of the Liberal Party. When it was in government it used its power to simply abolish a court and, in effect, sack judges.

Mr McIntosh interjected.

Mr HULLS — It was not a court, it was a tribunal — we had better get that interjection down: 'It was not a court, it was a tribunal', said the interjector. The member for Kew, who is also the shadow Attorney-General, seems to be saying that members of the tribunal who had the status of County Court judges were irrelevant and indeed because they were 'just a tribunal' can be sacked. Quite extraordinary. The fact is that this will ensure that judicial independence is maintained. In opposing this provision one can only question whether or not, should it be returned to government, the Liberal Party has plans to sack more judges, to abolish tribunals. It is of grave concern.

I might also say that Professor Peter Sallmann in his report made it clear that the removal provisions should only be capable of appeal, alteration or variation by a special majority vote, and indeed we are heeding the recommendations of Professor Sallmann. Professor Sallmann argued, I think quite rightly, that this would substantially enhance judicial independence by redressing some of the present imbalance between the position of the judiciary and other key organs of government. So the bill certainly does endorse the Sallmann approach. The separation of powers and judicial independence we believe are foundation principles of our system of democratic government and should be enhanced to protect fundamental rights.

The last issue I want to touch on is an issue raised by the member for Kew as to whether or not these provisions were perhaps unconstitutional. I might say that the member for Kew stated that it was a moot point as to whether or not Parliament has the power to entrench these provisions, and he referred to sections 6 and 9 of the commonwealth's Australia Act. These sections declare that the laws of state parliaments respecting the constitution powers or procedure of the Parliament have no force or effect unless they comply with the manner and form required by the laws of the relevant Parliament. This bill is procedural in nature. It does no more than set out processes and procedures required to be followed by Parliament in exercising its power to remove judges from office who are guilty of misconduct or who are incapacitated.

The standing panel and the investigating committee structure provide the mechanism by which Parliament can remove judges who are guilty of misconduct or who are incapacitated. Without this mechanism there would be no structure for Parliament to investigate complaints against judges. We believe the bill provides appropriate processes for doing so and, accordingly, is consistent with the manner and the provisions of the commonwealth's Australia Act.

As Professor Sallmann points out, the process for the removal of judges is intrinsic to the fabric of our democratic system and these provisions actually warrant entrenchment, and that is why we are going down this path. On this side of the house we are passionate about judicial independence and, although it might be off the point of the legislation a bit, that is why we are opposed to mandatory sentencing. Mandatory sentencing does infringe upon judicial independence. I refer also to an interjection in relation to acting judges. It is interesting to note that Sir Owen Dixon, one of our greatest jurists, was indeed an acting judge. So let us not come this nonsense about acting judges. The opposition may or may not know that this

government has already appointed an acting coroner on a number of occasions. There is absolutely nothing new about this and we believe it maintains judicial independence.

This is a good piece of legislation which enshrines judicial independence. I would perhaps not be surprised if the Liberal Party continued to oppose this legislation and call for a division, but if it does in 3 minutes' time, if I keep going for that long, or sooner, one can only conclude that should it win government it will be hell-bent on again embarking on a jihad on judges, getting rid of particular jurisdictions and tribunals, and interfering with the independence of the judiciary, which is a return to the dark old days when it actually sacked judges and undermined the independence of judicial office-holders. I would urge the member for Kew not to call for a division on this legislation, show that he has learnt by the mistakes of the past under the Kennett regime and support, as The Nationals are prepared to do, this very important piece of legislation which is all about the independence of the judiciary and ensuring that the judicial officers and their independence cannot be interfered with by politicians. I make a last ditch plea to the member for Kew to support this legislation, to support his colleagues in The Nationals and show that the opposition has learnt from the lessons of the past.

House divided on motion:

Ayes, 67

Allan, Ms	Langdon, Mr
Andrews, Mr	Languiller, Mr
Barker, Ms	Leighton, Mr
Batchelor, Mr	Lim, Mr
Beard, Ms	Lindell, Ms
Beattie, Ms	Lobato, Ms
Bracks, Mr	Lockwood, Mr
Brumby, Mr	Loney, Mr
Buchanan, Ms	Lupton, Mr
Cameron, Mr	McTaggart, Ms
Campbell, Ms	Marshall, Ms
Carli, Mr	Maughan, Mr
Crutchfield, Mr	Maxfield, Mr
D'Ambrosio, Ms	Merlino, Mr
Delahunty, Mr	Mildenhall, Mr
Delahunty, Ms	Morand, Ms
Donnellan, Mr	Munt, Ms
Duncan, Ms	Nardella, Mr
Eckstein, Ms	Neville, Ms
Garbutt, Ms	Overington, Ms
Gillett, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Haermeyer, Mr	Powell, Mrs
Hardman, Mr	Ryan, Mr
Harkness, Mr	Savage, Mr
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr
Holding, Mr	Sykes, Dr
Howard, Mr	Thwaites, Mr

Hudson, Mr
Hulls, Mr
Jasper, Mr
Jenkins, Mr
Kosky, Ms

Treize, Mr
Walsh, Mr
Wilson, Mr
Wynne, Mr

Noes, 18

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Ingram, Mr
Kotsiras, Mr

McIntosh, Mr
Mulder, Mr
Naphine, Dr
Perton, Mr
Plowman, Mr
Shardey, Mrs
Smith, Mr
Thompson, Mr
Wells, Mr

- (a) Federal Court of Australia;
- (b) Family Court of Australia;
- (c) Family Court of Western Australia;
- (d) Supreme Court of a State other than Victoria;
- (e) Supreme Court of the Australian Capital Territory or the Northern Territory;".

- 4. Clause 4, page 4, line 29, omit "judicial officers" and insert "persons".
- 5. Clause 4, page 5, lines 1 to 10, omit all words and expressions on these lines and insert —

"() A person is only eligible for appointment as a panel member if he or she has held a qualifying office but no longer holds one.

() The office of a panel member becomes vacant if he or she is appointed to a qualifying office."

- 6. Clause 4, page 5, lines 15 to 17, omit all words and expressions on these lines.

- 7. Clause 4, page 6, lines 4 to 7, omit all words and expressions on these lines and insert "first appointment to a qualifying office".

Motion agreed to.

Read second time.

Consideration in detail

Clause 1

Mr HULLS (Attorney-General) — I move:

- 1. Clause 1, lines 11 and 12, omit "from a panel of federal and interstate judges".

Amendment agreed to; amended clause agreed to.

Clause 2

The DEPUTY SPEAKER — Order! Because the amendment seeks to delete the clause, it does not have to be formally moved, but the Attorney-General needs to outline the amendment in his name to the house.

Mr HULLS (Attorney-General) — This particular amendment is about retired judges. It is important that any investigation that takes place concerning the conduct of a sitting judicial officer be dealt with on an independent basis. That is the general point of the amendments, but this particular amendment will have the effect of deleting clause 2 in its entirety.

Clause defeated.

Clause 3 agreed to.

Clause 4

Mr HULLS (Attorney-General) — I move:

- 3. Clause 4, after line 25 insert —

"qualifying office" means the office of judge of any of the following courts —

Amendments agreed to; amended clause agreed to; clauses 5 to 9 agreed to.

New clause

Mr HULLS (Attorney-General) — I move:

- 8. Insert the following New Clause to follow clause 1 —

"AA. Commencement

- (1) This Part comes into operation on the day after the day on which this Act receives the Royal Assent.
- (2) Subject to sub-section (3), the remaining provisions of this Act come into operation on a day to be proclaimed.
- (3) If the provisions referred to in sub-section (2) do not come into operation before 1 June 2006, they come into operation on that day."

New clause agreed to.

Bill agreed to with amendments.

Third reading

The DEPUTY SPEAKER — Order! I advise the house that I am of the opinion that the third reading of this bill requires to be passed by both an absolute majority and a special majority. As there is not a special

majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute and special majorities.

Read third time.

Remaining stages

Passed remaining stages.

LEGAL PROFESSION (CONSEQUENTIAL AMENDMENTS) BILL

Second reading

Debate resumed from 3 May; motion of Mr HULLS (Attorney-General).

Mr RYAN (Leader of The Nationals) — It is my pleasure to join the debate on the Legal Profession (Consequential Amendments) Bill. In essence, this is a modification of the principal act to accommodate the various aspects that are set out within the bill. They fall under a couple of main categories. Firstly, there is an absolute raft of errors in respect of spelling, punctuation and the like. That can happen with the best will in the world, particularly when you have the legislation being rushed through the house, as occurred when the act was being passed in its original form; so there are minor amendments with no impact on the content which are being implemented as a result of this legislation.

There is a second basket of amendments that have some elements regarding the actual merits of the original bill, and bits and pieces of policy changes on behalf of the government. In particular there is a provision within clause 16 that deals with law reform funding. As I understand it, this is being incorporated into this amending legislation because the government is concerned that some of the money being paid out of the Public Purpose Fund which is coming to the Victorian Law Reform Commission must, in essence, be authorised to be paid legislatively since the commission is doing work, in part, in behalf of the government; therefore the legislation contains this provision.

Some other comments have been made by members who have spoken prior to my contribution today and I see reference in some of those contributions to the other two recipients of funding under the Public Purpose Fund — they being the Leo Cussen Institute and the

Victoria Law Foundation. In each instance those two entities have made and continue to make a wonderful contribution to the system of law within the state of Victoria.

They do so in their own way and pursuant to the criteria under which they were established. The Leo Cussen Institute, for example, was established in 1972 under legislation through this house. It has made and continues to make a great contribution, as does the Victoria Law Foundation.

I must say that there is another organisation which is not referred to in this legislation because it is not directly related to it, but which I think in context is deserving of a mention because of its importance to the development of legal practice in this state. I refer to the articulated clerks course conducted through the Royal Melbourne Institute of Technology. I was a member of that course. I was there only a few years ago — not all that long ago — and it made a fantastic contribution to the practice of law in this state. The scuttlebutt is that eventually it was scrubbed because the graduates of that fine institution were the ones who were taking priority amongst the articulated clerk positions because of the practicality of the course. The structure of the course was the reverse of those of the universities.

Whereas the universities tended to be four years of study and then one year of articles, the course at the Royal Melbourne Institute of Technology was the reverse. We did one year of full-time study at the start and then four years of practical work, which incorporated lectures in the morning, lectures at night and working during the course of the day. Mind you, I do say that in my first year, which was purportedly a full-time study year, I did achieve honours in a variety of subjects — namely, pontoon, poker, being centre half-back for the RMIT football team and various other such things. It was a great course, and when one is talking about the various institutions which have contributed to the training of those who now comprise the legal profession in the state of Victoria, it is appropriate to say that the course which was run through RMIT had no peer. Certainly it had no peer in a practical sense.

There is a particular provision that I think merits specific mention also — that is, proposed clause 10, which deals with costs disclosures. This is a vexed issue for practitioners, who have the unenviable task of trying to give a client material which complies with the various elements of legislation that requires of those practitioners that they tell clients how much they are going to have to pay for their costs. In a sense the principle of it is very fair. In this day and age with

consumer law having the position it has in the community how these provisions came about is understandable, but the practical reality is that in applying them there are problems. The basic difficulty is that very often a legal practitioner simply does not know how much the likely cost of the service to be provided to the client is going to be. That happens because the provision of those services is constituted not only by the endeavours of the practitioner himself or herself but also by the services of others who are contracted in for the purposes of the provision of that service.

I instance this with examples of what used to happen when I was in practice. A client would come to me about a particular issue and obviously would want to know how much they were going to have to pay. I was able to give an estimated range in terms of my own services, but being able to say to people how much the total bill was going to be was a nigh impossible task. I was practising in common law, which meant that the services provided to the client comprised not only those which I provided directly but also the services of barristers and members of the medical profession with a variety of qualifications. The matters may have been to do with expert evidence of all sorts, shapes and kinds.

Potentially a number of people were involved in the running of any given case, and more so if there were technical aspects of the proceeding which were going to be points of contention. In the years when I acted on behalf of clients suing banks I remember having to engage accountants and the like for the purposes of analyses of complex documentation. Unfortunately these sorts of things were somewhat open ended. I have great sympathy, therefore, for people involved in legal practice who have been faced over the years with the problem of having to comply with the terms of the Legal Profession Act of 2004.

Clause 10 suggests a change under the heading of 'Costs disclosure' which I think is fair and appropriate. It will mean there is a change in the existing legislation. The current requirements of section 3.4.9(1)(c) and (d) are going to be deleted, and in their place will be substituted a new paragraph (c), which will allow greater flexibility in the extent to which a solicitor must provide estimates to a client as to the probability of the costs involved. So there will be two elements to this new provision: the solicitor will need, firstly, to tell the client the estimate of the total legal costs or, if it is not reasonably practicable to provide an estimate of that nature, will have to give a range of estimates of the total legal costs, and secondly, the practitioner will have to give an explanation of the major variables that will affect the calculation of those costs.

I think there is enough room in that to enable the situation to be done justice. The basic aim is to ensure that clients are given as accurate a guide as possible under the general notion of consumer law so that they have an idea of what they are going to have to pay. As in any walk of life these days, that is a reasonable ask. On the other hand, the legal practitioner will have enough capacity under the terms of this new provision to allow for the variables that do tend to be part and parcel of the provision of these estimates, very particularly where the practitioner is providing services within the litigious jurisdictions of the various courts in the state of Victoria. The Nationals support the bill.

Mr THOMPSON (Sandringham) — Prior to the Attorney-General summing up on this bill I wish to raise two matters. One matter concerns the ongoing funding for the Leo Cussen Institute and the Victoria Law Foundation. It is noted in clause 16 of this bill that the Attorney-General may each financial year direct the board to pay an amount out of the Public Purpose Fund to the Victorian Law Reform Commission and that the board must comply with that direction.

Historically the interest overflow from the Solicitors Guarantee Fund had been directed to a number of purposes, which included the law foundation. If I recall correctly the funds were disbursed at the discretion of the Chief Justice of the Supreme Court and the Leo Cussen Institute. The institute plays a very important part both in clinical legal education and in continuing legal education for members of the Victorian legal profession, one of whom is in the gallery today.

I was also interested to note the comment by the Leader of The Nationals that he went from Marist Brothers in Shepparton, where he played on the forward flank, to centre half-back for RMIT. That shows the strength of the side he played with earlier, which included a number of people who went on to play senior football. However, I ask the Attorney-General to clarify the question of funding so that there is scope for an institution that provides important clinical legal education for law graduates from Victorian universities and those who might come to Australia from overseas, and for members of the profession who need to upgrade their skills through continuing legal education.

Mr HULLS (Attorney-General) — I thank all members for their contributions to the debate on this very important piece of legislation. As has been stated, the legislation makes numerous consequential amendments arising from the Legal Profession Act, which was passed last year. That act will provide a simpler, more cost-effective legal system for the benefit

of consumers of legal services, and I believe for the legal profession as well.

In thanking members for their support for this bill I want to touch on the issue raised by the last speaker and some other members, including the honourable member for Kew, concerning the Leo Cussen Institute and the Victoria Law Foundation. My understanding of the contribution made by the honourable member for Kew is that he appreciated why the Victorian Law Reform Commission was to be specifically included in the legislation but regretted that the Leo Cussen Institute and the Victoria Law Foundation were not included. He spoke about the good work done by the institute and the law foundation in relation to ongoing legal education and training.

As we know, the law reform commission specifically receives references from the government through the Attorney-General and must prepare reports within specific time frames set by the government. Those sort of demands are not placed on the Leo Cussen Institute or the Victoria Law Foundation, although it is true that they were named as recipients under the 1996 act. It is important from this government's point of view that the law reform commission have adequate funding to ensure that it has the resources to do the necessary work on references in a timely manner. In order to prevent any possible conflict over the funding of the Victorian Law Reform Commission, the government has made an amendment in this legislation to give the Attorney-General a specific power to direct funds from the distribution account to the commission.

I do not want to go into the history of the Victorian Law Reform Commission, but it is important to remind Victorians that the independent law reform commission was abolished by the previous government — and let us not kid ourselves about that. It was an outrageous attempt to silence any independent views that might have been expressed concerning law reform. It was an arrogant government that dismissed the law reform commission. Not only has this government reinstated the Victorian Law Reform Commission, but by way of this legislation it will ensure that the commission has adequate funds to carry out its work. Should this mob opposite ever get into government again — the way things are going it is an unlikely event — it will have to specifically change this legislation if it again wants to abolish the law reform commission. This legislation ensures that the commission will receive adequate funding. I acknowledge the role that the Victoria Law Foundation and the Leo Cussen Institute play.

Mr Ryan — Give RMIT a mention too, will you?

Mr HULLS — I will in a minute. They play an important role in the Victorian legal system. Both the institute and the foundation will be eligible for funding under the new arrangements. I believe the new funding arrangements provide the flexibility to meet future community needs and focus on the purposes for which the money should be spent rather than simply naming a limited number of organisations. It is all about purposes. I believe the flexibility in the legislation is particularly important, given our intention to commission a review of the provision of legal education services in Victoria to assess the effectiveness of the various education programs and to determine whether all the existing programs should continue to be funded from the regulatory system and which bodies should provide these services. We have made no secret of that. It is important to ensure that ongoing education services are delivered appropriately, and we are about to embark upon a review of those services.

The Legal Practice Board has written to me regarding the processes for delivering moneys from the surplus in the public purposes fund as at the end of the 2004–05 financial year. It has been the board's practice to make decisions in or around May on the funding to be provided in the following financial year. The board has recommended that the funding for 2005–06 for current recipients under the 1996 act, including the law foundation and the Leo Cussen Institute, be dealt with in the same manner as in previous years. I have expressed to the board my support for that recommendation. I expect that will give some solace to the Leo Cussen Institute and the Victoria Law Foundation while this review is being undertaken.

I might briefly touch on one of the issues raised by the Leader of The Nationals, which is the old articulated clerks course. He is dead right that it was a great course and produced some great qualified lawyers.

Mr McIntosh — Present company included?

Mr HULLS — That is present company included. Not just Sir Ninian Stephen but the Leader of The Nationals and I were involved in that course. There is no question that it was a great course. I was lucky enough to have my articles lined up because my father was a lawyer. I was always going to practise law, but I wanted to earn some dough in the meantime. I studied full time that first year, and then, like the Leader of The Nationals, I went to lectures in the morning and at night and worked in a lawyer's office — it happened to be my father's — during the day. It was a very practical course. Many temptations were thrown at us, including having to walk past a few pubs on the way to lectures at

night. More often than not I got to the lectures, as did the Leader of The Nationals. It was a great course.

The Leader of The Nationals raised a very interesting point when he said that one of the reasons why the course was abolished was that the articled clerks from the course were getting preferred positions in some of the major law firms. He may well be right. By and large lawyers who graduated from that course ended up being better lawyers — certainly far more practical lawyers.

Mr McIntosh interjected.

Mr HULLS — I notice that the shadow Attorney-General disagrees. It was not just those born with silver spoons in their mouths who embarked upon this course; they were grassroots lawyers who formed the backbone of the legal profession. I agree with that point made by the Leader of The Nationals. This is a good piece of legislation, and I wish it a speedy passage.

Motion agreed to.

Read second time.

Consideration in detail

Clauses 1 to 18 agreed to.

Clause 19

Mr HULLS (Attorney-General) — I move:

1. Clause 19, page 9, omit “interstate”. and insert “interstate”.
2. Clause 19, page 9, after line 4 insert —

() in clause 8.14(1) in Schedule 2, for “section 6.2.19(2)(c)” substitute “section 6.2.19(1)(d)”.

Honourable members interjecting.

The DEPUTY SPEAKER — Order! I am advised that the amendments were circulated yesterday.

Amendments agreed to; amended clause agreed to; schedule agreed to.

Bill agreed to with amendments.

Remaining stages

Passed remaining stages.

CHILDREN AND YOUNG PERSONS (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from 21 April; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — This bill is not opposed by the Liberal Party, although I will move a reasoned amendment. Following consultation with a large number of key stakeholders, the opposition takes the view that if it is accepted it will dramatically improve the bill.

Having said that, the most important thing about the bill is that the Children and Young Persons (Age Jurisdiction) Bill, or principal bill, which was passed at the end of last year, comes into operation on 1 July. This bill makes a series of amendments to that act that are needed as a consequence of raising to 18 years the age in relation to the jurisdiction of the Children’s Court, which was supported by the opposition. It is a matter of some note that the Attorney-General said in his second-reading speech that it gained wide community support.

The bill seeks to address essentially four areas. It makes a number of changes to the existing sentencing regime as it can be imposed on children. It introduces a new system called CAYPINS, or children and young persons infringement notice system, in relation to unpaid infringement notices. Similar to the existing PERIN scheme that members are all familiar with, there will be a second track that will enable those matters to be dealt with in the Children’s Court, as is considered by the opposition to be quite appropriate.

The amendments to the Bail Act will enable people under the age of 18 who are on remand in an adult prison to be transferred to a youth training centre, which is again an appropriate amendment.

Finally, amendments are made to the current compensation scheme under the Sentencing Act. That matter causes the opposition some concern. I will move the reasoned amendment to enable the government to consult with a much wider group of people about the judicial independence that may be deprived by the operation of the bill.

The ACTING SPEAKER (Mr Smith) — Order! I have been advised that if the member wishes to move a reasoned amendment he should read it.

Mr McINTOSH — I was proposing to do so at the appropriate time, but I am more than happy to have it

circulated and read it at this time so that members understand exactly where we are coming from. I desire to move:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the government consults with key stakeholders including the judiciary, Victoria Police, victims of crime groups and the Sentencing Advisory Council as to the impact of limiting judicial discretion in imposing compensation orders under part 4 of the Sentencing Act 1991'.

I will deal with the first three matters before I deal with the principal area of concern. An amendment clarifies an ambiguity, which the opposition highlighted during the discussion on the principal bill. In raising the age to 18 years, a person could be brought before the Children's Court prior to their 18th birthday, as long as they were brought before the court prior to turning 19. It was unclear what 'brought before the court' meant, whether it was at the initial stage when the person may be remanded in custody or in dealing with bail — at a directions or committal hearing — or alternately at the trial of the proceeding. It was of concern that there was some ambiguity.

I am pleased that the government has clarified that ambiguity and indicated that as long as the offence was committed before the offender's 18th birthday and the proceeding is commenced prior to the 19th birthday, the Children's Court has jurisdiction in those matters. Very serious offences against the person — murder, manslaughter and others — would, of course, have to be referred to the Supreme Court. The Children's Court can in any event refer to a superior court any matter considered appropriate. The bill enables the Children's Court to deal with a matter relating to an offence committed before an 18th birthday with a proceeding commenced after the 18th birthday. One would expect that normally the proceedings would be commenced reasonably quickly after the charge was laid. There may be some delay, for whatever reason, but as long as that occurs prior to the 19th birthday of the offender, the Children's Court would have jurisdiction.

With the increase in the age in the bill that was passed a few months ago, a number of changes must be made. One could hypothesise that that should have been clarified in the first place — that a government properly drafting that legislation would have been able to pick that up at that time. Unfortunately we have had to come back and rejig the regime when that should have been picked up in the first place.

I do not propose to go into any detail, but certainly the age limit for undertakings and bonds has been lifted to enable the court to be very flexible in the way they can

be imposed. This means there can be quite substantial ongoing supervision of a person's behaviour that goes well and truly beyond the age of 19, 20 or even 21. I think that is an appropriate mechanism, to raise that effectively by an unlimited amount. At least the court has that continuing ability to supervise the behaviour of the offender. When you get to actual periods of detention, then clearly it would be inappropriate to have an upper limit that would go beyond an offender's 21st year, so that limit is imposed in relation to periods of detention in youth detention centres and other supervisory orders.

There are a number of other errors and minor typographical matters that are corrected in the bill, but the second matter I want to deal with is the PERIN system. The PERIN system has been in operation for a number of years, but it is felt that there should be a dual track, if you like, that matches the dual-track system we have with the Children's Court in dealing with children and young persons. Thus there is a regime for children in relation to infringement notices. It could be anything, from a traffic offence while they were on L-plates right through to riding on public transport when an infringement notice is issued.

Obviously at the time when the infringement notice is imposed, if the person giving the infringement notice is aware of the offender's age, then they would automatically start the process that would end up perhaps in the Children's Court — though you only end up in the court when you either do not answer the note or you elect to have the matter proceed to court. Indeed, consistent with the tenor of the legislation, it would be appropriate that that should be dealt with in the Children's Court rather than in an adult court. A mechanism is provided whereby if a child is presented in a Magistrates Court because no-one has picked up the age, that matter will be transferred to the Children's Court, which I think is an appropriate way of doing it. This dual-track mechanism is being reflected in the legislation generally.

Importantly it also provides that 17-year-olds on remand, currently or in the future, will have to be held in a youth training centre rather than in some form of adult prison. Again the opposition would support this particular matter. There is one significant feature of the legislation, though, which although probably appropriate in relation to children may cause some administrative difficulties. A child who is being held on remand must at least every 21 days be presented back to the court, where the process of their incarceration or their being held on remand can be reconsidered. Again, you are dealing with children. This is something that may be unnecessary in relation to adults. It is an

abundance of caution, but there is no issue that the opposition raises in relation to that matter.

There are a number of amendments in relation to compensation schemes that are now available under part 4 of the Sentencing Act, not under the Children and Young Persons Act. Part 4 provides a mechanism that has certainly been beefed up by a number of different amendments over the last 10 or so years. It provides that on the conviction of an offender one of the dispositions a court can consider is an order for compensation, to put it in its very bland terms.

Compensation can mean the return of stolen goods right through to being recompensed for the loss of stolen goods — for example, a stolen car — or for any damage done across the whole spectrum of damages, including pain and suffering resulting from assault or something of that kind. Compensation is readily used in the courts, although at the moment there is some concern that an order made by the Children's Court for compensation in monetary terms cannot be recovered if there is any default in the way of a claim for moneys in the Magistrates Court. This clarifies that by saying that once an order is made it is recoverable in the Magistrates Court in the usual way. But there is a curious provision that causes the opposition some concern and is really the basis for our moving the reasoned amendment, because I do not know whether the government has thought this out in any detail. There is a provision set out in clause 41 that says in very simple terms that where a compensation order is made under part 4 of the Sentencing Act:

The maximum amount that the Court may order an offender to pay under Part 4 of the Sentencing Act 1991 is \$1000.

The compensation order is discretionary, in the sense that on the conviction of an offender the normal process is that a person can make an application and a judge has the discretion to order the amount of compensation — and there is a whole series of criteria in the Sentencing Act and at common law that can be taken into account. So just because you make a claim for \$1000, it does not necessarily mean that you will recover \$1000. Certainly there can be disputes as to who owns particular property, which may have to be resolved as well. But what concerns me is that, for example, even where a child steals a motor vehicle that is perhaps worth \$20 000 or \$30 000, has an accident and writes it off — so normally you would be seeking an order for the replacement value of the car of some \$20 000 to \$30 000 — the maximum that can be ordered in monetary terms is \$1000.

When I first read this I thought there would still be a judicial discretion to go above that figure in certain

circumstances, within the normal parameters of the discretion that is applied under part 4, but it now appears to me to read, quite categorically, that the upper compensation limit that can be imposed on a child for committing an offence is \$1000. Irrespective of the financial circumstances of the child, their culpability and the level of the offence, they can only be ordered to pay an upper limit of \$1000, which imposes a cap on what somebody can seek in compensation. That is very unfair to the victims of certain crimes in particular. We know, unfortunately, that in recent years there has been a spate of car thefts and that some have led to tragic outcomes, including the deaths of a number of young people. But in the event of somebody being prosecuted for the theft of a motor vehicle that was damaged in an accident, there would be an order for compensation in the usual terms at a much higher level than \$1000.

One has to have enormous sympathy for an outcome that has involved an accident, particularly one involving a death, and certainly one does not want to talk about getting blood from a stone, but the reality is that not all children or people who commit these offences are unable to pay an order for compensation — it does not matter if it is 1 per cent, 0.5 per cent or only 10 out of 20 million people, because the fact is that it is an absolute cap. We have heard this government rail consistently against imposing caps in relation to compensation for injured workers, and we have certainly gone through the trauma of tort law reform which has involved imposing certain caps and the introduction of thresholds. I think imposing an absolute prohibition, or an absolute cap, is unfortunate in the circumstances. One would hate to think that as a result of the operation of this law someone who has suffered a financial loss or some sort of other loss could not be compensated in the usual way — particularly if the child offender is not impecunious.

There should at least be a discretion available to a court to order a full range of compensation, or perhaps to adjust the figure up from \$1000 to something that may be appropriate in accordance with the judicial discretion that exists under the current sentencing regime. By depriving the court of the discretion to impose a financial order above \$1000 in relation to these sorts of matters — including car theft through to assaults and other forms injuries and impacts, sexual or otherwise — you are limiting the exercise of judicial discretion in the court. We have heard the Attorney-General rail against the idea of taking that discretion away from the judiciary. In many respects the opposition has supported the idea of judicial discretion. This is a classic case of imposing a cap, for some reason, which may work to the benefit of an offender and to the

detriment of a completely innocent victim who may otherwise be able to recover more money.

I am almost certain that there are some members of the judiciary who think this is a wise idea, and there may be some members of the bureaucracy and even members of the Victoria Police who may be content with it — I do not know — but certainly I imagine there would be a large number of victims-of-crime groups that would be very concerned about this removal of judicial discretion in relation to compensation orders. This state now has a Sentencing Advisory Council, which took the Attorney-General some 18 months to finally appoint. It is now up and running, and I would have thought the matter should have first been referred to the Sentencing Advisory Council for a report back to this place so we could properly assess the merits of imposing such a cap.

As I said, the bill is something the opposition supports. The general thrust of the improvements involve building upon legislation we debated earlier. Perhaps many of those matters should have been picked up in the original bill, but that is a matter for others to comment on. But the opposition is extremely concerned about the idea of imposing a cap when it involves balancing fairness for an offender against fairness for a completely innocent victim. If a child does have the capacity to pay compensation, or if the familial circumstance enables the payment of compensation, a sentencing magistrate or judge should be able to take all those circumstances into account. From the opposition's point of view it would be more than reasonable to not deal with the bill and to instead let it lie over until we can properly consult with the relevant bodies, including the judiciary, the Victoria Police, victims-of-crime groups and, in particular, the Sentencing Advisory Council or anybody else who might have an interest in this, to determine whether or not this is an appropriate regime.

I do not know whether it is appropriate to slip it through in what is an amending bill. I am not saying it was disguised, because it was clearly identified by the Attorney-General in the second-reading speech, but a wide variety of judicial discretions are available to sentencing judges and magistrates under part 4 of the Sentencing Act, and that should be sufficient to confine judicial discretion; imposing a cap is unnecessary. It is probably driven by someone who thought it was a good idea at the time rather than by any strategic approach. Accordingly the opposition is very clear that this reasoned amendment is more than appropriate to allow both the bill to be amended in time for it to come into operation on 1 July and to enable the government to properly consult with the other bodies about the simple

matter of the propriety of imposing a cap rather than allowing normal judicial discretion to impose a higher amount. It is not about getting blood out of a stone; it is just about what is fair for innocent victims, and on balance that fairness should be able to be achieved by a judge or a magistrate. As I said, the opposition has no other difficulties with any other part of the bill.

Mr MAUGHAN (Rodney) — The Nationals support this legislation, but we do have reservations about the point the member for Kew has so skilfully articulated concerning the matter of compensation. He indicated that if this cap is imposed, victims of a crime could be adversely affected. One can envisage a situation of a young person who is not without means and where the victim could well be a family member or tradesperson who is in difficult financial circumstances and has, for example, had a car stolen which has been written off. In those circumstances it seems inappropriate to have a cap of \$1000 on a young person paying compensation where that young person has the means to do much better than that and where the innocent person who has their car stolen is the person who is adversely affected.

This legislation is essentially mechanical in nature and does not introduce any radical changes. There are a series of amendments to seven different acts of Parliament. It makes a series of amendments to the Children and Young Persons Act 1989. I might just say that that act, which runs to about 350 pages, was one of the first pieces of legislation that I had anything to do with when I was first elected to the Parliament, so I have some knowledge of it and well remember the minister at the time, Kay Setches, and Tricia Harper, who had a lot to do with formulating that legislation. My former colleague the then member for Swan Hill, Mr Barry Steggall, played a very important role in that legislation. The current act is reprint no. 7; it has been amended on numerous occasions. I think there have been 36 amendments to the original act to do with a whole range of different things from road safety through to sentencing and so on.

The legislation before the house today flows on from legislation enacted by the Parliament last year, including the Children and Young Persons (Age Jurisdiction) Act and the Children and Young Persons (Koori Court) Act. The bill does a series of things, the main one being to refine the definition of 'age' for a young person. With regard to age, the current act says that a child means:

... in the case of a person who is alleged to have committed an offence, a person who at the time of the alleged commission of the offence was under the age of 17 years but of or above the age of 10 years but does not include any

person who is above the age of 18 years at the time of being brought before the court ...

The amendment before the house will tighten that up to mean the age of a person when a proceeding is commenced rather than when a child is brought before the court, because clearly that has some different connotations. That is a finite date, and it is very clear that it is the age at which the clock starts ticking. That is a sensible improvement, which we certainly support.

The legislation clarifies the criminal jurisdiction of the Children's Court in terms of age. It clarifies the more flexible sentencing options, and I think we all support giving a court more flexible options with regard to sentencing. The judge or magistrate is in a far better position to judge what is the appropriate sentencing option under the particular circumstances, and so, again, this is a sensible provision.

The bill enables the court to deal with unpaid infringement notices issued to children, and again that is a sensible amendment. I suppose one could ask — as the member for Kew asked — why some of these amendments were not brought in when the Children and Young Persons (Age Jurisdiction) Bill was debated in November last year. Be that as it may, it is a refining of the act and an improvement to it. The bill provides for young people to be held in youth training centres rather than in prison and, again, under certain circumstances that is most appropriate. In general terms I do not think it is appropriate to have young people in the prison system, although there are cases where that is necessary when you have a very well-developed young person who is dangerous to themselves and to other inmates. In those cases it is appropriate to have them in an adult prison.

The bill provides a mechanism to enforce orders for compensation and a restitution of costs that is currently not available. Again, that is a sensible provision, but, as the member for Kew pointed out — and I support his remarks — the notion of a cap really does not make a lot of sense.

With regard to the Children and Young Persons (Koori Court) Bill, which was also debated in this house late last year, this legislation extends the criminal jurisdiction to the children's Koori court. I welcome the Koori court and note that there is one operating in Preston. I suggest it could be considered whether the children's Koori court (criminal division) could, at an appropriate time, sit in Shepparton, for example, where there is a Koori court that has given excellent results. The outcomes of that court have been very welcome and very positive. If there is an occasion when young people are brought before the court, rather than that

being necessarily in Preston, it would be far more appropriate to have it operating out of Shepparton or Echuca, for example.

I do not wish to say much more about the legislation before the house. It is a sensible extension of the two pieces of legislation that I referred to. It further enhances the Children's and Young Persons Act in dealing with young people who are brought before the criminal division of the court. The Nationals does not oppose the legislation.

Mr HUDSON (Bentleigh) — It is a pleasure to speak on this bill because the Children and Young Persons Act was introduced by the Cain Labor government and is, I believe, one of the great reforming pieces of legislation introduced by that government. Like the member for Rodney I would like to pay particular tribute to Kay Setches, Tricia Harper and the other people who worked on the bill, because I believe that legislation has put Victoria at the forefront of legislation dealing with young offenders and young people in need of care and protection. This bill continues in that tradition.

These reforms build on the original act, and they also build on the legislative reforms we introduced to the age jurisdiction of the Children's Court earlier this year. I am proud to be part of a government that has lifted the age jurisdiction of the Children's Court from 17 to 18 years, because it brings Victoria into line with the United Nations Convention on the Rights of the Child and it recognises that children who are living in special circumstances deserve special consideration.

This has also been reinforced in the social policy statement *A Fairer Victoria* which has been released by the government. We have invested an additional \$25 million over four years to implement that legislative change to the age jurisdiction in the Children's Court. What it means is that less young people will be caught up in the adult criminal justice system. It will mean that young people who are charged with an offence will have their case heard in the Children's Court, and it will help those young people to get their lives back on track. It is important to remind ourselves of the fact that young people who enter the juvenile justice system often have a whole raft of social problems as well as legal problems. They often come from backgrounds of significant disadvantage, poor educational attainment, family breakdown, sexual abuse and violence, family drug abuse, unemployment and breakdowns in their basic support systems. It is these kind of factors that contribute to the likelihood of young people offending.

The way in which we deal with young people in Victoria in order to recognise this reality is through the dual-track system. I think the dual-track system is something we should cherish in this state, because we can deal with offenders who are 18 to 21 either through the adult correctional system or through the youth training centre system, and we can provide both custodial and non-custodial sentences. It is really part of this government's three-pronged approach to dealing with young offenders. We have basically three priorities. Firstly, we are trying to divert young offenders from entering the juvenile justice system and progressing into a life filled with crime. Secondly, we are trying to better rehabilitate young offenders so that they do not come back into the system. Thirdly, we are expanding post-release and pre-release support programs for young offenders to decrease their likelihood of reoffending.

This bill builds on those reforms. It removes the age limits on bonds and undertakings and increases to 21 the age at which a child may be placed on a community-based juvenile justice order. It also means that a person who is, say, 19 can receive a good behaviour bond for the maximum period of that bond. So whereas previously their age would have prohibited the court from imposing a good behaviour bond of the maximum length, these reforms mean that that can be done. It will mean a continuation of the practice of young people up to the age of 21 being separated out where appropriate from adult criminal offenders.

The bill also introduces a new system for dealing with unpaid infringement notices, and I think this is quite important. I refer to the children and young persons infringement notice system, or CAYPINS, as it is called. As we know, young people, like others, receive penalty infringement notices. I think a number of members in this house have probably received them for speeding fines and the like. Young people are more likely to receive them for public transport fines, for things like littering and perhaps at times for indecent language.

If you are an adult, what happens through the PERIN system is that a computer issues the notice and you are then dealt with in open court, unless you can bring yourself under the hardship provisions because you have a mental illness or a disability or simply do not have the means to pay the fine. I have had the opportunity to look at the system of special circumstances in the PERIN court, and I have to say that it works very well. Under CAYPINS this flexibility will be built in for young people right from the very beginning. Where a young person is a refugee, is in the child protection system, has a disability, is homeless or

is destitute, they will be able to apply to have the fine waived. I think that is an important thing. It will mean that young people do not get caught up in the further entanglement of being unable to pay the fine, with all the consequences that flow from that.

However, it is also important to point out that clauses 56 and 57 of the bill amend the Road Safety Act and ensure that the disqualification provisions in cases such as drink-driving or speeding will still flow to those 17-year-olds who hold learners permits. So the fact that a young person who is 17 might be driving a car on a learners permit will not remove them from the full impact of the law in that area. I think that reinforces the importance of the safety message about travelling on our roads that our government is trying to get through to the community.

I think that this bill overall will have an immediate and beneficial impact on how young people are dealt with in our courts. It will mean that around 11 000 additional matters involving 17-year-olds will be dealt with in the Children's Court rather than in the adult court system as a result of the increase in the age jurisdiction, and I think that is a good thing. The bill also imposes a \$1000 limit on orders for compensation and restitution involving children.

The member for Kew, who is the shadow Attorney-General, raised this issue and moved a reasoned amendment indicating that the opposition does not want to debate this bill until all the stakeholders have been consulted. I would like to let the member for Kew know that a consultation paper was produced in March 2004 and that the consultation included the courts. The courts did not wish to comment on this particular matter, because it is a policy issue. The Children's Court has been involved with the bill from the very beginning; it was consulted with closely, and it has supported the bill. Victoria Police has not commented at all on the compensation order provisions, even though it has been involved from the very start in the development of this amending bill. The concern of the opposition that consultation has not taken place is unfounded. In fact consultation has taken place, and no problems have been raised with these provisions.

We should have a look at this, because these children, as we know, typically do not have a lot of money. They are often poor and from very disadvantaged socioeconomic circumstances. It is important that we do not cripple these young people with compensation orders that will not allow them to get their lives back on track. We should also note that this is not going to limit

in any way the right of victims to sue for civil compensation in the civil jurisdiction.

For the first time this bill now allows the Children's Court to enforce compensation orders when previously it was not able to do so because it does not have any civil jurisdiction. Nor does it prevent any victim from getting compensation from the victims of crime assistance fund. Where compensation might be in excess of \$1000, victims have the capacity to go to the victims compensation fund and to receive appropriate compensation.

This is a sensible amendment. We do not want young people who are emerging from difficult circumstances and who may have offended once to be caught up with a debt which will hang over their heads for the rest of their lives. If we look at the research, we know that about 70 per cent of young offenders do not appear before the court again on a second criminal charge. The vast majority who have offended only do so within a small time span of about 18 months. The focus should be on prevention. It should be on rehabilitation and preventing young offenders from reappearing before the courts. These provisions do that. I commend the bill to the house.

Debate adjourned on motion of Mr MULDER (Polwarth).

Debate adjourned until later this day.

MAGISTRATES' COURT (JUDICIAL REGISTRARS AND COURT RULES) BILL

Second reading

Debate resumed from 21 April; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — I am pleased to rise to contribute to the debate on the Magistrates' Court (Judicial Registrars and Court Rules) Bill. Essentially this bill is a matter of real concern to the opposition, given the fact that there may not be any demonstrable need for the appointment of judicial registrars. The way the bill is structured severely impacts upon possible judicial discretion. The opposition is concerned about the way this bill will operate, and accordingly. I propose to move a reasoned amendment. I move:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the government consults with key stakeholders as to the need for judicial registrars, how the independence of judicial registrars could be best protected

and how to properly prescribe the powers of judicial registrars'.

The ACTING SPEAKER (Mr Languiller) — Order! From now on members will speak to the question and the reasoned amendment.

Mr McINTOSH — As I indicated, the opposition has a great deal of concern about the way this bill is structured, primarily as to what powers the judicial registrars in the Magistrates Court will add and whether there is a need for judicial registrars. The Attorney-General is proposing another piece of legislation that will reform the Magistrates Court, with the possibility of the appointment of judicial registrars. Judicial registrars are not quite magistrates but are in an intermediary area. There is no doubt that, for example, masters in the Supreme Court and the County Court have worked very effectively in dealing with the administrative processes of the courts. As a junior barrister I would often appear before the masters in the County Court or the Supreme Court to deal with those sorts of interlocutory and more administrative matters dealing with a proceeding, such as answering interrogatories, the delivery of discovery, pre-trial discovery or otherwise.

Certain questions that can impact dramatically upon the outcome of a case can be dealt with in a master's court, but at the end of the day the equitable jurisdiction of the Supreme Court — for example, the granting of an injunction, which can occur at the commencement of the proceeding when you request an interim or interlocutory injunction — cannot be dealt with by a master. They have to go before a judge because they involve a lot of questions of both fact and law and the exercise of a discretion which is reserved for judges.

In the Supreme Court there are about half a dozen masters. They range from the listing master to the taxing master. Those masters are very important. For example, when you are put into a list for hearing you go before the listing master, and if there are directions, a number of interlocutory steps can be taken by the master. For the trial of the proceeding, while you may be listed on a particular day, you may not know what judge you are before and you may have to go on a reserve list. If a judge becomes available over the next two days, you will commence your trial.

Ultimately at the end of the proceeding once the decision is made, win, lose or draw, there may be the issue of costs between the parties — and costs can be ordered. Then the master in charge of the costing, who is called the taxing master, can go through a bill item by item, whether it is on a solicitor-client basis or on a party-party basis. There are two different implications

for the overall costs, and either side can challenge that bill of costs. Items can be deducted or included, and likewise at the end of a day when a client disputes a lawyer's bill that can be subject to taxation by the taxing master and the costs can be itemised. This is a matter that has been around for a long time and those administrative processes in the Supreme Court and likewise in the County Court work very effectively.

I presume what the Attorney-General is talking about — and his second-reading speech indicates — is that there would be an element of the interlocutory proceeding that would be dealt with by the judicial registrars. In his second-reading speech the Attorney-General lists the restoration of drivers licences, interim intervention order applications and the taxing of costs to parties in civil proceedings. I point out that in the Magistrates Court, unlike the County Court and the Supreme Court, costs are usually taxed on the day. That means inevitably you appear, you run a trial in a civil proceeding in the Magistrates Court, witnesses are called and finally a judgment is delivered.

That judgment may be reserved or otherwise and ultimately the two barristers or whoever is appearing on behalf of the client will then withdraw from the court and work out, in accordance with the scale of party-party costs, an outcome in respect of those costs, all of which are itemised in the proceedings. This is usually done on the day. In fact clients prefer, rather than going to the extra expense or trauma of having to come back on another occasion, to work out those costs. It is a very effective way of determining those costs. Very few costs in the Magistrates Court would be reserved to another day to prevent the increase in costs. Perhaps with the increase in this jurisdiction to \$100 000 the costs may be an issue, but that would certainly be something that the judicial registrar would be capable of doing, in accordance with what the Attorney-General is indicating.

With respect to directions hearings and case conferences, it is not usual in the Magistrates Court to have formal directions hearings, but perhaps in some of the specialist lists such as in the industrial court that may be something that could be appropriate. With respect to the provision relating to the application to issue search warrants, I am concerned that a judicial registrar would be determining applications for the issue of search warrants. They are usually reserved for judges in superior courts because of the implications relating to a person's rights and freedoms.

With respect to inspection of property seized under a search warrant and interlocutory applications in civil cases, I would be concerned about those interlocutory

cases, including injunctive proceedings or some other form of equitable relief, rather than just an interlocutory matter relating to perhaps an interrogatory dispute or discovery. But, certainly, the exercise of the Magistrates Court recently bestowed — about 10 years ago — equitable jurisdiction in relation to injunctions or otherwise which I do not think should be dealt with by a judicial registrar.

With respect to bail applications, this is a matter that goes to the freedom and liberty of the subject. If bail applications are made to the Supreme Court they are always dealt with by a judge. While bail applications are dealt with by magistrates and sometimes bail justices, the current bail justice system is really just a holding pattern until a formal bail application is dealt with by a magistrate. It causes me some degree of concern that a judicial registrar would be dealing with bail applications that have implications for the liberty of the subject. In relation to such difficult matters as drug-related offences that may be show-cause offences — and the application even in serious offences being made to a magistrate in matters that would ultimately be dealt with in a trial in either the Supreme Court or County Court — they are initially dealt with by a magistrate and I would not be very comfortable with a judicial registrar hearing those sorts of matters.

Most importantly, in relation to this matter the system in the Magistrates Court is coping extremely well in the sense that there are a large number of magistrates throughout the length and breadth of this state who sit in the various divisions of the Magistrates Court and do a fine job in respect of many of these matters. In fact if you go to a country circuit, it is not uncommon to have 100 matters, particularly in the criminal jurisdiction, related to driving offences and otherwise listed on the one day. Magistrates, of course, are taxed in relation to those matters, but they do get through their lists and that system works very effectively.

The statement that the government is providing flexibility and streamlining the administration of the courts, without any further examples, seems to be a rather bland statement. Perhaps if there was an indication from the court that it was unable to cope with the number of magistrates we have in this state then we could probably contemplate the appointment of judicial registrars. Under the bill the actual mechanism of appointment of judicial registrars is only for up to five years. While somebody is eligible for reappointment, it is again a matter for concern that this limited amount of time can then be renewed by the Attorney-General of the day.

Of course there is a process whereby the Chief Justice of Victoria makes a recommendation. That recommendation can be or may not be adopted by the Attorney-General, and the Governor in Council can make an appointment to the position for a period of up to five years, which can be renewed. I am again concerned that we have slipping into our legislation a mechanism whereby the fundamental notion of judicial independence can be impinged upon in the same way that we have dealt with the appointment of acting judges and acting magistrates, both of which the opposition has opposed.

Accordingly the structure of this regime has a similar problem. The practice of acting judges being appointed for a limited amount of time by the Attorney-General was described by the chief justice as being pernicious. Similarly in this case, as with the appointment of any judicial officer, particularly those dealing with the liberty of the subject such as bail applications or with interlocutory matters that may involve interlocutory injunctive relief, it would be of profound concern that those judicial officers would only be appointed for a limited amount of time. In the Supreme Court, masters are appointed for life, if you like, which is similar to the appointment of judges, and there would be no apparent reason why registrars could not be so appointed.

I am also concerned that perhaps the genesis of this proposal may well have been a request from public sector unions seeking some sort of career path for registrars. Can I just say from the outset that in my experience, and certainly having spoken to a number of magistrates, I think our registrars in this state are very good and carry out a large number of administrative tasks in the operation of the Magistrates Court very effectively. Unfortunately when you look at the number of registrars over the last five years the number has been reduced substantially to the point where the number of registrars compared with the number of magistrates is the lowest in Australia, notwithstanding the fact that we would probably have the second-busiest Magistrates Court in Australia.

It is my view that the level of staffing in the Magistrates Court has been appalling. If there were a career path whereby some of those senior registrars, if they did have the law degree that would be the necessary qualification — and many do these days — and while they are working their way up through the system in the justice department they undertake those courses part time, it may be further taxing the existing system rather than appointing a magistrate in the normal way to deal with not only interlocutory matters but the full panoply of cases that come before the Magistrates Court. If that is the case, we should be looking at appointing

magistrates rather than creating this intermediary level of judicial registrars. If there is a demonstrable need, I think it is a worthwhile step and should have a lot of stringent constraints.

As I said, I would be very concerned if judicial registrars were able to hear bail applications. I would also be concerned if they could deal with interlocutory matters, such as injunctive or other equitable relief. If the taxing of costs became the norm, rather than dealing with the costs on the day the matter would be referred to a taxing judicial registrar. That would certainly slow down those matters. In many respects the ambit of what the Attorney-General has said in his second-reading speech is very broad and causes the opposition a great deal of concern.

In relation to judicial registrars, the other matter, as I indicated, was the appointment process, which is on the recommendation of the chief judge. It is then made to the Governor in Council by the Attorney-General. But there is also a process which causes me further concern — that is, the ability of the Chief Magistrate and the Attorney-General to make guidelines for which qualifications and expertise should be taken into account when appointing judicial registrars.

Of course we have seen the same promise of guidelines in relation to acting judges that were mentioned by the Attorney-General in his justice statement. I would have thought it would have been important to set out in the legislation that defines these bodies the precise qualifications that judicial registrars should have. Those qualifications should be specified in the legislation. I certainly do not like the idea of some guidelines having no status at law. They are not statutory rules and do not become rules; they are just a nice understanding between the Chief Magistrate and the Attorney-General. I hasten to add at this stage that that statement is no reflection on the Chief Magistrate, Ian Gray, who I think discharges his office extremely well and in an impartial and impeccable way. However, I am concerned that that legislation could remain in place, and I do not like the idea of qualifications being the subject of a nice arrangement between the Chief Magistrate and the Attorney-General, and in a way similar to that by which the Attorney-General proposes to appoint acting judges.

While the Attorney-General says that these are the sorts of cases they might like to hear, under the legislation it has to be pointed out that the judicial registrars have no constraint save and except what the Chief Magistrate and two deputy chief magistrates appoint. It is a matter of some concern that the rule mechanisms that would prescribe the jurisdiction of judicial registrars should be

limited to only three people, whereas in the County and Supreme courts similar rule-making power is extended right through the entire group of County Court and Supreme Court judges. There is a mechanism whereby all or a majority of the magistrates must meet at least once a year to deal with their rule-making power. Perhaps these days that process could occur electronically. However, the rules that deal with the appointment and the powers of a judicial registrar should be the subject of communication and participation by all magistrates of the Magistrates Court.

I pay tribute to parliamentary counsel. Originally I was concerned that the rule-making power would not be subject to parliamentary scrutiny, unlike the powers to make rules in relation to normal civil rules in the Magistrates Court and unlike the ability to scrutinise the jurisdictional rules in relation to a magistrate in the Supreme and County courts, but the Chief Parliamentary Counsel was able to explain to me precisely the mechanism, and I am satisfied that, although it is not mentioned in the bill, there is a provision in the Magistrates' Court Act that says that all rules made by the magistrates under their rule-making power — either civil or, under this bill, criminal — will be subject to parliamentary scrutiny and to disallowance by either house of Parliament. I am fortified with at least that particular matter.

One of the areas that does concern me is that there is a new industrial division of the Magistrates Court, which currently has a jurisdiction to hear occupational health and safety matters. We are about to debate a bill about long service leave. If I can just anticipate to this extent, there is a provision in that bill that anticipates the jurisdiction being bestowed on the industrial division of the Magistrates Court to resolve those sorts of disputes. It is a matter of profound concern to the opposition that again this lesser judicial officer, who perhaps is appointed subject to these nice guidelines, can be appointed to the industrial division.

One of the amendments of this bill enables the industrial division of the Magistrates Court to be constituted by a judicial registrar. Currently the law is that the industrial division of the Magistrates Court is constituted by a magistrate, but now it will be amended to read that the industrial division will be constituted by a magistrate and a judicial registrar. That is a matter of real concern to the opposition, given its concerns about occupational health and safety and long service leave, but that is a matter for later debate.

Apparently the Attorney-General and others on the Labor side of politics are quite happy to talk the talk but

not walk the walk. We saw this with acting judges. The judges of the various courts in Victoria — not only the judges of the Supreme and County courts but the Chief Magistrate and the President of the Victorian Civil and Administrative Tribunal — came out condemning the idea of appointing acting judges in this state. While there may be precedents, with the last one being appointed in 1967, that was under the old regime, which required a specific request from the Chief Justice of Victoria or Chief Judge of the County Court. The move was described as being pernicious and as striking at the very heart of judicial independence. Those sorts of criticisms can be levelled generally, but when a chief justice goes public on the appointment of acting judges for five-year terms, it is a matter of real concern that we are importing this system into the Magistrates Court.

It may diminish the capacity of a magistrate to discharge his or her office. It will certainly reduce the credibility of the institution of magistrates, particularly when there is no limit on the ambit of that power and there is an express provision which says that a judicial registrar can sit in the industrial division of the Magistrates Court and constitute that court. While that can be limited by three people — the chief judge and two deputy chief magistrates — it is a matter of profound concern that it is very open ended.

It is a matter of real concern that, in what has been a controversial area and will no doubt be again in the future, the government of the day can for very short periods of time appoint people to hear and determine issues which could have a significant impact not only on those cases but, as we saw in relation to a casual worker at the Melbourne Cricket Ground, on industrial relations in this state. Although that decision was ultimately overturned in the Supreme Court, it was a matter of some controversy. You have to remember that in the Magistrates Court the single biggest litigant, as with other courts, is the state of Victoria, with prosecutions by Victoria Police or the Director of Public Prosecutions right through to civil cases that can be litigated in that court. In relation to occupational health and safety issues and the industrial division of the Magistrates Court, half the litigation will be by the state, because the Victorian WorkCover Authority will probably be on either side of the bar table. It is a matter of real concern that, with the best of intentions and all the credibility in the world, by doing this we could undermine the good work done by the magistrates in those jurisdictions.

It is yet to be demonstrated to me that there is any real need for judicial registrars, given that there will presumably be an element involving a higher amount of money. I could understand if it was strictly limited to

administrative and interlocutory matters such as interrogatories or discovery, or if it was there to deal with such matters as the taxing of costs or interim intervention orders — and even that causes some degree of concern. I could even understand the restoration of drivers licences being dealt with by judicial registrars. But it seems to me that the ambit is very broadly cast: it is broadly cast by the Attorney-General in his second-reading speech, and it is very broadly cast in the way the legislation is drafted.

This is not a transparent process, because while they may be published, those guidelines are really the result of an arrangement between the Chief Magistrate and the Attorney-General — and that arrangement is not something that has had any scrutiny in this place. It is a matter of profound concern that there is a limit of five years. I would have thought that even if we were to introduce a career structure for all our hardworking and long-suffering registrars in this state, given the appalling level of staff for magistrates — the lowest of any state in this country — the career path should be an appointment as a judicial registrar for life, just like magistrates, judges and masters of the Supreme Court and the County Court, and should not be subject to renewal. The guidelines should not be in any way hidden. They should be transparent and should become a rule of court if they are necessary, and likewise the actual jurisdiction of registrars.

Accordingly I think the appropriate thing to do in order to have all those things demonstrated for the benefit of the opposition is for the government to address the matters I have set out in my reasoned amendment. We need to establish the actual and precise need for judicial registrars at the present time such that the appointment of a magistrate to that court would not suffice, given that we have an overstretched bureaucracy in the Magistrates Court and this would not heal those matters. How will judicial independence be protected? That is probably a principal reason for our concerns about this matter. Finally, we need to know the precise powers. That should be enacted in this legislation or be something that all magistrates participate in. If there is any indication that they will be hearing and determining all matters in the industrial division, that should be stated categorically as part of this debate.

My reasoned amendment is currently before the house. Regrettably, on the basis of all those matters, if this amendment is lost we will be opposing the legislation.

Mr DELAHUNTY (Lowan) — I am proud to rise on behalf of The Nationals to speak on the Magistrates' Court (Judicial Registrars and Court Rules) Bill. Our leader is The Nationals' spokesperson on the

Attorney-General's portfolio and following the passage of the previous bill he can be described as an Australian lawyer. I do not have his skills, but members of Parliament from country areas are often considered to be bush lawyers, so we will go through this bill on that basis!

We know that the purpose of the bill is twofold. It provides for the appointment of and the powers exercisable by judicial registrars in the Magistrates Court and for the making of court rules in relation to criminal proceedings in the Magistrates Court. From The Nationals' point of view, our leader has consulted widely and I have consulted with people in the Lowan electorate with an interest in this bill, and between us the members of The Nationals will be supporting this legislation.

The bill allows for the appointment of judicial registrars in the Magistrates Court. These people will be of a lesser standing than a magistrate but will be empowered to deal with many of the mundane issues which would otherwise come before the magistrate. This could be helpful for us in rural and regional Victoria. In my discussions with people I learned that it will give us some flexibility. We realise that there is not a magistrate close by in many rural and regional communities. There are magistrates who visit places like Horsham, Hamilton and Warrnambool and on occasion get out to places like Ouyen, where I know they use the council chambers instead of the courthouse they used previously. It is good to see that multipurpose facilities are being used in these locations.

Given the absence of magistrates in a lot of country communities, we believe this bill gives us more flexibility to deal with day-to-day issues relating to the courts. For that reason alone we are supportive of the intention of this type of legislation. I will come to some of our concerns a little bit later, but overall we feel it gives us greater flexibility and will assist those magistrates who visit us on occasions. The idea of the legislation is to free magistrates to deal with matters of gravity. We have been informed that the same system applies in both the Supreme Court and County Court. I am not as experienced as the member for Kew, but I understand that that is so.

The legislation also contains various checks and balances to ensure that the powers are limited and can be subject to appropriate review. I will come back to that a little later because The Nationals do have some concerns about that. I note from the second-reading speech that a matter that is the subject of review or appeal against decisions made by judicial registrars will be re-heard rather than reviewed.

We note that a judicial registrar will not be a judicial officer, but will be able to exercise some judicial power. That is a convoluted way of saying that some of the roles that magistrates have now will be given to judicial registrars. They will not be able to imprison people, which will give others some reassurance. The member for Kew spoke about the types of matters to be heard by judicial registrars, which will be relatively routine or less complex than the matters currently heard by magistrates. They may include the restoration of drivers licences. A drivers licence is vital for most people in country Victoria, because in some areas we have slow trains and limited public transport. Currently people have to wait for a magistrate to give back a drivers licence, so having judicial registrars able to do that will be of great benefit to us in country Victoria. Judicial registrars will also be able to hear matters such as interim intervention order applications, applications to issue search warrants, inspections of property seized under a search warrant, and bail applications. The Nationals do not have too much concern about those.

As the member for Kew said, there are some concerns about the judicial registrars hearing matters relating to the taxing of costs to parties in civil proceedings. Those matters are usually decided on the day, itemised and the details given to the appropriate people. The Nationals are a bit concerned about how that practice will work under the proposed system. The idea has merit, but the devil is in the detail and at this stage we do not know that. We consider the intention to be okay.

I refer to other purposes of the bill. The Nationals support the bill in that it provides for the making of rules of court in relation to criminal proceedings in the Magistrates Court. We are aware that the Chief Magistrate, together with two or more deputy chief magistrates, will be able to make rules with respect to a wide variety of mechanical aspects of the conduct of criminal cases. The member for Kew raised a few relevant points of concern, but overall we consider this as the way to go forward. Again, we understand that this applies in the Supreme Court and County Court and also in civil proceedings in the Magistrates Court. Therefore we have no real grounds to oppose this legislation.

Members are aware that most of country Victoria relies on primary production. The justice system is a bit like primary producers, who now operate in a global system and economy. Members are also aware that the justice system is facing new challenges and expectations in the community. We hear on a regular basis in the media and in our communities that getting through the courts is a slow process, and obviously some of the decisions made are also of concern. This is one way of hastening

the court process. That will be good for the overall system.

In researching this bill I examined the justice statement entitled *New Directions for the Victorian Justice System 2004–2014*, put out by the Attorney-General in May 2004. I will refer to just some of the key challenges highlighted in it. It is important to reflect on some of those in rural and regional Victoria. One is that we want to ensure that the services delivered to Victorian courts are efficient, accessible and responsive to the wide variety of people who use them. We need to ensure that happens not only here in metropolitan Melbourne but right across rural and regional Victoria. The document states:

Up to half a million Victorians come into contact with some aspect of the court system each year, either as plaintiffs, defendants, witnesses or jurors.

So a lot of Victorians are involved in the court processes. If we can make them more efficient it will be of great benefit to many people right across Victoria. It is interesting to note that the document also states:

The number of defendants being sentenced in the higher courts has increased by over 20 per cent since 1997–98, placing additional pressure on their capacity and performance.

We know that there are many concerns about the mentally ill. It is good to see in yesterday's budget some increase in funding for that area.

We also want to ensure that the criminal law is responsive to the changing patterns of crime. I note that that has been picked up. With the different forms of crime being committed in the community today, we need to ensure that the court processes change with what is happening in the community.

It is important to address the concerns that members of Parliament are often contacted about, such as the cost of litigation, including defending actions, dispute resolution and all those types of things. We need to make sure that the courts are more accessible and, importantly, we need to try to minimise the cost so far as it affects the community. All members would agree that we want equality, fairness, accessibility and effectiveness in our justice system. Importantly, it needs to be responsive to community needs. We want to see community concern addressed under the laws made in Parliament. In trying to modernise the justice system, The Nationals believe we should resolve civil disputes earlier, and this bill will help in that regard.

We need to modernise our courts. I want to highlight some of those in my electorate. The Hamilton court is very old and is very tight.

Mr McIntosh interjected.

Mr DELAHUNTY — The member for Kew tells me that he has been there. I hope it was not as a defendant. The Hamilton court is very small, and it is very difficult to operate with the new technology in it. It is very cramped even for just the family of a defendant and, more importantly, for the reporting of the court processes. We are pleased to have the technology to assist the court people — the magistrates and court staff — in the workings of the court. A few alterations have been made to the Horsham court, but right across rural and regional Victoria we need to see an upgrade of some of our courthouses.

It was interesting that in the debate yesterday the member for Sandringham took on the Labor government in relation to the concerns expressed in Parliament in bagging the previous coalition government for closing courts. I reflect on some of the courthouses that were closed by the Labor government in the late 1980s and early 1990s. Members of the government never give the full picture. The Labor government closed courts in Winchelsea, Port Fairy, Warracknabeal, Cohuna, Kyabram, Rochester, Daylesford, Eaglehawk, Heathcote, Red Cliffs, Camperdown, Leongatha, Traralgon, Warragul, Yarram, Cowes, Nathalia, Rushworth, Tatura, Alexandra, Beechworth, Bright, Euroa, Numurkah, Rutherglen, Tallangatta, Yarrowonga, Yea and Kilmore. I think that is even more courthouses than the number of closed schools that the Minister for Education Services talks about.

Ms Allan interjected.

Mr DELAHUNTY — In talking about modernising courts, members of the Labor Party are notorious for not giving the full picture. I just wanted to highlight the fact that the former Labor government closed courts right across rural and regional Victoria.

The Nationals will support this legislation, because it will help address the concerns of many people right across rural and regional Victoria to fix civil disputes earlier, but importantly, it will modernise the justice system as we know it today. We support the bill because it will modernise the justice system. We need to ensure that it is flexible and responsive to all types of crime, to the new technologies which will address the complexities of the law as it is today and, most importantly, to the changing needs and expectations of our community.

I note that the justice statement talks about what the Labor Party has done. It has undertaken a sentencing

review. I know that has happened; I was involved when it came to Horsham, but there has been little outcome from that sentencing review. I would love to see a bit more information coming out from the government, and particularly the Attorney-General about some of the changes that have happened following that sentencing review. In my community we are not hearing much feedback from what happened under that review. The justice statement also talks about amending the criminal law to address new challenges such as computer offences, sex tourism, terrorism and chroming amongst young people.

We know that the government has done some work on those, and we congratulate it, but the chroming issue has been highlighted in the media in the last couple of weeks. Chroming is still a big issue, and particularly in some of our government-run facilities. Again, youth are our investment in the future, and we cannot afford to let this continue. I know it is not an easy problem to solve, but it is one of those things where we need to put all our efforts into trying to look after the youth in our community.

I have spoken about some of the key challenges. I want to highlight staffing again, and I know it was touched on by the member for Kew. This issue is referred to in the justice statement on page 45. In 2002 a committee chaired by Justice Kellam examined the general qualifications that are required for court administration, and it acknowledged the need for a more extended range of skills. From discussions I have had in the community I represent, that is very true. In speaking to people about this I have felt there is a need for there to be a better career pathway for some of the people working within the court system. Whatever registrars are there — and the judicial registrars will no doubt be approved after this legislation goes through — we need to look at their career pathways.

It is a real concern for us that in rural and regional Victoria, and particularly in western Victoria, after the retirement of some of our magistrates we might not be able to get other magistrates to take on the job. The magistrates, as I follow them in the media, are very understanding of the issues of country Victorians, and I think they play an important role in upholding the law in the first instance, but also in working with the community to get the best outcome for our regions. I ask again that we look at this type of legislation and consider the career pathways for people working within the court system. I know that the Kellam inquiry looked at the skills that are required, whether they be leadership, responding flexibly to the needs of users and stakeholders, understanding the capacity of new technology to improve the service, or being familiar

with the multidisciplinary approaches characteristic of problem-solving courts.

Although we do not have in rural and regional Victoria the complexity of the courts that exist in larger centres such as Melbourne, Ballarat and other places, we still need to make sure we address the concerns of people within rural and regional Victoria. From that point of view I think even clerks of court with appropriate qualifications should be encouraged to act as magistrates in some instances. Some of our magistrates today have been clerks in the past. I know this would be a big step forward, but we have to look at how we can address the staffing and skills issues in rural and regional Victoria.

In relation to the bill, I note that provisions other than clause 6 of the bill come into operation on the day after the bill receives royal assent, and that the commencement of clause 6 is linked to the enactment of the Legal Profession (Consequential Amendments) Bill, which I believe is still before the Parliament and has not been finalised. Clause 4 provides for the constitution of a court by a judicial registrar.

New section 16J provides that a judicial registrar has the same protection and immunity as a judge of the Supreme Court in the performance of his or her duties, and we support that, but there is one area of concern. I note that the member for Kew said that judicial registrars can only be appointed for a maximum of five years. He brought up some relevant concerns in relation to that, and the government needs to address some of those. But I note that these people can be reappointed for a further period of up to five years — in other words, they can be reappointed if they have done a reasonable job. That is probably what the concerns of the member for Kew are about.

We note that a judicial registrar may be suspended from the office of Chief Magistrate, but that can only be done with the approval of the Attorney-General. I believe that is similar to what happens now, so from that point of view we do not have any real concern. As I said, the member for Kew has raised some concerns about tenure, and that is relevant. But if this process works well in the early days, I would think that the government of the day — and I hope that in five years time it is not this government — could change the legislation if it needs to be extended or if there is a concern about that.

I want to touch on the rules. Clause 7 inserts new section 16(1A), which according to the explanatory memorandum provides that:

... the Chief Magistrate together with 2 or more Deputy Chief Magistrates may jointly make rules of court in relation to criminal proceedings ... and in relation to any matter or thing required or permitted by the [act] to be prescribed by rules of court or necessary to be prescribed by rules of court to give effect to the [act].

I note that in the second-reading speech the minister said:

The bill provides for the development of guidelines by the Attorney-General and the Chief Magistrate in relation to the skills and qualifications required by judicial registrars.

Again, these are the things we do not have enough information about. Both the Liberal Party and The Nationals would like to have seen a little bit more detail in relation to these guidelines and rules, particularly the guidelines. We would then have had a greater understanding of the skills that are going to be looked at in relation to the appointment of judicial registrars.

Mr MILDENHALL (Footscray) — Thank goodness for The Nationals in these debates, that is all I can say. They have added an element of commonsense to this debate about judicial registrars, in stark contrast to the fearful and suspicious perspectives provided by the member for Kew on behalf of the Liberal Party. The Nationals see the practical need for positions like this. They see that as part of our overall aim of improving access to justice there is a need for judicial registrars to be appointed to provide a more flexible and, if you like, slightly less formal and easier path to having matters considered.

The Magistrates' Court (Judicial Registrars and Court Rules) Bill deals with two matters, the appointment and powers of judicial registrars and the rule-making power, but the debate has been dominated by the appointment of judicial registrars. The member for Kew has moved a totally superfluous, unnecessary and unwarranted reasoned amendment saying that the bill should not be read a second time until the government consults with key stakeholders as to the need for judicial registrars, how their independence can be best protected and how their powers as registrars can properly be prescribed.

The Chief Magistrate, whom the member for Kew praised at some length for being totally independent and impeccably behaved, has sought the creation of these positions. So the very person holding the very office about whom the member for Kew has been so effusive — and by implication has such confidence in — has sought the creation of these positions, and the government, which prides itself on listening and acting, is responding accordingly.

These propositions have been the subject of wide consultation with the courts and the judicial profession, and they are widely supported. The fears of the member for Kew about judicial independence are not shared widely across the field. They are really the fruits of the imagination of the member for Kew and his colleagues in the Liberal Party. There are a number of protections around the matter of judicial independence and prescriptions around the powers of judicial registrars. The member for Kew has obviously decided to ignore the fact that the powers of judicial registrars will be set by the Chief Magistrate together with two or more of the deputy chief magistrates. They will not be set by the Attorney-General but by the officers in whom the member for Kew has such confidence.

Under new section 16I those rules and powers cannot extend to a power to impose a sentence of imprisonment, detention in a youth training centre, an intensive correction order, a drug treatment order or a hospital security order or to a power to hear and determine an appeal made to the court. All matters heard by a judicial registrar are subject to reviews conducted as hearings de novo, so it is entirely open for them to be heard again by magistrates, and they are under the supervision of magistrates. There is also the reference in the second-reading speech to the fact that the High Court of Australia has held that judicial independence is not affected by the delegation of these powers. So we do have some fairly secure protections and authorities around the matter of judicial independence.

I guess one of the clearest indicators of the level of unwarranted suspicion around this bill came from the comment by the member for Kew about the prospect of registrars and others seeking a career path to appointment as a judicial registrar and that the government might in an untoward way promote that career path. For some of the reasons mentioned by the member for Lowan I would have thought that it would be an entirely appropriate career option for somebody like a registrar. If registrars have attained the appropriate qualifications and have a length of experience, particularly at the coalface, I would have thought it would be entirely an appropriate career aspiration for them or for someone working their way up from being a clerk of the court. I do not think there is a conspiracy in that; I think that they may well be the types of people we ought to encourage and that it ought to be a career aspiration.

Another fear and suspicion the member for Kew has is around industrial relations — the fear that there will be some sort of political agenda that is run through the industrial division of the Magistrates Court and that

somehow this will be a place or some sort of forum where political and industrial agendas can be prosecuted. The same protections that apply to the appointment, role and supervision of judicial registrars and the ability to rehear matters would also apply in that division, so there is absolutely no justification for or substance behind the concern about that part of the role of judicial registrar or that part of the Magistrates Court.

I cannot imagine why the Attorney-General would be inclined to accept the reasoned amendment moved by the member for Kew. The matter has been the subject of wide consultation, so the request for wide consultation is not warranted. There are considerable protections around the role of judicial registrars. The need for judicial registrars is well established — they have been sought by the Chief Magistrate, they are a well-established part of or, if you like, addendum to the Family Court, and they are also in other jurisdictions around Australia. Of course the Bracks government is leading in this area in that it is looking at having that role in the Magistrates Court as well, which would be an Australian first, but this government is used to leading the pack. This is good legislation. It is part of the justice statement strategy, and it is worthy of support from the whole house.

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

Debate adjourned on motion of Mr KOTSIRAS (Bulleen).

Debate adjourned until later this day.

LONG SERVICE LEAVE (AMENDMENT) BILL

Second reading

Debate resumed from 21 April; motion of Mr HULLS (Minister for Industrial Relations).

Mr McINTOSH (Kew) — The Long Service Leave (Amendment) Bill does a number of things. If it is passed in this house it will certainly impose extra costs on business and will add greatly to the complexity of the law in relation to long service leave and employee entitlements. We have just had a raft of legislation dealing with the introduction of common-rule orders, which came into effect on 1 July, and I would imagine that there would be large sections of the small business community that are not yet aware of what is about to hit them. We have just had the Occupational Health and Safety Bill, which brings in a whole raft of new

responsibilities for employers, and on top of that we have this pernicious bill, which is introducing a long service leave mechanism that will greatly alter the current arrangements between employers and employees and will add to the complexity of the way people have to do business.

One representative employer group said to me, 'You could probably deal with the cost, but the problem is the complexity of having to come to grips with the details of this bill', and we are supposed to have a unitary system of industrial relations in this state. Another group said that given the size of some its employers who have to compete in the international market in relation to export goods, this is another stake in the heart of business — large business in this case — that will directly impact on Victoria's international competitiveness that other states do not necessarily have to deal with. An analysis of this bill from the legal perspective is perhaps warranted to see its complexity. It is not just a simple matter of giving a few workers a bit of extra benefit; it has incredible complexity.

For a start, one of the aspects of the bill is that it extends long service leave to casual or seasonal workers. The matter of casual or seasonal workers went before the industrial division of the Magistrates Court — which may very soon be constituted by judicial registrars — but in that circumstance the magistrate gave a casual worker, who had worked for the same employer for 20-odd years, access to long service leave. Luckily that was taken on appeal to the Supreme Court and the appeal was upheld, simply because as a matter of industrial relations law the Australian Industrial Relations Commission (AIRC) — the body under our unitary system which both sides of politics all subscribe to as the industrial umpire — has said time and again that there is provision under the current arrangements to allow casuals to get their loading. The very reason that they get a loading is to compensate for those things that they may miss out on, which may include sick leave or parental leave, but certainly also includes long service leave. The commission has said that repeatedly.

If members look at the purpose of the bill they will see that in many cases, if this law operates the way the Minister for Industrial Relations has said, it may entitle casual and seasonal workers to effectively double dip. Not only will they be paid the loading that they are currently paid, which in some cases can amount to as much as 30 per cent — the rule of thumb is a 25 per cent loading to compensate, but in some industrial arrangements it can be as high as 30 per cent — but they will also be entitled to long service leave. This is not federal government law, as some members of the

Labor Party may be indicating. This is what the independent umpire, the AIRC — the very thing that the Labor Party believes in — has said over and over again, in case after case.

The commission has said that there is provision for casual and seasonal workers to be given access to a loading that compensates for the loss of long service leave, amongst other things. It was recently repeated by the industrial relation commission in the national redundancy test case. In that case the full bench of the commission repeated that it would not enable casual workers to access redundancy provisions because they receive a loading that compensates them for not getting them in their normal arrangement. Yet in this bill there is now an extra cost upon a cost.

I will deal with this matter as a preliminary matter. There is also the illogical issue that potentially there is now an inconsistency between federal and state law. In 1964 the then Australian Conciliation and Arbitration Commission first allowed, and imported into federal awards, the ability to make an award in relation to long service leave notwithstanding that that had usually been — and technically still is — the purview of state governments. You do not have to argue about constitutional difficulties because it is clearly adopted as part of the central plank of industrial relations in this state, which is a unitary system.

In the federal Workplace Relations Act under the 20 allowable items that can be agreed between parties in an industrial agreement, whether it is an award, an enterprise bargaining agreement (EBA) or even an Australian workplace agreement (AWA) and now under common-rule orders, long service leave forms part of that arrangement. Now in this state we have the prospect of years and years of litigation to work out whether, notwithstanding that some federal awards will have common-rule orders applied, you run the risk that those awards — EBAs or AWAs or the common-rule orders — may talk about a different standard of long service leave than that prescribed by this legislation.

Mr Cameron — What has changed?

Mr McINTOSH — The Minister for Agriculture is bellowing across the chamber, 'What has changed?'. Can he or any members of the Labor Party tell me just how many workers will not be covered by a federal award, an EBA, an AWA or a common-rule order? Given the fact that you might be talking about casual or seasonal workers and given the fact that in all of those arrangements it is implicit that you get paid a loading to compensate for long service leave, then it seems to increase the complexity. We can go to the industrial

division of the Magistrates Court, which we are entitled to do under this legislation, and all the lawyers will troop off and a little test case will be run that will go all the way up the court hierarchy and be terribly expensive. At the end of the day it is just importing another burden on business in this state. It might be forgiven if it was a large business, but we know that small business is the engine driver of employment in this state, and certainly in relation to service industries which have been dramatically affected by the introduction of common-rule orders, we could have another stake in the heart of small business as well as large business — —

Dr Napthine interjected.

Mr McIntosh — Particularly in regional Victoria. Many aspects of this bill cause concern — for example, why is there a retrospectivity provision in relation to adjustments? As we know, the principal change that has occurred is that although the 13 weeks after 15 years of employment remains the same, after 10 years service a worker can access long service leave on a pro rata basis. While that may not of itself cause a great cost burden, it means that the burden will come in the way that business arranges its affairs. But most importantly, it can be paid out at a pro rata rate after 7 years rather than the current 10 years. It immediately imposes a cost on business when it can be accessed earlier and there will perhaps be a large number of people who may access it by leaving their employment at which time an employer will be required to pay out a pro rata sum rather than when the employee gets to the 10-year qualification period.

Indeed the particular matter that causes most businesses, small and large, the most amount of concern is the extra impost. It is not something that is prospective. That provision is going to be applied retrospectively, so that someone who is currently in a position where they have been employed for seven years, notwithstanding what their terms of employment may or may not have been, will have the provision applied retrospectively, and they will be entitled to the full benefit once this law passes.

Because it is not prospective it does not allow businesses and even employees to arrange their affairs into the future. It applies retrospectively — it applies as soon as this bill comes into operation — and that is a matter of real concern. A large or small business that may have budgeted for its prospective long service leave obligations is now going to have the provision retrospectively applied under a different regime. Potentially what you have is the government changing the relationship between two private parties, which is a

matter of real concern when it is done retrospectively. As bad as it may be to do it prospectively, by doing it retrospectively you are impacting on individuals by changing contracting parties' rights.

Likewise there is a provision that says that, notwithstanding serious misconduct — not just misconduct but serious misconduct — being the basis for your termination, if you are terminated and you have reached your seven-year qualification period then you are entitled to pro rata payments. It is not just a question of being dismissed — it may be wrongful or otherwise, and you may be entitled to all your benefits — but in the case of serious misconduct, that is incorporated in this legislation by omission, and that needs some degree of clarity. If someone is dismissed from employment for serious misconduct, then the employee should not be entitled to access any form of pro rata long service leave. This is the sort of higgledy piggedly way that the government has of going about things.

In relation to seasonal or casual employees, as I said, it is not just about the local barman or the ticket collector at the MCG. There are many large companies in Victoria that are now going to be affected — large as well as small — by this particular activity, and indeed it will lead to a real disincentive to take people on in the way people now do in making their regular arrangements.

I have been to SPC Ardmuna, for example, which is clearly the single largest employer of people up in Shepparton. It adds an enormous amount of money to the local economy and provides a mechanism that allows fruit growers and others to access the international market. Indeed during the fruit-picking season, which lasts some four to five months, there are people who turn up regularly time and again. Whether they are casuals or are deemed to be seasonal workers — and they are in fact seasonal workers, because in many respects under their employee bargaining agreement with the Australian Manufacturing Workers Union (AMWU) they are recognised as being regular employees — there are many people who come back only to work for the season.

In particular women, as the second income earners in the household, come along to do four or five months work during the picking season and the canning season, which enables them to buy the extra car, pay for the annual holiday somewhere or assist in the payment of the mortgage — and they come back year after year. Indeed I am told there are whole families who work very hard during the season and then perhaps arrange

their affairs to otherwise suit themselves. Their long service leave entitlements will now be paid for the first time.

I have not seen the EBA that has been entered into with the AMWU, but I would bet my bottom dollar that there is an existing loading which is recognised by the Australian Industrial Relations Commission, recognised by the trade union movement and recognised by employers as compensation for the casual or seasonal nature of their employment. There also may be provisions relating to long service leave for the full-time employees of that particular business. That would be replicated in agreements involving large and small businesses around the state.

If there is going to be an extra impost which means that long service leave can be accessed earlier or can be paid where it otherwise was not payable to casual and seasonal employees, that is going to be seriously detrimental to that business's being able to carry on its affairs. It is going to impact upon its international competitiveness and will also be a disincentive to employment in that business. One could hypothesise that you could end up with people taking on casual workers for a period of six years and then taking on somebody else once they get to end of their sixth year. There is no suggestion that there would be some form of longevity in that employment.

This is an arrangement that has not worked for just 10 or 20 years, it has been going on for nigh on a century. This is the way that particular business in Shepparton has structured its affairs. It is a matter of deep regret that SPC Ardmoma has to go through this particular arrangement. Again, even if there is provision for long service leave under an existing arrangement in an existing enterprise agreement, this legislation purports to override that.

There are logical inconsistencies that may actually flow from that. A debate may then occur involving a properly constituted state law versus a properly constituted federal law and the juxtaposition between the two and which one should be declared invalid. The legal confusion in relation to that is a matter of profound concern, particularly when unions, employers and the final arbiter, the industrial relations commission, have consistently held that casual and seasonal workers are paid a loading to compensate them for, amongst other things, their inability to access long service leave. By coming into this house and introducing a new piece of legislation that changes the existing arrangement with little or no consultation, certainly with his federal counterparts and with employer groups — yes there was some consultation

and there were a number of submissions which pointed out all these matters — the Attorney-General has blithely overridden all that.

The other thing is that because common-rule orders now apply to federal awards, if the awards which are applicable to, for example, the hospitality industry are to be binding on all employers, they themselves may contain provisions that relate to long service leave. It has been pointed out to me by a former colleague of mine at the bar that in discussions with the department it has been said that there are a small minority of workers who would fall into the category which have common-rule orders to which long service entitlements would apply.

Even if it is a small minority, it will still create a tension between a valid federal law and a valid state law and which one will override the other. We will have to go through all of this cycle in relation to Mr Clohesy again. This is great for lawyers and for unions, but for the people who are doing the business, earning an income on the ground and then employing people, it will again be a disincentive to employ people.

There is also a mechanism where you can give notice. Under the current arrangements once you get to 10 years service you can take your long service leave at a pro-rata rate. You do not get your 13 weeks but you get, on my calculations, 8.6 weeks at 10 years of service. You are entitled to give notice to your employer. When the long service leave is taken can be the subject of an agreement. That is also now to be applied retrospectively. Despite the planning and budgeting that a business may have done, it can have the rug pulled out from underneath it.

On the other side, under this regime an employer can require somebody to take long service leave. If there is no agreement between the employer and employee, there has to be three months notice, otherwise the employee cannot be forced to take that particular leave. If you have gone through the process of trying to get an agreement, three months can be a terribly long amount of time to give notice. It may be ineffective and defeat the purpose, particularly if you had a business like SPC Ardmoma where there would be a high degree of employment during the course of the season and outside the season you would have to give three months' notice if there was no agreement between the parties.

There is also an issue as to what should be taken and calculated as the time that would constitute the 7, 10 or 15 years of service. Now paid maternity leave will be included in that time. If you have 12 months of parental

leave, notwithstanding that you may have actually worked 6 years, you now qualify for the 7-year period, the 10-year period or 15-year period. I would have thought that would have been a huge disincentive to any employer to take on anyone who is likely to go onto parental leave under an arrangement, be it an EBA, an award or under what the employers thinks is a fair thing. It is a matter of real concern that parental leave will be included in the calculation of time. A fairer thing would have been to say that parental leave should not be included in the time for allocating long service leave, particularly when one of the purposes is directed at balancing work and family life. One would have thought there would have an encouragement built into the system to promote parental leave rather than penalising the employer in relation to parental leave.

This is a matter that has been drawn to my attention by a large number of industry and employer groups. They have said, 'This is now going to act as a disincentive. A much fairer thing would have been to promote parental leave and not use it as part of the calculation for long service leave'. The issue of public holidays —

Mr Merlino — That is extraordinary!

Mr McINTOSH — I just heard some idiot over the other side say, 'That is extraordinary', but I will tell him about the real world. He does not care!

Mr Jasper — He has never been in business either!

Mr McINTOSH — No.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Murray Valley! Members should cease debating across the chamber and allow the member for Kew to continue his contribution.

Mr McINTOSH — I do not know who he is or where his seat is! The situation also occurs in relation to parental leave and it also relates to public holidays. But that is probably not a significant issue.

Another matter that has been drawn to my attention is that there has to be continuity of employment in relation to casual and seasonal workers, but if there is a gap of more than three months the employment is deemed to be terminated. If there is a period longer than three months by way of agreement between an employer and employee, that can be taken into account for the purposes of calculating time. In relation to casual employees, when I was at university I worked behind a bar for a number of years to earn sufficient money. It was not an uncommon thing.

Mr Helper — It was 10 years!

Mr McINTOSH — It was not quite 10 years, but it was pretty close.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Ripon!

Mr McINTOSH — When I was a student I was content to take on that role as many casuals are. We know that 40 per cent of all casuals are people that do not intend to stay in that industry. They intend to go on to do something else. They are usually students and issues arise. I would tell my employer at the time of the Christmas holidays — which were about three months when you were at university, and do we not yearn for those times again! — that I would come back. I did my undergraduate degree in Canberra and my postgraduate degree in Tasmania. I came back to Melbourne for three months because it was always home. I would say to my employers in Canberra and Tasmania, 'I am taking my Christmas holidays and I am going back to Melbourne. Do I have a job at the end of it?'. My employers said, 'Come back and see us'. Apparently I was a good enough employee to be employed over and over again.

It is not uncommon for somebody to travel overseas, take a 12-month break from casual employment — even during their university course — and say, 'Do I have a job when I come back?'. That simple fact of the employer agreeing could be seen as providing an agreement between the employer and employee to provide continuity of service. That is a matter of real concern to many of the employer groups that I have spoken to about this legislation.

The opposition will be opposing this legislation because it is another impost on large and small businesses. The very drivers of employment in this state, small businesses, will have another piece of regulation imposed on them on top of the common-rule orders. On top of the occupational health and safety legislation they have this piece of legislation imposed on them. Surely small and large businesses are entitled to put their hands up and ask, 'Where is the relief from this government, which is again imposing another piece of red tape, another impost, another burden to overcome in doing business and employing people in this state?'.
Mr Donnellan interjected.

Mr Donnellan interjected.

Mr McINTOSH — The member sitting over there — I cannot remember his seat, but he is eminently forgettable — mentions land tax. Despite all the crowing about reducing land tax, it will still come back to haunt the government just like this. Employer group after employer group has said that. The international

competitiveness of large corporations like SPC Ardmona is being impacted upon. It is the retrospectivity of this legislation that is appalling. The private arrangements that have been entered into are now going to be changed retrospectively, and any ability to plan ahead is just being blithely thrown out of the window.

On top of that we have casual and seasonal workers included for the first time, notwithstanding the fact that the Australian Industrial Relations Commission has repeated time and again that casual and seasonal workers are paid a premium, a loading of up to 25 per cent or 30 per cent, to compensate for the loss of what full-time employees may have, including such things as long service leave.

Apparently everybody in this chamber subscribes to a unitary system of industrial relations, but all of that can be blithely chucked away with the Attorney-General coming along and saying, 'I am going to change the law', notwithstanding the fact that many awards, many enterprise agreements — it is a regular occurrence in many of the enterprise agreements I have seen — Australian workplace agreements and now common-rule orders can actually have the existing regime in relation to long service leave.

The Minister for Industrial Relations blithely comes into this place and says he is doing all these great and wonderful things to balance work and home life and then just goes and does this without any thought about the impact it will have.

Mr Donnellan interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Narre Warren North!

Mr McINTOSH — Narre Warren North — is that it? The member for Narre Warren North has been bellowing, and it is another demonstration of the fact that he has no interest in actually developing employment or business in this state.

This legislation is an impost on business large and small. It is terribly technical. It should not have come into this house, and accordingly the Liberal Party is going to oppose it.

Mr JASPER (Murray Valley) — I rise to make a contribution to the debate on the Long Service Leave (Amendment) Bill on behalf of The Nationals. I want to say at the outset that I appreciate the fact that the minister's office and the department at short notice made staff available to meet with me today for a briefing on the legislation. I also indicate that one of the

members for North Eastern Province in another place undertook investigation into the legislation on behalf of The Nationals, and we have certainly had discussions on the legislation and its implications — and that really is the issue as far as The Nationals are concerned. We need to look at the legislation and ask what are its full implications for the people in our electorates — particularly those who are providing employment — and for the economic development in the state of Victoria.

I reread the minister's second-reading speech today, and there is no mention of employers in the speech at all. He talked about work intensity and said:

The proposed amendments to the Long Service Leave Act will provide real assistance to workers with family responsibilities in line with the Victorian government's Better Work and Family Balance policy.

As I said, there is talk about producing balance between work and family commitments. The minister talks about increased part-time and casual employment, and we see mentioned in a number of places the phrase 'work intensification'. I say to the house: if you want to see work intensification, look at employers. Employers are under work intensification all the time, and they have their money invested as well; they are not just employing other people. When legislation comes before the Parliament the government should be looking at not only what is best as far as employees are concerned but also how it will affect employers who are providing employment in Victoria.

I want to read from the summary on the last page of the minister's second-reading speech, because it is — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Ingram) — Order! Honourable members should allow the member for Murray Valley the opportunity to have his speech heard in silence.

Mr JASPER — You can be assured I will raise my voice above it, Acting Speaker, and I am sure Hansard will be able to get the comments I am making.

I want to read into *Hansard* the second-last paragraph of the minister's second-reading speech, because it is informative:

The Long Service Leave (Amendment) Bill will implement important reforms to long service leave in Victoria. Our legislation has not been substantially updated for more than 25 years. It needs to be amended to reflect changes in the labour market including a substantial increase in participation by women, a greater recognition of the needs of workers who have family responsibilities, the ageing of the population, a

projected shortage of labour, and the need to attract employees who have taken a break from work back into the work force.

There is no mention whatsoever of employers. There is no mention of them in this legislation, which may have an effect on the people providing employment in the state of Victoria.

I have here a discussion paper prepared by the government. It is entitled *Long Service Leave for Today's Workplace — Making It Work for You*. When you read through it and see what it contains and what it covers, you realise that it is quite a valuable document. It was released on 9 February, yet here we are three months later — and this is supposed to have been assessed by employers, employees, unions and work organisations in Victoria, associations that may have had some valuable input — with this legislation. In his second-reading speech the minister said that this is the first major change that has been made in 25 years, but in three months we have legislation before the house.

As far as I and The Nationals are concerned, we want to make sure that if legislation comes before Parliament it has been adequately assessed by all the people affected. The government should not just be insisting that these are the changes it is going to implement for the workers in the state of Victoria — important as they are to employment in this state and for what they produce — it should be making sure we get input from all the people who may be able to make some sort of contribution that would be important in looking at this legislation. Our initial concern is that there has been a lack of appropriate consultation with all parties so that people can provide input to the legislation.

I also say that you have to have been in business to understand business. What happens in this house is that not enough members of Parliament have been in business, and I have said this before. I remember a former minister, Tom Roper, being in this house in the 1980s and talking about employment and so forth. I told him, 'I would not go into business with you because you would drive me broke'. Quite frankly that is the attitude I take with most of the people in this Parliament. They might have had a good education, had university training and worked for the government in the main.

A lot of the ministers who are in the house were ministerial advisers in the 1980s and early 1990s. Now they are telling us how to run our businesses. They are telling us what we should do in the state of Victoria to generate employment, and this legislation before the Parliament is typical of what we are getting from the government. There is no comment about employers at

all, and no comment that they have consulted with employers to see what they think about the legislation. All they are saying is, 'This is improving the workplace'. They talk about work intensification and the difficulties of people in the workplace. I accept that people need to have holidays and need to recharge their batteries, but it needs to be in balance so they can contribute. Balance is the key, as well as being fair to all.

As far as I am concerned the economic prosperity of the state of Victoria is created by employers. They provide the economic prosperity because they provide the opportunity for people to work and create wealth for the state of Victoria. There is no doubt that we saw this in the 1980s when the state Labor government sought to increase the number of people employed by the government, and, of course, in 1992 the state was broke because of the changes that were implemented by the government. The Labor government was trying to employ all of them, but you cannot employ everyone, and that is what Labor was looking to do. You cannot do that without employers creating the wealth. The government does not create wealth; it is the employers and people in business and industry who create it. I think what we are seeing in this legislation is imposts being placed on employers without having appropriate discussions with them in relation to the legislation.

In the time I have left I want to comment on some of the issues contained in this legislation. I listened with a great deal of interest to the comments made by the member for Kew. I think that he highlighted the difficulties with the legislation being brought into the Parliament quickly. We get a report prepared and three months later the legislation is brought before the Parliament. Again, the minister indicates that we are introducing changes to legislation. After 25 years we are requiring major changes to the long service leave provisions. I say again that I appreciate the discussions I was able to undertake with representatives from the minister's office and the department in going through the legislation and the information provided, and there certainly are some provisions in the legislation which I think are valid and seem to bring it into line with legislation in other states, but we also need to make sure that we try to get uniformity. Is that not the key to all this?

The member for Kew mentioned in detail the changes as far as they apply to casual and seasonal workers, and I think this issue is a major part of the legislation. As I read it, where a person is casually employed — say, in the fruit industry in Cobram within my electorate of Murray Valley as a fruit-picker — they would not be entitled to long service leave if they did not come back

to their employer within three months. But in fact some of them do, because they would be a fruit-picker during the fruit season and might come back at pruning time when the picking season is over. Within three months they might come back and be entitled to long service leave, but in fact they are being paid penalty rates already, which takes into account leave and other entitlements that other employees may receive.

These are the sorts of anomalies in the bill. Then there is all the paperwork for the people employing these people within that particular industry. They have to maintain all the paperwork, maintain the employment of that person and be able to say, 'Yes, in seven years time you will be entitled to long service leave'. Mention was also made of the fruit industries in Shepparton. SPC Ardmona employs people through the season over a period of time, and if it is less than three months before they come back to be employed by that particular industry they will be entitled to long service leave. If it is over three months they will not be entitled, but under three months they will be employed again and be able to look at being entitled to long service leave.

Of course there are a lot of other issues, and I think it is important to understand them. An issue was raised in debate about an extension of parental leave. That makes a difference to the whole situation as well because now where people are involved in particular employment they can leave that employment for 12 months in a case where a female is having a child and she can return to her workplace within 12 months and continue employment. They might have worked for five years with that particular employer, and then they can go on to add to that, not including the time that they were away. Now we have extended all the other parental leave into this legislation, so all the other types of leave will be included so people can come back to employment.

The other issue which needs to be covered is long service leave being brought back to seven years. As also was mentioned by the member for Kew, it is retrospective in that that leave has accumulated for those seven years and people will be entitled to that long service leave as it applies. The other issue which I think is important is that now if a person leaves a particular employer they have six years to be able to come back to that employer and say, 'I was entitled to long service leave', and if they are entitled to it then it must be paid.

Increasing penalties is another issue which we in The Nationals have great concerns about, particularly where the penalty rates have been increased. In the briefing it

was indicated that the government was bringing the penalties into line with other states. I was not able to get enough information to compare each state against Victoria, but obviously great differences would still apply between the various states. We have a situation where there are massive increases in penalties, and this legislation will make it even more difficult for employers.

The transition provisions are also an issue in relation to that which I have mentioned. Whilst the transition provision does allow for the gradual and progressive implementation of the new legislation, there is no doubt it will have implications for the ability of employers to meet the long service leave requirements.

Members of The Nationals acknowledge that there is no change to the 13 weeks leave, which is provided after 15 years, but that after 10 years the employee would be able to take their pro rata portion of long service leave. We also acknowledge that the 13 weeks has not been changed to what it is in South Australia and the Northern Territory, where after 10 years they provide 13 weeks long service leave. At least that provision has been maintained — that is, 13 weeks leave after 15 years — but, of course, being available proportionately after 10 years, whereas previously, or as the legislation provides at present, long service leave is not an entitlement until the person leaves employment after 10 years. This legislation brings it back to seven years as well and it is retrospective with respect to the actual years that apply to that long service leave.

I mention also border anomalies because there is a huge issue for those of us who live on the border between Victoria and New South Wales. It is an enormous issue which people in the southern part of the state, particularly those in metropolitan Melbourne, have no real inkling of. They do not know about the problems that we who live on the border between the two states have with these anomalies. Now we have a situation where whilst this legislation seeks to produce uniformity between Victoria and New South Wales, there are still anomalies and we will have problems with long service leave entitlements in the construction industry. Those entitlements are calculated differently in Victoria and New South Wales. An employer in Cobram who produces mobile homes can pay fees for their employees in the Victorian system based on their wages, but if they take that mobile home into New South Wales they have to pay another fee for the cost of the home rather than the wages that are paid to their employees.

We had legislation on that late last year. Clause 13 of that legislation indicated that the government would look to the border anomaly situation and seek to get uniformity. How the heck do you get uniformity in long service leave given the different provisions in the construction industry? I am not sure how they are going to achieve that.

Mr Helper — On the bill.

Mr JASPER — The member says, ‘On the bill’, but this reflects on the bill because it is looking at long service leave entitlements within a particular industry. Border anomalies are still an issue in long service leave entitlements. There will be difficulties for those of us running businesses in New South Wales and Victoria. There are enormous problems when you run a business in two states and try to work with the regulations and requirements in each state; it is very difficult.

Country Victorians will be affected the greatest by this legislation. The primary producers and others who, as I have indicated, have business in the fruit industry and other industries where you have casual and seasonal workers will face enormous difficulties in maintaining their businesses and meeting the requirements of this legislation.

The cost to business is an issue for The Nationals. The retrospectivity is an issue as far as we are concerned — it should be prospective legislation. The regulation review committee has never supported retrospective regulations. We have had them occasionally but generally the committee has been reluctant to accept any regulation coming through with retrospectivity as part of it. Here we have a situation where the legislation will come in with a retrospective attitude. It is a retrospective piece of legislation which will require employers to recognise long service leave at an earlier time than they are used to.

I mentioned earlier the provision of unpaid leave for up to 12 months and the other forms of parental leave which are now included. This is another extension of people who will be entitled to long service leave when they were not so entitled under earlier parental leave provisions.

In summary, The Nationals have concerns with the legislation mainly on the basis of the speed with which it has been brought into the house following the report that was presented on 9 February, and with the need to ensure that all stakeholders have input into the legislation. I understand where the government is coming from in saying that we want to review long

service leave entitlements because they have not been changed for a long time.

I understand also that the government is seeking to achieve uniformity with the other states and the commonwealth of Australia but there is no doubt that the anomalies that still exist will need to be addressed in looking at getting uniformity between the states. From our point of view, the issues need to be further investigated to assess the implications of this legislation on business and employers, and particularly small business, in seeking to meet the demands of government at both the state and federal level for returns and information that needs to be provided.

It will cut into what profitability small businesses have. It is difficult to be profitable in any business today, but here we see the government blithely going forward with this legislation without any consultation with employers to determine the downside or difficulties for business in implementing this legislation. It is all tied around looking after employees and ensuring additional benefits are being provided to them on the basis that they are looking at intensified workplaces and intensified difficulties for people in the workplace generally. That is not an issue we are opposed to but we think it should be addressed by all people — —

Mr Merlino interjected.

Mr JASPER — We are certainly opposing the legislation on the basis that there has not been enough consultation with all stakeholders. That is the issue with this legislation — that and making sure we get balance. Balance is the key in all legislation that comes before the Parliament. That is the issue The Nationals have the most concerns with. We think the legislation needs further consultation despite the fact that there may be some provisions in this legislation which seek to protect people’s long service leave entitlements. We accept that on the basis that there will be better consultation with all the stakeholders and the wealth generators in the state of Victoria — that is, the employers.

Mr HELPER (Ripon) — It gives me a great deal of pleasure to rise in support of the Long Service Leave (Amendment) Bill. This bill seeks to fundamentally overhaul the long service leave entitlements and provisions applying in Victoria. When we look at an exercise such as this fundamental overhaul we should go back and reflect briefly on where long service leave came from. It is a uniquely Australian entitlement. It is uniform across Australia in that there are long service leave provisions across Australia. It grew up out of the provision of the opportunity for people who worked in

the colonies for long periods of service to return to the mother country and visit their friends and family.

Given the modern communications and transport available to people these days, that may seem to be a bit of an anachronism but I think it is an entitlement which despite being uniquely Australian is very much appreciated. It provides workers with the opportunity to refresh and reinvigorate themselves after what is indeed long service — currently 15 years and as proposed under this legislation, 10 years on a pro rata basis.

I have not experienced working in the same position for 10 years, let alone 15 years.

Mr Walsh — Because they won't have you.

Mr HELPER — The member for Swan Hill interjects and says that is because they will not have me. Maybe I am just such a restless soul that I do not want to linger around in any particular position endlessly. I always discover after a certain period of time in a position that there are too big opportunities elsewhere. That gives us an historical perspective of where long service leave comes from.

The reasons for this fundamental overhaul of the provisions here in Victoria are very sound. The previous speaker and the minister in the second-reading speech referred to the fact that long service leave provisions in Victoria have not been looked at for more than 25 years. Indeed, the foundation for our long service leave provisions is the Factories and Shops (Long Service Leave) Act 1953. For heaven's sake, that act went through this Parliament before I was born!

Mr Jasper interjected.

Mr HELPER — I will show the member for Murray Valley my birth certificate just in case this is a point of dispute with him. The last significant review of the legislation 25 years ago was way before my children were born. We have this intergenerational morass in terms of looking at the provisions for long service leave in this state. It is high time we looked at the provisions and brought them into the modern workplace.

I would like to reflect on the changes that have occurred in the workplace. We have seen an enormous increase, particularly in recent years, in casualisation of the work force. I thank the parliamentary library for providing me with these figures. In 1992, 18.6 per cent of the work force was employed on a casual basis, and in 2003 that figure had risen to 22.6 per cent. That is a dramatic increase in the number of people employed on a casual basis. Probably the most telling statistic in

terms of this legislation is the entitlement to long service leave that has been available in the workplace. In 1993, 78 per cent of the work force was entitled to long service leave while in 2003 that figure had dropped to 63 per cent. That is a dramatic reduction in the entitlement of workers to long service leave.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr HELPER — My desire to support the Long Service Leave (Amendment) Bill has been slowed down by the dinner break, so I am grateful to members for hurrying back from the dinner break!

In the time remaining I would like to touch on some of the comments made by the member for Kew and the member for Murray Valley. The member for Kew presented a picture of this legislation adding complexity to the long service leave arrangements in the state. I would imagine it was a deliberate omission by the member for Kew to ignore the fact that this bill increases certainty in the arrangements for long service leave and brings into closer alignment the long service leave arrangements in Victoria, New South Wales and Queensland.

That addresses one point that the member for Murray Valley raised, which was the problem of border anomalies. I know this is an important subject for the member for Murray Valley, because he often dwells upon the difficulties caused by border anomalies. I do not wish to criticise him for that, because it is a legitimate concern. Somebody who represents an electorate that shares a border with New South Wales should be concerned about the alignment of various bits of legislation and various areas of activity across the border.

The reality, however, is that this legislation brings Victoria's arrangements for long service leave into closer alignment with the arrangements that apply in New South Wales. In effect, this legislation reduces a border anomaly. I am not claiming that the legislation is identical to that in New South Wales; nevertheless, the arrangements in the legislation are far closer to those that apply in New South Wales than is currently the case.

The member for Kew, and I paraphrase him, said that there will likely be years and years of litigation as a result of this legislation. That could be put into the category of scaremongering. Quite frankly the litigation that occurs or the area that causes the greatest uncertainty and potential for litigation is the treatment of casual workers in respect of long service leave. This legislation actually clarifies the position of the

application of long service leave to casual and part-time workers, and as such makes it less likely for businesses and employees to be involved in litigation regarding their long-service-leave entitlements.

The other point I wish to raise in the very short time that remains available to me to speak in this debate is the fundamental point of this legislation — that is, that the entitlement to long service leave is traditionally recognised across Australia. It is an entitlement that we cherish. It is one we should not shy away from, and indeed it makes up a part of our way of life.

With the changing work force and the changing pattern of the workplace, the entitlement to long service leave needs to be brought into the modern era and updated in recognition of the fact that changes have occurred. Those changes are in the area of casualisation and they place far greater demands on families. In so many cases now there are two breadwinners in the family, and there is a far greater requirement for people to balance their work with other demands.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Debate adjourned until later this day.

CHILDREN AND YOUNG PERSONS (MISCELLANEOUS AMENDMENTS) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Attorney-General); and Mr McINTOSH'S amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the government consults with key stakeholders including the judiciary, Victoria Police, victims of crime groups and the Sentencing Advisory Council as to the impact of limiting judicial discretion in imposing compensation orders under part 4 of the Sentencing Act 1991'.

Mrs SHARDEY (Caulfield) — I rise to speak on the Children and Young Persons (Miscellaneous Amendments) Bill. As the house would be aware, the Liberal Party is not opposing this piece of legislation. However, it has moved a reasoned amendment. I will come to that in a moment. This bill really is a re-examination of a piece of legislation that was passed last year, and in a sense the reason for us being here today to discuss this bill again is to fix up some things that were not covered in the previous legislation, but it is necessary to do better this time.

The bill does four main things. Firstly, it provides changes to the operation of the sentencing regime in the Children's Court. Secondly, it enables the Children's Court to deal with unpaid infringement notices that have been issued. Thirdly, it amends the Bail Act to enable the transfer of children on remand from the adult prison system to youth training centres. Fourthly, it deals with changes to the compensation scheme.

The Liberal Party has moved the following reasoned amendment:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the government consults with key stakeholders including the judiciary, Victoria Police, victims of crime groups and the Sentencing Advisory Council as to the impact of limiting judicial discretion in imposing compensation orders under part 4 of the Sentencing Act 1991'.

I will come later to discussion of the payment of infringement notices. I refer to the first of the changes made by the bill — that is, the change in relation to the operation of the sentencing regime in the Children's Court. The bill clarifies the legislation which increased from 17 years to 18 years the age of people to be dealt with by the juvenile justice system. As I mentioned previously, that was passed last year — a step the Liberal Party supported and had supported previously in policy. It is obvious now that the work done on the legislation last year was not appropriate, and members are now to some extent fixing up past legislation.

The first change to sentencing clarifies an ambiguity as to when a person may be brought before the Children's Court. The bill refers to the situation under current legislation where a juvenile commits an offence before their 18th birthday and is brought before the court prior to their 19th birthday. The bill changes that so that an offender can be brought before the Children's Court if the offence is committed before their 18th birthday, as before, and the proceedings commence before their 19th birthday. There was some ambiguity in respect of the meaning of 'brought before the court'. That is now clarified to mean the beginning of any proceedings in relation to the matter.

The bill also gives the Children's Court the express capacity and discretion to transfer proceedings involving a person over the age of 19 to the adult courts, but it still retains the regime providing that matters relating to children charged with murder and other crimes involved with death will be heard by the County Court or Supreme Court. That is something that the Liberal Party has also supported.

The bill increases the age for imposing undertakings and bonds, enabling the Children's Court to ensure that such penalties can be applied regardless of age. It also increases to 21 years the upper age limit for the three types of supervisory orders as well as detention in a youth training centre, so retaining the integrity of the dual-track system, which was introduced by the previous government. The Liberal Party has always strongly supported and still supports that principle. The bill also addresses a number of errors made in the drafting of the principal act. It could be said that to some extent that was somewhat sloppy on the part of those who drew up the bill. In any event, the Liberal Party sees fit to not oppose those changes.

In relation to the fourth issue, the payment of infringement notices, the bill introduces the CAYPINS, or children and young persons infringement notice system, a dual-track system along with the PERIN system that is already in place. It was considered necessary to create in the Children's Court a regime for the payment of infringement notices. Members know that if a person is aware that someone is under 18 years of age they would probably go to the Children's Court in relation to those matters. But that is not always the case, so the bill provides that 17-year-olds in remand on such matters can be held on remand in youth training centres. The Liberal Party supports that. An important feature, that a child must be presented to the court every 21 days, is also strongly supported by the Liberal Party.

Amendments are made to the compensation scheme under part 4 of the Sentencing Act. Part 4 provides a mechanism or order for compensation to return stolen goods and to apply for compensation for damages et cetera. The concern is that an order made by the Children's Court may not be able to be recovered in the Magistrates Court. Apparently this concern has been clarified, but the main concern of the Liberal Party is that the provision in relation to compensation made under part 4 of the Sentencing Act, referred to in clause 41, provides for a maximum of \$1000 to be paid by way of compensation. This has raised grave concerns within the Liberal Party, and we strongly believe that there should be some discretion in relation to this issue because even where a child may have stolen something worth \$50 000 and done \$20 000 worth of damage, to cap the order for compensation at \$1000 regardless of the financial situation of the child is, we believe, not appropriate.

There should be some discretion because the child may have financial circumstances which allow him or her to pay an appropriate amount relating to damages that have been incurred. We believe that in this sense victims should be protected. We feel that there is an

unfairness in relation to the way this order is being applied, and while we readily admit that not all children are able to pay compensation to a commensurate amount, there are some who probably can. For this reason we support the notion that there should be some discretion in relation to this issue. That is the reason why the opposition has moved its reasoned amendment.

There are a couple of other issues I would like to raise, because juvenile justice is part of the community services portfolio. One of those is in relation to the reports made available to this Parliament by the Youth Parole Board. It is of some concern to me that these reports are not being made readily available to this Parliament within a time which I would think is appropriate. The Youth Parole Board report that is currently available to this Parliament is for 2002–03. We still have not seen any report to this Parliament for 2003–04, yet we are already into May 2005. Some action should be taken in relation to this issue.

Secondly, the Liberal Party strongly supports a dual-track system in relation to juvenile justice, and this ensures very much that vulnerable kids do not finish up in our adult prison system. We also support the day leave program to ensure the integration of young offenders back into their families and the community. We are aware of the fact, however, that there were a spate of juveniles not returning to juvenile justice facilities under this program and we have raised concerns in relation to this issue. In fact an inquiry was held by Bob Falconer in relation to this whole issue. Some but not all of his recommendations have been implemented. There would be a number of other issues that I would like to raise on this bill, but unfortunately time does not permit.

Ms ECKSTEIN (Ferntree Gully) — I am pleased to join the debate and speak briefly in support of this bill. It makes a number of provisions to clarify and improve the way the criminal division of the Children's Court and the juvenile justice system in general operate. It recognises that our current juvenile justice system works pretty well and does not radically attempt to change that because we have an effective system already in place. It continues to emphasise the government's position that juvenile justice is basically about the prevention of crime and the rehabilitation of offenders. Young offenders — indeed, all offenders — need to be held accountable for their actions, and this bill strikes an appropriate balance between accountability and the need for society to attempt to rehabilitate particularly young offenders.

It is very important that there are opportunities to rehabilitate young offenders and that every effort is

made to do so. Part of that process is taking responsibility and being accountable. This bill gives the court increased flexibility in dealing with the children who come before it. It enables the court to consider a case where someone allegedly committed a crime before turning 18 but where the court case commences before their 19th birthday. The court can deal with those cases, but the bill also gives the court discretion to transfer a case involving a person over 19 to the adult courts if that is deemed appropriate. The bill removes the upper age limit on bonds and undertakings so that the court can impose the maximum penalty regardless of age. This is an important aspect of rehabilitation, because various programs may be part of the bond conditions.

Increasing the age limit to 21 for supervisory orders gives the court greater flexibility to impose the most appropriate sentence, in terms of both accountability and rehabilitation. In relation to unpaid infringement notices, the court will have greater discretion to take into consideration the child's personal and financial circumstances. The new system will provide agencies such as the Victoria Police with an alternative to and a speedier process than issuing a charge or summons.

There will also be provision to enforce orders for compensation, restitution, and costs through the Magistrates Court, which is not possible under the current system. Another important provision is that the Youth Parole Board can consider a young person's age and maturity before ordering their transfer to an adult prison to serve the unexpired portion of a sentence to a youth training centre. Transfer to an adult prison is not appropriate in all circumstances, and the flexibility provided by this legislation may prevent a young person from embarking on a lifetime in the criminal justice system. I think we all want to avoid that if at all possible.

In conclusion I believe the bill strikes an appropriate balance between accountability and rehabilitation. Our young people are our future, and when some of them get into trouble and fall foul of the law, we should make concerted efforts at rehabilitation and at getting them back onto the right path. To do otherwise consigns them to the scrap heap of society and allows them to graduate to the adult criminal world. That is not what juvenile justice should be about. While we may not always be successful at rehabilitation, we must continue to strive to achieve it.

Mr KOTSIRAS (Bulleen) — While I do not oppose this bill, I have to say it is another example of this government not getting it right the first time. We debated this legislation six months ago, and there are

already gaps in it that the government now has to fix. I think the government needs to be very careful to make sure that when it brings in legislation it is properly drafted and does not have to be brought in again six months later.

The bill before the house fixes up an uncertainty. Previously it was ambiguous about when a person may be brought before the Children's Court — for example, when a person commits an offence before their 18th birthday and is to be brought before court prior to their 19th birthday. That now has changed for people who commit crimes prior to their 18th birthday where proceedings have commenced before their 19th birthday, but the question I would like to ask is what is going to happen to the young people in adult prisons at the moment. I am not sure about the number — there might be about 17 or 18 who are currently serving a term in adult prison — but there is no mention of what will happen to those young Victorians. Are they going to be left there? Are they going to be taken out? What is going to happen to them? I would appreciate it if the minister could explain what he will do with those young people.

This bill will also give the court the discretion to transfer a proceeding involving a person aged over 19 to the adult courts. The infringement notice is similar to the PERIN system. It will take into account the child's financial capacity.

I have some concern about clause 41 headed 'Orders in addition to sentence'. New section 191(2) states:

The maximum amount that the Court may order an offender to pay under Part 4 of the Sentencing Act 1991 is \$1000.

This imposes a cap and restricts the amount a victim can get back from the offender. I would have thought the Labor Party would be in favour of supporting the victim as well as trying to assist the offender. Putting on a cap of \$1000 does not do that.

This bill is about trying to help young people not to offend. But this government has failed in trying to ensure that young people do not offend the first time. This is more of a reactive government rather than a proactive one. I was interested to read in yesterday's *Age* an article entitled 'Judge brands state care "sloppy, disgraceful"'.

The Department of Human Services has much to answer for, a court is told as a youth is sentenced.

A senior judge has criticised the Victorian government for its handling of young people in state care, saying they are victims of 'sloppy and disgraceful behaviour'.

In the Victorian County Court —

the judge —

... attacked the government as he sentenced a 17-year-old offender raised under state care. He said state care should be made aware of the 'consequences of their incompetence'.

'I have had a number of young offenders before me who have been the victims of sloppy and disgraceful behaviour by the Department of Human Services', he said. 'What can one say of a department whose behaviour and activities makes lives worse?'

It goes on in criticising the government for its handling of our young people. The minister has brought in this legislation but he has not read it very carefully.

The member for Kew has brought in a reasoned amendment which states:

That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until the government consults with key stakeholders including the judiciary, Victoria police, victims of crime groups and the Sentencing Advisory Council as to the impact of limiting judicial discretion in imposing compensation orders under part 4 of the Sentencing Act 1991'.

I think this is something the government should consider. Government backbenchers should think about the reasoned amendment and support the member for Kew. It is a fair amendment considering that this is the second attempt to fix up this legislation. The first time the government failed. It has brought in this legislation for the second time, and it should take much care to ensure it is not brought in a third time, because that would then cause much confusion in the community.

Ms BUCHANAN (Hastings) — I would also like to make a brief contribution in support of the Children and Young Persons (Miscellaneous Amendments) Bill on behalf of the youth and families with young people in the Hastings electorate and the Western Port region. Other speakers have gone into detail in relation to many aspects of this bill. I would just like to highlight three areas. The first relates to the jurisdiction and sentencing orders. The second is in relation to infringement notice issues and young people. The third aspect is some other miscellaneous changes, particularly the provision to effectively mandate the continuation of a young person presenting to the court every three weeks when in remand.

I certainly support this bill, just as I supported the Children's and Young Persons (Age Jurisdiction) Bill last October. Its intent is clear; it brings Victoria into line with United Nations conventions on the rights of children in terms of the age issue. It paves the way for enhanced crime prevention with this very important group in our community. As such it reflects this

government's commitment to supporting those vulnerable and disadvantaged young people before our courts.

I commend the government on its three-pronged approach which is, firstly, the diversion of offenders from the juvenile justice system; secondly, better rehabilitation options; and thirdly, expanding post and pre-release support programs.

I will talk quickly on the jurisdiction and sentencing orders. This will achieve greater flexibility and consistency in the sentencing orders. In many respects it allows for bond conditions to more accurately reflect the child circumstances without diminishing accountability. It is a good balance to have in society at this time. It also increases the opportunities for rehabilitation, which ultimately will reduce recidivism.

I would also like to talk very briefly about an issue that has been raised by a few members on this side of this house — that is, dealing with young people and infringement notices. I do not think anybody who has had teenagers has escaped some knowledge of the inevitability of a child's propensity to somehow attract infringement notices for things such as train ticket or skateboarding violations. Quite often these notices go unpaid, and sometimes it is only when they escalate to PERIN court notifications that adults, parents or guardians get involved, and quite often it is too late to really work something through.

The new provisions give the opportunity for Victoria Police and the Department of Infrastructure to look at a child's financial circumstances. Sometimes such behaviour underlines a more insidious issue with a child — it could be a mental health issue — and early intervention and discussion prior to them escalating gives further opportunities for rehabilitation and for getting them into a healthy lifestyle. I certainly support the opportunity, as pretty much mandated in this bill, for young people in remand to return to the courts for updates every 21 days. It means that young people will not be lost in the system and that the organisations responsible for enacting any directions are held accountable on a very regular basis.

This builds on the holistic approach this government has taken to crime prevention through providing opportunities for young people to realise their full potential. While we certainly have been getting tough on crime, we are also consolidating measures to reduce crime in our community through programs of community connection and inclusion, and I would like to outline some of the very successful programs supported by this government which are operating in

the Hastings electorate, where we work on the premise that if we stop the environmental conditions that breed offenders we reduce the number of victims in society as well.

The Community Jobs Program has been very successful in linking youth with value-added opportunities in the region. The Jobs for Young People program has given people a taste of local government, with career pathways letting them know that there are many opportunities available to them and that while one door may close another half dozen may open. The Girls to Government program is giving women a sense of what they can do from the perspective of working for different government departments, and I commend the Minister for Women's Affairs in relation to that. Leadership and mentoring are happening across a variety of secondary colleges in my area — at Western Port, Mount Erin, Elisabeth Murdoch and Flinders Christian College — and they are doing great work with at-risk kids so they can realise their potential.

I want to hark back to the Attorney-General's groundbreaking and benchmarking justice statement of May 2004, which had great resonance for members on this side of the house. With this justice statement — which is a credit to our Attorney-General — we have not only righted historic wrongs but fashioned a vision that will continue to bear fruit in coming generations. We have done that with this legislation before the house today.

In closing I would like to add that we are taking a very holistic approach, supported by many in the community, which does not pander to or mollycoddle our youth but talks about accountability. I fully support this bill and wish it a speedy passage.

Mr COOPER (Mornington) — There is so much to talk about in regard to this bill and so little time, because by arrangement we are limiting speeches to 5 minutes to give as many people as possible the chance to say a few words. Therefore I want to concentrate on one clause in the bill and one clause only, and that is clause 41, which relates to orders in addition to sentence. Firstly, the bill defines a 'child' as anyone between the ages of 10 and 18 and no more than 19 years of age when proceedings are commenced in the court, so we are talking about people between the ages of 10 and 18. Clause 41 states:

The maximum amount that the Court may order an offender to pay under Part 4 of the Sentencing Act 1991 is \$1000.

That is the subject of the reasoned amendment moved by the member for Kew, who says that the government needs to consult with key stakeholders on this issue

before the bill is proceeded with by this Parliament. The reality is this clause takes away any judicial discretion under a government that proudly proclaims that it is all about giving discretion to the judiciary, because here the government is limiting the amount to be paid by a child offender to \$1000 without having any regard to the circumstances of that child.

Let us take a hypothetical case, because it is the best way to demonstrate the issue. Say, for example, someone aged 17 or 18 years — they may or may not be in full-time employment, and they might come from a very wealthy family — goes to a house, trashes it and causes \$25 000 or \$30 000 worth of damage. All that can happen when they appear before the court is that an order can be made against them for \$1000. One thousand dollars! Where is the justice in that? Where is the justice for the victims, the people who own the property? Their rights are just tossed out the window. They do not count in these whole proceedings.

This so-called child, who might be 17 or 18, is appearing before the Children's Court and is deemed by law to be a child when in fact they are a young adult. They may be in full-time employment, they may be earning a reasonable wage or salary, or they may come from a family that is quite wealthy, yet the total damage they are liable for is \$1000. And what does the victim get in all of this? The victim gets the short end of the stick. The victim is told 'Bad luck, you are not going to get anything from this person who has perpetrated this outrage against you'.

I would like to know what the various victims of crime organisations in this state think about this bill. Have they been consulted? Have they been asked what their opinion is on it? I would doubt that very much. If they had been asked we would have been hearing from them by now. But I have not heard from them, and usually they are pretty forthright in making their opinions known. We have not heard a thing from the organisations, so therefore I think we can assume quite correctly that they have not been consulted. They have not been asked for their opinion on the bill, and I wonder why.

Of course it is the old story. The bill will be sent through the Parliament — guillotined through the Parliament! — and later the stakeholders, the people who have a real interest in it, will be told the outcome. When they say, 'Why weren't we consulted?', they will be told, 'Bad luck, but we will take your concerns under consideration and we will do something about them at a later date'. Like hell they will. They will be forgotten about, as so much is from stakeholders in this state. The government is not about consulting, it is

about slipping things through and telling people about it later.

There is one other issue that needs to be taken into account when you have this sort of case that I have told the house about tonight. I admit it is a hypothetical case, but I am sure these things are happening throughout the state. I would back it in that every member of this Parliament would have had cases like this drawn to their attention over the past two or three years.

What about parental responsibility? Where does that begin or end in the case of a juvenile, somebody under the age of 18, who commits a serious offence of the type that I have mentioned here tonight? Are the parents going to be allowed to just wash their hands and say, 'We do not have any responsibility for the actions of our child.'? There are two instances here: it is a question of whether or not the child is going to be treated as a child or treated as an adult. If they are going to be treated as a child, that is one thing, but if they are going to be treated as an adult, that is another. Under this bill, children under the age of 18 are going to be treated as children, and parents have responsibilities for children. Where children commit offences that victimise somebody else in the community, the parents should have a responsibility in recompensing those people.

This particular clause is a disgrace. To limit the amount of compensation payable by people who commit offences to \$1000 is an offence against victims in this state, and it is something that needs to be taken into account by the government before the bill proceeds any further.

Ms NEVILLE (Bellarine) — I am pleased to speak today in support of the Children and Young Persons (Miscellaneous Amendments) Bill. Given the limited time available to me, I would like to take up some of the comments made concerning the reasoned amendment. I am not quite sure where to start, but this is an extraordinary amendment, which I certainly oppose.

Let us talk about consultation. These amendments were flagged as part of the justice statement and as part of the Children and Young Persons (Age Jurisdiction) Bill. Not only that, almost everyone possible has been consulted on this bill. People were aware of it. Perhaps the Liberal Party slept through that, but everyone has been consulted on this bill. We heard the member for Caulfield say, 'We support things like day leave and the dual-track system'. That is in theory, but in practice what we hear constantly is that we are not tough

enough on young children. The opposition just does not get it!

They are children; they are physically, emotionally and mentally immature, and that is why we have a dual-track system. It is all very good and well to say that parents need to take responsibility, but it is the unfortunate situation that in some cases that does not happen. Children are abused — we know that. They are abused by family members, they are let down by their parents and they are let down by the community. It is our responsibility to ensure that we as a government are putting in place systems, legislation and programs that support children and young people in this state. That is what this bill does: it builds on the legislation we passed last year, and it builds on our commitment to support children, young people and families.

On one side we are talking about legislation and on the other side we are talking about the sorts of programs and services that go alongside that. What we are committed to is prevention and the diversion of people from the system. We want to stop young people offending, and we want stop them reoffending. It is not good enough to just say that parents should take responsibility or that we are not tough enough. We actually need to work with families and young people to prevent their being in the justice system in the first place.

Let us have a look at some of the significant announcements and commitments we made in the recently released social policy statement *A Fairer Victoria* to achieve this. There is \$24.8 million to enable the implementation of the age jurisdiction legislation to ensure that we have the systems and programs in place to help young people. We are investing significantly in programs that support children, young people and families in tackling the risk factors that contribute to children and young people being in the courts. There is \$45.6 million for the youth mentoring program, which is an extremely important program to assist young people at risk. There is also the provision of residential care for those young people who cannot live at home — yes, unfortunately some young people are let down by their families and by the community.

We are putting in place programs that reduce the rate of truancy. Kids at state schools will have a better chance to get better outcomes and will be less likely to be part of the justice system. There is \$21.4 million for family support innovation projects to help reduce the incidence of child abuse, because we know that children who have been abused are more likely to end up in the justice system. The Best Start programs are also about

supporting children and families. There is \$82.4 million to improve access to justice and reduce the rate of offending and reoffending.

All of these are targeted at preventing, as I said before, young people and children from offending and also reoffending, and those programs are backed by these legislative changes. They are not, as the member for Caulfield said, changes we have just thought up to fix up previous legislation. Perhaps she should have read the previous legislation, because she would have seen that it flagged these changes. They are not about fixing it up; they build on the legislation that we passed last year, and they are very strong and important amendments to achieve a better system and better outcomes for young people and the community as a whole.

This bill will make a difference to young people and their long-term outcomes. The Children's Court and the services that support young people will now be better able to be focused on rehabilitation and diversion and the welfare of young people, as well as on the welfare of the community at large. We want to protect our young people; we want to keep them out of the system; we want a safer community for all of us and the best chance for every child in this state. I commend the bill to the house.

Dr SYKES (Benalla) — I would like to take the opportunity to offer my comments on the Children and Young Persons (Miscellaneous Amendments) Bill. I should say that I support the principle of increased flexibility in dealing with young offenders or potential offenders, and I think the children's Koori court is a wonderful idea and approach to this issue, reflecting cultural sensitivity. If we look at the experience of the adult Koori court operating at Shepparton, where the rate of repeat offending has been significantly reduced as a result of people going through that process as distinct from the conventional courts, it is clear that the children's Koori court should be encouraged and given a fair chance.

Similarly with youth training centres and other centres such as offenders centres, our area has had recent experience with a proposed Aboriginal offenders centre. People in north-east Victoria have come to appreciate the value of such centres and strongly support the principle of giving Aboriginals a chance to work through their issues with their elders, to re-establish their self-esteem, re-establish their links with their culture and get on and be contributing and appreciating members of our community.

The justice system should be part of an overall coordinated approach to doing the right thing by our young people and, in return, having expectations that they will become responsible citizens. We need to provide role models for our children and that responsibility rests heavily on parents; and parents who fail to accept that responsibility of being good role models need to take a long hard look at themselves. Equally in communities the whole village must take responsibility for bringing up its children.

In Benalla we have the excellent example of the Rose City Christian Life Centre taking on board the responsibility of providing role models, and it has done an excellent job. We also have sporting clubs such as the Benalla All Blacks Football Club and the Benalla Football Club, and we have individuals such as Ivan Lister who are out there being absolutely excellent role models for young people to follow. In our schools we also have the You Can Do It program which aims to provide young at-risk people with the self-esteem, self-confidence and encouragement to get out there and develop persistence and resilience to withstand the battering they face — whether they be physical or emotional — on a daily basis, and to get out there and achieve.

In this approach to looking after our young children and our future we have the Police in Schools program. It is amazing that the program seems to be subjected to a review which may result in a decreased presence of police in primary schools. The school principals, the school councils and the local police in our area are crying out, saying, 'Bill, do not let our Police in Schools program be reduced. It is an absolutely vital component of our program in looking after our young people, normalising relationships between young people and authority, and building into them an appreciation of a structured society that has both rights and responsibilities'.

Linked with rights and responsibilities are the issues of accountability of young people. Again that is factored into this bill, and I commend the legislators for doing that because young people must accept responsibility for their own actions, and the parents of young people must accept responsibility and accountability for raising their young. If we need to look at other cultures, we should perhaps look at the cultures that were being discussed on ABC radio this week. Other cultures do not have what we call the 'teenage' or the 'betwixt' area. Children go from childhood to manhood in one jump at 13 years of age in the Aboriginal culture, in the Indian culture and in many other cultures.

Young people get the clear message that in having made that transition from being a child to becoming a man or an adult, with that right goes the responsibility to behave responsibly, to accept what needs to be done to take control of their lives and to be contributing members of their community whatever faith or culture they come from.

With those few remarks, the bill is heading in the right direction but we must make sure that there is a balance between rights and responsibilities for young people. They must be accountable for their actions, but we must also be flexible in the way we deal with them because some of them do it pretty hard. As a community it is our responsibility to help them get through it and become responsible, mature and contributing citizens of our community.

Debate adjourned on motion of Ms DUNCAN (Macedon).

Debate adjourned until later this day.

LONG SERVICE LEAVE (AMENDMENT) BILL

Second reading

Debate resumed from earlier this day; motion of Mr HULLS (Minister for Industrial Relations).

Mr HONEYWOOD (Warrandyte) — In rising to join the debate briefly this evening I would like to mention two components of case law before the Australian Industrial Relations Commission that are very pertinent to the legislation before us this evening. The first Australian industrial relations case I will refer to is known as the metal industry casuals case, and the date of the decision on that case was 29 December 2000. The commission decided that 4.3 days per annum was a rough approximation of the accruing benefits of long service leave for full-time employees. I would like to quote specifically from the decision of Justice Munro, Deputy President Polites and Commissioner Lawson in that very important case:

We consider it a fair judgment of the relevance of long service leave as a component in casual rate loading that it should be taken into account.

Importantly, in paragraph 198 of their conclusion and determination they said:

For the reasons we have given in the preceding section we are satisfied that paid leave, long service leave and a component covering differential entitlements such as notice of termination of employment are deemed to be part of the issues affected.

They were making a determination on the right of long service leave to be factored into the casual rate of pay. That is the decision of a full bench of the Australian Industrial Relations Commission in 2000. That is just one element of case law that indicates that already every casual employee in Victoria, as part of their hourly rate of pay, which we all know is above and beyond the hourly rate of pay for full-time employees, has a component factored in that includes an aspect of long service leave.

If we want to go on and quote from further case law, I point out to the house that one of the government's favourite unions, the Australian Workers Union — in fact the saviour of the Labor Party at the federal level, Bill Shorten, is involved in that union — ascribed a range of values to the various components of the casual loading on the hourly rate in none other than the pastoral industry award case, which was heard before a full bench of the Australian Industrial Relations Commission, which handed down its decision on 30 April 2003. The AWU referred to the importance of long service leave as a component of the casual rate of pay in view of the fact that full-time employees had long service leave provided over and above their rate of pay.

Mr Cooper interjected.

Mr HONEYWOOD — As my learned colleague the member for Mornington points out, this is just a blatant case of double dipping. This bill is about those Labor members of Parliament who go down to the various trade unions that have bequeathed them their seats in this Parliament to get their marching orders from the union bosses. This is about their coming in here and doing some good old-fashioned double dipping for their union bosses.

The interesting issue here is that the decision in the pastoral industry award case was heard before Vice-President Ross, an ex-Australian Council of Trade Unions official, Vice-President Lawler and Commissioner Mansfield, who would be well-known to this house as well. Two of the three learned judges sitting on the full bench of the Australian Industrial Relations Commission in that case came out of the trade union movement. They agreed with the Australian Workers Union that ascribing a value to long service leave is relevant to increasing the pay of casual employees, who do not get that leave because they are not full-time employees.

That was a decision that directly related to increasing the casual award loading from 20 per cent to 25 per cent. As you would be well aware, Acting Speaker,

given your union credentials, in other states of Australia the casual award loading is less than 25 per cent. In fact in Queensland it is several percentage points below 25 per cent, but in upping the ante, when the Australian Workers Union wanted to justify increasing the casual rate for its union members from a 20 per cent component to a 25 per cent component it was able to argue before the full bench — where two of the three commissioners came from a union background — that long service leave was relevant and was a key component to be factored in because casual employees did not get long service leave.

Mr Robinson — How many cents an hour?

Mr HONEYWOOD — I am glad we got that interjection from the lackey of the union movement across the chamber, because it was 4.3 days per annum — 4.3 days per annum was what was factored in according to that full bench commission report. Back to your old form, back to doing the double dipping!

The concluding remark I will make is that once this legislation is pushed through with numbers in the upper house we will be the only state that is out of kilter with every other state. We will be out of kilter in many respects, but the key point is that even if you are involved in serious misconduct as an employee you will now be able to take your pro rata long service leave when you could not have taken it before and you cannot take it in any other state of Australia. No matter how badly behaved you are, no matter how you rip off your employer, no matter if you cause devastation to their workplace, they will still have to pay you out because the members of Parliament here are paying the piper of their trade union bosses.

Mr ROBINSON (Mitcham) — I am very pleased to have the opportunity to make a brief but significant contribution to the debate on the Long Service Leave (Amendment) Bill.

An honourable member — I thought you were at the Warrnambool Grand Annual Steeplechase.

Mr ROBINSON — I would love to be at the Grand Annual, but it is more important that I be here contributing to this debate — it really is — and I know my colleagues in the opposition support that view. I am pleased to support the bill, because it contemporises a vital employee entitlement.

Mr Honeywood interjected.

Mr ROBINSON — I know that is a big word for the Deputy Leader of the Opposition.

Honourable members interjecting.

Mr ROBINSON — It is called the library. A dictionary is what he needs.

The bill recognises the dynamic nature of work, which continues to change. I am proud to support the bill, because it builds on a legacy of the Labor government of the 1950s under the then Premier, John Cain, Sr. This bill is essentially updating legislation that was passed by this place more than 50 years ago.

I appreciate that our conservative friends will object. They will object for a whole series of reasons, and we have heard a couple here. They have said it is a deal for union members. The Deputy Leader of the Opposition hangs himself on his own rhetoric on this point, because he constantly tells us that union membership now applies to a declining proportion of the work force. So the benefit of this legislation will overwhelmingly flow to people who never join a union. We understand that, and here he is saying it is all about a union deal. Of course that does not explain where the benefit will flow. It will flow overwhelmingly to people who will not join a union.

Our conservative friends will claim that it is not the right time for business and that the burden is unreasonable. Well that begs the question: when is the right time? I suspect the answer from the other side here is never.

We are talking about updating legislation from 1953, but in fact long service leave in the state of Victoria, or the colony of Victoria, goes back a bit further. I am indebted to the record of the debate in *Hansard* of 22 September 1953, when the bill was introduced, but it was actually in 1862 that the colony of Victoria introduced long service leave. The Civil Service Act was being updated and long service leave was actually granted by virtue, I am told in *Hansard*, of the illustrious Legislative Council. Now from memory, in 1862 it was not a Labor-controlled Legislative Council. In fact I think I am right in saying there was a bunch of crusty conservatives in there — so crusty that they make the member for Mornington look like the most left-wing activist you have ever seen.

In fact by virtue of the Tory upper house in 1862 they introduced long service leave that provided — get this! — six months leave to persons who had rendered 10 years of civil service in the colony. It goes on:

In ... 1883 the government of the day introduced long service leave generally in the public service and made provision for six months leave on full pay and six months on half pay to public servants —

at the Governor's discretion. I could then move on to 1910 when the commonwealth Parliament legislated to give employees of the commonwealth public service long service leave. By 1953 that entitlement was for four and a half months leave after 15 years service and one and a half months leave for every five years service afterwards. I could then go to 1942, and I will invoke the role of The Nationals — or the Country Party at the time — when a deal was done between the Labor and Country parties, where the railways department granted three months leave for long-serving employees.

I then go on to 1945 when the State Electricity Commission granted its employees six months long service leave after 20 years service; then to 1946 when the Parliament of the day legislated so that employees of the public service — and the police department, the railways department, the education department and others — got six months leave after 20 years service and three months for every 10 years service afterwards.

I will conclude my contribution with one simple question: if it was good enough for the Tories in this state in 1862 and 1883, and in 1910 in the federal case, in 1945, in 1946 and in 1953 to extend to workers the vital entitlement of long service leave, surely it is good enough in 2005 to make further extensions which overwhelmingly the community regards as reasonable and civilised. I have no problems in supporting this bill.

Mr DIXON (Nepean) — As the member for Mornington said, 'I will give them a dose of some commonsense and a bit of reality'. I wish to tackle this bill with regard to its effect on the tourism industry, which is suffering quite badly under the common-rule orders that have been brought about. It will especially affect tourism in country Victoria where tourism operators are saying to me that this is just another impost on their businesses. The common-rule orders were an impost on their businesses, and the long service provisions in this bill are another impact on their businesses not only in terms of cost and the flow-on effects to their employees, but also in terms of red tape. It is just another disincentive for them to employ more people within that very important industry.

I have been travelling in my shadow portfolio around country Victoria and have met with tourism operators and tourism associations. Without exception, and without me prompting them except to ask them about what they see as the issues in the tourism industry, they say, 'Common-rule orders'. I say, 'Why is that?', and they say, 'The busy days when we do our best business are on public holidays and Sundays', and in lots of cases they are closing down their cafes and galleries because they cannot afford to pay their workers. So

with the common-rule orders and now these long service leave provisions — the things that are supposed to be here to protect the workers — out there in the business world those changes are affecting the workers, but the government does not realise that.

The workers are not going to get work. They are not getting better paid. They are not going to get long service leave because they are not actually getting their jobs. So any business operator who has a small gallery — for example, up in Benalla or somewhere like that — and wants to open on a Sunday either puts up the prices or does not even open. That is the continuing trend as the implications of common-rule orders and the long service provisions start to hit home.

The shame is that this happens in country Victoria. In many small country towns tourism is the biggest industry, and as you would probably know, Acting Speaker, as you come from that sort of area, those small cafes and small businesses that are open on Sundays and public holidays really drive the economy and a large part of the rural economy. The flow-on effects throughout that town and throughout rural Victoria are quite profound. They are bigger and they have a larger effect than they do in Melbourne or on the big tourism operations. Those employers are going to be affected by this bill; they are going to think twice about expanding their businesses.

They are going to think twice about starting a business. They will not put on more staff, because if it involves more ongoing costs for them they will not bother with it. The flow-on effects in country Victoria to our small towns and the tourism industry are going to be profound. I am not making this up. It is what the tourism operators and associations have been saying to me so far. They did not realise that common-rule orders were introduced last year. They were not aware of the effects. Now it is happening and that is what they are saying to me.

I challenge members to speak to country Victorians and the tourism operators and ask them what is really happening. When this came along, they threw their hands in the air and said, 'This government is out of touch with reality. This government is anti-worker where it counts'. An ordinary person — such as a student or someone who wants to work extra hours — who wants a part-time job is losing that opportunity.

I noticed in the budget that Marketing Victoria has had a 7 per cent cut in funding because of the Commonwealth Games. It should be the other way around: we should be marketing country Victoria. This legislation, on top of the budget this week, is a further

blow to tourism in Victoria. I call on the Minister for Tourism to talk some sense to his colleagues and tell them how it is affecting his portfolio and tourism in this state.

Mr LEIGHTON (Preston) — This bill is very useful in distinguishing the values of the two sides of the house. As a trade unionist and a proud member of a trade union, I am very happy to support progressive legislation that increases the rights and conditions of working Victorians. Contrast that to those on the other side, who are not Tories but are economic rationalists — the new right! I was appalled listening to the contribution of the Deputy Leader of the Opposition, the member for Warrandyte. I hope that every union photocopies *Hansard* and pulls out the contribution from the member for Warrandyte, sends it round to their members and informs them that if ever there was a Tory government again in this state this is what it would have in store for their rights.

The member for Warrandyte and I were here in 1992. I can remember those horrible weeks in October and November as the Kennett government went berserk and slashed the rights and entitlements of working Victorians. You have not yet learnt your lesson. You are at it again!

The ACTING SPEAKER (Mr Jasper) — Order! Through the Chair!

Mr LEIGHTON — The opposition claims that this would put Victoria out of kilter with the rest of Australia. That is the whole point behind this legislation. Victoria, along with Western Australia, is out of kilter with the rest of the country. We have the least generous long service leave scheme. I am proud to speak in support of legislation that improves the entitlements of working Victorians. The opposition tries to hang its hat on the casualisation of the work force. That is why we needed legislation in the first place.

As a trade union official in the late 1970s and into the 1980s, I expressed concern in my own industry about the casualisation of the work force, which was held then as providing an opportunity for married women to come into the work force, especially those who were registered nurses. It is obviously necessary in industries like the retail industry, which has peak times and depends on people such as students to supplement the work force. But one of the most retrograde steps in this country has been the casualisation of the work force: There has been an 11 per cent increase, which means 27 per cent of employees are now casual. That is why we, as a Labor government, have a right and

responsibility to legislate to protect people's working conditions.

If the member for Warrandyte had his way, there would be a much higher casual industry. He would work workers until they dropped. There would be no annual leave, sick leave or long service leave. In terms of the bill's impact on industry, the increases in cost are minimal and modest. There seems to be no willingness from the opposition to consider that this bill is balanced. The claim from many of the unions was to include penalty rates in the calculation of long service leave.

I certainly recognise and share the concern of the unions in that area. As a union official in the 1970s and 1980s I know that our members enjoyed long service leave calculated on that basis because their various penalties and shift loadings were paid as a commuted allowance and therefore entitled to be included in long service leave. But this is really quite modest. It addresses things like giving entitlements to casual workers and ensuring that breaks and other forms of leave do not disqualify them from long service leave.

One area that I want to finish on is also quite responsible in providing on the one hand for people to take twice the leave on half the pay but ensuring that people cannot try to cash in their long service by getting double the pay for half the leave. That is very much the principle behind long service leave. It is not simply a reward for permanent workers providing long-term, faithful service to an employer, but it is recognising that long-term workers are entitled to a break from their labours after a period of service. I am proud to support this bill.

Ms ASHER (Brighton) — The Liberal Party opposes this extension to long service rights; it does not oppose long service leave per se. The first point I wish to make is that the government discussion paper and the second-reading speech put forward a certain amount of spin as usual. We are told that long service leave will provide consistency with the government's policy of achieving a better balance between work and family time. We are told that there are concerns about an ageing population and skill shortages and that this bill seeks to address those. It is, of course, nonsense. Long service leave is a reward for long service and has nothing to do with being family friendly or anything like that.

The second point I wish to make is that this bill will impact most heavily on small business. The increased costs will fall primarily and unfairly on small business owners, and the Victorian Employers Chamber of

Commerce and Industry in a news release of 9 February pointed to the fact that small business has to deal with common rule awards and changed occupational health and safety regulations. VECCI went on to say:

While the government seems keen on giving away employers' money, it appears not to have released any estimate of the cost impact of this measure on employers and the wider economy.

The state government's misguided and untimely long service leave proposals should be put back on the shelf and left to gather dust where they belong.

That is what VECCI thinks of this bill.

Thirdly, the most alarming aspect of this bill is the removal of section 58(1) of the principal act, the Long Service Leave Act 1952. Section 58(1) applies to pro rata long service leave kicking in after 10 years. It reads as follows:

This section only applies if an employee's employment is ended for any reason other than dismissal for serious and wilful misconduct and the employee has completed at least 10, but less than 15, years ...

However, what we see in clause 6(2) of the bill before the house is that the government has completely dropped the reference to serious and wilful misconduct and is in fact allowing pro rata long service leave to kick in at seven years, even if an employee has been guilty of serious and wilful misconduct. I note the key employer organisations have advised me that in New South Wales and South Australia this is not so. I again refer the government to the fact that this is long service leave. It is for service and should not be applied to cases where there is serious and wilful misconduct. I believe this is the greatest flaw of the bill before the house.

One further anomaly which has been touched on by other speakers is that casuals currently get extra payment as a trade-off for the fact that they do not get long service leave, just as other professions are paid extra, as every member in this house would know, as a trade-off for not getting long service leave. The current loading for casuals in Victoria is 25 per cent, and this bill ignores that fact. I suspect there will be serious flow-on consequences for casuals, as well as people who choose to be casually employed as a consequence of this bill.

The bill also makes changes to the definition of continuous employment, and the member for Kew touched on this more than adequately. Basically, the point of concern on this side of the house is that if there is a break due to the terms of engagement — that is, the work is inherently seasonal — there will be employer

responsibilities in relation to long service leave. Again I flag that members on this side of the house have some real concerns in respect of that.

I understand that employees, of course, love benefits. I have no doubt that most Victorian people who are beneficiaries of long service leave love their benefits and no doubt they are very pleased about this bill before the house, but the economic facts of the matter are that this extension to long service leave is unwarranted at this stage, and the costs in particular will impact heavily on the small business sector. Unfortunately the rush in which the government has produced its discussion paper, which absolutely stymies community and business consultation on this matter, will impact very heavily on the capacity of the small business sector in particular to create jobs in the future.

Ms BUCHANAN (Hastings) — It gives me great pride and pleasure to stand as a representative for the Hastings electorate on behalf of the many casual employees, particularly women in the Hastings electorate, in support of the Long Service Leave (Amendment) Bill. The main purpose of the bill, as many members have said, is to amend and update the Long Service Leave Act which substantially reflects the long service leave provisions of the 1979 Industrial Relations Act.

To me the intent of this bill is very clear. The legislation needs to reflect the modern workplace. The modern workplace is one where increased casualisation of the work force has seen the proportion of Australian workers increase from 11 per cent in 1984 to a point where 27 per cent of employees in Victoria are now casual. The legislation, particularly as it relates to long service leave, needs to reflect this.

The amendments in the bill contain about eight key points. I will go through them very quickly. The bill will allow employees to take an initial period of long service leave after 10 years rather than 15 years. It changes long service leave entitlements so that they recognise the impact of family commitments on workers — a very important aspect. It will ensure categories of employees such as casual and seasonal employees are treated fairly. That is a word that often does not seem to be recognised by the opposition. It will align Victoria's long service leave provisions more closely with other states, particularly new South Wales and Queensland; provide more appropriate penalties for non-compliance with long service leave legislative provisions; make access to pro rata long service leave payments available to employees upon termination after 7 years rather than 10 years; and lastly, provide that long service leave is exclusive of public holidays.

It is important to note that the long service leave entitlement will remain at 13 weeks leave after 15 years service. Really, the guts of the legislation is not changing; it is making sure that it reflects the modern workplace and the modern labour market, and reflects the fact that there is a substantial increase in the participation of women in the labour market. Women are mums as well; they take time off and they come back into the workplace. Many of them are exceptionally skilled and employers need to look at ways to attract those very skilled women back to the work force in a family-friendly way. Changing working arrangements — that is, increasing casual and part-time work at the expense of full-time employees — is something we often see. As I said, 27 per cent of employees in Victoria are now casual and we need legislation that reflects that.

The ageing of our population means that workers have increasing responsibilities to both younger and older families. We have seen an increase in the number of carers across Victoria. Middle-aged people like me are gearing up to care for their elderly parents. We are also gearing up to look after many of our disabled kids who need caring for as well. With the projected shortage of labour, particularly in skilled areas, we need to look at ways we can attract and retain workers, including those with family responsibilities.

The bill is comprehensive and includes reforms to continuous service and what counts for service, casual and seasonal employees, long service leave and, importantly, WorkCover, variations in the length of leave, notice to take leave, compliance, applications to recover entitlements and prosecutions. As people in casual employment move around from workplace to workplace it is very important that there is some sort of accrual of their entitlements.

An honourable member interjected.

Ms BUCHANAN — There is loyalty to the employer as long as the employer has that employee there. Quite often in the seasonal market employees are moving around from place to place, and there needs to be a reflection of that.

Going on to some of the other reforms, we are talking about compliance, applications to recover entitlements and prosecutions, pro-rata payments on termination, transitional arrangements and variation to employment hours. This reflects the fact that the service delivery industry often needs to be flexible in terms of the hours it asks people to work. It is amazing how people will often work the hours that are asked of them under extenuating circumstances. That loyalty and level of

dedication and service needs to be recognised, and this bill reflects that fact.

In summary I support this bill. I consider that the contents of this bill accurately reflect our capacity to properly balance work and family. It needs to be valued not only socially but also as an imperative from a business and economic perspective. I support this bill and commend it to the house.

Mr WALSH (Swan Hill) — In rising to speak on the Long Service Leave (Amendment) Bill I think we have lost sight of the fact that this is an issue of balance. When we are talking about the entitlements of employees and employers there needs to be some balance, and there is no balance in the way in which we are heading on this issue. There is no commonsense here.

When you talk about employment there has to be something for the employer as well as the employee. This will push it too far in favour of the employee, which means that we run the risk of reducing employment in Victoria. Any increase in entitlements for employees should be based on productivity improvements and benefits to the employer. I do not believe that will happen in this case at all. Employers are not milking cows that can be milked forever, and if we are not careful we will dry the cows up here and start exporting jobs out of Victoria or out of Australia.

We have to work and compete in a global economy. Our competition is not New South Wales, as we are talking about; in a lot of industries our competition is Chile, America or China. We have to make sure that we can stay competitive without exploiting our employees.

The member for Kew spoke about SPC Ardmona, the number of casual employees who have been employed in that business over the years and the great contribution that business has made to the town of Shepparton for the last 85 years. If the casual and seasonal employees can no longer be employed competitively by that business, it will close and the largest employer in Shepparton will export those jobs to somewhere else in the world.

During the banter in the house before dinner I was very disappointed that the Minister for Agriculture would not oppose this bill. As the Minister for Agriculture he should be thinking about the industry he represents at the cabinet table, not his Labor Party mates or his union mates — he should be thinking about what he can do for the industry to make it competitive for the future.

This bill will impact on small business. As we know small business is the engine room of Victoria, and

particularly of country Victoria. The Nationals have a general principle that, barring some massive exceptions, we should not have retrospectivity in anything we bring before the house. As a principle, retrospectivity is wrong.

I would like to raise some issues on the bill. Clause 6 brings in pro-rata long service leave after 7 years instead of after 10 years but with no trade-off for the employer at all. There is no issue of productivity increases which actually give a benefit to the employer when there is an increased benefit to the employee.

Clause 7 brings in a new definition of 'employee', and I would like to spend a little bit of time on this issue. Section 59 of the principal act will be changed to include casual and seasonal employees as employees under that act. As quite a few speakers have said, casual and seasonal employment already attracts a significant pay loading because of the fact that it is casual or seasonal. Now we will give casual or seasonal employees an entitlement to long service leave as well as to those loadings. If we are serious about getting some productivity into the employment sector to give a benefit to the employer, we should take away those loadings. If casual and seasonal workers are going to be eligible for long service leave in the future, there should not be the loadings that were there in the past, but I cannot imagine someone from the other side of the house standing up and wanting to do that.

Clause 9 of the bill is of particular concern, and I would like the minister in his summing up to give some clarification to it. The second dot point in the explanatory memorandum talks about employment being continuous for casual and seasonal employees:

... if the absences between instances of employment are due to the seasonal nature of the employment.

The third dot point goes on to say:

Section 62A(3) provides that subsections (1) and (2) apply even if any of the employment is not full-time, the employee is employed by the employer under more than 1 agreement, or the employee has engaged in other work during the relevant period.

So we have a situation where an employee can shift from one business to another and still be classed as being eligible for long service leave. In notes it sent back to us in responding on this bill the Victorian Employers Chamber of Commerce and Industry said:

In respect of seasonal employment it will also be regarded as continuous for long service leave accrual purposes 'if the absences between instances of employment are due to the seasonal nature of the employment'.

In both of the above cases leave can be accruing with the employer even though the employee has taken on other work with another employer during the same period.

So we have a situation where we can have double dipping given the fact that people have a leave loading for being seasonal or casual and can now attract long service leave. Not only that, unless the minister can explain it better than he has we could have a situation where people are accruing long service leave with two different employers. So you have double-dipping on the one hand, and unless I am given some clarity, because I do not understand it on my reading of the bill, on the other hand there is the potential for them to be accruing long service leave with two or three employers at the one time. I would dearly like the minister to give some clarity to that in his summing up.

Clause 12 refers to the right of employees, if they are not happy with the time they have to take their long service leave, to go to the industrial division of the Magistrates' Court. If the employer is unhappy, there is no opportunity for them to seek redress at the same place. Again, this bill is very much loaded in favour of employees and against the employer. As I said earlier, we need to balance the rights of both parties in any employment agreement into the future.

To wind up, we have to be very careful that we do not lose the Australian work ethic in this whole thing. It is very much about 'What is in it for me?' and not 'What is in it for the place where my employment is?' or 'What is in it for the community I live in?'. We are developing a society that is just about take, take, take, and this bill is another example of it.

Mr MERLINO (Monbulk) — It is very instructive when we participate in debates on industrial reform in this house to listen to the opposition. Whenever the government seeks to introduce greater fairness, greater protection or greater equity for working men and women, the true colours of the Tories opposite come out. We can always rely on their opposition to any improvements for working men and women, whether it is about opposing the transfer of schedule 1 employees to the federal award system so those employees can enjoy the federal safety net, opposing occupational health and safety legislation which provides nation-leading improvements to minimise workplace injury and death, opposing the outworker legislation or opposing the granting of additional public holidays to allow people who work in weekend industries to spend time with their family and friends at Christmas.

Of course when we debate long service leave reforms the opposition and The Nationals oppose them. Every time we debate an industrial issue the opposition

reinforces why I joined the Labor Party in the first place. Unlike the conservatives opposite we do not believe that people are robots. We understand when the community says, 'We value time with our family and friends. We value time away from work — and we value it more highly than a wage increase'. The Liberals believe, as do The Nationals for that matter, in a dog-eat-dog world where only the strong and the fit can negotiate improvements in wages and conditions — and you can forget about the rest. They think if you can get away with working your employees to the bone, go and do it. That is the message the opposition has been sending to the community in this debate today.

The Liberals believe in a world long gone. The Bracks government understands the world we live in today, where a healthy work force, a work force whose members are provided with their right to time away from work, is actually a productive work force, and that is reflected in a healthy and productive society. A system that provides this is a system which will attract people back into the work force. It is not only right but essential that we find an effective balance between work and life.

These reforms have been introduced for a number of reasons. As we have heard, the legislation has not been updated for decades. During that time there has been significant change in the workplace. This change is most stark in the area of casualisation, with the proportion of casual employment in Australia increasing by 11 per cent between 1984 and 2002 and 27 per cent of employees now being casual. I do not think this is a statistic we should be happy about. It impacts on employment security and the ability of individuals to live and, for example, get a home loan so they can achieve the dream of owning a home. Casualisation is also outside the norm of industrialised nations across the world. Casualisation is a reality that we have to deal with, and that is what we are doing with this legislation.

The second major characteristic of the workplace in recent decades is that people who work full time are working longer and working harder. The average working week is around about 44 hours for full-time employees. This has led to debate in recent years about improving the balance between work and family commitments. The Bracks government is committed to dealing with these pressures, and that is what we are seeing tonight.

I would like to highlight, as other members have, clause 9 of the bill. The existing legislation is the only legislation in the nation that does not have a provision for casual and seasonal workers — Victoria is out of

step with the rest of the nation. Clause 9 establishes an entitlement to long service leave for casual and seasonal workers. Employees are defined as continuous and are thus eligible for long service leave if they have been employed by the same employer more than once over a period with a gap of no more than three months, unless that gap has been part of their industrial agreement.

Other improvements include employees being able to access long service leave pro rata at 10 years rather than 15; employees can access pro rata long service leave at 7 years if they are terminated rather than 10 years; and there is double time of leave at half pay. The bill ensures that all types of unpaid parental leave do not break service, including adoption leave and paternity leave, and paid parental leave is also counted as service. To hear arguments against that is extraordinary. Long service leave is exclusive of public holidays. At the moment if someone takes annual leave and a public holiday falls in that period, that is not counted as their annual leave, and it will now not be counted as their long service leave. This legislation does not change the entitlement to 13 weeks after 10 years service; it remains at 15 years. Nor does it incorporate penalties and overtime in the calculation of the payment of long service leave. As the member for Preston said, that is an issue of significant debate. I will finish up there. This is excellent legislation, and I commend the bill to the house.

Dr NAPHTHINE (South-West Coast) — It is rather sad to rise and follow the member for Monbulk, who is still unfortunately back in the Jurassic period of industrial relations with the us-and-them mentality; it is absolutely sad. I oppose this legislation because it is not in the interests of employees, it is not in the interests of business owners, it is not in the interests of people in regional and rural Victoria and it is particularly not in the interests of small businesses in regional and rural Victoria.

This legislation will cost jobs, it will cost investment and it will reduce work force flexibility. Work force choice and flexibility are the key words for the growth and development of this economy — choice and flexibility for employers and employees working together. It is in the interests of an employee to have a healthy business and an employer who is making a profit so they can continue providing a job to that employee. They have to work together in a constructive, productive environment. This legislation harks back to the old us-and-them days and should be rejected.

In particular I refer to clause 7 because it creates a new definition of employee with regard to long service

leave: it includes a casual or seasonal employee. The reason I am concerned is that of double dipping. I refer particularly to a full bench decision with regard to a 25 per cent wage loading per hour for casual employees. The full bench asks why it is so, and states:

... we are satisfied that paid leave, long service leave, and a component covering differential entitlement to notice of termination of employment and employment by the hour effects, should constitute the main components to be assessed in determining casual loading for the award.

If there is a specific loading of 25 per cent for casual employees as compensation in part for the fact that they do not have long service leave, then it is a contradiction to have legislation providing that they are entitled to long service leave as well. You cannot have both because if you have both it is double dipping, and it is at the expense of the employer, which hurts the employee because it makes the businesses less reliable and less competitive.

If you go in this direction you will have casuals taking both the money and the box. The problem is that as they take the money and the box they undermine the profitability and long-term sustainability of employers and put in jeopardy their jobs, particularly in regional and rural Victoria where the heart and soul of regional and rural economies are small businesses with small numbers of employees who need inflexibility in the workplace, who have good workplace agreements and good relationships. They do not need Big Brother government coming in and telling them how they must operate and how they must work. We must move to a more flexible and more productive workplace.

I also have concern with clause 9 of the bill, which says that work must be continuous if it is seasonal in nature even if the employer is engaged in other employment during the period. If you follow that logic, you have a situation where if somebody is a shearer and they shear sheep on your property for two weeks, then they shear at someone else's property and then somebody else's property, but year after year they come back to your property to shear your sheep, the legislation will have you believe that those shearers will now be eligible for long service leave after 7, 10 and 15 years.

There are shearers, wool classers, fruit-pickers, people involved in pruning vines and fruit trees, people involved in harvesting fruit, people involved in abattoirs doing seasonal work and people involved in tourism during the summer period on the coast or in the high country during the winter period. All of those people will be caught up in this, and the red tape and bookkeeping for all employers keeping track of this will kill the goose that lays the golden egg. The

government has not thought this through. It is so hell-bent on doing what the unions tell it it should be doing that it forgets that the greatest success for employees is having healthy employers and healthy employees working together.

Clause 6 substitutes a provision that enables people to be eligible for long service leave pro rata after seven years but deletes the requirement in the existing legislation relating to employment being terminated due to serious or wilful misconduct. Therefore somebody can be involved in serious or wilful misconduct and still be eligible for long service leave. This legislation is bad for employees, bad for employers, bad for small business and bad for country Victoria, and should be rejected.

Mr SEITZ (Keilor) — It saddens me to follow members of the Liberal Party making such comments because they are back in 1953, although parts of the 1953 legislation are being changed. The Nationals also oppose workers. It saddens me that the opposition is opposing this legislation and argues against it because all the legislation is doing is bringing Victoria into closer alignment with other states. It is so un-Australian to argue against it. We heard the same arguments and rhetoric when debating the Construction Industry Long Service Leave (Amendment) Bill.

Whenever it came to supporting the working class, providing for the less fortunate people in our society and arguing for their rights, The Nationals and Liberals were against it all the time. What about the university professors with their sabbatical leave? I do not see anybody kicking up about that entitlement. What about the number of hours other people are expected to work.

Dr Napthine interjected.

Mr SEITZ — What about university professors? What are they working — 24 weeks a year on average? Workers on a production line or anywhere else are expected to work harder and longer these days. I am sad at having to listen to the way the opposition parties are going on about the bill. What did the Scrutiny of Acts and Regulations Committee have to say about the bill? It is not critical of it. The explanatory memorandum to the bill states:

The bill amends the Long Service Leave Act 1992 to make the law relating to long service leave more consistent with modern working arrangements and to ensure that employees who take leave for family purposes are not disadvantaged.

This is a modern day world — we are not back in 1953. The second-reading speech says:

The main purpose of the bill is to amend and update the Long Service Leave Act 1992. The 1992 act substantially reflects the long service leave provisions in the 1979 Industrial Relations Act, although many provisions have not changed since ... 1953 ...

The opposition parties are living back in 1953 because of the Prime Minister, John Howard! They have not progressed since then. That is the truth of the matter.

This bill does not go far enough in my opinion. I worked in a workshop and missed out on long service leave payment simply because I wanted to make a career change. I had my 10 years but I missed out because at the time you had to have 15 years service before you got any long service leave entitlements. A lot of people are in similar situations where they cannot make a career change. In my case I was going into teachers college, and I lost all that money, which I would have welcomed as a student at the time. But I did not have the 15 years up, so I had no right to it. Those are the issues.

Opposition members should not come here shedding crocodile tears about country workers. Seasonal and casual workers are the most exploited and underpaid. I have tried it in my lifetime; I have been out there.

Honourable members interjecting.

Mr SEITZ — You try to live in a caravan as a seasonal worker. You try to live in the accommodations that are provided on the farms, whether you are picking grapes or other fruits. Have you worked there? No!

Honourable members interjecting.

Mr SEITZ — I have, and I got paid a pittance for it. Why can growers not get fruit-pickers these days? Because they will not be paid a pittance nowadays and will not opt to be exploited any more. You want to keep things back in 1953! You are exploiting the workers when you go back into that era. I thought John Howard was the only one in the Liberal Party who was stuck that far back in time and had not advanced, but you in the opposition have demonstrated today that you have not learnt anything.

The opposition is not up with the community, modern-day living and families, which the Bracks government is trying to build and develop. Members of Parliament have a responsibility to actually sell this legislation and convince everybody that we are equal and do not have different levels of workers where working-class employees continue to be exploited, as they have been in the past.

This bill goes just a small way forward. It is not making drastic changes to any of the long service leave entitlements. As a nation we need to make those decisions now, and we need to look at it for the benefit of future families if we want to have seasonal and casual workers. How would the building industry have survived with all the projects going on in Melbourne if there were no portability of long service leave in the building industry? Again, it was the Labor government that introduced it. I support this bill wholeheartedly. I am ashamed to listen to the opposition members knocking it. I wish the bill a speedy passage through the house.

Mrs POWELL (Shepparton) — This bill is about propaganda, it is actually not about reality. The bill and the second-reading speech state that the purpose of the bill is to amend the Long Service Leave Act 1992 to make the law relating to long service leave more consistent with modern working practices and provide for more family friendly hours.

This bill has nothing to do with family friendly hours or modern working practices. It is more about entitlements. We do not oppose long service leave entitlements; we are opposed to the bill reducing long service leave to 10 years. Making it 10 years service instead of the current 15 years and extending long service leave entitlements to casual and seasonal workers will, as other members have said, really hurt businesses not just in country Victoria but right across the state.

The reality of modern working practice, with electronics, computers, emails and faxes and so forth, is that people are working from home. They are working flexible hours in the comfort of their homes, not the terrible, long hours that the government would have members believe they are working — almost as though they were in the coalmines. People are able to work around their families. They do not now work 9 to 5. Those times have been long gone.

Long service leave is and always has been for just that — long service. It is not an entitlement for an employee who works fewer and fewer years; it is a recognition of the value of an employee to an employer. The government has moved the goalposts. It says that 15 years service is too long because in that case some people do not get long service leave. It is now saying that there will be an entitlement after 10 years service, with pro rata leave after 7 years service. Twenty years ago I was in a family business, Ian Powell Auto Electrics, and I balanced — as a lot of women do — home, family and career. This is not something new; it

has been going on for a long time. As I said, 20 years ago I had to balance family, hours of work and a career.

An honourable member interjected.

Mrs POWELL — I did do it well, thank you very much! That is not something new. The Labor Party would have members believe that this is something that has just come about. The concern of The Nationals is that the bill could work against women. Employers might decide not to employ women because of the hours that they will have to work and the entitlements that they may receive. Many employers will now consider that it will be too hard and will involve too much administrative work, and they will not employ casuals.

Many speakers have talked about casual employees and seasonal workers who are paid a higher hourly rate than that paid to full-time workers. That reflects the casual nature of the work. A number of members have talked about SPC Ardmona, which I have been to because my husband and his family have worked there casually for over 20 years. The reason they do so is that it is casual work. They can go back year after year after year, and their children can go back year after year. Realistically what the government is saying is that it will try to stop big employers like SPC Ardmona wanting to employ casual workers.

A number of people have also talked about fruit-pickers, pruners and people like that who work in the agricultural industry. It is a really big thing for people in country Victoria. People love having casual work. Some university people come to the area to pick fruit. Some women work at SPC Ardmona so they can buy a second-hand car, new carpet, go on a holiday and so forth. The bill has the potential to stop all those people from choosing to be casual workers. That is their choice. Many people do not want full-time work. They want to job share — women love to job share — and to work their hours around their family, or they may have to look after a parent and want to work only two or three days a week.

It is important that we do not ensure that employers will not employ casuals. An employer in Shepparton who owns the Europa Deli and Cafe closes the shop on Sundays because he cannot afford to pay the new increases for employees. He would rather close and lose business. He had about five employees working there very happily. Now they do not work on Sundays, and he may even choose to close the shop on Saturdays. This is such a great bill that we are losing jobs in country Victoria!

Although currently they are absorbed, public holidays are now not to be included in the calculation for long service leave. If the proposed 10 years service provision is introduced, somebody who takes a year off for whatever reason — whether it is for paternity or maternity leave or for some other reason — will be able to have their long service leave paid out after nine years. In business, if someone is away for a year, six months or three months, somebody else has to be employed to cover that job. That is something the government has not realised.

The government's propaganda makes it sound as if the bill will help workers. Instead it has the potential to limit the employment opportunities of women and casual or seasonal workers.

Mr HARKNESS (Frankston) — It gives me a lot of pleasure to rise and support this bill because there is no doubt whatsoever that there exists a need for a better work and family balance here in Victoria and that we must continue to strive to modernise our workplaces. These proposed changes to the long service leave entitlements will do that. I know that in my electorate of Frankston the competing interests of work and family responsibilities are a constant pressure on families. Long service leave offers a fabulous opportunity for workers to spend more time with their families and to allow them to renew their energies so they can actually enjoy their family responsibilities and the pleasures associated with that — and I am not talking about the rearing of children and keeping house. I am talking about those family duties which include caring for elderly parents and grandparents, looking after mum and the children after the arrival of the new baby or assuming parental responsibilities while your partner returns to the paid work force.

The gains to families and employees are not the only benefits to be expected from these changes to long service leave entitlements. The benefits to employers should be obvious, although I note that a lot of people here today and employer groups around the state are complaining about how much these changes might cost them. That just does not add up. While on the one hand employers are saying that they cannot keep good employees, on the other hand they are not prepared to offer modest improvements and conditions to reward long-term employees.

There are many other factors which support the argument for the modernisation of long service leave entitlements. Thanks to the good management of the Bracks government Victoria is now enjoying low unemployment rates, which is a wonderful thing, but employers need to offer incentives to keep good

employees. I do not think that anyone denies that Australia is facing a shortage of skilled labour and the modernising of long service leave entitlements will provide a terrific incentive for employees to consolidate their expertise with an employer. This would also help reduce labour turnover and assist employers to retain skilled workers.

There are both benefits and dangers in the new, casualised work force, which makes up some 27 per cent of the modern work force. Casual and part-time work can be a boon for many people, and women in particular are taking it up in order to both work and fulfil their family responsibilities. However, the growing part-time and casualised work force has sometimes missed out on the benefit afforded other, more traditionally engaged parts of the work force.

I note that some of the provisions of the Industrial Relations Act date back to the 1950s, when part-time and casual work were just a minor part of the work force and women mostly toiled unpaid in the home. In 1950 men were also less likely to want to leave the work force to fulfil family duties. Finding a balance between work and family is the great social policy debate of this decade, and we must ensure that long service leave entitlements reflect the diversity of the modern work force. I have no hesitation in supporting this bill. It is fantastic legislation, and I wish it a speedy passage through the house.

Mr KOTSIRAS (Bulleen) — I stand to briefly speak on the Long Service Leave (Amendment) Bill. The member for Keilor said that the opposition is opposing this bill and so we are going back to 1953. I have to say to him that this bill takes us back to the 1900s, because it divides people into ‘us and them’. This is bad legislation. The discussion paper was a farce and only lip-service was paid to the consultation process. What this government needs to understand is that if there were no employers there would be no employees, and that is what this government has not realised. If there were no jobs there would be no-one working. If there were no employers, there would be no employees. Government members have not understood that concept — I can see that.

This bill is not about spending more time with your family. The bill has nothing to do with spending more time with your family, and it is not about a fair go for all. This bill is all about the government looking after its union mates, paying back the mates for what they have done for the government, and has nothing to do with spending more time with your family.

The purpose of this bill is said to be to make the law relating to long service leave more consistent with modern working practices. I have to disagree, because I think that is the reverse of what this bill is all about. This bill will increase employment costs, reduce the number of workers and take away the freedom to choose and reduce investment. People choose to be casual employees for a specific reason. This government is taking this choice away from them because all it wants to do is help its mates.

Under this bill the workers will be able to take pro rata long service leave after 10 continuous years, when previously it was 15. There will also be pro-rata long service leave on termination after 7 years, whereas previously it was 10 years. What the other side does not understand as well is that long service leave is in one way a reward for having stayed with an employer for 10 or 15 years. Many people stay for 10 years and then they move on. What might happen now is that these people might stay for 7 years and move on, so you are paying them to depart their employment after 7 years. The bill also allows for double dipping. Casual workers are presently getting a 25 per cent loading, and on top of this they will also be receiving long service leave.

There are a few clauses in the bill that I have many concerns with. Clause 5, inserting new section 56A, ‘Entitlement to long service leave after 10 years’, will add significant costs that employers might not have budgeted for, which will mean less jobs. Clause 6(2), inserting new section 58(1), means, as I said earlier, that some employees might now leave after 7 years instead of 10 years. In regard to clause 9, which inserts new section 62A, what happens if the employee wants to take extensive leave to travel or rest and the employment is ended? If the employee is re-employed, then they have got a right to claim long service leave — again, more cost to the employer.

New section 64(3) is very complex. Why not just have a single formula that everyone understands and is simple and straightforward? Clause 12, which inserts new sections 66(2) and 66(4), I cannot understand.

Mr Maxfield interjected.

The SPEAKER — Order! The member for Narracan will be quiet.

Mr KOTSIRAS — Why have new section 66(2) and then have new section 66(4) say that the employee may apply to the court when there is no such right for the employer? Again it is ‘us and them’. The government is having a go at the employer and forgetting, as I said before, that there are employers and

employees. If you have not got employers, you will not have employees. That is what those on the other side do not understand. They have missed the point. But then again, what do I expect from a bunch of mushrooms who sit at the back there and just do everything the ministers tell them to do? They get their folder every morning and they read through their folder and all they do — all they do — is just listen to the minister. I will allow the member for Ferntree Gully to have a go.

Ms ECKSTEIN (Ferntree Gully) — It gives me great pleasure to join this debate, very briefly, to support this bill. Those opposite would have us believe that the sky is going to fall in — again. Every time there is a little bit more flexibility for workers, the world as we know it will cease to exist. We do not just have one Henny-Penny over there; they are all Henny-Pennys.

This bill will amend and update the Long Service Leave Act, which, as we have heard tonight, has not been substantially updated since 1953. It will bring the act into line with the contemporary work force and community standards as well as align it more closely with similar legislation and provisions in other states, in particular New South Wales and Queensland. Funnily enough, the sky has not fallen in there either. It is just amazing!

The nature of our work force, contemporary employment conditions and society as a whole have changed significantly since 1953. Casualisation is a significant feature of the work force today, as are the longer hours that full-time employees increasingly have to work. This is leading to adverse impacts on families, and the work and family balance is much harder for people to manage these days. Provisions such as maternity leave were not even taken into consideration back in 1953.

Long service leave gives employees an opportunity to renew their energies and to return to work with restored enthusiasm. It also gives families where both partners work an opportunity to balance their work and family commitments. Re-energised employees make better employees. This bill makes long service leave more accessible without adding additional costs for employers.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The SPEAKER — Order! The question is:

That the house do now adjourn.

Mitcham–Frankston project: documents

Mr WELLS (Scoresby) — I would like to raise a serious matter of concern with the Minister for Transport. I have raised this on a previous occasion; it is regarding the potential adverse environmental and health risks of the Scoresby tollway to the residents along Cathies Lane in Wantirna South. The immediate action I ask the minister to take is to facilitate the release to residents of all relevant information and documentation relating to the studies and modelling of air quality, particularly on fine particle pollution, that have been gathered since the Scoresby corridor environmental effects statement in 1998. This will enable an independent assessment to be carried out so that the occupants of homes and schools — which will be in some cases only 50 metres away from the tollway — can be reassured that there will be no negative impact on their health.

Obviously further independent assessment is critical now, because the tollway is going over Burwood Highway and Mountain Highway instead of under, as was proposed in the original environmental effects statement. Traffic volumes have increased dramatically since the completion of the environmental effects statement, and in conjunction with the major change in design these factors will no doubt have a greater adverse effect on the residents causing more widespread dispersal of vehicle emissions and significantly increased noise and visual pollution.

VicRoads, the Southern and Eastern Integrated Transport Authority and ConnectEast continue to deny the concerned residents this very important information. As recently as Wednesday, 20 April this year, at a monthly meeting of the community advisory group a SEITA representative was asked:

Can you advise what is being done or is planned for reducing the adverse impact of particulate matter (PM) emissions particularly in view of the growing evidence that long-term exposure to PM emissions has an association with respiratory and cardiovascular disease?

No answer was given. However, the chairman of the community advisory group requested that the question be put in writing. This was done. But as of yet no information has been forthcoming.

What we are putting to the minister is that this information must be released to the residents. We ask him to take that action, especially on the effects of the fine particle emissions PM 10 from the tollway. The 1998 environmental effects statement clearly stated that the available data suggested that the current levels of PM 10 would only just meet the proposed National

Environment Protection Council standard. With the traffic volumes expected along this tollway, it is imperative that this information is released to the residents. I ask the minister to immediately see that all relevant information, modelling data and analyses requested are conveyed to the concerned residents.

Soccer: Geelong junior teams

Mr LONEY (Lara) — I wish to raise a matter for the Minister for Sport and Recreation in another place. The matter relates to problems between Geelong soccer clubs, the Western Victorian Soccer Association and Football Federation Victoria. I seek that the minister use his good offices to call the parties together to resolve the current difficulties and address the administration of soccer in Geelong.

The first problem that needs to be addressed relates to the placing of junior teams in the Melbourne competition. It has been a fact of life in Geelong for some years that a number of teams have had under-age teams in the Melbourne competition. Some of the older clubs — Bell Park, Corio, and North Geelong, very strong clubs in the area — have fielded under 12 teams, under 13 teams and under 14 teams in the Melbourne competition, and then gone on to the under 16 competition et cetera. They had expected to again do that this year. In fact Bell Park started training from January, but three weeks prior to the competition commencing we were advised by Football Federation Victoria that the club was no longer welcome in the competition and that instead a team would be entered from the Western Victoria Soccer Association.

The association that was supposed to be representing the clubs was now in competition with them. But even more than that, it was poaching players from the clubs that the association was meant to represent and fielding under-age teams by taking teams out of the affiliated clubs of the association — a very strange state of affairs indeed.

Following receipt of the letter telling them they were no longer welcome, Bell Park made inquiries and replied to the letter from the federation on 17 March. It was not replied to until 22 April, a couple of days before competition. They asked for talks to take place but the federation told them they would not meet with the clubs because, they said, 'The decision has been made'.

It is the Western Victorian Soccer Association's position that players entering their teams do not have to be a member of an affiliated club in order to play, only that they reside in the region. We have got a very strange state of affairs where, as I said, an association

meant to be representing the clubs and looking after them is lodging teams in competition with its own clubs and raiding its clubs for players so that it can lodge those, including recently a women's team. They took the entire Bell Park women's team and then took their spot in the competition.

Neighbourhood houses: funding

Mr DELAHUNTY (Lowan) — I raise a matter for the attention of the Minister for Community Services. I request that the minister inform the neighbourhood houses in Victoria, and in particular those in the Lowan electorate, whether the government has accepted and funded the Association of Neighbourhood Houses and Learning Centres in this week's budget?

Neighbourhood houses are of particular importance to us in country Victoria. They were established in the 1970s and their association is seeking a funding increase of \$22.1 million over two years. That sum, amongst other things, will increase the base neighbourhood house coordination funding from an average of 17.8 hours per week to 35 hours a week and also increase the delivery of occasional child care. The association was also looking for capital funding of about \$10 million over two years.

This is important because neighbourhood houses have never had capital funding previously. As we all know, they provide important social, educational and recreational activities for their communities in a welcoming and supportive environment. They are managed by voluntary committees and have few, if any, paid staff — most have about one. They offer many opportunities for volunteer participation — and that should be encouraged — in all aspects of the house activities and management. Activities are generally run at low or no cost to participants and these activities include English as a second language, children's art classes, general exercise for over 50s, men's health and wellbeing, singing, gardening, introduction to computers, car mechanics for women and much more.

As we know, the neighbourhood houses program will be transferred to Local Government Victoria within the Department for Victorian Communities, and that will take place on 1 July this year. At present the Minister for Community Services is still the responsible minister, and I ask that she inform these people if they are going to be funded.

There are four neighbourhood houses in the Lowan electorate, those being at Casterton, Hamilton, Horsham and Nhill. I have visited all but one of those in the last couple of years, and I plan to catch up with the

remaining one in Hamilton next week. I have seen in the people who have participated in the programs enormous growth in their confidence and, more importantly, in the ability and skills they gain from the neighbourhood houses program.

I ask the minister: has the government funded the Association of Neighbourhood Houses and Learning Centres in this week's budget?

Road safety: hoons

Mr HARKNESS (Frankston) — The issue I wish to raise tonight is for the attention of the Minister for Police and Emergency Services, and I am cock-a-hoop that he is in the chamber tonight to hear this issue. I commend the minister's actions directed towards an awareness of hoon drivers, and I ask him to continue to work to create initiatives to deter hoon driving. Hoons are the scourge of residential streets across Melbourne. My constituents are constantly telling me that they have had enough of hoons in their streets, with their dangerous and antisocial behaviour.

I too am pretty sick of hoons waking me up at night with their screeching tyres and their booming doof-doof music, fouling the air with car fumes and burning rubber from the burnouts, the donuts, the Ronnie Rollbacks, the time trials and all the other illegal behaviour.

Since my election in 2002 I have had many discussions with local police on this issue. I commend Senior Sergeant Terry Bannan of the Frankston traffic management unit and his predecessors in the role — Senior Sergeant Lloyd Millard and Sergeant Bruce Buchan — who have been tireless in their pursuit of safer streets in Frankston. Senior Sergeant Bannan says hoons are not necessarily deterred by fines and roadworthy checks, the legislative tools currently available to Victorian police. The one thing that can make a hoon think twice about continuing their hoonish behaviour is the possibility that they might lose their car. I ask the Minister for Police and Emergency Services to investigate further ways of allowing police to impound the vehicles of those found guilty of hoon driving.

The outcry against hoons in my electorate is such that just recently I called a public meeting to discuss the issue. On Thursday night last week more than 150 people turned up to the Frankston Heights Primary School to show their opposition to hoon behaviour. The people of Frankston want to reclaim their residential streets. The minister can help them do so by

investigating ways that give police real power to fight hoons.

I thank Senior Sergeant Bannan and Mr Bob George, the road safety officer of Frankston City Council, for addressing the public meeting. They both stressed the high importance of community reporting to combat hoons. I am pleased to say that Frankston City Council is investigating the feasibility of a hoon hotline along the lines of that adopted by Casey council. Bob told residents that they needed to be vigilant but not vigilantes. This meeting was also attended by a small group of people who claim they are being victimised because their passion for cars and hoon driving is not understood or supported. I totally refute this argument. I support the right of anybody to be involved in and enjoy motor sports in a safe and regulated environment, but hoon driving in residential streets is dangerous, antisocial and, most of all, illegal.

In closing I draw the minister's attention to the following statistics: Queensland police have impounded more than 1700 cars since their anti-hoon laws were introduced two years ago; of those drivers only 22 have reoffended.

Rail: Wodonga bypass

Mr PLOWMAN (Benambra) — I do not have any hoons in Wodonga, and I do not have any doof-doof music. I do not know what this is all about! The issue I wish to raise is for the Minister for Transport and it concerns the proposal to relocate the railway line from the central business district of Wodonga. I want the minister to commit to the relocation project, which was costed at \$58 million in 2003. I want the minister to ensure that this vital project is commenced at the same time as the freeway bypass for Albury-Wodonga is undertaken for \$520 million.

On 14 August 2001 the federal transport minister, Mr John Anderson, the Victorian Minister for Transport, the City of Wodonga and Masterfoods signed an agreement committing all parties to the Wodonga rail bypass. The bypass would free up 20 hectares of commercial land in Wodonga, which will come back to the Victorian government at about double the value that it had when this was initially proposed. It is an attractive proposal for the state government.

The benefits from both projects, if they are done at the same time, would be immense. The saving to the state government, as I said, would be significant. The opportunity to find the fill required to build the embankments for both projects at the same time and

from the same source would provide enormous savings and would overcome the duplication that otherwise would be required. It would also create substantial savings by having on site one of the largest earthmoving construction companies, which would be able to tender for this bypass project at the same time.

There is no doubt that having Pacific National as a willing partner to renegotiate with the government is a plus. Pacific National is fully supportive of the project going ahead as soon as possible. The company is good to deal with, and it will cooperate with the state government. The one issue I believe Pacific National sees as important is the need for twin lines to be built as part of the relocation between Albury and Wodonga.

What I ask from the minister is that this project is given the green light and for it to go ahead and not be held up by a desire to incorporate this bypass project with the rail standardisation along the corridor from Albury to Melbourne. I understand the importance of rail standardisation, particularly for freight services, but this project has already been delayed for up to four years on the basis of this standardisation project. It is a most vital regional development project, as it will revitalise one of the fastest growing cities in Victoria. I commend this project to the government, I commend it to the minister and I ask that he do this as soon as possible.

Disability services: funding

Mr LANGUILLER (Derrimut) — I would like to bring a matter to the attention of the Minister for Community Services, who is also the Minister for Children. I call upon the minister to take action to provide more and better support to families of people with disabilities.

I am very proud to be part of a government that sees people with disabilities not just as clients of services but, more importantly, as members of families, neighbourhoods and communities — indeed, as active citizens. Families are a critical piece of the picture. Families provide children with those first crucial experiences of belonging and those first crucial opportunities to learn and develop. And families continue to nurture and support children as they grow into adults. At least that is how families are supposed to work, but in the past it has often been a very different story for families that have a child with a disability. In the past families of people with disabilities struggled without any support, advice or information. That was devastating for families, and it often meant that children with disabilities missed out on the opportunity to be part of a family and instead became clients of services,

growing up in institutions or residential units with rostered staff taking the place of mum and dad.

The Bracks government has already done a lot to change all that. Now permanent residential placements as the first port of call for children with disabilities are, thankfully, a thing of the past. This has been great news for families. I am yet to meet a single parent of a child with a disability who has wanted anything other than to have their child grow up within the family. The families I have met have pulled out all stops to make that possible, but I know too that there is still a lot to be done. I know that, if families are to continue supporting their children who have disabilities, they need help, and the government has done a lot to provide that help already.

Speaker, I remind you and members that when the Bracks government came into office in 1999 there was a budget of \$580 million annually. It has now gone up to \$980 million — in other words, this government has actually increased the budget by some 70 per cent. I know there have been unprecedented increases in funds and, perhaps more importantly, a revolutionary revamping of the system to turn it into something that is much more flexible and adaptable to individuals and to the changing needs of families and their children. But as I said, there is more to be done, and I ask the minister to act to ensure that the government's support for families of children with disabilities continues to grow.

Ambulance services: Paynesville

Mr INGRAM (Gippsland East) — My issue is for the attention of the Minister for Health. The action that I seek is for the minister to allocate sufficient funds out of the budget for the provision of ambulance services for Paynesville. Members of the Paynesville community have been very active in ensuring that the issue has reached the attention of the minister. They have had a number of meetings with the parliamentary secretary and other members, and they and I have noted that significant funds have been allocated to Royal Ambulance Victoria in the budget presented to Parliament.

The local ambulance auxiliary has been very active, and Sophie, Ruth and Steve Hall and the committee have raised hundreds of thousands of dollars locally for the purpose of building an ambulance station, and they are adamant that providing those services is a high priority in the area.

The community has seen significant growth in recent years. At the last census the population was 2800, but a recent assessment of the current population is that it has

grown to about 3800 or 4000 over the last couple of years. Very extensive subdivision and housing development has taken place over the last few years. Members would know that Paynesville is on the Gippsland Lakes and is suffering a significant growth in its population, and a large proportion of that population is made up of elderly people because of the demographics of sea-changers and self-funded retirees moving into the area.

The area we are talking about includes not only Paynesville but also Raymond Island, Newlands Arm and Eagle Point. The area is currently serviced by Bairnsdale, which is about a 12 to 15-minute drive away. Clearly there are significant problems, because that is at the outside edge of the acceptable response time. The community is adamant that it would like to see full-time paramedics stationed at Paynesville. That is why it has been working closely with representatives of the local Rural Ambulance Victoria brigade as well as with me and the government to try to get that commitment. What I seek is for the minister to ensure that this can be delivered in the near future because the community is very clear that that is its desire.

Electricity: telemarketing

Mr ROBINSON (Mitcham) — I want to raise an issue through the Minister for Police and Emergency Services for the attention of the Minister for Energy Industries and Resources in the other place. It concerns the tactics of electricity retailers, particularly as they affect older customers. What I am seeking from the minister is a commitment to investigate the complaint which has been brought to my attention.

The complaint has been made by Mr Simmons of Mitcham, who some time ago advised me that he was in dispute with TXU. The company advised him via a postcard that he was now with TXU. He opposed this quite vigorously and sent back a note saying that he had never accepted any transfer of gas or electricity accounts to TXU, and he certainly had not signed anything. Instead he completed and signed a cancellation form and returned it to the company. When his letter arrived we put him in touch with the minister's office, and through that a successful mediation was conducted under the auspices of the energy ombudsman, and Mr Simmons was quite pleased with that.

However, he has since raised with me the broader point — and that is the way in which salespeople acting on behalf of electricity retailers target older people. He has had a number of calls from TXU, and he told me the original circumstances. He, not being in such good

health and being rather aged, had received a series of calls. After one of the calls he realised that he had inadvertently taken up an offer, so he rang back the company to say quite clearly that he did not wish to be contracted to it. The telephone salesperson he spoke to said to him with equal insistence that he had verbally contracted to the company and there was no getting out of it. He replied that he would see the company in court.

In a letter to me he wrote that his principal concern is that he suspects that many elderly people:

... like myself, or in general most people, say anything in agreement with telephone sales people to get rid of them. I don't come from a school where telephone sales, let alone sale of gas and electricity supply, is done on the basis of a verbal agreement in a taped call.

He expects that proper, ethical practices should apply and that a telephone sale is not a sale until the consumer has signed a contract or agreement. He expects that in the same process these companies might at least offer some further advice as to a comparison of prices that are being currently offered and what the company is offering.

This is a very serious issue that deserves investigation. Electricity is an essential service. It is not like other discretionary recreational purchases — for example, overseas lottery tickets. It deserves to be treated with far more respect than it is currently getting.

Budget: multipurpose taxi program

Mrs SHARDEY (Caulfield) — The issue I wish to raise is with the Minister for Transport, and the action I ask him to take is to address a problem that Lorna Boucher, a 76-year-old woman, is having with the multipurpose taxi program. This program has been callously cut by the Bracks Labor government, leaving a large number of elderly and disabled people locked up in their homes. Lorna Boucher is a 76-year-old widow who has been living in the same house in Ringwood for some 48 years. She is a member of the multipurpose taxi program. The changes introduced by the Bracks government last year have meant that Mrs Boucher cannot participate in the community as she did previously.

She uses a walking frame, she has had both hips replaced, she currently suffers dizziness and she stopped driving a car some 18 years ago. The nearest public transport for her is more than 1 kilometre's walk away. She suffers chronic shortage of breath. Mrs Boucher, up until the time her multipurpose taxi program came to an end, spent some \$60 a week on

taxi, \$30 of which of course was subsidised by the government under the program. Her trips consisted of Fridays to the local supermarket, Sundays to her church and occasionally to her hairdresser. She also needed to use her card to attend appointments with specialists in relation to her medical problems — blood tests, X-rays et cetera. She is now finding the situation very difficult.

In July of last year she received some increase on her card, but this of course came to an end in January of this year. As a result she tells me, and I spoke to her personally, that she gets out of her house less and she is participating in her community less. Her women's church group recently asked her about her absence from the group activities. Lorna told them it was because it would cost \$36 — —

Honourable members interjecting.

Mrs SHARDEY — I hear members of the Labor Party laughing, and I find that absolutely extraordinary. You find this a giggle? Good on you!

The SPEAKER — Order! The member will address her comments through the Chair.

Mrs SHARDEY — Thank you, Speaker, I appreciate your intervention.

Lorna told them it would cost her \$36 to get there and back and she simply could not afford to attend. Yesterday's budget papers announced that there would be 1 million fewer trips on the multipurpose taxi program for 2004–05 than for 2003–04. That means 1 million fewer interactions with the community for the elderly and disabled. I call upon the minister to fix this sad situation for Lorna — —

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

Geelong: breakwater bridge

Mr TREZISE (Geelong) — I raise an issue for action also with the Minister for Transport, and I know the member for South Barwon will support it. The action I seek is for the minister to commit to the construction of a new breakwater bridge in Geelong.

It is imperative that the state government in conjunction with the City of Greater Geelong immediately address this important transport issue. The flow of east-west traffic, both cars and trucks, heading from Melbourne through to the Bellarine Peninsula is slowly but surely strangling the inner suburbs of Geelong, including the central business district. It is unfair that residential streets are expected to carry the load of traffic travelling

to the east of the city. Residents in Malop, Ryrie, McKillop, Myers and Carr streets should not have to be placed under the ever-increasing burden of more trucks and cars travelling past their doors. This situation is creating an unsafe and unhealthy environment for families living in these east-west corridors.

It is totally unacceptable that residents are beginning to be pitted against one another in an effort to save their own particular street. I can confidently say that I speak on behalf of the residents affected — that they are prepared to take their fair share of the load of traffic but they are not prepared to cop the lot. In the short term residents of Malop, Ryrie, McKillop, Myers and Carr streets are prepared to share the load, but they demand a solution in the foreseeable future.

The solution is probably twofold: the construction of a ring-road that at the end will hopefully go through to the Bellarine Peninsula in years to come, but more importantly in the medium term the construction of the breakwater bridge. It would not take all east-west traffic, but it would take a large percentage of cars, and importantly trucks, out of the residential streets. In fact I believe it would be feasible with the construction of a breakwater bridge to take all truck traffic out of suburban streets, restricting it to the bridge or the ring-road alternatives.

The construction of a breakwater bridge is to my mind the no. 1 traffic management issue in Geelong yet to be committed to by the state government. For east-west traffic it is as important as a ring-road, and I therefore urge the minister's immediate attention to this matter. It should not be seen as a long-term project 10 to 15 years away, but at the very best a medium-term project that should be constructed well before this decade is out — that is, in four or five years time.

I therefore call on the Minister for Transport to commit, as a priority, to the construction of a breakwater bridge.

Responses

Mr HOLDING (Minister for Police and Emergency Services) — The member for Frankston raised a matter in relation to hoon driving not only in his electorate of Frankston but I think throughout the state of Victoria. Firstly, can I commend the member for his close interest in this issue and his active advocacy in the Frankston region in opposing hoon driving and in organising local residents who share his concerns about this issue. This culminated in a meeting which occurred on Thursday last week. It was a well-attended meeting which the member for Frankston organised, and it gave local residents an opportunity to express their outrage

about what has been occurring in the Frankston area. I commend him for his initiative in organising that meeting.

What I can say is that the Victorian government shares his concerns about the activities of hoon drivers. While there will be differences of opinion amongst lots of people in the community about what exactly constitutes hoon driving, there are areas where we would all agree it constitutes a major threat to public safety, and we want to make sure that we have in place an effective regime to combat that. Of course there are existing road laws that many of these people are offending against when they drive recklessly and dangerously. Some research prepared for the Victorian government by the Victoria Police major accident investigation unit has shown that this hoon-like activity leads to serious accidents sometimes involving fatalities for both the drivers and their passengers and for other innocent people such as pedestrians and other road users, as well as major road trauma and major collisions which lead to significant injuries for those concerned.

There is a social cost and a financial cost of this type of driving, and the Victorian government is keen to put in place a regime that will enable it to effectively combat this problem on our streets, in our suburbs and in our towns. It is for that reason that the Ministerial Council for Road Safety is currently considering some initiatives which closely mirror those that exist in other states, particularly the regime that exists in Queensland. We are using them as a model to develop an appropriate anti-hoon legislative regime here in Victoria. We look forward to introducing this legislation later this year. I commend the member for Frankston for his ongoing advocacy on this very important local issue.

A range of issues were raised during the adjournment debate. The member for Scoresby raised a matter for the Minister for Transport. I will draw that to his attention.

The member for Lara raised a matter for the Minister for Sport and Recreation in the other place in relation to Geelong soccer clubs, and I will draw that to the minister's attention.

The member for Lowan raised a matter for the Minister for Community Services in relation to neighbourhood houses, and I will draw that to her attention for a response.

The member for Benambra raised a matter for the Minister for Transport in relation to the relocation of a

railway line in Wodonga. I will draw that to the minister's attention for a response.

The member for Derrimut raised a matter for the Minister for Community Services, and I will draw that to her attention for a response.

The member for Gippsland East raised a matter for the Minister for Health in relation to paramedics in the Paynesville area. I understand that the minister and her office will be pleased to organise a meeting to facilitate a full response on that issue. I will draw that to her attention.

The member for Mitcham raised a matter with the Minister for Energy Industries and Resources in another place. I will draw that to that minister's attention.

The member for Caulfield raised a matter for the Minister for Transport in relation to the multipurpose taxi program. I will draw that to his attention.

The member for Geelong raised a matter with the Minister for Transport in relation to a new breakwater bridge, and I will draw that to his attention for a response.

House adjourned 10.34 p.m.

