PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

18 April 2002

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Carli, Mr Carlo	Coburg	ALP	Mildenhall, Mr Bruce Allan	Footscray	ALP
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Kennett, Mr Jeffrey Gibb [1]	Burwood	LP	Thwaites, Mr Johnstone William	Albert Park	ALP
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Kotsiras, Mr Nicholas	Bulleen	LP	Vogels, Mr John Adrian	Warrnambool	LP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wells, Mr Kimberley Arthur	Wantirna	LP
Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

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Thursday, 18 April 2002

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 9.35 a.m. and read the prayer.

PUBLIC ACCOUNTS AND ESTIMATES COMMITTEE

Human Services: service agreements

Ms BARKER (Oakleigh) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

PAPERS

Laid on table by Clerk:

Auditor-General — Performance Audit Report — International students in Victorian universities — Ordered to be printed

Central Gippsland Health Service — Report for the year 2000–01 (two papers)

Lorne Community Hospital — Report for the year 2000–01

Statutory Rules under the following Acts:

Building Act 1993 — SR No 27

Gaming Machine Control Act 1991 — SR Nos 23, 24, 25

Magistrates' Court Act 1989 — SR No 22

Sentencing Act 1991 — SR No 21

Subdivision Act 1988 — SR No 26

Subordinate Legislation Act 1994: Minister's exemption certificates in relation to Statutory Rule Nos 21, 22.

MEMBERS STATEMENTS

Member for Melton: performance

Ms ASHER (Brighton) — I draw to the attention of the house a performance audit, as it were, of the honourable member for Melton by his local press.

There is enormous community concern in Melton about the honourable member for Melton being very quiet, shy and retiring. Indeed, a number of local people have reported to the local press that he is being too quiet. Graham Dempsey, for example, said Mr Nardella had been too quiet on serious issues, which included Melton's struggle to hold on to Saizeriya. This good bloke said, and I quote:

> I'd like to see him be a bit more positive to the electorate instead of hiding and not speaking up.

John Hyett said it appeared he was doing nothing, that he was refusing to do anything to save Saizeriya:

> 'Why isn't he out supporting more jobs for Melton?' …
>
> 'Unless he gets off his bum Melton will lose more jobs'.

The local press went to the honourable member for Melton and asked him for a comment about this scathing community concern about his performance, and the honourable member for Melton said, 'What do they suggest I do?'. He has gone to the John Thwaites school of asking other people what to do!

I have a suggestion for the honourable member for Melton — —

Mr Nardella — I'm listening.

Ms ASHER — Good! The honourable member for Melton has a proposal to have a toxic waste dump in his electorate. The Liberal Party has ruled it out. We are waiting on the honourable member for Melton to support the Brimbank Melton Residents Action Group — —

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

Insurance: public liability

Mr DELAHUNTY (Wimmera) — I bring an urgent matter to the attention of the government, in particular the Minister for Finance. Last week I was presented with a petition from Mr Guy Holden, president, and Ms Jo Seary, secretary, of the Stawell Motor Sports Club regarding public liability insurance. Unfortunately the petition does not meet the criteria to be presented in the Parliament; however, I am forwarding this document to the minister for his information and comment.

The Stawell Motor Sports Club has approximately 50 members. It is so concerned about public liability that it has gathered 470 signatures on a quick petition. The club informed me it normally holds five meetings a year and pays $514 per meeting. The quote this year is for $1983.36 per meeting — an increase of 386 per cent! The petition draws to the attention of the house the situation in which sporting clubs, bodies and businesses find themselves under the current state of public liability in the insurance market. This petition, therefore, prays that the house can enact legislation to cap payouts on insurance claims in the near future to ensure the viability of many groups affected.

As we are all aware, public liability premium insurance is of great concern to many organisations across Victoria, and particularly groups in the Wimmera. They are all struggling under the burden of rising insurance premiums, and it is vital that the government attacks the problem now — and the sooner the better.

Paul Kennedy

Ms BEATTIE (Tullamarine) — I pay tribute to Paul Kennedy who passed away on 10 April. Paul was the sort of person who we were all better for having known. He was a man of great principle who lived life to the full with those principles as his guiding force.

Paul Kennedy was associate professor with the Faculty of Applied Science at RMIT and a great mentor for young academics. A strong and committed unionist, Paul loved to debate and, as with all things in his life, his approach was always rigorous, thoughtful and intellectual. He recently spent time at the Woomera detention centre. Many people have expressed their disgust at the treatment of detainees, but Paul Kennedy felt compelled to do much more than just talk. He believed that we should be doing more to assist the detainees and, true to his beliefs, he led by example.

Paul had been a member of the Sunbury Australian Labor Party and was the inaugural chair of the Sunbury Progress Association. His contribution to the Sunbury community over many years has left a legacy that we will all continue to benefit from.

Paul was a wonderful man who gave so much and who has left us all too soon. His absence from our lives will be felt. I send my deepest sympathy to his wife, Kate, and their four children, Paul, Austin, Edmund and Eleanor. Farewell to a great comrade who was disgustingly attacked in this house yesterday.

The Basin Primary School

Mr McARTHUR (Monbulk) — I raise the issue of the urgent need for maintenance funds for The Basin Primary School. School council members including the president, Angela Pickering-Wheat, have raised with me their disappointment at the school being overlooked for the second year running by this government following a physical resources management system audit. The education department identified works that are needed totalling in excess of $100 000. We are almost at the end of the 2001–02 financial year and no money has been forthcoming.

I was at the school last month. The senior wing, the administration block and play areas of the school, which are about 120 years old, are in urgent need of maintenance works. Children are playing in areas where it is physically dangerous for them to do so. The senior classroom areas and the libraries have major maintenance problems which the government must urgently address.

The staff and parents have done their best in difficult circumstances. A combination of volunteer labour and donations from private enterprise have been used to make the best possible situation for the school, but they can only do a certain amount. This is a government responsibility. It has been ignored by the government and the department. I took the matter up with the former education minister last year and nothing happened. I am calling on the new Minister for Education and Training to do something. There was an agreement to do something with The Basin Primary School prior to the last election, and this government has ignored it for two and a half years.

Nursing homes: Trafalgar

Mr MAXFIELD (Narracan) — I raise the matter of nursing home beds. The Bracks government in conjunction with the community made a promise on nursing home beds and aged care because it is committed to the issue. Unfortunately, two attempts to get the federal government to allocate nursing home beds in Trafalgar have been thrown back in its face.

During the last federal election campaign, the then federal minister, Bronwyn Bishop, visited the hostel in Trafalgar, obviously giving the appearance that her government was concerned about nursing home beds. But when the nursing home bed rounds came out, what happened? Because the hostel is owned by the community it did not get funding for any beds. Private operators all over the place were able to get beds like there was no tomorrow. The federal government was previously able to hand out low-care hostel beds, more than were needed for private operators in the area. But when it comes to nursing home beds we are unable to get them. It is very sad.

Now we see people who require nursing home beds staying in hospital, and as a result we are losing access to those hospital beds and there are hold-ups in casualty departments. Those issues flow on from the federal government's failure to allocate nursing home beds where they are required. It is extremely disappointing that the federal government is refusing to look after people in Trafalgar and others in my electorate.

SAM's Cottage

Mr INGRAM (Gippsland East) — I draw to the attention of the house the dedication of and the hard work done by one of my constituents, Julie Jackson, who proposed the establishment of a cottage to allow families of terminally ill people or accident victims to be near loved ones who are being treated at the Bairnsdale hospital.

On 28 July last year Ms Jackson's partner, Stephen Alan Martin (SAM) died at home after a long illness. During the final days of his life his plea was that his partner establish the cottage.

Ms Jackson has worked tirelessly on gathering community support for the project, and I am pleased to say that works have commenced. Land has been sourced close to the hospital following a private donation. Community groups and local businesses have embraced the project, a large number have supported it, and donations have been sourced from community raffles and fundraisers.

Students of the local East Gippsland Institute of TAFE are conducting the work, with assistance from local tradespersons. Donations cover just about everything involved in the construction, including the kitchen sink. The Bairnsdale Regional Health Service has agreed to the ongoing cleaning and maintenance of the cottage, and local garden clubs will assist by landscaping and planting a rose garden there.

SAM's Cottage is a prime example of the community spirit which exists in country towns. I indicate that so far the government has not been asked to contribute to the project. I recognise the dedication and hard work of a good bunch of people, led by Julie Jackson.

Libraries: CD talking books

Mr PLOWMAN (Benambra) — I alert the house to the extraordinary work of regional libraries and the services they provide throughout country Victoria. Recently I wrote to my regional library, which also encompasses a large part of New South Wales, seeking its support for making talking books available on CDs. I found the response I received very interesting:

> We have a very large talking book collection in cassette format. We have 139 registered members to whom we provide a housebound service and —

the majority —

> of these members have sight disabilities.

Further the letter says that the library:

> … will be stocking talking books on CD by late 2003. This will however be at the expense of our talking book collection …

Then it makes the point:

> I would just like to say that under the Labor state government funding for public libraries has decreased overall in comparison to funding under the previous Liberal state government. With the huge demand for services and resources now being placed on libraries we have reached a point where we can no longer be all things to all people.

This cannot be allowed to continue; the service is too important to country Victoria. Funding for regional libraries has dropped by 4.2 per cent, and the Labor government must fund the deficit.

Member for Werribee: staff

Ms GILLETT (Werribee) — I take this opportunity to pay tribute to my workmates, Sue McGlashan and Eileen Kitching, who work with me here at Parliament House.

I pay a special tribute to Sue, who has worked with me in my role as secretary of the Victorian parliamentary Labor Party for the past six years. She has worked in Parliament House for a lot longer than that, but I am sure she would not be happy with me if I mentioned just how long that has been! Sue's work is outstanding.

Eileen has worked with me for a shorter time, but she has been just marvellous. Her patience and tolerance are terrific.

In my electorate office Marie Rogers, Jacquii Cook and Peter Hawkins are a formidable team who look after the Werribee constituency in my absence.

It is important for us all to acknowledge and understand that the role we perform as MPs is a complex one, and without fantastically dedicated and committed staff we could not look after our constituencies as well as we do. I place on record my gratitude to them.

Insurance: learner drivers

Mr CLARK (Box Hill) — In recent days we have had a considerable discussion of road safety issues. I raise a further issue which a constituent has recently drawn to my attention concerning learner drivers. My constituent writes:

> My renewal and policy document for comprehensive insurance … states that learner drivers are subject to an age excess along with all under 25 drivers.
>
> If I want to teach my son to drive and I don't list him on my policy, in the event of an accident it will be a $1500 excess for him plus my $400 excess, a total excess of $1900.

> If I list my son on my policy as a learner driver my premium will increase by $810 to $1353 and the standard excesses apply.

My constituent makes this further sound point:

> The accident statistics for learner drivers and licensed drivers under the age of 25 are not the same.

This treatment of learner drivers driving with their parents under comprehensive insurance policies runs contrary to the Transport Accident Commission's efforts to encourage such practice.

This is something about which I intend to write to the insurance company concerned. I also suggest that the minister and the TAC might also take up this matter with insurance companies to try to seek special arrangements for learner drivers driving with parents and other relatives and perhaps also enlist these companies' support for the TAC's message about driving experience for learner drivers.

Footscray Primary School

Mr MILDENHALL (Footscray) — Congratulations to the Footscray Primary School, known to the locals as the Geelong Road state school, on the magnificent achievement of its 140th birthday.

On 16 March I was honoured to represent the Premier at the celebrations and to declare open the $1.2 million refurbishment. The hundreds of people who celebrated the birthday and the opening of the refurbishment also celebrated the achievements of the generations of families who have attended that fine school.

Guests were entertained by tall tales and true from former students and teachers. Some of the former students include author Kerry Greenwood, former Speaker of the House of Representatives Bob Halverson, former captain of the Australian basketball team Ken Burbridge, Footscray historian Dr John Lack, and the present principal, Carol Castano.

Congratulations to all those involved in the organisation of the fantastic occasion, including the coordinator Lindy Bracey, her organising committee, the principal, and the generations of students, parents and staff who have made this school such a physical and educational landmark in the Footscray community.

The SPEAKER — Order! The time set down for this debate has expired.

RAIL CORPORATIONS (AMENDMENT) BILL

Second reading

Mr BATCHELOR (Minister for Transport) — I move:

> That this bill be now read a second time.

The main purpose of the bill is to make provision for the improvement of the rail access regime in accordance with national competition policy guidelines. This bill makes a number of amendments to the access regime contained in the Rail Corporations Act 1996.

Honourable members may recall that, prior to the privatisation of V/Line Freight and the various passenger rail businesses in 1999, part 2A of the Rail Corporations Act was introduced. Part 2A contains a regime allowing third parties to obtain access to certain tram and train infrastructure that is owned by the state and leased to private operators. The Essential Services Commission administers the rail access regime.

The Victorian government has applied to the National Competition Council to have the Victorian rail access regime certified as an effective access regime for the purposes of the commonwealth Trade Practices Act 1974. The effect of certification will be that the Victorian rail access regime will apply to the exclusion of the general access regime contained in part IIIA of the commonwealth Trade Practices Act 1974. A state access regime can be certified as effective only if it complies with certain principles set out in the competition principles agreement.

The Rail Corporations (Amendment) Bill makes three major amendments to the Victorian rail access regime to address concerns the National Competition Council has expressed about whether the Victorian rail access regime currently complies with the competition principles agreement.

The first amendment strengthens the protection given to the confidentiality of commercial information which an access seeker must disclose to the infrastructure provider.

In December 2001 the National Competition Council published a position paper commenting on the Victorian rail access regime. In that paper the council made the point that when an access provider also operates a business that competes with access seekers, it faces incentives to favour its own businesses. The council indicated that it generally considers that an effective access regime needs to include provisions that

protect confidential access seeker information from misuse for the benefit of the access provider's affiliated businesses. The Victorian rail access regime does not currently include any provisions protecting confidential access seeker information from misuse by an access provider. Clause 5 of the bill will introduce a new division 3 to part 2A of the act to be entitled 'Information provided by access seekers' for the purpose of addressing this issue.

The Essential Services Commission may make a declaration that a particular access provider must comply with division 3. The commission may make such a declaration only if it is satisfied that the access provider is substantially involved in a business in competition with access seekers and that requiring compliance with division 3 would either not cause detriment to the access provider or that the benefit of requiring compliance with division 3 would outweigh any detriment caused.

If such a declaration is made, the access provider concerned must keep certain information provided to it by an access seeker confidential, must not use that information to obtain a pecuniary or other advantage and must ensure that the information is not disclosed to its employees who are involved in the promotion or marketing of tram and train services which compete with those of the access seeker.

The second amendment will require infrastructure providers to keep certain information available to assist access seekers in formulating their request for access.

Section 38O of the Rail Corporations Act currently requires access providers to prepare and keep certain information. However, the Essential Services Commission can generally only verify that such information is being kept at the time an access dispute arises. In its position paper, the National Competition Council raised concerns about this lack of a process of regulatory verification in the Victorian regime. To address the council's concern, clause 7 of the bill will introduce a new section 38RA to permit the Essential Services Commission to use its current powers under the Essential Services Commission Act 2001 to obtain information for the purposes of the Victorian rail access regime, including to allow the Commission to verify that an access provider is complying with its information keeping obligations under section 38O.

In addition, clause 4 of the bill makes amendments to section 38H of the Rail Corporations Act to clarify that the Essential Services Commission can obtain information from any person who the commission has reason to believe has information that may assist the commission in making an access determination. The amendment also removes the limitation that the commission can only seek information within 20 days of a dispute arising. The amendment also clarifies the powers of the commission to make more than one request for information from any person.

The third amendment deals with the situation where an access seeker also needs access to some other part of the Victorian rail network or to interstate infrastructure in order to provide the freight or passenger service contemplated by its application for access.

On occasion a particular access seeker may need to access both a rail network that is regulated by the Victorian access regime and another rail network that is not regulated by the Victorian access regime. For example, an access seeker wishing to operate a train from certain parts of western Victoria to the port of Portland may need access to rail track leased by Freight Australia, that is subject to the Victorian access regime, and to rail track that is leased by ARTC, that is not subject to the Victorian access regime.

In its December 2001 discussion paper, the National Competition Council considered that an effective access regime should include provisions that allowed issues related to interface between networks to be handled efficiently. The Victorian access regime does not expressly include a provision dealing with this issue. Clause 4 of the bill also introduces a new provision in section 38J to provide that, where an access seeker also requires access to another network, the Essential Services Commission must, where possible, before making an access determination, consult the owner or operator of the other network and any person appointed to act as arbitrator under any access regime applying to the other network.

In addition to the three major amendments, the bill clarifies that a determination by the Essential Services Commission is not an arbitration for the purposes of the Commercial Arbitration Act 1984.

These provisions are important to ensure that the Victorian rail infrastructure regime complies with the competition principles agreement and to facilitate the certification of the Victorian regime under the Trade Practices Act 1974.

I commend the bill to the house.

Debate adjourned on motion of Mr LEIGH (Mordialloc).

Mr BATCHELOR (Minister for Transport) — I move:

That the debate be adjourned until Thursday, 2 May.

Mr LEIGH (Mordialloc) — On the question of time, on Tuesday, when I became aware of this bill, I contacted a number of people involved in the rail industry about it and asked them whether they were aware of it. The answer was that they are not. If the government is going to be fair about its claims to be an open, honest and consultative government what it ought to do, given the impact it has — and the Treasurer thinks this is funny, absolutely — —

An honourable member interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Mordialloc, continuing without any assistance.

Mr LEIGH — But in any case this is something that has a great effect on many businesses. I believe the government should seriously contemplate extending the time so it can talk to the very people whom this bill affects. It has not talked to them. This is another one of the arrangements the government makes when it has nothing to do. It rushes it in here as it did with the Melbourne City Link bill — no-one was aware it was doing it until it hit the Parliament — and I think it is unacceptable. Given what it said when it was in opposition, I think this is a disturbing trend for such a secretive government.

Mr BATCHELOR (Minister for Transport) — The government does not accept the lamentable line put by the honourable member for Mordialloc. The provisions contained in this bill stem from a discussion paper from the national level that has been in the public domain for some time. We are making provisions to brief the honourable member for Mordialloc and we will advise the small number of people in the rail access provider industry about the implications of this for their businesses and for national competition, and about how this will improve the Victorian economy.

Motion agreed to and debate adjourned until Thursday, 2 May.

STATE TAXATION LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Mr BRUMBY (Treasurer) — I move:

That this bill be now read a second time.

This bill introduces a number of measures designed to ensure that the state's taxation system operates fairly and equitably and that business compliance costs are reduced. The bill includes major changes to the motor car duty provisions in the Duties Act 2000 (Duties Act) and a significant improvement to the means by which the unimproved value of land is calculated for land tax assessment purposes. The bill also makes minor amendments to the documents duty provisions of the Duties Act, following further consultation with industry. Minor but important amendments are also made to the Land Tax Act 1958 and to the Pay-roll Tax Act 1971.

The bill includes proposals to replace the current motor vehicle duty collection regime with a more robust arrangement.

Following industry consultation with Vicroads, the Victorian Automobile Chamber of Commerce and Consumer and Business Affairs Victoria, agreement has been reached to replace the current collection system. The objective of the new model is to simplify the payment system for acquirers of motor vehicles.

The new collection system includes the provision of a single payment point at Vicroads, thereby eliminating the need for the dealers to deal with two separate agencies.

It also requires that all applications for transfer be accompanied by the payment of duty, with a penalty for any failure to pay the duty within 14 days of the sale.

Under the new collection system, the licensed motor car trader (LMCT) will collect the duty from the acquirer. This will include both new and used car dealers.

There is also the provision of a separate penalty on both disposer and acquirer for understatement of value of the vehicle, thereby addressing the risk of collusion to minimise duty.

The new system also streamlines the recovery of unpaid amounts by deeming the application for transfer to be an assessment.

The proposed changes will provide more certainty within the marketplace with a more simplified and efficient collection regime. The impact on revenue will be negligible.

The new collection arrangements will commence on 1 July 2002. The State Revenue Office is undertaking extensive communications with taxpayers and licensed motor car traders to ensure that the changes cause

minimal disruption and are clearly understood by all stakeholders.

The bill also makes important amendments to the Land Tax Act.

The bill abolishes the existing equalisation provisions from 2003 and replaces them with an indexation factor.

Equalisation factors for each municipality were used for land tax between 1984 and 2001 to determine the unimproved value of land for land tax assessment purposes. They reflected the Valuer-General's estimate of the average movement in site value within a municipality from the time of the last general valuation to a common date set by the Treasurer. The factor derived was applied to the site value of the municipal valuation used for land tax purposes, to provide a notional unimproved value.

Equalisation factors were necessary as until 2000 not all councils conducted their general valuations at the same time and the returned general valuations were applied for land tax for some years after their initial use for council rating purposes.

Each year the Valuer-General set an equalisation factor for each municipality. The factors were made by regulation and were not subject to objection or appeal by taxpayers.

From the 2000 general valuation, all Victorian municipalities now undertake general valuations on a common two-year cycle.

The 2000 general valuation is being used for the first time for land tax assessing in 2002. It is proposed, however, that where a general valuation is used for a second time for land tax, such as when the 2000 general valuation is used for the 2003 land tax year, it should be adjusted to reflect the movement in property valuations since the valuation was made.

The bill provides that the Valuer-General will determine the indexation factor. The factor will be prescribed by regulation. This is consistent with the equalisation factor arrangements.

A consequential amendment is made to the Subordinate Legislation Act 1994 to ensure that the regulations prescribing the indexation factor are not subject to a regulatory impact statement (again, the same as for the regulations prescribing the equalisation factors).

The proposed new formula, to be called an indexation factor, will remove some of the anomalies and inequities created by the existing equalisation factor.

The factor will reflect an amount which, in the opinion of the Valuer-General, would as nearly as possible represent half the percentage movement of the aggregate value of taxable land for the municipality between the general valuation in use for land tax and the next general valuation returned by council. There are numerous benefits of this model.

One obvious benefit is that the unimproved value used for land tax assessing would approximate the average of two actual municipal valuations.

This will smooth out extreme fluctuations in tax liability and reduce distortions between the existing general valuation in use for land tax and the next general valuation.

Also, valuations derived from the formula would not be distorted by variations in the valuations of non-taxable properties. In calculating the indexation factor, the Valuer-General would exclude valuations of residential properties which are exempt and rural land. The new indexation factor will be simple to apply, and easier for land taxpayers to understand, because it is based on actual valuations.

In determining the value of taxable land the Valuer-General would exclude from the calculation the value of properties classified as rural land and those which are exempt as principal places of residence. The Valuer-General would, in relation to principal residence exempt land, rely upon information provided by the commissioner regarding the aggregate value of exempt land for each municipality. Where this information was not available, the Valuer-General would be permitted to estimate the value of the land so exempted. As most commercial and industrial properties are both rateable and taxable, the average valuation movement of these types of property between both valuations would be reflected in the indexation factor.

The bill also includes a minor amendment to exempt from land tax, land that is owned by non-profit organisations which have as their principal objectives the conduct of agricultural shows, farm machinery field days, and similar activities where these organisations use the land for those purposes.

There are few organisations running agricultural shows and related events directly affected by land tax. Most use municipal land, which is currently exempt, or where they own the land it is often valued at an amount below the land tax liability threshold.

While the promotion of agriculture can come within the charitable purposes exemption these organisations usually cannot meet the 'exclusively for charitable use'

test. Due to the need to finance their primary activity most would hire the land to other organisations for short-term activities.

The impact on revenue of providing the exemption is minimal and the amendment will operate retrospectively to cover the 2002 land tax assessment year.

The amendment to the Pay-roll Tax Act included in the bill relates to the exemption for non-government and non-profit schools and colleges.

The provisions will extend operation of the existing exemption applying to wages paid by not-for-profit schools or colleges in existence before 27 May 1997 to otherwise eligible technical schools that provide education predominantly at or below the secondary level to students that are aged under 19 years.

The amendments also preserve the exempt status of schools which qualified under the current provisions. There have been objections to the tax by non-profit bodies, primarily those offering ballet and drama education, which believe that they should qualify for the exemption on the same basis as other non-government not-for-profit education providers. The proposed amendments will resolve a contentious area of the law.

The minor Duties Act amendments I mentioned at the outset comprise a number of technical amendments to various provisions to ensure that they are wholly consistent with the current policy intent, clarify uncertainty and safeguard against potential avoidance activity. The important changes can be summarised in the following way:

Aggregation of dutiable property

Section 24 of the Duties Act is an anti-avoidance provision which ensures that items of dutiable property purchased under one arrangement are assessed for duty on their aggregated value. The provision imposes three criteria — namely:

that the transactions occur within 12 months; and

the transferee is the same or the transferees are associated persons; and

the dutiable transactions together indicate the existence of one arrangement.

The main thrust of the Victorian provisions is to ensure that, when broadacres were purchased and subdivided prior to settlement, the individual transfers are subject to aggregation. The 12-month limit means that purchasers under terms contracts settling over a period exceeding 12 months would pay less duty than should be the case. The amendment will ensure that these transactions are captured by section 24.

There is also evidence that the need to satisfy all the aggregation criteria leads to duty minimisation in circumstances where separate companies owned or controlled by related parties purchase different elements of dutiable property used in conjunction, such as separate purchases of land and goods under one arrangement. A further amendment to section 24 will eliminate this opportunity.

Unit trusts

The conveyancing provisions of the Duties Act provide in section 7(1)(b)(vi) that a change of beneficial ownership in dutiable property is subject to duty other than a change in regard to an estate in land through issue, transfer, redemption or cancellation of units in a unit trust.

The reference to land instead of the wider term of dutiable property means that such a change of beneficial interest in unlisted marketable securities in a unit trust is subject to duty.

Notwithstanding the impending abolition of marketable security duty from July 2003, the bill will ensure that Victoria has uniform provisions for the duration of the tax.

Declarations of trust for unquoted shares

Section 34 of the Duties Act exempts declarations of trust made by an apparent purchaser in respect of dutiable property where the real purchaser has supplied the purchase monies. As a result of quoted marketable securities being removed from the dutiable property list (prior to enactment) these declarations in respect of quoted marketable securities are subject to duty, whereas declarations in respect of land and unquoted marketable securities are not. Such declarations did not attract duty under the Stamps Act.

Under the Stamps Act declarations by a trustee in favour of the beneficial owner who provided the purchase monies was not liable to duty regardless of the asset the trust was in regard to. It was intended the Duties Act would reflect this policy and the bill will restore the Stamps Act position.

Transfer to a special trustee

The Duties Act provides an exemption in section 33(2) for transactions relating to the change of trustees for dutiable property. Special trustees, defined as including trustee companies under Victorian and corresponding acts and trustees of complying superannuation funds, are not required to satisfy the commissioner as to the capacity in which they hold the dutiable property.

A recent case has demonstrated that there is opportunity for exploitation of the exemption as trustee companies may be involved in a series of commercial transactions and are not limited to exclusively holding property merely as trustees. To guard against duty avoidance an amendment contained in the bill will ensure that the exemption will only apply where it is established that the transfer of property to the trust was executed only because of a change of trustee.

Transfers resulting from declaration of trust

Section 7(1)(b)(i) of the Duties Act charges duty on a declaration of trust in respect of property already vested in the person declaring the trust and also any identified property 'to be vested'. The wording of the trust provisions has the potential for imposing double duty on the declaration and also the transaction by which the property is acquired by the declarant. A provision in the bill will ensure that double duty is not payable.

I commend the bill to the house.

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

Debate adjourned until Thursday, 2 May.

GUARDIANSHIP AND ADMINISTRATION (AMENDMENT) BILL

Second reading

Mr HULLS (Attorney-General) — I move:

That this bill be now read a second time.

The bill aims to address gaps in the Guardianship and Administration Act 1986 that have been brought to the government's attention by the Public Advocate and the Victorian Civil and Administrative Tribunal. Consequential amendments are also made to the Victorian Civil and Administrative Tribunal Act 1998. Amendments are also made to the consent to treatment provisions in the Mental Health Act 1986.

Many of the proposed amendments are technical in nature. The most significant amendments proposed relate to the substitute consent regime for medical and dental treatment for incompetent patients, which is outlined below.

Consent to medical and dental treatment

In 1999, the Guardianship and Administration Act was amended to include a substitute consent regime for incompetent people in relation to their medical and dental treatment (part 4A of the act). At present, part 4A applies to a 'patient', which is defined to mean 'a person with a disability which is a permanent or long-term disability'.

In monitoring the operation of part 4A, the Public Advocate has become aware of serious difficulties with the interpretation of part 4A, in particular, the phrase 'permanent or long-term disability', as some disabilities are indeterminate or episodic in nature. This has meant that where a person has a temporary or indeterminate disability (for instance, a psychotic episode or an extended period of unconsciousness), and cannot consent to treatment, medical practitioners often ask the next of kin of the person for consent to treat the person, placing the next of kin under undue pressure.

To address the practical problems experienced in the interpretation of 'permanent or long term', the bill amends the definition of 'patient' in the Guardianship and Administration Act so that 'patient' applies to a 'person with a disability'. Following this amendment, people with a temporary or indeterminate disability may also be included in the substitute consent regime under part 4A of the act. However, to ensure that the personal autonomy of an ordinarily competent patient is protected, the bill makes clear that the substituted consent regime does not apply where the patient is likely to recover capacity in a reasonable time. That is, non-emergency treatment will generally await the patient's recovery so that the patient can determine whether or not to consent to the proposed treatment him or herself.

This approach is designed to preserve, so far as practicable, the fundamental principles of personal autonomy and bodily integrity which underpin the legal requirement to obtain informed patient consent to medical treatment, and to ensure that hasty resort is not had to substituted consent in circumstances where the patient is expected to recover capacity to consent within a reasonable time.

Accordingly, the bill provides that where a 'patient' is likely to be capable, within a reasonable time, of giving consent to the carrying out of medical or dental treatment, the person responsible (which is defined in

section 37 of the Guardianship and Administration Act and includes a person appointed by the patient under the Medical Treatment Act 1988 or a person appointed under a guardianship order) can only consent to the carrying out of the treatment, and a registered practitioner can only carry out that treatment if —

> The registered practitioner reasonably believes, and states in writing in the patient's clinical records, that a further delay in carrying out the treatment would result in a significant deterioration of the patient's condition; and
>
> Neither the registered practitioner nor the person responsible has any reason to believe that the carrying out of the treatment would be against the patient's wishes.

Given that some disabilities are of indeterminate duration, and to provide the flexibility to deal with unusual situations, the bill provides that if the person responsible or the registered practitioner has reason to believe that the carrying out of the treatment would be against the patient's wishes, the practitioner or person responsible may apply to VCAT for its consent to the carrying out of the treatment.

It should be noted that a registered practitioner cannot carry out any medical or dental treatment on a patient where a relevant refusal of treatment certificate is in force in relation to that patient under the Medical Treatment Act 1988.

The Guardianship and Administration Act currently provides for a registered practitioner to carry out emergency medical or dental treatment on a patient without consent, where the treatment is necessary to save the patient's life, prevent serious damage to the patient's health or to prevent the patient from suffering or continuing to suffer significant pain or distress. The amendment to the definition of 'patient' will now mean that people with a temporary or short-term disability will also be included in the emergency treatment regime of the act, unless a refusal of treatment certificate under the Medical Treatment Act 1988 is in force in relation to that person.

Special procedures

The Guardianship and Administration Act currently sets out the substitute consent regime for the carrying out of special procedures on patients with a permanent or long-term disability. 'Special procedure' is defined in the act and includes sterilisation procedures, abortions and any procedures carried out for the purposes of medical research. Only VCAT can currently consent to the carrying out of a special procedure on such patients. The act currently enables medical practitioners to carry out special procedures in emergency situations where this is necessary to save the patient's life or to prevent serious damage to the patient's health.

Amendments made by the bill to the definition of 'patient' will mean that people with a disability, whether permanent, long term or temporary, will require the consent of VCAT for the carrying out of a special procedure. Again to protect the personal autonomy of patients who are likely to recover capacity in a reasonable time, the bill provides that the substitute consent regime for special procedures should not operate where the patient is reasonably expected to recover capacity within a reasonable time.

It is important that a person who suffers a temporary or short-term disability be given every opportunity to consent to the carrying out of a special procedure on them, given the types of procedures that are included within the definition of 'special procedure' in the GAA (including a procedure that could render a person infertile and the termination of a pregnancy).

The exception to the prohibition on VCAT consenting to the carrying out of a special procedure on a patient who is likely to recover capacity in a reasonable time is where the carrying out of treatment is for the purposes of medical research on the person. Under the bill, VCAT can consent to a patient who is likely to recover capacity in a reasonable time being involved in medical research procedures in order to receive the immediate benefit of participating in the research. For example, VCAT would be able to consent to the participation of an involuntary patient experiencing their first psychotic episode in a clinical trial of medication which is expected to prevent the patient from acquiring a long-term or permanent disability.

Other amendments

Mental Health Act 1886

The bill amends the Mental Health Act 1986 in relation to consent to treatment for involuntary patients.

The amendments will extend the range of substitute decision-makers who can make decisions about non-psychiatric treatment for involuntary patients. Medical treatment agents, enduring guardians and guardians will be able to consent to non-psychiatric treatment on behalf of adult involuntary patients who cannot provide consent.

These amendments will ensure that appointed decision-makers have power to consent to

non-psychiatric treatment for involuntary patients.

In addition, the bill will provide that parents and guardians can consent to non-psychiatric treatment for involuntary patients under 18 years of age.

Consent to psychiatric treatment for involuntary patients who are unable to consent will continue to be confined to the authorised psychiatrist. The Mental Health Act will be amended to explicitly clarify that decision-makers appointed under the Guardianship and Administration Act or the Medical Treatment Act 1988 do not have authority to consent, or withhold consent, to psychiatric treatment for involuntary patients.

Consent to special procedures for adult involuntary patients will be governed by the Guardianship and Administration Act.

Guardianship and Administration Fund

The Guardianship and Administration Act currently establishes the Guardianship and Administration Fund and provides for all fees collected under the act to be paid into that fund. However, a question has arisen about the power to pay interest earned on the investment of those fees into the fund. To clarify this issue, the bill provides that the fund will become part of the public account and that the fund will be used to meet the costs and expenses of VCAT in respect of proceedings under the Guardianship and Administration Act. The bill specifically provides for a power to invest fees collected under the Guardianship and Administration Act and to pay the interest earned on those fees into the Guardianship and Administration Fund. This amendment will bring efficiencies in the financial management of the fund and improve accountability.

This is an important bill which is primarily aimed at providing an effective substitute decision-making regime for people with a disability, in relation to their medical or dental treatment, which appropriately balances the personal autonomy and bodily integrity of individuals with the need to ensure that people with a disability receive appropriate and timely medical or dental treatment. This bill is part of the Bracks government's ongoing commitment to protecting the rights and interests of vulnerable persons through a fair, responsive and accessible legal system.

I commend the bill to the house.

Debate adjourned on motion of Dr DEAN (Berwick).

Debate adjourned until Thursday, 2 May.

FISHERIES (FURTHER AMENDMENT) BILL

Second reading

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

That this bill be now read a second time.

In Growing Victoria Together, the Bracks government has made a commitment to ensure Victoria's food production industries, which include the fishing and seafood industries, are sustainable into the future and continue to provide jobs across the state. The proposals in the bill to amend the Fisheries Act 1995 support this commitment as well as the government's objectives of ensuring the sustainable use of Victoria's natural resources and improving service delivery to the public.

Recognising the strong cultural and spiritual connection indigenous people have with the land and the sea, the bill provides for a class of permits to allow the non-commercial harvest of fish beyond recreational bag limits for indigenous ceremonial or cultural events. These permits would be issued to a person nominated by the indigenous group to collect fish for a specific event. It is intended that such a permit would specify details such as where and when the fish may be taken and by whom.

The bill will ensure that the collective expertise of the Fisheries Co-Management Council will include experience and knowledge of indigenous fishing uses. The act currently provides that, in recommending persons for appointment as members of the council, the minister must have regard to the need for members to have between them experience and knowledge in commercial fishing, fish processing, fish marketing, recreational fishing, aquaculture, conservation and fisheries science, as well as traditional fishing uses. Since the act came into operation in 1998, the term 'traditional fishing uses' has been interpreted to mean indigenous fishing uses, as other traditional uses are covered by the other subjects mentioned, particularly recreational fishing uses. Clause 13 of the bill therefore substitutes the term 'indigenous fishing uses' for 'traditional fishing uses' to clarify the intended meaning.

In 2000 the Bracks government delivered on its commitment to introduce a trust account for revenue from recreational fishing licences. To assist in compliance and ensure that all anglers that are required to have a licence do purchase one, it is proposed that anglers be required to carry their licence with them whenever fishing. However, when an angler who is

asked to produce their licence by a fisheries or police officer does not have it in his or her possession, they may be directed to produce it within 7 days. This compromise recognises that in certain circumstances it may be difficult for an angler to have a licence on hand and that a person may have honestly forgotten to carry the licence with them.

Further provisions of the bill relate to increasing protection of fisheries resources through improving compliance provisions in the act. Without effective compliance, fisheries resources may become depleted so that they can no longer support sustainable commercial catches or provide our recreational anglers with the opportunity to catch fish.

The bill provides for the creation of subzonal areas within quota-managed fisheries. This will allow more localised management of our important and valuable fisheries, such as abalone and rock lobster, to control the amount that can be harvested from the subzone. The Department of Natural Resources and Environment will work with industry to determine the best mechanism to allocate quota within the subzone to licence-holders.

For our priority fish species, which currently include abalone and rock lobster, there will be a requirement for all traders in those species to obtain and keep receipts of those species purchased for sale. This is not to impose any undue burden on traders, as businesses are already required to keep receipts for taxation purposes. However, providing the ability for those receipts to be produced when requested will facilitate tracing the source of those fish and determining whether or not they have been harvested legally. Establishment of this paper trail is an essential tool to combat the illegal trade in valuable fish resources and protect our fisheries.

The recent successful introduction of quota management in the rock lobster fishery allows permanent transfer of quota between licensed fishers. Individual fishers may thereby adjust the amount of fish they may take annually within the total allowable catch for the fishery. Currently under the act, rock lobster licensees for this fishery pay an annual levy at a single flat rate plus an amount per pot. The bill provides for the levy to be calculated based on the amount of quota held, giving a more equitable result.

The bill is presented to Parliament following consultation with affected stakeholder groups. There has been support from many groups for the proposed amendments and this bill will continue the development of ensuring sustainable cooperative management of our fisheries into the future.

I commend the bill to the house.

Debate adjourned on motion of Mr BAILLIEU (Hawthorn).

Debate adjourned until Thursday, 2 May.

HEALTH PRACTITIONER ACTS (FURTHER AMENDMENTS) BILL

Second reading

Debate resumed from 21 March; motion of Mr THWAITES (Minister for Health).

Mr DOYLE (Malvern) — As the plurals in its title indicate, the bill is a bit of a grab bag of changes to various acts governing health practitioners. However, some of them are quite important, principally those changes that affect the Medical Practice Act 1994.

Mr Leighton interjected.

Mr DOYLE — Of course no less important, but the major policy shift that I will discuss in some detail occurs in the Medical Practice Act.

Among the changes made to the Medical Practice Act are those to the registration provisions, particularly in clauses 6 to 8. Clause 6 is an interesting provision. It comes about because once the board deregisters a practitioner it then, of course, has no further power over that practitioner because they are no longer registered, which is a kind of circular logic. But it was never intended, nor was it in Parliament's mind and certainly not in the community's mind, that there would be any 5-minute right of reapplication for registration.

In some vexatious cases it has become apparent that people who are deregistered immediately return through the revolving door to apply for registration. Obviously that is not desirable, so this clause is sensible. It gives the board the power to apply a period of time within which that deregistered practitioner cannot apply for reregistration.

Clause 7, particularly clause 7(b), is a sensible provision for those practitioners who wish to keep their registration but not practise. Clause 8 seems to be reasonable in that it gives the board the power to fairly inquire about information before any renewal of registration which is neither specific nor provisional. We certainly have no difficulties with any of those provisions.

Clause 11 is particularly interesting. I will not debate it at length, because the house has dealt with the issue

previously. It supposes a notification of a practitioner who is a serious risk to the health and safety of the public.

There are always two competing interests when we consider how to deal with such a notification or complaint. One argument says that any practitioner is innocent until they are proven guilty of any allegation and that therefore there should be a formal hearing into the circumstances that have been notified, followed by a board determination, followed by action involving that practitioner. The second argument says that sometimes the risk to the public is so serious that the suspension of the practitioner should be immediate and that the investigation and determination should follow the suspension.

Whether you accept the first or second argument depends on whether you place primacy on the individual's rights or on the community's rights. This bill, in line with, for instance, some of the other health practitioner acts, places its emphasis on the second of those arguments — that is, that when the risk to the community is so serious, the individual's right should be overridden. The opposition certainly accepts that that is the case. I am sure that in the future the board will be most punctilious in that the application of this provision is only for very serious matters where public health and safety is compromised, and that cannot be risked.

Clause 14 is something of a companion clause to the one I have just discussed. It relates to formal hearing procedures and determinations made by the panel constituting the hearing. That clause is sensible. Clauses 11 and 14, which substitute proposed new sections 27 and 28, and 33 and 34 respectively, clear up and clarify the powers found in existing sections 27 and 28, and 33 to 36. They too are eminently sensible.

Clause 23 is interesting in that it allows a preliminary conference before a formal hearing and gives the board the power to require the attendance of the practitioner or the medical student at the preliminary conference. That seems to me to be a sensible provision. If serious issues are in dispute they can be identified and clarified, and some guidance can be given about the conduct of the matter. That seems to add considerably to the board's ability to conduct its affairs.

Clause 30 is a substantial and important provision. It mirrors and extends amendments which were made to the act in, I think, 2000 and which were first promulgated in, from memory, section 65 of the Dental Practice Act.

The clause prohibits an employer from directing unprofessional conduct. It provides very heavy penalties for either an individual or a body corporate employer to so inappropriately direct an employee medical practitioner. I have some concerns about the extended concepts of employment and of carrying on business, especially those contained in proposed section 63H, which is headed 'Meaning of management role substantial interest'. I particularly refer to proposed section 63H(1)(b), which refers to the 10 per cent ruling. The opposition has always supported the idea of protecting the public by making sure that clinicians cannot be coerced into unsafe or inappropriate professional conduct.

Other provisions in the proposed sections inserted by clause 30 prevent convicted offenders from continuing to carry on a business or prevent businesses which have been prohibited from operating. Nobody could take exception to those sorts of provisions. But it seems unusual to say — and this is an argument which is not explained in the second-reading speech — that somebody who has a 10 per cent entitlement to the issued share capital, in the case of a body corporate, or somebody who is a beneficiary in respect of more than 10 per cent of the value of the interests of a trust is to be pursued in the case where unprofessional conduct has been directed. That seems to be drawing a rather long bow.

I ask that this matter be addressed in the response from the government, either here or in the other place. How is it proposed that that particular provision will be used? Why would a passive minority shareholder with no operational or governance capacity need to be pursued? Why is the 10 per cent line drawn in these particular sections?

The opposition does not intend to oppose that particular clause, but I ask the government to explain the reasoning behind it, given that the second-reading speech contains no explanation. The opposition will be watching the use of this provision very closely. I would expect, for instance, to see in the respective boards' annual reports a full explanation of the invoking and results of any action taken under any of the sections proposed to be inserted by clause 30, and particularly by proposed section 63H(1)(b). Its logic does not immediately leap out of the black-letter law of the amending act.

Just to conclude that point, it seems eminently reasonable that when the act talks about a director, a secretary or an executive officer, because those people do have operational and governance responsibilities they should be pursued if a professional has been

directed to behave unprofessionally. But a passive 10 per cent investor? I do not understand why that provision is there.

I must say that the negative licensing regime which is proposed by the bill is something of which the opposition is generally supportive. It seems sensible, and it is something that was begun under the previous government in the Dental Practice Act. However, I want to make one or two points about that as we move towards an increasingly rigorous negative licensing regime, which this bill takes a step further. It is worth remembering that the basic protection of the public is the professionalism of the clinician. It is incumbent upon a doctor, nurse or any other registered health professional to behave appropriately and not to engage in unprofessional conduct. That is the first line of defence of the patient and the public.

I am not one who believes in the stereotype of the young, vulnerable and inexperienced practitioner being coerced by the predatory and criminally determined evil private sector employer. This sentiment may not be shared by some members of this house, but I would like to put on record that I do not believe in that stereotype and I do believe in the professionalism of our clinicians. However, I acknowledge that there is a role for this negative licensing regime and that it does not detract from the first responsibility of the clinician to behave in a proper and professional manner, which of course they overwhelmingly do.

Another area I wish to touch on is clause 31. If I could range across the others, this is where the bill amends five different pieces of legislation. It is clause 31 which affects medical practitioners, but clause 38 is for nurses, clause 43 for Chinese medical practitioners, clause 45 for dental practitioners and clause 46 for psychologists. This is an alteration to the advertising provisions. It seems odd to me and I do not understand why those five boards have been identified in this piece of legislation. Why not, for instance, chiropractors or osteopaths? Why not pharmacists? — although the large rewrite of that act is yet to come before Parliament. There is no explanation as to why the bill covers only those five and not the full range of health practitioners. That is an interesting decision by the government.

The minister's second-reading speech states:

> This bill makes minor amendments to the powers of five registration boards to regulate false and misleading advertising by registrants. The effect of these amendments is to require ministerial approval of advertising guidelines prepared by the registration boards prior to publication of such guidelines in the *Government Gazette*.

Although that explains what the bill does, I think the house needs an explanation of why it wishes to do that. Is it to regulate the board's powers? What this does for the first time is insert the minister into the process. Up until now it has been the board that has decided on advertising guidelines. Even though this bill affects advertising and not any other area of the board's powers, I would always be mindful in these health practitioner acts that when you put in a provision which allows the minister to override the board, this is a dangerous precedent. If it can be done in this area — and again, I am not a thin-end-of-the-wedge-argument type of person — why not in others? The board has a whole range of responsibilities where it would not be appropriate for the minister to have overriding power.

Is it because the minister does not trust the board to get it right? If not, why give the minister an overriding power to approve the board's guidelines for advertising? As I said, it explains what the clause does in the second-reading speech, but not why. The argument may well be that it is to comply with national competition policy. If that is the case, the minister's role will be to ensure that advertising is not archaically restrictive or designed to enshrine or protect vested interests in the professions — in other words, the ministerial role would be to make sure the guidelines are broadened, not narrowed. It may well be that that is the case, but again I do not see why the minister has to do that.

Something that is more serious and needs consideration is that often the private sector advertises for the same staff that the public sector requires, and the opposition requires an assurance of the equity of the application of the rules governing advertising.

What has prompted this change? In my experience there has never been a health practitioner board that has come to the government and said, 'Please take power away from us'. It may have been the case since 1999, but it certainly was not the case before, so why has this power been taken away from the autonomous control of the board? The board may have come and asked for it, but I cannot believe that was the case. It is therefore a political decision, and I mean that in its neutral sense, and the house deserves an explanation as to why this has to happen. If the explanation does not come here, then certainly the opposition would ask for it in some detail in the other place. The guidelines were considerably amended in 2000, so what has changed in the meantime to bring about an even greater set of changes?

The major impact of the bill is on medical practitioners and is a major policy departure. The bill introduces

what is known in the profession as a performance assessment pathway. It is argued that the current mechanism, which is disciplinary action for unprofessional conduct, is not sufficient to deal with cases of poor clinical performance. It distinguishes between conduct on the one hand and performance on the other. It proposes a proactive, or rather a slightly less reactive, method of dealing with poor clinical performance. It is done interstate and overseas, but it has never been done in Victoria, and while the opposition is prepared to support the move, again some clarification needs to be made. I know the Victorian branch of the Australian Medical Association is pursuing a number of issues to make sure that it is done fairly. Those issues must be resolved before performance pathways are introduced. The second-reading speech makes it clear that that is the intention.

Some things do need to be clarified before such a step is taken. Firstly, all parties, particularly the profession, need to be assured that the mechanism and the board process itself is objective, fair, confidential and able to be reviewed.

Secondly, we need to make sure that there is some way that health practitioners are not burdened with either vexatious or frivolous complaints. That is a difficult matter. Every complaint must be taken seriously. Not everyone has the eloquence which is sometimes desirable in framing a notification. At the same time there are also vexatious and frivolous complainants. It is highly problematic to try to define what poor practice is. Defining poor practice is a difficult path to take and has been resisted by practitioners themselves in many of the health professions. If there is to be a performance assessment pathway, it will be difficult to agree on what poor performance is.

Thirdly, it is important that there be appropriate support for doctors who are subject to assessment. It is fairly uncharted territory, not a path that doctors have gone down before. There needs to be appropriate support for them on everything from the professional and psychological through to the legal aspects, if that is required.

Fourthly, one of the areas that will be difficult to work out but also critical to the success of a performance pathway is the role of the specialist colleges, which after all have in the past been assumed to carry the burden of determining what professional performance is and should be, and what optimal performance is. What is the role of the specialist colleges? How will they work, together with the other assessment bodies?

Ms Asher interjected.

Mr DOYLE — At some other stage I will be delighted to take up the helpful interjection of my colleague and friend, but perhaps not right now.

Indemnity arrangements need to be put in place. The peer assessors, for instance, who will take a central part in the assessment process, and the colleges themselves, may well need some provision for indemnity.

Finally, and perhaps most importantly, the appeal processes have to be worked out very carefully.

While the opposition supports the path the government has chosen, it is obvious that much wider and further consultation, particularly with the profession, will be necessary. I am sure that with goodwill on both sides a resolution can be found.

I note that the second-reading speech states:

> It is intended that these processes be cooperative and educational rather than adversarial. To achieve this important objective, it is expected that the Medical Practitioners Board will consult with a range of medical bodies including the AMA and the specialist medical colleges as it establishes its performance assessment and review processes.

That is particularly important. This must not become an adversarial system. After all, the question is of competence and performance not conduct. This must not become a mechanism, however inadvertently, which creates an underclass of underperformers in the medical profession. It is something to be guarded against at all costs.

One of the reasons the opposition is prepared to support the bill is that it knows that there are grave concerns about some areas from both the public and the professions themselves. One does not have to think too hard to bring to mind areas like cosmetic surgery, some areas of ophthalmology, some areas of endoscopic surgery — and from the reports of the board and public reports I can think of concerns about endoscopic gynaecological procedures particularly. These areas are difficult, but public protection is at the heart of the amendment, and that is why the opposition is prepared to support it.

It is not often that a second-reading speech makes me laugh, but the following line in the speech read by the Minister for Health — with a straight face — gave me some amusement:

> Nurses agents provide a valuable service to our health system —

given that currently the government is trying to destroy the business of nursing agencies.

An honourable member interjected.

Mr DOYLE — That was said by the Minister for Health in serious mode and with a straight face.

However, aside from my levity I indicate that it is regrettable the Minister for Health refuses to meet with the agents peak body, the Recruitment and Consulting Services Association, despite, as its chief executive officer writes to us, several attempts by the body to secure a meeting with him.

On another serious note, a second-reading speech is, after all, carefully drafted, prepared and reviewed by the minister as a formal expression of his or her mind in Parliament. Therefore it is concerning to look at the language of the negative licensing explanation. The way sentiment is couched in the second-reading speech is fairly instructive. Think about the language it uses in describing the negative licensing regime for doctors, which I will read en passant:

> Many stakeholders have highlighted the potential for corporate owners of medical practices to adversely influence the professional behaviour of medical practitioners.

Further it states:

> However, the government is concerned that increasingly, commercial interests may be placed above those of patients.
>
> There is the potential for corporatised medical practices to unduly influence a medical practitioner's referral patterns, set unacceptable consultation targets or adversely influence clinical decision making in relation to ordering of diagnostic tests or prescribing of drugs. Potential for overservicing is not the only concern. There is potential for underservicing to have damaging effects on patient health.

The obvious conclusion is that as the word 'potential' is used four times in a couple of paragraphs it is a very gentle approach to the problem as seen in the medical profession.

However, when it comes to nurses, particularly nursing agents, the minister uses completely different language. He says:

> There are, however, concerns about nurses agents who may direct or incite nurses they supply to health services to act unprofessionally.

Mr Leighton — That is right.

Mr DOYLE — I simply ask, in the immortal words of Maggie Thatcher, 'What are those concerns?'.

Honourable members interjecting.

Mr DOYLE — As she also said, 'Who are those people?'.

The next line is even more wonderful. It says:

> This regulatory scheme is designed to target only those nurses agents who are found to inappropriately influence or undermine the professional practice of nurses.

Yes, what would be the alternative to that? Who else would you target? Maybe I am being overly cynical.

Ms Asher — I do not think so.

Mr DOYLE — I do not think so either. One of the reasons for my cynicism is that a nurses agent — and this is one of the speech's misapprehensions — really only locates suitable work for nurses; it does not direct or control nurses in their practice. My point is based on only a quick reading of the speech's wording, but if there is hard evidence on enunciated cases, what are they, as opposed to the mere potential for harm that is noted elsewhere?

Of course it is appropriate that an agency or an employer determine that a nurse is registered and appropriately qualified to work in a particular area or field. It is also incumbent on the hospital to ensure that that is determined. But the interesting part is that while the negative licensing regime is deliberately enshrined in the legislation, one particular part of the bill — that is, proposed section 63A(3) — on page 34 says quite sensibly:

> This section does not apply in respect of the employment of a medical practitioner by a community health centre, a denominational hospital, a health service establishment, a multi purpose service, a privately operated hospital or a public hospital within the meaning of the Health Services Act 1988.

Of course that provision is mirrored for nurses. But evidence that has recently come to light in the public domain is that this offence may be exactly what hospitals are currently doing.

Last month two nurses from Monash Medical Centre — not prompted by the opposition or anyone else — were in the media. One is an intensive care nurse who had been directed to work in accident and emergency (A and E) and was most unhappy about it. The other is an accident and emergency nurse who came out publicly commenting on intensive care nurses working in accident and emergency.

Now intensive care nurses are great nurses, highly trained and highly specialist. But intensive care and A and E are different. Are our hospitals directing nurses to work in areas in which they are not qualified to work? Their qualification may say division 1, but it would not

be appropriate for intensive care nurses to work in A and E.

While the act makes it explicit that employers of doctors or nurses will be pursued with substantial penalties, at the same time there is objective anecdotal evidence in the public arena that that is exactly what public hospitals are doing right now. Why is the government not pursuing, for instance, that sort of behaviour? If it is serious about this, let's play the goose and gander game. If it is wrong in the private sector for nurses to be directed to work in areas for which they are not qualified and in which they are professionally uncomfortable then it is also wrong in the public sector. That was the recent direct evidence from the Monash Medical Centre. I argue that that needs to be pursued.

In conclusion I indicate that the opposition supports the thrust of the legislation. It seems to me that at some stage we will see an omnibus bill to bring all the health practitioners acts into line, and that would be appropriate.

Ms Asher interjected.

Mr DOYLE — An omnibus bill requires a considerable amount of forethought, planning and work, and a bit of consideration about what you will do and why and how you will go about doing it, so I may not expect it in the near future.

During the course of my brief contribution I have raised some queries which require an explanation, because they are not clearly explained. It is incumbent on the government in this place and certainly in the other to provide answers to the following: the 10 per cent rule in clause 30, the equity and fairness guarantee, but the application of clause 30 more generally; the advertising provisions and the rationale for the minister to be imposed into that system; and most importantly, a satisfactory resolution of the performance assessment pathway and how it will be rolled out. Although the opposition gives its support to the bill, it is important that the government provide answers either during the course of the debate in this place or in some detail in the other.

I do not often get a chance to do this, but because the bill deals with the Medical Practice Act and the Nurses Act I want to say thank you to those people who have served on both boards, particularly those who have left since 1999. I hope it is still the practice that when people have given considerable time and expertise to serve on boards — and they are not easy — the minister takes the trouble to write to thank them personally at the conclusion of their service.

Mr Delahunty interjected.

Mr DOYLE — Regrettably I know of some cases of people having left hospital boards after sometimes a considerable period of public service and not having had that small but important recognition of their service.

Ms Asher — Is he lazy, or rude?

Mr DOYLE — I am not sure which it is, but I think it is one of the small things that should be done. In fact, many people treasure the fact that they have given that service. They have asked for nothing, and a small thankyou at the end is not too much.

I hope it is the case that when members of boards such as the nurses and medical boards retire or otherwise leave their service the minister writes to them personally, thanking them specifically for their contributions.

So particularly to the staff of the Nurses Board of Victoria I say a thankyou to Ms Dianne Campbell, Mrs Julie Garreffa, Professor Geofrey George, Mr Jack Harty, Mrs Agnes McArthur, Mr Kim Morland, Ms Margaret O'Connor, Mrs Therese Sampson and Professor Lerma Ung. All those people have served on the nurses board but have left since 1999. I know many of those people personally, and in my experience they have all served the profession of nursing extremely well in a difficult job.

From the Medical Practitioners Board of Victoria I similarly thank Mr John Stewart — who regrettably is now deceased — Ms Rae Anstee, Dr Kay Leeton, Professor Bob Porter, Dr Leanna Darvall, one of the great icons of great medicine, Dr Bernie Clarke, and in particular Mr Kerry Breen, who served as chairman of the medical practice board. Those of us who know Kerry Breen know Victoria could not have had a wiser or more scrupulous chairman.

We were greatly privileged to have Kerry Breen chair that board for as long as he did. I place on the public record my thanks to him for the outstanding work he did, not just in the day-to-day business of the board but in the thought he put into defining the board's role in the profession and in applying to his task some qualities that are often missing, I regret to say, in this place — great wisdom and great expertise, with enormous compassion and commonsense.

I thank Kerry Breen, and I also thank those members of the Medical Practitioners Board of Victoria and the Nurses Board of Victoria for the sterling service they have offered the state. I commend the bill to the house.

Mr DELAHUNTY (Wimmera) — I rise with a great deal of pleasure to speak on behalf of the National Party on this important bill, the Health Practitioner Acts (Further Amendments) Bill. In formulating its position on the bill the National Party was pleased to be briefed by the following departmental staff: Judith, Anne-Louise, Maxine, Dianne, Stuart and Jenny. I am not easily intimidated, but I must say that when a member of my staff and I got to the briefing I was a bit alarmed when six staff from the minister's office turned up. Thankfully there was only one male — if five males and one female had turned up they could have taken me apart! But they were genuine in their responses to the questions we had about this bill.

The bill has a number of purposes. One is to impose a negative licensing scheme, along with relevant offences, to regulate the professional performance of the owners of corporate medical practices who direct or incite medical practitioners to engage in unprofessional conduct. It proposes a similar scheme for the regulation of nurses agents under the Nurses Act 1993.

In reading through the bill and the second-reading speech as well as the minister's press release, I was disappointed to note that this government seems to believe that anything to do with the private sector is wrong. I get the impression right through — —

Ms Asher — Except for donations to the Labor Party.

Mr DELAHUNTY — It depends how it goes through and what system it goes through!

We are using the private sector more and more in a lot of other sectors of our community. It is important that that happens, because we will not be able to afford the services and schemes that will be required by the public. I agree, though, that we also need to ensure that we have the legislative framework in place to protect consumers — in this case, the patients.

As we also know, another purpose of the bill is to ensure that the provisions around advertising guidelines in the various health practitioner registration acts satisfy national competition policy obligations. That has come about because all government departments — this has been going on for the past couple of years — have had to review their guidelines in relation to competition policy.

We also know that another purpose of the bill is to exempt news media from the duty to comply with health privacy principle 9 of the Health Records Act, which will ensure that national publications can publish the same information outside Victoria as can be published within this state.

The National Party consulted with many organisations, including the Australian Nursing Federation, the Nurses Board of Victoria, the Medical Practitioners Board of Victoria, the Victorian Hospitals Association, the Royal Australian College of General Practitioners, the Victorian Healthcare Association and many other health groups across Victoria. Unfortunately we did not get a lot of responses, but I do note that the Wimmera Health Care Group and the Western District Health Service responded. Also the Medical Practitioners Board — and I shall come back to that later — was very obliging in giving us its views on this matter.

The National Party will not be opposing the legislation as it goes through Parliament.

As we know the bill has come about following a discussion paper entitled 'The regulation of medical practitioners and nurses in Victoria', which was released by the Department of Human Services in August 2001. As a result of that review the Victorian Parliament passed the Health Practitioner Acts (Amendment) Act of 2000, which amended the Medical Practice Act 1994, and also the Nurses (Amendment) Act 2000, which amended the Nurses Act 1993.

During the passage of these legislative amendments through Parliament the minister gave an undertaking to the key stakeholders that there would need to be further policy work to address the issues that were identified during the discussion paper review. Some of those issues which were identified included the regulation of corporate medical practices and strengthening the Medical Practitioners Board's powers to regulate poorly performing doctors and Nurses Board's powers regarding the regulation of nursing agents.

As I said, this bill introduces a negative licensing scheme. When I reported to my party one question asked was, 'Where do we get this negative licensing scheme from?'. It is a bit like this government. It has been in power for two under half years, but the way it reacts during question time and some adjournment debates shows that it is still running a negative campaign, as though it were in opposition.

Mr Wilson — They might be designed for opposition.

Mr DELAHUNTY — It could be designed as an opposition party. The Labor negative natural party of opposition — that might be right!

As the second-reading speech says, this is a negative licensing scheme for the regulation of the corporate owners of medical practices who attempt to unduly influence the professional behaviour of their employee doctors or medical practitioners. So the bill will establish an offence for employers who direct or incite registered medical practitioners to engage in unprofessional conduct.

During the briefing I asked questions about the definition of 'unprofessional conduct'. When I look at the bill I note that clause 5 inserts new definitions into the principal act in relation to 'notifier', 'professional performance' and 'unsatisfactory professional performance' and provides for two new grounds to be included within the definition of 'unprofessional conduct' — that is, 'a breach of particular agreement between the medical practitioners and the Medical Practitioners Board' and 'unsatisfactory professional performance'. So I thought I would look at the definition of 'unprofessional conduct'. It is not in the bill, but the bill does contain a definition of 'unsatisfactory professional performance':

> 'unsatisfactory professional performance' of a registered medical practitioner means a professional performance which is of a lesser standard than that which the medical practitioner's peers might reasonably expect of a medical practitioner.

I went back to the principal act to look up 'unprofessional performance' and discovered it was not there, so I am not sure that we are getting down to the nitty-gritty of a definition of unprofessional conduct. I put it on the table for the departmental officers who are listening to this and also for the minister. We know that the proposed amendments will also extend the definition of 'employer' for the purposes of these offences to include directors, secretary or executive officer as defined in the Corporations Law.

The bill goes on with many other proposed amendments. It also empowers the Medical Practitioners Board to regulate poorly performing medical practitioners through the scheme, enabling the board to conduct performance assessments, or reviews which are of a more serious nature, then action can be taken in response to written notification or through the board's own motions and powers if necessary. I ask who could raise a concern with the Medical Practitioners Board? Would it have to be their peers or others? I am informed that anyone can write in to the board regarding the professional performance of a medical practitioner, and I think that is appropriate.

Additional amendments to the act are proposed to provide the board with greater flexibility and administrative efficiency — in other words, to vary the time and conditions imposed on the registration of impaired practitioners. In the briefing from the department we were informed that the Medical Practitioners Board could put conditions but under the current act it was unable to vary those conditions, even after 12 months, 2 years or anything like that, so this commonsense legislation is needed to amend the act to enable the board to have that greater flexibility to administer their responsibilities.

The health privacy principle 9 of the act, commonly known as HPP9, regulates the transfer of health information outside Victoria. This creates an anomaly between the distribution and broadcasting of health information inside and outside Victoria. The bill rectifies the anomaly by not distinguishing between publications made within or outside the state. This is commonsense stuff because the *Australian* newspaper is read right throughout Australia and this legislation will now add to comment on matters within the health practitioner acts and the like.

One of our biggest concerns is the new arrangements for regulation of corporate owners who, it is said by the minister, could direct or incite their registered medical practitioner employees to act unprofessionally. My understanding of this provision in the bill — and it is in the second-reading speech — is that it will exempt not-for-profit organisations such as community health centres, health care agencies and public hospitals. I have spoken to departmental officers who said that it is covered under another act, but I have talked with many other people who do not believe it is. In the second-reading speech it is argued that there is potential for profit-motivated private practices to influence clinical decision making — in other words, such things as a medical practitioner's referral patterns, unacceptable consultation targets, et cetera.

The same argument is also levelled in the second-reading speech at the nurses agent scheme. The government argues that the private hospitals are driven by different motives — in other words, for profit. I think all hospitals, whether they are private or public, whether they are community health centres or health care agencies, are all under budgetary constraints, though it might not be for the sake of profit. Right across country Victoria many hospitals are going into big deficits because of the changes implemented by this government. It will be very interesting to read the

responses from the Auditor-General and the like on these things because there is major concern that they are going into deficit.

In some cases concern has been raised by the community that they will have to use some of the reserves which were put in there by donations from the community. It is unfortunate that this government takes this line of trying to bash up any organisation that is a private company. There are budgetary pressures on all hospitals and health services whether public or privately owned, and we are all well aware of the pressure put on chief executives or secretaries or administrators of hospitals to look after their bottom line by ensuring that doctors are doing the right things in hospitals. That is not covered in this legislation and after talking with others the National Party does not believe it is covered in any other legislation. I shall be interested to hear the response from the government to that.

To go back to the bill, I have covered clause 5 in relation to definitions and I will not go over that again. Clause 8 substitutes section 13(1A) of the principal act which relates to an applicant for renewal of registration supplying information to the Medical Practitioners Board that will enable the board to seek information on the main areas of medicine in which the applicant has been practising during the registration period, or continuing any medical education undertaken, whether or not the applicant intends to practise medicine in the period for which the registration is to be renewed and, if so, the main areas of medicine in which the applicant intends to practise. It will also be required under this legislation to provide a postal address for contact purposes. In speaking to the department in the briefing I was informed that some medical practitioners are hard to contact because they often go through a company name, and the National Party supports this commonsense legislation that practitioners be required to provide a postal address so that they can be contacted.

Clause 9 substitutes division 1 of part 3 of the act concerning notifications and the commencement of investigations. It is appropriate that if an investigation has taken place adequate notification be given to health practitioners so they are informed and aware of what is going on and can participate. Hopefully they will participate in a cooperative way.

Under clause 9 there will be a new section 22 which inserts provisions for the person to make a notification to the Medical Practitioners Board about particular matters relating to the medical practitioner's ability to practise or a medical practitioner's professional performance or conduct.

There were a couple of categories where the board could review this, under disciplinary areas or health — in other words, the impairment of a medical practitioner — but under this legislation it will also cover the area of performance — that is, the knowledge or skill of the medical practitioner.

Clause 11 repeals section 28 and inserts new sections 27 and 28. New section 27 provides that the Medical Practitioners Board may suspend the registration of a medical practitioner or medical student at any time where in the opinion of the board there is a serious risk to the health and safety of the public and that this will be endangered. Such a suspension remains in place until an investigation or hearing is completed, unless the suspension is otherwise revoked.

Clause 30 inserts new sections 63A to 63K dealing with directing or inciting unprofessional conduct, which I have dealt with earlier in my comments. New section 63A creates an offence for an employer or a medical practitioner, whether that be a natural person or a body corporate, to direct or incite unprofessional conduct. New section 63D provides that a secretary is entitled to presume, in the absence of proof to the contrary, that a person convicted twice in a 10-year period under section 63A is not a fit and proper person to operate a medical services business. I think we would all support that. New section 63E creates an offence of operating a business while prohibited from doing so following conviction under this act. We in the National Party also strongly support that.

When the bill came into the Parliament I was interested to read the media release by the Minister for Health, dated Friday, 22 March, under the heading 'Crackdown on corporate health'. Again, because it is privately owned, it is a whack, whack situation. We do not see the same thing happening on a consistent basis across all sectors of the health service. If there is a problem it should be addressed, whether it is a private or public facility. This media release starts off by saying:

> Corporate medical companies and nursing agencies face fines of up to $80 000 if they order or incite doctors or nurses to act unprofessionally by putting commercial interests ahead of patients, health minister John Thwaites said today.

It is also important to have this on the record: the media release states that the liability for inciting unprofessional conduct — and I would have to agree there needs to be some method of controlling this — will be fines of up $40 000 for the first offence and $80 000 for repeat offences. In some ways, if it was bad

enough, that would not be sufficient, but in other ways it is probably overdone. It also goes on to say that individuals could face a maximum fine of $20 000 for the first offence and up to $40 000 for repeat offences. The media release further states:

> This includes knowingly providing nurses who they knew did not have suitable qualifications to work in specialist areas …

I heard the shadow Minister for Health making a comment about the nurses agents and the way this government has dealt with them. I agree that the government had to do something, particularly in country areas, about the problems with the costs of nurses agents. I know of a couple of hospitals in my area that were — —

An honourable member interjected.

Mr DELAHUNTY — We did not have a skirmish or a world war.

Mr Hamilton — I thought you would have known them all.

Mr DELAHUNTY — I do. I know all the — —

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Wimmera should ignore interjections. The honourable member for Wimmera, continuing his contribution without expert comments.

Mr DELAHUNTY — It could not be said that honourable members in this chamber were giving me expert advice! But it was interesting that when the minister did stop the use of agency nurses hospitals in my area were very concerned because one in Warracknabeal was bringing agency nurses from Bendigo and also from Warrnambool, and the costs were horrendous. There was a great deal of concern within the West Wimmera Health Service based in Nhill that if it was not able to use agency nurses and not able to find nurses in the area it would have to cut services.

I know that this was happening right across country Victoria. I wrote to many of these hospitals and was fortunate to get a very good response back from country hospitals. Overall there was not too much impact on it. I am pleased to say that because of the representations I made to the minister I think commonsense prevailed and if hospitals and health services were not able to find nurses they were still able to continue using agency nurses in the interim. I am pleased to say the government did show some commonsense in that regard and allowed it to happen. The media release headed ‘Crackdown on corporate health’ had some interesting comments.

As part of the consultation leading up to the debate on the medical practitioners aspects of this bill, we met with the Medical Practitioners Board of Victoria. I was pleased to meet with Dr Joanna Flynn, the president of the board, and Ms Janet Atkinson, the solicitor to the board. The Medical Practitioners Board is a statutory authority established to protect the community by ensuring that doctors’ professional standards are maintained. The board works to protect the community — and that is important — by registering doctors qualified to practise medicine in Victoria. It also investigates complaints or allegations of improper or unprofessional conduct by doctors and manages the health of doctors who are ill and therefore unfit to practise. It also develops guidelines for the profession and the community, so it has a big role to play within the health services of Victoria.

As I said, we met with the president of the board, Dr Joanna Flynn. She made the comment that for four years the board has been looking for an improved pathway to deal with poorly performing health practitioners. She informed us that there are approximately 18 000 registered medical practitioners in Victoria, and of those there are approximately 120 on the Victorian doctors health program. It is good to see that it is dealing with some of those doctors, whether it be for health reasons or whatever, to get them back to the appropriate standard to be able to look after patients.

Before this legislation was introduced into the house, the matters referred to the board were either health related — in other words, for impairment — or disciplinary reasons, but the bill will introduce performance-related pathways which will address these issues. These could come about because of repeated complaints. They could also come about because of the coroner’s referrals and therefore this would lead to a pathway through performance assessment and then agreement on a pathway to getting back into the profession.

I am informed that this bill is modelled a little on the New South Wales legislation. In research we have found that approximately 15 performance assessments have been done in the last 18 months in New South Wales. That is not a big number, but it is important that we have the process there.

All registered medical practitioners are accountable to the board, and those not registered — in other words, those in management or administration — are not

covered by the Medical Practitioners Board's jurisdiction. We spoke to the Medical Practitioners Board people about concerns we have where the public hospital systems are also under pressure and where a practitioner could be pressured by management or the administration to behave in what we called an unprofessional manner to satisfy targets — in other words, the budget bottom line. It was quickly pointed out to us by the president that that was not in the board's jurisdiction, but it was also concerned that this could happen.

In researching the bill, I also was fortunate enough to get hold of the spring 2001 bulletin put out by the Medical Practitioners Board, which was very interesting to read. I notice that the shadow Minister for Health spoke about the replacement of the board. I know the board was changed in June 2001, with three new members replacing Dr Kerry Breen, Dr Bernard Clarke and Ms Rae Anstee. The shadow minister praised Dr Breen highly. I did not know her personally, but again many people I spoke with commented on her high ability. I pass on the National Party's support to Dr Kerry Green and also to Dr Clarke and Ms Anstee. Dr Bob Adler and Mr Warren Johnson were reappointed to the board for the current term.

The new appointees to the board include Dr Geoffrey Kerr, who is a consultant cardiologist practising in Melbourne's eastern suburbs. He has been a consultant physician and cardiologist at Box Hill Hospital since 1976 and is also a visiting medical officer at the Echuca regional hospital — and the honourable member for Rodney will be pleased to know that! He has been a member of the Workcare medical panels (cardiology) since 1990, so he has good experience. We wish him all the best in this very important role on the Medical Practitioners Board.

Another new member is Ms Loraine Shatin. She is a new community member and brings, as it says in the bulletin:

> A wealth of experience in social work to the board. Recently retired from her position as a dispute resolution adviser to the Family Court of Australia, Ms Shatin will draw on extensive experience as a social worker both within and beyond the health sector.
>
> Her social work experience spans the public hospital sector and psychiatric services, working with both children and in geriatric health …

She has also been:

> … involved with the Family Court since 1985 …

The other new board member is Dr Bernadette White, who is a graduate of Melbourne University. Her postgraduate training was at the Mercy Hospital for Women. My mother trained and worked at the Mercy Hospital, so they must be — —

Mr Wilson interjected.

Mr DELAHUNTY — Both your children! It must be a good hospital. My mother trained there, and she talks very highly of the Mercy. As I said, Dr White did her postgraduate training at the Mercy Hospital for Women and also in the United Kingdom. She is currently practising in obstetrics and gynaecology both at the Mercy Hospital for Women and in private practice in East Melbourne. Dr White is also chairman of the Victorian Regional Committee of the Royal Australian and New Zealand College of Obstetrics and Gynaecology and is also involved in the college as a training supervisor.

They all seem to have good skills, and we hope those new board members will work as diligently as the former board members.

In reading the bulletin I was pleased to see a very good summary of the legislative amendments that have come into this house. As it said, the amendments come about following legislative amendments made in 2000 to the Medical Practitioners Act and the Nurses Act. There were concerns raised in the bulletin about the corporate ownership of medical practices and poorly performing medical practitioners. The board hosted consultative forums on these issues, which were fed into the department's development of the legislation following the release of the discussion paper.

Consultative workshops were held in March last year as a joint venture of the board and the Victorian advisory committee on general practice. I note that this was funded by the commonwealth Department of Health and Aged Care, so it is good to see that there is cooperation between the state and commonwealth governments and, importantly, the Medical Practitioner's Board. At the end of the day patients get very frustrated when there is buck-passing between the federal and state governments. So I was pleased to see, when I read through this report, that there is some cooperation between the two levels of government.

The bulletin states:

> Current legislation empowers the board to conduct investigations and take action against registered medical practitioners. The legislation gives the board no jurisdiction over corporations that are allowed to be owned by non-medical owners.

This was commenting on the legislation which the bill amends. The board further commented:

> The board believes that individual medical practitioners are responsible for their own professional conduct …

I strongly agree with that. The report continues:

> The board has concerns about medical records and in non-medically owned clinics, including the issues of ownership, privacy, storage of information and transmission of that information.
>
> The Health Practitioner Acts (Amendment) Act 2000 granted the board the power to regulate the standards of medical practice in the public interest …

We strongly support that. In the discussions during the consultation period the board identified about 14 key issues for their stakeholders. I will not read them all, but the outcome was:

> Participants identified a need to monitor and provide for sanctions against non-medical owners who directed registered medical practitioners to engage in unprofessional conduct …

Therefore we come to the bill before Parliament today.

It is interesting to note there was no consensus about how to best monitor and sanction the non-medical owners, so even the Medical Practitioners Board in the consultations it had was not able to fully address those matters. In fairness to other speakers I will not go through that part — —

Ms Allan — Do it!

Mr DELAHUNTY — You are keen to keep going! Members of the gallery and others would be really interested in this stuff. It is riveting! I am not a professional disc jockey like the honourable member for — —

The ACTING SPEAKER (Mr Kilgour) — Order! On the bill!

Mr DELAHUNTY — The reality is that it was an excellent summary of the bill, and I congratulate the Medical Practitioners Board on the bulletin it put out in spring 2001. I read with interest the president's message, which states:

> Last year's legislative amendments gave this board the power 'to regulate the standards of medical practitioners in the public interest' and 'to issue and publish codes for the guidance of registered medical practitioners about the standards recommended by the board relating to the practice of medicine'.

The president, Dr Joanna Flynn, stated:

> Corporatisation of medical practice and the poorly performing doctor have each been the subject of consultative forums in which the board, the AMA and other professional organisations have teased out the issues and explored whether legislative or regulatory change is required.

As we see today, we now have legislation. The government and the board have been through an interesting process and no doubt many people were involved in helping come up with the legislation.

This morning I read in the paper about a matter that is of concern particularly in country areas, and the honourable member for Bendigo East — I would have loved to have come in to the house yesterday to talk on the City Link bill — like all of us would have concerns about the condition of rural medicine, particularly the difficulty of attracting medical practitioners and professional staff. We have great difficulty in attracting doctors, nurses and other medical practitioners to country areas. To its credit the federal government has now provided criteria to assist in allowing some country students with a lower ENTER — equivalent national tertiary entrance rank — entry to some training courses, and I congratulate it on that.

On the front page of the *Australian* today, an article under the heading 'Critical condition of rural medicine' states that there is chronic shortage of rural doctors, in this case in Cairns. It is similar to country Victoria, because we have a critical shortage of rural doctors. In Warracknabeal the Rural Northwest Health Service has just lost a couple of doctors and is having difficulty in recruiting doctors. We wish them all the best.

Mr Hamilton interjected.

Mr DELAHUNTY — We do! It is an excellent place to live; and not only that, the country offers a great lifestyle. It is also a lot cheaper!

The ACTING SPEAKER (Mr Kilgour) — Order! The honourable member for Wimmera, on the bill. The honourable member should ignore interjections.

Mr DELAHUNTY — In relation to the chronic shortage of doctors and other health professionals, the article on the front page of the *Australian* states:

> … at the moment more than 60 per cent of our medical staff would be overseas trained … Australia will face a shortage of more than 10 000 doctors within 20 years unless the number of medical students and overseas-trained doctors is boosted.

Greater cooperation is needed between the state and federal governments to make sure this happens. The article goes on:

> … an ageing population drives up the demand for GP visits by more than a million consultations a year.

Particularly in country areas, that is an enormous increase in the number of consultancies that will need

to be serviced by GPs. It was interesting to note in the article:

> About 450 graduates a year enter GP training, supplemented by 250 overseas-trained doctors.

It is necessary to improve the process of allowing overseas-trained doctors to work in Australia, and I ask the Australian Medical Association, in particular the Victorian branch, to deal with this in a sensible way. I congratulate the boards and the staff of hospitals in county areas on the work they do to attract health professionals to assist in country areas.

I return to the topic I was talking about, nurses agencies, because the bill touches on that matter. It is one of the areas the government whacked into, but I raised a concern with the minister about the issues raised with me about rural health services.

I wrote to all the country hospitals in Victoria and I got a great response. I congratulate the staff for responding to me on this matter because it gave me an overview of how many agency nurses are being used in country Victoria. I was pleased to see that overall it is a very small percentage but in some cases the policy is having a big impact. The hospital in Cohuna said it was having trouble recruiting nurses and needed agency nurses to fill the gaps. According to the hospital, closing beds will mean all sorts of problems for people living in the country and the ban effectively lessens its ability to cope with a shortage of nurses and their recruitment and retention and compromises the safety of staff and patients. I was pleased to see that the Minister for Health used commonsense in relation to agency nurses. Nurses are an important sector of our community. I agree that the agencies probably got a little bit greedy with some of their claims, but they offer an important service in the metropolitan area and country Victoria.

It is important that we adequately protect the public and there must be sufficient powers to ensure the maintenance of professional standards. The National Party believes that this bill will address both of these important issues. The bill amends five health practitioner registration acts and the Health Records Act 2001. The National Party is not opposed to the amendments to the health practitioner acts which will empower the Medical Practitioners Board of Victoria to regulate unsatisfactory performance of registered practitioners. The National Party is not opposed to the board's powers to deal with corporate owners who direct or incite registered medical practitioners or their employees to act unprofessionally. It is also not opposed to providing the board with greater flexibility to carry out its functions. As I said, the board has been advocating for this for nearly four years.

The Medical Practitioners Board has an important role to play. I am informed that interstate and overseas greater attention is being paid to linking renewal of registration with the demonstration of professional competence. I think that is important. As we get older we find it hard to retrain but lifelong learning is important to all of us. The flexibility offered in this bill is important in allowing the Medical Practitioners Board to address this issue.

The bill will also establish powers for the Medical Practitioners Board to assess or review the performance of medical practitioners whose overall level of knowledge, skill or judgment, or care and practice of medicine is below the standard their peers would expect. It is important that it is not only the standard their peers expect but that which is expected by the rest of the community. I will not mention the concerns that have been raised in some cases because I do not want to use this place to have a go at those people but there have been instances where the community has been disappointed with the standard of care offered.

Under this legislation the board will be empowered to receive notification of unsatisfactory professional performance of registered medical practitioners. The bill contains additional powers regarding notification of unprofessional conduct or ill health of a medical practitioner. If such notification is received a performance review will be undertaken by a panel of two or more persons. At least one of those persons must be a registered medical practitioner with expertise in the relevant area of practice and another must be a lay person who is not medically qualified.

Following passage of this bill the Medical Practitioners Board will be able to vary the conditions imposed on the registration of practitioners with the agreement of the practitioner. The bill will also allow the board to immediately suspend, impose conditions on the registration of or enter into an agreement with the impaired practitioner if he or she poses a serious risk to public health. These amendments empower the Medical Practitioners Board to enter into an agreement with a practitioner or impose conditions on his or her registration as an alternative to immediate suspension. That is a commonsense approach.

The bill mainly deals with corporate ownership. It will establish a scheme for the regulation of corporate owners of medical practices. As was noted in the second-reading speech, it is a form of negative licensing which will target those employers who direct or incite registered practitioners to engage in unprofessional conduct. As I have said during my presentation, we in the National Party have no objection

to that. The bill makes it an offence under the Medical Practice Act for an employer to direct or incite a registered medical practitioner to engage in unprofessional conduct.

Under this bill an employer is any person who owns, manages, controls or operates a business that employs a medical practitioner, including the director, secretary or executive officer of a body corporate. The offence has been extended to cover any person who provides a service to the business of the medical practitioner and in return receives a share or interest in the profits or income of that business providing medical services. The bill and the second-reading speech show that persons found guilty of this offence may be prohibited by the secretary of the Department of Human Services from operating a business that provides medical services.

The ACTING SPEAKER (Mr Kilgour) — Order! I advise the honourable member for Wimmera that we have already heard the second-reading speech read out in this Parliament and it is not necessary for it to be repeated by honourable members in their contributions.

Mr DELAHUNTY — I just wanted to highlight some of these matters. I will finish off by saying that the public health agencies such as public hospitals and community health centres are exempt from these provisions. As it says in the second-reading speech, they are supposed to operate on a not-for-profit basis and to provide publicly funded services, but as I said, there are enormous pressures on publicly funded services. I know of many hospitals in Victoria which are going into deficit because of some of the things implemented by this government. It will be interesting to see how the Minister for Health and the government address those issues.

This bill proposes significant reforms to the Nurses Act which are similar to those I have covered in relation to the health practitioner acts. These provisions are similar to the negative licensing scheme for the corporate medical practices, and they will also regulate the activities of nurses agents.

Can I finish off my contribution by saying — —

Ms Allan interjected.

Mr DELAHUNTY — Do you want me to keep going?

I am a little disappointed with the approach the government has taken. Health services right across Victoria are important, and we should maximise the input of not only public health facilities but also of private health facilities. We know that more and more services are being provided by the private sector, and that has been going on for many years. This legislation is mostly commonsense stuff which will protect the public. However, I caution the government in saying that it is only the private sector that is being driven by what it calls profit. There are concerns in the public sector that are equally important and should be addressed with similar legislation. With that small contribution, I will not be opposing this legislation.

Ms ALLAN (Bendigo East) — It is always a pleasure to follow the honourable member for Wimmera in debates in this place. I note his lengthy contribution; I was wondering if he was going to list the name and address of every doctor and nurse in his electorate seeing he has such wide and extensive knowledge of the health services provided in the seat of Wimmera.

I am pleased to contribute to the debate on the Health Practitioner Acts (Further Amendments) Bill. As we have already heard outlined at length, the bill contains several key purposes, which I will touch on briefly. Firstly, the bill will ensure that the Medical Practice Act 1994 provides an up-to-date and efficient framework for the regulation of medical practitioners. Secondly, the bill will regulate poorly performing practitioners and corporate owners of medical practices who direct or incite medical practitioners to engage in unprofessional conduct. I will come back to that point in a moment. Thirdly, the bill will establish additional powers to regulate nurses agents under the Nurses Act 1993. Fourthly, the bill aims to ensure that the process for issuing registration of board advertising guidelines satisfies national competition policy guidelines. Fifthly, the bill will exempt news media from the duty to comply with the health privacy principle 9 in the Health Records Act 2001.

Finally, there are two additional amendments of a housekeeping nature. The first proposes housekeeping amendments to the Medical Practice Act 1994 to increase flexibility in the conduct of the board's various administrative functions. The second is a further housekeeping amendment to the Chinese Medicine Registration Act 2000 that will allow the Chinese Medicine Registration Board of Victoria to collect registration fees on a financial year basis rather than on a calendar year basis. Clearly this bill is quite complex, particularly in relation to the extensive restructuring required in order to establish powers for the Medical Practitioners Board to regulate those poorly performing medical practitioners.

We have already heard some of the background to the bill this morning and also during the passage of the Health Practitioner Acts (Amendment) Act 2000 and the Nurses (Amendment) Act 2000. The Minister for Health gave an undertaking to key medical and nursing stakeholders that further work would be done on a range of policy issues contained in this bill. As is the government's approach in much of its work right across key areas of government, consultation and research with key stakeholders has taken place. A discussion paper was released in August 2001 entitled 'Regulation of medical practitioners and nurses in Victoria', and submissions from a number of relevant board and key stakeholders were canvassed on each of the issues in that discussion paper.

I would like to address some of the key points that were made in the contributions of the honourable members for Malvern and Wimmera. The honourable member for Malvern asked that five key areas be addressed by the government during the passage of this bill, either in this house or during its passage through the other place. The first is proposed section 63H(1)(b), which is inserted by clause 30 and which concerns the pursuit of people with a 10 per cent interest in a corporate medical practice on questions of negligence. As always when you draw a line in the sand it raises the question of whether it is the right spot for that line to be drawn.

This asks what is a significant pecuniary interest, a point which is currently the subject of some debate. For the purposes of these provisions a line has been drawn in the sand at that 10 per cent level. Certainly the practicalities and the outcome of drawing the line at 10 per cent will be considered and reviewed as the bill is implemented. We must remember that the objective of this bill is to protect the public and this section can be reviewed over time to ensure that the practical operation of the bill is meeting its purpose.

The second area the honourable member for Malvern touched on concerned advertising guidelines for the board. I note that the amendment to section 64B of the principal act does not remove the board from the process. The honourable member for Malvern was concerned that the role of the minister would take over from the role of the board. This amendment does not remove the role of the board from the process; it provides an additional layer, an additional assurance that the guidelines comply with national competition policy. To express that in a practical way the amendment does not change the requirement that the guidelines having been issued by the Governor in Council are published in the *Government Gazette*.

The third area that the honourable member for Malvern highlighted concerned nursing agents. It is important to note that there were two options for the government to consider on this matter: firstly, to target those who direct or incite unprofessional conduct in the nurses agency area, or secondly, to register all nurses agents. I guess the former was considered by the government to be more appropriate.

The honourable member for Malvern raised the issue of consultation with key nursing agency representatives. The Recruitment and Consulting Services Association made a submission to the review that led to the formulation of the policy underpinning the bill.

Fourthly, the honourable member for Malvern raised the issue of performance pathways and the Medical Practitioners Board being bogged down by vexatious or frivolous complaints. He was wondering what safeguards were in place to ensure that the board did not get bogged down. Procedural safeguards already apply to the operations of the board. It makes a judgment about whether a matter is vexatious or frivolous and deals with it appropriately.

The final matter raised by the honourable member for Malvern was one of equity between the public and private sectors. Public organisations and health services are exempt from the offence of an employer directing or inciting a registered medical practitioner to engage in unprofessional conduct on the ground that they are already subject to statutory regulation under the Health Services Act. That provision is designed to target those organisations who own, control or operate medical services that are not subject to legislation such as the Health Services Act. As I said, because public organisations and health services establishments are subject to statutory controls under the Health Services Act, it was not considered necessary to subject them to the additional offence contained in this bill.

The Health Services Act provides a statutory framework for the funding and purchasing of all health services and for the regulation of institutional health service providers in the public, private and charitable sectors. It contains a wide range of mechanisms designed to ensure that safe and appropriate health services are provided to Victorians. Should any concerns about inciting unprofessional conduct arise, the act already provides a direct means of addressing such concerns. For example, it provides for the creation of public hospitals and their governance, powers and functions. It also provides for the governance of community health centres.

Various statutory controls are included in the act to ensure the accountability of those public bodies and their use of public funds. They include the requirement to comply with the terms of health service agreements; the requirement for constitutional internal rules to be approved by the chief executive officer of the agency; the appointment of board members by the Governor in Council; in the case of public hospitals the ability to give directions under section 42; and the exercising of additional contingency powers by the minister, including, in certain circumstances, a capacity to censure an agency or appoint an administrator.

The government took the decision to use a most appropriate legislative tool to address any problems that could arise in relation to publicly funded health care agencies to prevent a continuation of inappropriate practices involving medical practitioners. Ordinarily communication between the government and the agency would resolve the problem, and the statutory power would only be resorted to when necessary.

The honourable members for Malvern and Wimmera raised the possible application of a negative licensing regime to bodies found to have incited a medical practitioner to engage in unprofessional conduct. That would be unnecessary, as appropriate changes will be made to the administration of a hospital in such a case.

Denominational hospitals are established by church organisations. Like the honourable member for Wimmera, I will not name every hospital in my electorate, but Bendigo is well serviced by a public provider at the Bendigo Healthcare Group, and the Mercy has a hospital in Bendigo, more commonly known in the community as the Mount Alvernia hospital.

Culturally those hospitals are treated as part of the public sector, and the Health Services Act allows conditions to be imposed as part of the health service agreements under which hospitals are funded. Section 42 allows the secretary to give a hospital certain directions regarding the manner in which it operates its services. It is envisaged that these mechanisms provide sufficient statutory powers to deal with any concerns that could arise.

Further on the issue of negative licensing schemes, corporate medical practices and nurses agencies are not unfairly targeting the sector but rather filling the gap in the regulatory framework by targeting groups that are not already covered by legislation such as the Health Services Act. Those services that are covered, such as public health organisations and health services establishments, are already subject to a range of statutory controls via the act. Further regulation of those sectors is not deemed necessary at this time.

I touch on the issues raised by the honourable member for Wimmera, who also queried the issue of negative licensing and where the scheme itself came from. Negative licensing is one of a range of approaches by regulation that has appeared in recent years. The approach has been condoned by the Australian Competition and Consumer Commission and the National Competition Council as an appropriately targeted and not overly restrictive form of regulation.

The honourable member for Wimmera also queried the definition of unprofessional conduct. The definition is already contained in section 3 of the Medical Practice Act, and a similar definition is also contained in other health practitioner acts. The definition of unprofessional conduct has arisen from years of experience on the part of disciplinary boards and professional bodies. The definition of unprofessional conduct appropriately addresses the expectations that the public, the state and also the medical profession itself have of medical professionals. It allows for flexibility in addressing unprofessional conduct, and it is supported by the bill.

I conclude on the honourable member for Malvern's concerns. I note the Australian Medical Association (AMA) has raised similar concerns with the government and the department.

They are among a number of issues to be addressed following the passage of this bill, when there will be further consultation with the practitioners, the professions, the colleges and the board. When such changes are made across such a wide area, consultation does not stop with the passage of a bill but must continue afterwards when the bill is implemented in a number of areas.

I will briefly touch on some key areas of the bill. The first is the regulation of owners of corporate medical practices who direct or incite unprofessional conduct. Clearly this is an issue about which many members of the community are concerned. It is interesting to note there has been great growth in health services right across Victoria. In country Victoria a number of private medical practices have been established; however, as the honourable member for Wimmera pointed out, we could always do with more doctors.

Clearly these types of practices have advantages for doctors and other health professionals. They can go about their business of being health practitioners while other people handle the business operations. In a number of areas this works well and provides a good

and strong service to members of the community. As has been indicated by honourable members, the Medical Practitioners Board has raised some concerns. Obviously not all medical practices do this, but examples have been cited — and this is where the concern has arisen — of owners exercising undue influence over a medical practitioner's referral patterns, consultation targets, ordering of diagnostics and prescriptions of pharmaceutical medicines.

Comments in the *Age* of 22 March and 25 March address the issue of profit and patient care in these types of practices. Clearly the issue has been of concern throughout both the medical community and, more broadly, the community at large. Rather than licensing all individuals who own or operate medical practices, this bill will establish a power for the Secretary of the Department of Human Services to prohibit individuals who attempt to unduly influence the professional behaviour of their employee doctors from owning or operating medical services. Clearly this is a serious step to take, and part of the reason the bill is so complex is that it goes to a number of different levels — not just the professionalism of the medical practitioners but also that of the businesses and the directors, owners and others involved in them and how they direct their staff.

The proposed amendments do a number of things. They establish an offence for employers to direct or incite registered medical practitioners to engage in unprofessional conduct; they extend the definition of 'employer' for the purposes of the offence to include all directors, secretaries or executive officers, as defined in Corporations Law; they empower the Secretary of the Department of Human Services to prohibit those found guilty of such offences from providing medical services or to attach conditions to their service provision; and finally, they establish an offence for the breach of such prohibition or conditions.

I re-emphasise the fact that the changes with this bill do not apply to all organisations that employ medical practitioners. The Bendigo Community Health Centre employs doctors and provides a wonderful service in the area. Those types of operations — private hospitals, day procedure centres and public health care agencies — are exempted because they are already subject to the statutory controls of the Health Services Act.

I again refer to the *Age* article of 22 March and the editorial of 25 March and note the support for the changes with this bill by the Victorian vice-president of the Australian Medical Association, Sam Lees. I have the pleasure of knowing and sitting with Sam on the rural and regional health advisory group. Sam is an excellent member of the group and makes a wonderful contribution. He is also a strong advocate for health services and access in country Victoria. The *Age* article of 22 March states:

> … Sam Lees, welcomed the proposed change and said there was some concern that 'corporate employers could pressure doctors to perform or function to a corporate ethic rather than following their medical ethics'.

The *Age* editorial of 25 March states:

> … the Bracks government is right to seek to prevent a potentially pernicious practice.

Clearly there has been support from the profession. Importantly that gives the community an assurance that health standards and the professionalism of medical practitioners will not be compromised in the pursuit of profit. Wide consultation has occurred on this bill with the relevant health practitioners boards of the Australian Competition and Consumer Commission, the AMA, and the Australian Nurses Federation and a number of organisations participated in the discussion paper. I commend the minister and his staff and the department for their preparation of this bill, and I commend it to the house.

Mr WILSON (Bennettswood) — I am pleased to make a contribution to the Health Practitioner Acts (Further Amendments) Bill. I also thank all my Liberal Party colleagues who have come into the chamber to hear my contribution to this important debate.

The bill has all-party support, and I presume it also has the support of the three Independents. It amends a number of acts, including the Medical Practice Act 1994, the Nurses Act 1993, the Chinese Medicine Registration Act 2000, the Dental Practice Act 1999, the Psychologists Registration Act 2000 and the Health Records Act 2001.

I notice that the bill seeks to repeal an unproclaimed act. I have the advantage of the honourable member for Pakenham being in the house; he might share my concern about the Medical Practitioners (Private Hospitals) Act of 1984. I find it fascinating that an act has gone unproclaimed for 18 years. I would have thought that somewhere along the way, someone — I am talking about the ministerial stewardship of seven, perhaps eight ministers for health from both sides of politics — would have wanted that act either proclaimed or repealed. I find that quite odd. As he is the father of the house, after my contribution I will ask the honourable member for Pakenham how that could possibly occur in our parliamentary system.

But of course the act of Parliament would have originated from a minister for health and therefore involved the health department, and nothing ever surprises me about what goes on and does not go on in the health department. I can say that from personal experience.

The most significant amendments are to the Medical Practice Act. They empower the Medical Practitioners Board of Victoria to regulate unsatisfactory professional performance of registered practitioners; establish powers to deal with corporate owners who direct or incite their registered medical practitioner employees to act unprofessionally; and provide the board with greater flexibility in carrying out its functions.

The amendments under new section 63A proposed by the bill establish an offence for a corporate owner of a medical services business — and let us remember that the private sector is an ever-expanding and important component of the Victorian health system — who directs or incites a registered medical practitioner to engage in unprofessional conduct. Businesses found guilty of contravening these provisions may be prohibited from operating a medical service business.

I note that the health services establishments as defined in the Health Services Act 1988 are exempted from these offence provisions as they are already subject to regulations under the act. In her contribution to the debate the honourable member for Bendigo East outlined what organisations are exempt.

The bill also amends the Nurses Act to make further provision for regulating nurses and nurses agents. Similarly to the amendments proposed to the Medical Practice Act, it will be an offence under proposed section 63A for an employer agency to direct or incite a registered nurse to engage in unprofessional conduct. If proven this will result in severe penalties.

I reflect on the comments of the shadow Minister for Health, the honourable member for Malvern, in his contribution to the debate about the minister's acknowledgment in the second-reading speech that 'nurses agents provide a valuable service to our health system'. They are noble words to use in a second-reading speech. It is a great pity that the minister does not apply that level of fairness to private nursing agencies in the government's current dealings with them in applying its new nursing policy in public hospitals.

Mr Perton — Nor what he says in the newspaper.

Mr WILSON — Correct. I hope that the minister and the government will in no way use these new provisions to unfairly deal with private nursing agencies in Victoria. Despite the minister's rhetoric and the public relations campaign that has been conducted by the government, the current assault on private nursing agencies is causing significant strain at the two hospitals which serve my electorate — the Box Hill Hospital and the Monash Medical Centre.

It does not matter how many times the Minister for Health goes out and tells my constituents and the broader Victorian public that there is no negative impact on Victoria's public hospitals as a result of his policy, I am afraid his rhetoric is a long way from the truth. I am being told on a daily basis by professionals both at those hospitals and elsewhere that the government's policy is placing severe strain on public hospitals in Victoria, and particularly the Box Hill Hospital and the Monash Medical Centre, which serve the eastern and south-eastern suburbs.

Mr Maclellan interjected.

Mr WILSON — The honourable member for Pakenham makes the point correctly that the information on waiting lists contained in the latest *Hospital Services Report* is proving that point.

In summary the Liberal Party supports the legislation. As I said earlier, it has the support of all parties, and I presume the support of the Independents. The bill recognises that our health systems, both public and private, are ever changing. The amendments contained in the bill address some of the issues which are evolving in our health systems.

With those comments, and paying special tribute to the contribution of the shadow Minister for Health and noting the reservations he has expressed, especially about some increase in ministerial powers, I wish this bill a speedy passage.

Mr LEIGHTON (Preston) — As a member who was once registered under one of the acts to be amended by the bill — I am referring to the Nurses Act, or at least the 1958 version of it — it is a pleasure to be able to contribute to this debate. There is obviously bipartisan agreement on the bill. Having sat here throughout the morning listening to the debate it seems to me that most of the provisions are not controversial, so I do not propose to go back through the discussion paper or all the features of the bill. I shall provide some personal comments on a couple of features, and I will talk particularly about corporate medical practices, the regulation of poorly performing medical practitioners,

nurses agents and the amendments to the Health Records Act.

But before I go on to discuss those matters I make the more general comment that the regulation and discipline of health practitioners over the past 10 years has become far more sophisticated and complex. That has occurred for a variety of reasons, but particularly because of the introduction in the 1980s of the Freedom Of Information Act and the introduction of the health complaints mechanism through the establishment of the position of Health Services Commissioner. Because of those things and because consumers are generally more aware of their rights and are better able to access information and pursue their rights, the conduct of health practitioners is more closely scrutinised than it was several decades ago. At the same time, because when their conduct is called into question it can threaten their livelihoods, they are more likely to engage lawyers than they were once upon a time.

Prior to entering this place almost 14 years ago I was a member of the predecessor of the Nurses Board of Victoria — the Victorian Nursing Council, as it was then known. As a member of its executive I sat on a number of disciplinary cases. Early on it was unknown really for a nurse who was the subject of a disciplinary hearing to appear with a barrister in tow, but by the end of my time there that was quite commonplace. The whole area has become quite complex, and certainly earlier versions of the medical practice legislation and the Nurses Act did not deal with disciplinary matters in a sufficiently complex way. In particular they did not, in my view, give health practitioner boards sufficient capacity to monitor conduct and impose conditions. I think we have gone a long way in that regard.

I shall comment on a couple of the specific aspects. Firstly, on the role of corporate medical practices, the role of corporations gives me a lot of concern. I support the provision for negative licensing, but I think general practitioners are facing a much bigger issue. The state can go only so far in meeting some of their concerns. Medical practitioners face a growing range of specific problems. The particular concern I have about corporations is the pressure on general practitioners to simply push through patients and the potential to order a high volume of unnecessary tests.

The lot of general practitioners is increasingly difficult. They are under greater financial pressures. On the one hand these days they largely do not do a lot of the more specialised work they might have done in previous generations, including some surgery and obstetrics, and on the other hand they have a range of other health practitioners nibbling away at their work, such as nurses, alternative health practitioners and Chinese medical practitioners.

GPs also have to try to look forward to see what sort of work they will do. I would like to see a growth in 24-hour GPs services. One of the more productive things that has occurred in general practice in the past few years is the establishment of the divisions of general practice, which provide general practitioners with a range of professional and educational activities.

Another feature of the bill is the regulation of poorly performing medical practitioners. It gives the Medical Practitioners Board of Victoria an increasing opportunity to monitor their performance and to impose conditions — for instance, when medical practitioners renew their practising certificates to have them put down details of continuing medical education.

Given the resistance from the Australian Medical Association, the bill does not go as far as mandating continuing medical education. I would suggest that in years to come continuing medical education will be mandatory for doctors and nurses and various other health practitioners. It is obviously highly desirable. When I look at my own circumstances I know that even if I were still registered I would be clearly incapable of practising. At the least, continuing education is to be highly encouraged, and I can see a time when it will be mandatory.

Another difference between medical practitioners and nurses is that with registered nurses there is a requirement that they have practised in the last five years if they wish to renew their practising certificate. That does not apply with medical practitioners. Indeed, when I was first elected to this house, as long you held a registered nurse's practising certificate you could renew it each year irrespective of how long ago you had practised. The 1993 act changed that to require that you had to have practised in the last five years. That is highly appropriate, and again I suggest that one day that might also apply to the medical profession.

I have concerns about any health practitioners who can renew their certificate year after year without having practised in their field. A further change I can foresee is to require health practitioners to have practised in a clinical setting. At the moment the basic practising certificate does not show whether you have worked in a clinical setting. As doctors and nurses move into other areas such as administration they could still renew their practising certificate despite not having practised in a clinical setting for many years.

A similar form of the negative licensing provisions that apply to medical practitioners are also applied to nurses agents, and that is highly appropriate. One of the difficulties with the 1993 act was that very few requirements were imposed upon nurses agencies with respect to how they handled the nurses they were supplying. The previous act — the 1958 act — required nurses agents to be registered nurses under that act, so that you could not operate as a nurses agent unless you yourself were a registered nurse. This meant that the various requirements that applied to registered nurses under the old act by definition also applied to nurses agents, because they were registered under that act. Those requirements were changed under the 1993, act but in my view insufficient arrangements were put in place, so the same negative licensing provisions that apply to medical practitioners also apply to nurses agents.

It says in particular that a nurses agent who arranges to supply the services of a registered nurse must not direct or incite the nurse to engage in conduct in the course of their professional practice that would constitute unprofessional conduct.

It will be interesting to see how this goes. I am aware of nurses agents who, when asked by a hospital to supply either a division 1 or a division 3 nurse — in other words, a three-year-trained registered nurse — have instead supplied a division 2 nurse, or what we used to refer to as a state enrolled nurse. I know of specific cases where that has occurred. Also, and seriously, I know of cases where they have supplied division 1 nurses who may not necessarily have been competent to practise in areas such as intensive care or accident and emergency services. So certainly that provision is strong enough to ensure that a nurses agent supplies a nurse who is registered in the division for which they are required by the hospital or health service.

I hope that will be extended to put the onus on the nurses agents to ensure that the nurse is competent and has the necessary skills, because if a hospital is under pressure with a shortage of nurses and they ask a nurses agency to supply a registered nurse, they are very much in the agent's hands as to whether the nurse has the skills and qualifications to work in the area of the hospital they are being sent into. I hope these provisions work. If they do not, I will argue that we should go back to the old system of requiring nurses agents to also be registered nurses. But it is going to be very much up to nurses agents to ensure that they meet the provisions of this new legislation and act professionally.

The last aspect of the bill, which I will conclude on, concerns health records. To put it in context, the Health Records Act was the companion of the Information Privacy Act, but the health area was considered important and special enough to have its own legislation. In my view the Health Records Act contains even more stringent requirements for the protection of an individual's information and data than the Information Privacy Act does. For example, this Parliament decided that whereas members of Parliament would be exempt from the provisions of the Information Privacy Act, in respect of the Health Records Act individuals' health records were sacrosanct — so that the provision should apply equally to members of Parliament.

One exemption is the media, so I make a special note that the media has received special treatment. For instance, if I am a practitioner in a hospital and I treat an AFL footballer who has AIDS or some other interesting illness, it would certainly be an offence for me to disclose that information outside the hospital. However, if that information were leaked to the *Herald Sun* it would be exempt in running a front page story. It would be able to run a front page story that said, 'This Australian Football League footballer is in this hospital suffering this illness'.

The bill before us extends the ability of the media to reporting that interstate. At the moment it has the provision to report it within the state of Victoria, but it is possible that if that news story were reported interstate the paper could be in breach of the Health Records Act, so that ability is extended. I simply want to make the point that I believe the media has been treated in quite a privileged way in that it is the only organisation that is exempt from the provisions of the Health Records Acts.

With those comments, I am pleased to have spoken on this bill and to support it.

Mr MACLELLAN (Pakenham) — One of the enriching experiences of this Parliament, and of being a member of this Parliament, is to follow the honourable member for Preston on a health matter. I think we learn very quickly in this place that there are people who have had experience both before and while they are here which they bring to this place and which gives them an ability to speak with great authority on matters. The honourable member for Preston has a good reputation in respect of health issues in this Parliament.

The honourable member was kind enough to refer to his view — and it was just a view put in debate — that in support of the bill we may have to look at requiring continuing education for health practitioners. I have to put the cautionary warning that that may not be as

much a problem in the metropolitan area as in the fringe areas on the edge of the city, where the number of practising health practitioners to population is low, and in country areas, where attracting appropriately skilled practitioners is difficult.

The practitioners I go to are frantic. If one told them that they had to take time off for continuing education I doubt if their practice could continue the way it is. They are desperate for relief — they are desperate for existing time off, and things like that — so that a mandatory requirement for continuing education may well deprive the community of services rather than ensure the enrichment of those services.

I have to say that those who practise and renew their application can continue to practise — I instance nurses who do not give up practice completely but continue part time and therefore are able to renew their practice — and it is again in this context of continuing education, because we have a system by which if you give up practice and then come back you need to have a refresher course, but if you continue to have some connection with the practice you can renew your application even though that may be a limited experience.

Having recently had the benefit in our household of district nurses I assure the honourable member for Preston that I do not think there is anything wrong with visiting district nurses having perhaps a wealth of experience from earlier times and perhaps not being full bottle, if I can put it in that slangy way, on today's super technical hospital techniques, because they are nevertheless performing an extremely valuable role in my community. We need to have sufficient characterisation of the practice of nursing or medicine, or Chinese medicine, or whatever it is.

Mr Leighton interjected.

Mr MACLELLAN — We should have sufficient categories attached to the registration to enable them to practise in limited areas, and as the honourable member for Preston says, not to go out without appropriate refresher training, or indeed initial training, into other areas of practice — in other words, as he puts it, you would not want them necessarily in intensive care. Therefore a highly specialised area should be signalled to be highly specialised.

I understand that there is bipartisan support for the bill, but there is a difference of emphasis between the opposition, the National Party and the government on the question of agencies. The government's current position — it will not be for long, but never mind — is that it is against agencies. It thinks they are expensive; it is not sure whether they are providing sufficient service for the money they cost. That anti-agency attitude is sort of reflected in some of the government's rhetoric and some of its actions at the moment. As I say, that will not last long, but never mind, it is there.

The honourable member for Preston was really echoing some aspect of that when he said that the agencies that now no longer necessarily registered nurses themselves should take the responsibility for the level of the skill of the nurses they supply — in other words, that the hospital could not be expected to know whether the skill of the agency nurse was suitable for the position; the agency should make that judgment.

I understand where the government is coming from on that issue because — —

Mr Leighton interjected.

Mr MACLELLAN — As the honourable member interjects and says — and I do not mind this at all; it is very helpful — the hospital may never have seen them before and has no idea. The agency is the one that is providing the nurse and therefore should be held responsible for the appropriateness of their skill level. It is by this means of shifting the responsibility from the practitioner to the agency that we will be able to bring the agencies undone. We will be able to say the agencies failed because they provided a registered practitioner but not a registered practitioner with the appropriate qualifications, and we will excuse the hospital from using somebody, and I quote the honourable member for Preston, that 'they may never have seen before' from having any responsibility for the practice of the person it has never seen before in the hospital, because they are supplied by an agency.

It strikes me that a hospital that allows somebody it has never seen before and whose qualifications and experience it has no idea about to go in and treat one of the patients without any knowledge other than the fact that they have registration perhaps — if they actually bring the certificate with them — is to me to imperil the practice of medicine in that hospital and to imperil the safe treatment and recovery of patients. I think somebody is being wrong.

I do not say hospitals are excused because they can say they do not know, but agencies have to know everything. I would say what we have to say as part of the registration process under the legislation we are all supporting is that there should be sufficient characterisation under the registration to enable hospitals or agencies or those who are going to rely

upon it, to rely upon it — in other words, there should be with the registration a statement of skills, experience and a detailing of the practice that that particular registered practitioner has, to enable those who use that practitioner to have a reliance on the statement of registration.

The honourable member for Preston said that he sees us moving towards a requirement for continuing education. I signal that I think this Parliament in years to come will be requiring not just the registration of medical practitioners but registration which includes the categories in which they are skilled and experienced to practise. That will be of such detail that hospitals, agencies and indeed patients will be able to have a reasonable level of confidence that the person working with them on their health problem has the necessary skills to do so.

I am all for continuing education, but I am also all for limited practice. When you have need of a district nurse you are not particularly anxious to know of their professional practice. You simply say, 'We need help; come in', and you are so grateful. I do not think we want to junk that simply because we say that most practitioners, with years ahead of them in the practice of health in this state — whether it is Chinese medicine at one end or whatever — need continuing education. Yes, I agree we should have readily available continuing education, and maybe we should have a re-examination of qualifications from time to time — in other words, putting people back through an examination to check on their level of skill. But I do not think that by saying one size fits all we are going to get the answer. One form of registration will not fit all practice. There are nursing practices which are limited and useful, and ought to be left as limited and useful. People should not go out of their field of expertise and experience.

This legislation can be the beginning of a pattern which will go on. We have seen this come from many years earlier. It is here today again before Parliament; I am sure it will be here again many times in the future.

I thank the honourable members for Preston and Bennettswood and others who have contributed to the debate and have brought their expertise and insights to bear on this subject. I wish the bill a successful passage through Parliament.

Debate adjourned on motion of Mr SEITZ (Keilor).

Debate adjourned until later this day.

Sitting suspended 12.55 p.m. until 2.05 p.m.

QUESTIONS WITHOUT NOTICE

Saizeriya project

Dr NAPTHINE (Leader of the Opposition) — Will the Premier inform the house why the government originally engaged the Peregrine management group to solve the industrial relations mess at Saizeriya and how much taxpayers' money has been paid to Peregrine to deal with the industrial relations on a private building construction site?

Mr BRACKS (Premier) — I am very pleased that the Leader of the Opposition has asked again about the company Saizeriya. I am sure honourable members on the backbench opposite wonder why four questions were wasted by the Leader of the Opposition yesterday. What sort of tactics are employed over there?

The Leader of the Opposition has been wrong on every occasion. He said the investment was $400 million, but it is $40 million, so he was wrong on that. He has the company name wrong as well. Tellingly, in response to the misinformation provided by the Leader of the Opposition the company put out its own press release, dated 17 April, under the heading 'Saizeriya Australia reaffirms commitment to Melton plant'. I will read two small paragraphs from it:

> The Victorian government has been supportive of our investment to date and we will continue to work closely with them in resolving the issues we face in getting our plant up and running.

It goes on to say:

> It is not true that the Victorian government has agreed to pay Saizeriya Australia any penalty for late completion of the project.

The Leader of the Opposition has been wrong on every occasion. From the outset the government has said that it stands by this company. We have contracted with another company to provide industrial relations expertise, as it is the right and responsibility of the government — —

Dr Napthine — On a point of order, Mr Speaker, on the question of relevance, the Premier is answering yesterday's question. Today's question relates to whether the government has employed Peregrine and how much of taxpayers' money is being used.

The SPEAKER — Order! The latter part of that point of order is not a point of order; I am not prepared to uphold the point of order.

Mr BRACKS — As I indicated yesterday, the government stands by Saizeriya. The company

reaffirmed that in its press release yesterday. I have already indicated that the government has commissioned advice, in this case from the Peregrine Management Group, to assist and support Saizeriya in its industrial relations management.

Dr Napthine — On a point of order, Mr Speaker, it is clear that the Premier wants to keep secret from the taxpayers of Victoria how much he is paying Peregrine.

The SPEAKER — Order! The Leader of the Opposition is clearly making a point in debate and I will not hear it. The Premier, concluding his answer.

Mr BRACKS — The government has commissioned this management group. I do not know how much it was, but it is certainly not in the order of what the Leader of the Opposition was claiming yesterday. The company is working closely with the government to complete the project. It is a major investment for Victoria. The government stands by it. The company and the government totally reject the ridiculous allegations made yesterday by the Leader of the Opposition.

Questions interrupted.

ABSENCE OF MINISTER

The SPEAKER — Order! I have been advised that the Minister for Gaming will not be in attendance during question time today. The Premier will answer in his stead.

Questions resumed.

Business: government statement

Ms BARKER (Oakleigh) — Will the Premier advise the house how the government is providing a better economic environment in which Victorian businesses can operate?

Mr McArthur — On a point of order, Mr Speaker, that is a very broad question. I draw your attention to the rulings of the Chair. In effect the question invites a ministerial statement and I ask you, Mr Speaker, to remind the Premier of the sessional orders.

The SPEAKER — Order! I agree with the point of order taken by the honourable member for Monbulk that the question is indeed broad. I remind the Premier that question time is not an opportunity to make ministerial statements. I also remind him of the requirement under sessional order 3 for ministers to be succinct.

Mr BRACKS (Premier) — I will be pleased to abide by your ruling, Mr Speaker, and I will limit my answer specifically to the initiatives the government will be taking early next week in a pre-budget business statement that will reinforce the state's very positive and productive economy which is recognised Australia wide as one of the best in the country.

This government is pro-investment and pro-jobs. The business statement the government will release early next week will be all about reinforcing Victoria's leadership position in Australia. The economy is going very well in Victoria and while that is happening it is important that we reinforce these opportunities, maximise these benefits and ensure that we have reforms in place, as we will have when we release the business statement next week, to ensure greater competitiveness, innovation and connectivity of our businesses in this state. That is what the government will be aiming for in its business statement next week.

The Victorian economy is experiencing record exports, record building growth and record building approvals. We should also note that the unemployment level in Victoria is currently 5.85 per cent — the lowest it has been in 10 years and the second lowest of any state in Australia. We have seen some 120 000 new jobs created in this state since this government came to office.

The business statement to be made next week will be fairly and squarely aimed at directing assistance to small and medium-size enterprises, to manufacturers and the new manufacturing agenda Victoria is employing, to exporters, rural and regional businesses and the tourism sector. It will build on the $3 billion worth of investment this government has committed to ensure that we have the right business environment in the future. It will build on the Better Business Taxes package the Treasurer released last year — the $774 million in business tax cuts. The statement will ensure that the new areas of the economy such as information technology, biotechnology, new manufacturing and food processing are enshrined.

I can also indicate to the house that the government will maximise the very positive position of the Victorian economy through an advertising and communication campaign. Up to $2 million will be spent seeking investment and job growth in Victoria internationally.

Mrs Peulich interjected.

Mr BRACKS — I just said $2 million. This money will be spent on encouraging international investors and

investors from across Australia to ensure that we keep — —

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order, particularly the honourable member for Doncaster.

Mr BRACKS — This campaign will also assist in ensuring Victoria keeps its leadership position on growth, jobs and investment.

Marine parks: establishment

Mr RYAN (Leader of the National Party) — My question is to the Treasurer in his capacity as the Minister for Innovation and Minister for State and Regional Development. I refer the Treasurer to the $80 million the government has proposed for the timber industry and timber communities affected by the recent cut in sustainable yield allocations. Will the government present a similar package for the fishing industry and the coastal towns which will inevitably be affected by the proposed marine parks?

Mr BRUMBY (Minister for State and Regional Development) — I thank the Leader of the National Party for his question. The forest statement released by the Premier and the Minister for Environment and Conservation in February this year provided for significant change to the operation of the timber industry in our state. As a consequence of the adjustment that will occur as a result of that the government has committed up to $80 million for industry transition. That money will be available to assist affected companies and workers who may be displaced. The process by which that is occurring is now under way and being led by the Minister for Environment and Conservation.

In addition, cabinet has authorised a process whereby a subcommittee of cabinet, chaired by me as Treasurer, will look at additional programs in regional areas — things like infrastructure programs, other business assistance programs and tourism initiatives — designed to grow opportunities in country Victoria. There will be a number of announcements regarding that over the next two to three months. The fact of the matter is the package the government has put in place is very generous. It will provide direct assistance to people who are affected by the adjustment process and it will generate new jobs in regional Victoria. To date, along with members of the task force I have visited Orbost and Warragul and last Friday I visited Daylesford.

In relation to the other matters raised by the Leader of the National Party, obviously the question of marine parks and the legislation relating to them is a subject which will be a matter of debate in this Parliament in the weeks ahead.

Mr Ryan interjected.

Mr BRUMBY — Settle down. The Premier has made it very clear that the government is committed to protecting our marine environment areas. We have released a discussion paper and the draft exposure of the legislation. We have made it clear that we will be introducing legislation, and we want the support of the Liberal and National parties. That is what we want — we want your support!

Mr Ryan — On a point of order, Mr Speaker, the minister is debating the issue. All I want to know is the answer to the second part of the question put to him. I ask you to have him respond to that particular aspect of the question.

The SPEAKER — Order! I ask the minister to return to answering the question.

Mr BRUMBY — I think I have answered the question. The legislation will come before Parliament. I understand the Leader of the National Party has been saying that he will oppose the legislation and oppose compensation. Until the matter is debated and until the legislation is passed, it is impossible to answer that question.

Economy: performance

Mr HOWARD (Ballarat East) — Will the Treasurer inform the house of what action the government is taking to grow a strong Victorian economy, to secure investment and create jobs?

The SPEAKER — Order! Before calling the Treasurer, I point out that I am of the view that the question as it has been asked is broad. The Treasurer should also be aware of the requirement under sessional orders for succinctness during question time.

Mr BRUMBY (Treasurer) — I thank the honourable member for his question. As the Premier indicated earlier, we are delighted with the economic performance of this state and with an unemployment rate — the headline rate — of 5.8 per cent, the best headline unemployment rate in Victoria for the last decade. That has occurred under the Bracks government.

The regional labour force figures were released today. They show that again employment in country Victoria has exceeded 600 000 people. What is remarkable about that figure? The answer is that in the whole of Victoria's history we have exceeded 600 000 in the country work force on only seven occasions — and every one of those seven occasions has occurred under the Bracks government. We have never previously seen that.

When the Bracks government was elected in October 1999 the work force figure in country Victoria was 561 000; today it exceeds 600 000. We have seen new job growth in country Victoria of almost 40 000 people in the years that we have been in government.

I am also delighted to advise the house that of the extraordinary job growth we have seen in this state, about one in every three new jobs generated across Victoria has been generated in country Victoria. That is a record we want to continue in the future.

Over recent months the performance of the Victorian economy has been remarked upon by a number of commentators. In January the *Australian Financial Review* had this to say about the Victorian economy:

> It is hard to go past Victoria as the best-performing state or territory in the nation, at least in economic terms.

In March, Josh Gordon wrote in the *Age*:

> If Australia is the world's miracle economy, then Victoria might well be called Australia's miracle state.

In last Saturday's *Age*, under the heading 'Melbourne flies high', Stephen Dabkowski quoted Chris Richardson of Access Economics as having said:

> Melbourne's got Sydney on the mat, right now … its performances on growth, employment, investment and immigration are going a lot better.

Next week the Premier will be releasing the government's business statement. We believe it will be a further positive fillip to growth in our state. One of the things we will continue to do is make sure that we cover the whole of the state and grow the whole of the state.

My attention has been drawn to a comment this morning by the Leader of the Opposition attacking the government's decision to move the Rural Finance Corporation to Bendigo.

Dr Napthine — On a point of order, Mr Speaker, the minister is not only misleading the house but also debating the issue.

The SPEAKER — Order! I ask the Treasurer to cease debating the question and return to answering it.

Mr BRUMBY — I am making the point that we will continue to grow country Victoria. We have announced the relocation of the Rural Finance Corporation to Bendigo. It is unfortunate that that is opposed by the Leader of the Opposition.

Dr Napthine — On a point of order, Mr Speaker, the Treasurer is not only misleading the house, he is continuing to debate the issue, and I ask you to bring him back to order.

The SPEAKER — Order! I do not uphold the point of order about debating the question. The Treasurer was providing information to the house on what the government is doing.

Mr BRUMBY — Last year, when the government announced the shift of the State Revenue Office to Ballarat, the Deputy Leader of the Opposition opposed that move. She said the office should go to Bendigo. Now that the government is moving the Rural Finance Corporation to Bendigo, they say, 'That is not the best place, shift it somewhere else'. The Liberal and National parties had seven years to shift a single job out of Melbourne into country Victoria. How many did they shift? The answer is a big fat zero!

The SPEAKER — Order! The Treasurer is again debating the question. I ask him to desist, to return to answering the question and to conclude his answer.

Mr BRUMBY — In conclusion, the government has moved the State Revenue Office with spectacular success. It is now moving the Rural Finance Corporation to Bendigo, and it will be establishing Vicforests in country Victoria. The business statement to be brought down next week will contain numerous more initiatives to grow investment, jobs and opportunities right across Victoria.

Saizeriya project

Dr NAPTHINE (Leader of the Opposition) — Noting that Saizeriya has purchased an industrial property in the Manukau district of Auckland under the name Garwil Pty Ltd, will the Premier guarantee that stages 2 and 3 of this important investment project will be built in Victoria, as originally intended?

Mr BRACKS (Premier) — As I have already indicated — and this is why the Leader of the Opposition has had significant confusion with his presentation to the house — the matter on which we received success was stage 1 of Saizeriya.

Honourable members interjecting.

Mr BRACKS — It was — it was stage 1! It was a $40 million project that we received success on. It is well known that Saizeriya has not yet made a final decision on the other stages of the project. We will obviously seek to secure that, but the commitment we have, and what we have secured, is stage 1, the $40 million project. That is why we had a misleading statement from the Leader of the Opposition yesterday. At every step of the juncture on this matter he has been wrong, wrong, wrong!

You have to wonder who is advising the Leader of the Opposition on these questions. Is it the honourable member for Berwick? Is it the honourable member for Hawthorn? Is it the honourable member for Malvern? It may be the honourable member for Berwick, because we learn today, for example, that the honourable member said — —

Dr Napthine — On a point of order, Mr Speaker, the Premier is now debating rather than answering the question. I ask you to bring him back to order.

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

Mr BRACKS — I reiterate that the commitment we have is to stage 1. The other stages of the development are a matter for Saizeriya. Clearly we will bid for those, be competitive, but that is a decision for the company.

Building industry: performance

Mrs MADDIGAN (Essendon) — Will the Minister for Planning advise the house about the latest building permit statistics from the Building Commission and advise what action the government is taking to sustain this outcome in the future?

Ms DELAHUNTY (Minister for Planning) — I thank the honourable member for Essendon for her question. As far as the health of the Victorian building industry is concerned, I think you can say it is positively fighting fit and going from strength to strength. In the year to February building activity increased by a staggering 32 per cent — a record $12.7 billion in building approvals. As the Premier recently announced, the February monthly figure was also outstanding — a record $1.1 billion in just one month. That is the 10th consecutive monthly building approval record. These are astonishing figures. It is a massive vote of confidence in the management of the Victorian economy by this government.

All sectors have experienced strong growth in the last 12 months. The domestic sector rose 35 per cent and residential growth was 44 per cent. I think it should also be noted that the government is spending extensively on a building works program in the hospital and health care area, and that also recorded a 44 per cent increase. But the commercial sector was the standout: a 45 per cent increase in building activity in the last 12 months.

This is evidence of a robust Victorian economy, and we have heard the Treasurer outline some of the glowing reports on the economy from independent commentators. Of course not everyone was so optimistic. In December the former planning spokesperson, the honourable member for Box Hill, said:

> If the Labor government fails to act … it will … make it … much harder to … come back from behind … to revive the Victorian construction industry in a downturn.

Well it's a hell of a downturn — 10 consecutive months of building activity! What does this mean to ordinary Victorians? We can talk about the figures and about how this government will try and sustain that momentum in the building and construction industry, but it means that in the last 12 months 26 000 new jobs were created right across Victoria. We are building better suburbs, we are building better regions — and the opposition knows it!

We have had a headline in the Ballarat *Courier* of 3 April 2002 of 'Ballarat building record', and in the *Bendigo Advertiser* of 4 April 2002 of 'Builders spend up big in Bendigo'. We are seeing this right across the state. Also, in Wangaratta, a smaller market you might say, in the *Border Mail* of 16 April 2002 we saw the headline 'City to build on new growth'. Right across Victoria we are seeing building activity at boom levels.

This government intends to try to sustain a strong building and construction industry. What we have set out to do is provide security of payments legislation, and along with my colleague the Minister for Finance we have set in place a building warranty insurance regime which will protect builders and home owners. As far as the building industry is concerned, Victoria is the place to be.

Saizeriya project

Dr NAPTHINE (Leader of the Opposition) — I refer to the upcoming Anzac Day public holiday and the arrangements at Saizeriya's Melton building construction site, and I ask the Premier: is it a fact that workers are not working next Thursday, quite rightly, because it is Anzac Day, not working on Friday

because it is an RDO — rostered day off — and not working the following Monday because it is a PLD — productivity leisure day ? Further, any workers who work — —

Mr Brumby interjected.

The SPEAKER — Order! The Treasurer should cease interjecting!

Dr NAPTHINE — I will start again. Is it a fact that workers are not working on Thursday, quite rightly, because it is Anzac Day, they are not working on Friday because it is an RDO — rostered day off — they are not working on Monday because it is a PLD — productivity leisure day — and further that any workers who work over the weekend have demanded a $1000 Bunnings Warehouse voucher? Does the Premier endorse these work practices?

Honourable members interjecting.

The SPEAKER — Order! I ask opposition benches to come to order! I ask the Leader of the Opposition to repeat the latter part of his question as the Chair did not hear what he asked.

Honourable members interjecting.

The SPEAKER — Order! Opposition members will find themselves outside the chamber under sessional order 10 shortly!

Dr NAPTHINE — So the workers are not working on Anzac day, they are not working on Friday because it is an RDO, they are not working on Monday because it is a productivity leisure day and now they are demanding a $1000 Bunnings Warehouse voucher to work over the weekend. And my question is: does the Premier endorse these work practices?

Mr BRACKS (Premier) — I think in the second part of his question the Leader of the Opposition asked if I endorse those work practices. Firstly, I am not aware of them. I will find out and let him know. Secondly, he asked if I endorse the — —

Dr Napthine interjected.

The SPEAKER — Order! I ask the Leader of the Opposition to cease interjecting!

Mr BRACKS — Mr Speaker, he asked the question about a private sector company's arrangements. I am saying that I am not aware of them. I will find out and get back to him.

Dr Napthine interjected.

Mr BRACKS — I am sorry; the Leader of the Opposition can keep asking but I am answering the question. The second part of the question was a value comment: do I support arrangements where successive days after Anzac Day are taken off? No, I do not.

Students: literacy and numeracy

Ms BEATTIE (Tullamarine) — Will the Minister for Education and Training inform the house how the government is delivering better literacy and numeracy outcomes for Victorian children?

Ms KOSKY (Minister for Education and Training) — Today as chair of the Ministerial Council on Education, Employment, Training and Youth Affairs and also as Minister for Education and Training in Victoria, I had the opportunity to release what are really fantastic figures in literacy and numeracy right across Australia, but particularly for Victoria.

There has been an improvement in students reaching the national benchmark for literacy. It is also the first time that numeracy results have been available. It is an annual report that details the reading and numeracy competency of years 3 and 5 students across the nation. The results are very good for Victoria. Victorian students are leading the nation in numeracy and are well above the national average in literacy. It is particularly good news for the students, who are learning literacy and numeracy skills and going on to build on those important basics in terms of their continuing education.

Victoria had the best result of any state or territory in numeracy, and we were also above the national average in literacy. We have shown an improvement in the year 1999–2000 in the literacy results. They are very good results and teachers should be congratulated for the efforts that they have been putting in across Victoria in relation to literacy and numeracy.

The *Herald Sun* said it very well this morning when it said:

> Victorian pupils go to the top of the class.

It recognised that Victorian students are doing very well.

Honourable members interjecting.

Ms KOSKY — The opposition are spoilers and whingers!

Mrs Peulich interjected.

The SPEAKER — Order! The honourable member for Bentleigh should cease interjecting!

Ms KOSKY — The opposition would be happier if Victorian students were not performing so well, but it is unfortunate for its happiness that students are doing very well. It is terrific for the students, teachers and parents. If we look at what the opposition spokesperson said — —

Dr Napthine — On a point of order, Mr Speaker, the minister is now debating the question and I ask you to bring her back to answering the question.

The SPEAKER — Order! I am not prepared to uphold the point of order. The minister was providing information to the house in regard to a particular matter within the education portfolio.

Ms KOSKY — Today the honourable member for Warrandyte accused the government of spending almost all its new money in education on reducing class sizes. Yes, one of the reasons we have terrific results in literacy and numeracy is because we have invested in reducing class sizes particularly in P–2, and we are very proud of that investment. Why did we invest the money in reducing P–2 class sizes, bringing them down from what the previous government did? Because we know — —

Mrs Peulich interjected.

The SPEAKER — Order! I have asked the honourable member for Bentleigh to cease interjecting.

Ms KOSKY — We know that students learning improves in those early years if they have smaller class sizes. This is terrific news for students and teachers and is evidence that the government's policy is working and delivering fantastic outcomes for students in Victoria.

Mrs Peulich interjected.

The SPEAKER — Order! I warn the honourable member for Bentleigh.

Ms KOSKY — It is a very good result, and I want to acknowledge the terrific work teachers have put in on focusing on literacy and numeracy outcomes for students in schools. The honourable member for Warrandyte said 'not the dollars'. Since coming to office this government has committed $2.2 billion extra. That is a fantastic result for students, parents and teachers.

Frankston: central activities district development

Mr ROWE (Cranbourne) — I refer the Premier to the Frankston central activities district deal which led to the sacking of the honourable member for Frankston East from his position as parliamentary secretary. Can the Premier confirm that Mr Wren is investigating a $40 000 bribe and, if so, will this matter now be referred to the police, as it should have been originally?

Mr BRACKS (Premier) — The local government investigator, under the terms of reference, has all the power to refer any matter to the police as appropriate. That investigation is going on, and we will await that investigation. If there are matters that are deemed appropriate, he will make that referral, and that is appropriate. We expect that report will be completed very soon.

Men's Health Tune Up program

Mr NARDELLA (Melton) — Will the Minister for Health advise the house about the government's initiatives and other developments targeting the specific health needs of Victorian men?

Mr THWAITES (Minister for Health) — I thank the honourable member for his question. The Bracks government is very concerned about the specific health needs of men in this state. This morning I launched the Men's Health Tune Up program on the steps of Parliament House.

The Department of Human Services has produced information that clearly demonstrates that men have a greater burden of disease, particularly men in country Victoria. The expected life span of men is some six years less than that of women. Men experience higher rates of cardiovascular disease, diabetes, chronic respiratory disease and cancers. Men in the country have 6 per cent higher death rates than their city counterparts. Research indicates that men are not visiting the doctor. In many cases men think an illness will not happen to them, but it will and it does.

The Bracks government is committed to enhancing the health of men throughout Victoria. I am sure the honourable members for Ballarat East and Ballarat West are well aware of the $60 000 program Working for Men. General practitioners in Ballarat are now working with men to ensure that they visit the doctor and seek medical help.

There are primary care partnerships throughout the state which are being funded to help men avoid cardiovascular disease. The Men's Health Tune Up

program was supported by Pfizer and by Ford, and I congratulate those companies. It aims to encourage men to check their health and provides free mobile health check-ups to men in workplaces — which I think is an excellent idea.

An honourable member interjected.

Mr THWAITES — I am asked whether I did it. Yes, I took a test.

Dr Napthine — I did it, too.

Mr THWAITES — The Leader of the Opposition took a test; I think that is very appropriate. I would urge all male members of this house over the age of 40 years to take a test. The honourable members for Hawthorn and Malvern should take a test to see if they have a ticker — their colleagues are certainly saying they want a challenge, but they have not got the ticker!

Mr Perton — On a point of order, Mr Speaker, the minister is moving on to debating the question. This is a very serious issue. It is obvious that the Minister for Health now wishes to move onto trivia and humour rather than treating the issue of men's health with the due respect it deserves. I ask you to bring him back to answering the question relating to government administration and policy.

The SPEAKER — Order! The latter part of the point of order taken by the honourable member for Doncaster is clearly not a point of order. In regard to debating the question, I ask the Minister for Health to desist from debating and to come back to answering the question.

Mr THWAITES — Thank you, Honourable Speaker, I certainly will. I must say that I am surprised about that point of order because it demonstrates an inconsistent approach among the opposition. Certainly — —

Mr Perton — On a further point of order, Mr Speaker, again on the question of debating, this has been a consistent approach by the government all this week, and from this minister in particular. You make your ruling, you bring him back to order, you tell him to answer the question, and he then criticises — —

Honourable members interjecting.

The SPEAKER — Order! I ask government members to come to order. That is behaviour unbecoming of members of Parliament.

Mr Perton — He then, as you heard, Mr Speaker, immediately cast derision on your ruling and proceeded down the same path. Both the Minister for Police and Emergency Services and this minister have done the same thing. I ask that if the minister continues to flout your ruling, you immediately sit him down or suspend him.

Mr THWAITES — On the point of order, Honourable Speaker, it is entirely appropriate for me to point out that members of this house ought to take health checks, and that is all I am doing — and that is what I propose to do.

The SPEAKER — Order! I do not uphold the point of order raised by the honourable member for Doncaster that implied that the Minister for Health had in some way reflected upon the Chair with what he was saying in regard to the decision I made. The decision that I made on that occasion was to ask him to come back to answering the question. The Minister for Health, answering the question.

Mr THWAITES — Thank you, Honourable Speaker. The honourable member for Berwick has even suggested that the honourable member for Pakenham might take a health test.

Honourable members interjecting.

The SPEAKER — Order! Interjections are disorderly, as is the taking up of interjections. The Minister for Health shall desist.

Mr Perton — On a point of order, Mr Speaker, I again raise the question of debating. The honourable member for Berwick or honourable members representing any other opposition seats have nothing to do with this question. The minister ought to answer the question on the basis of government administration and policy. Anyone in this chamber or in the gallery can see the line the minister is trying to take. He is flouting your ruling, he is debating the question, and I ask you to sit him down.

Mr Batchelor — Honourable Speaker, in considering the point of order taken by the honourable member for Doncaster I ask you to take into account the rulings of Deputy Speaker McGrath on 11 November 1992, Speaker Delzoppo on 20 October 1994, and Deputy Speaker McGrath on 15 May 1996. They all related to what the honourable member for Doncaster has been doing all week — that is, rising during question time and making frivolous points of order. As previous Speakers have ruled time and again and as the customs and precedents of this house indicate quite clearly, what the honourable member for

Doncaster has been doing is frivolous, it should be ruled out of order and he should no longer be heard. It is a deliberate strategy on his part to disrupt question time, and we have seen him perpetrating it all week.

The SPEAKER — Order! In taking his point of order the honourable member for Doncaster has essentially asked the Chair to rule again on the question of debating. I am not prepared to uphold that part of his point of order.

In speaking on the point of order raised by the honourable member for Doncaster the Minister for Transport has raised what I would term a further point of order about a frivolous point of order being taken. I am not prepared to uphold that either.

The Minister for Health, answering the question.

Mr THWAITES — Thank you, Honourable Speaker. In fact, there are a wide range of tests that may be taken in these mobile vans. I would recommend that the honourable member for Mordialloc take advantage of it — perhaps a brain scan!

Mr Leigh — On a point of order, Mr Speaker, I am delighted that one member of the government has a concern for my health. I assure him I am okay, but I do not need his advice.

The SPEAKER — Order! That is clearly not a point of order.

The Minister for Health, concluding his answer.

Mr THWAITES — I am pleased that a number of honourable members have taken the test. Indeed, the Leader of the Opposition indicated that he had taken a health test today. I hope he had a spine test, because we know he has problems — —

The SPEAKER — Order! I ask the Minister for Health to conclude his answer.

Mr Perton — On a further point of order, Mr Speaker, you should rule on this: it is clearly debating. The minister is flouting your earlier ruling. On this occasion I ask you to sit him down.

The SPEAKER — Order! I uphold the point of order, inasmuch as the Minister for Health is debating the question. I ask him to cease doing so forthwith and to conclude his answer.

Mr THWAITES — In conclusion, I urge all male members to take advantage of these tests and ensure we have a much healthier community.

The SPEAKER — Order! The time set down for questions without notice has expired, and the minimum number of questions required by sessional orders has been dealt with.

Mr Ryan — Mr Speaker, I raise with you a point of order regarding the content of the ministerial statement which has been distributed to and is in the hands of honourable members and which is about to be read to the house by the Attorney-General. I do so with a view to raising two matters for your consideration.

The first is that I ask you to have regard to the terms of *May* and to rulings of previous Speakers with regard to the issue of the content of ministerial statements. I refer you in particular to page 297 of *May* — I have only the 21st edition, but I believe it is page 306 of the 22nd edition, and I have checked the volume that you have available to you, Mr Speaker. I wish to read to you the content of it. The principal point is that the content of a ministerial statement must be prospective in nature; it cannot be retrospective. Under the heading of 'Ministerial statements' *May* states:

> Explanations are made in the house by ministers on behalf of the government regarding their domestic and foreign policy; stating the advice that they have tended to the Sovereign regarding the retention of office or the dissolution of Parliament; announcing —

and I emphasise this —

> the legislative proposals they intend to submit to Parliament; or the course they intend to adopt in the transaction and arrangement of public business. These explanations are sometimes elicited by arrangement in reply to a question.

They are the provisions contained in *May*. It is probably pertinent also to refer you to the second issue to which I shall have reference — that is, the fact that the content of a ministerial statement must not include material which is inadmissible under the terms of the guidelines set out in *May*. Insofar as both these issues are concerned I refer you to *Rulings from the Chair* and particularly to that of Speaker Wheeler on 14 March 1978. The summary states:

> At the suggestion of the Speaker, certain inadmissible material was omitted from a ministerial statement.

I will go to the terms of the ruling which was made by Speaker Wheeler at that time. Without going through the totality of it, it dealt with two points. One was as to the relevance of certain aspects of that ministerial statement which were to be made, but the other point was precisely the one under consideration now — and that was as to the actual content of a ministerial statement.

As recorded at page 261 of volume 336 of *Hansard*, Speaker Wheeler ruled in conclusion, when he had had a look at the second of these two points of order, which was the question of admissibility:

> … I believe *May* clearly indicates what should be included in a ministerial statement and casting any reflections on any other party is out of order.

The second part of my point of order is that this ministerial statement is absolutely redolent with aspersions which are cast upon the former government. I refer you to the opening paragraph, for example, and as you go through the document — I have not done it page by page, but for present purposes got only to page 3, and then I flicked over to the conclusion and it is there also — there are statements right throughout this ministerial statement which are condemnatory of the former government and which on their content are patently in complete breach of the ruling which was made by Speaker Wheeler in the manner that I have referred to.

In summary, Mr Speaker, there are two issues to which I ask you to have regard. Speaker Wheeler ruled on the same issue — and I have read out precisely what he said in his own ruling on 14 March 1978. Mr Speaker, with respect, it is the content of *May* which is the ultimate mechanism by which you have to rule here. The content that I have read out, to which he referred in his ruling, clearly dictates that the content of a ministerial statement must be prospective. It cannot be a summary of past events. I accept for the purpose of introduction, if you like, it may be legitimate to do so, but for the purpose of the content of the document the content must be prospective.

I direct you, Sir, to the fact that of the 13 pages here in the ministerial statement 10 pages of it, as I read it is on a scan, are retrospective; 10 pages of this document represent a summary of those matters which the Attorney-General claims to have achieved in his time in his current role. That is the first point — that these issues must be prospective. The second point is that it is not permissible to admit into a statement of this nature any comment which is reflective on other parties.

Again, I believe *May* clearly indicates what should be included in a ministerial statement and, to quote Speaker Wheeler again, casting any aspersions on any other party is out of order. The fact is that aspersions are cast upon the former government right throughout this document, and accordingly those components of this document which are to that effect ought properly to be ruled out of order. The practical effect of these two matters is that this ministerial statement in my submission should be withdrawn, recast and brought before the house on another day when it is in a proper order.

Mr Batchelor — On the point of order, Honourable Speaker, I point out to you that, firstly, this ministerial statement has been distributed to the other parties in this Parliament and they have had the opportunity to raise these matters in chamber with you if that had been their desire. It is a ministerial statement that has been circulated to you and, as you will see, it deals with matters that are forward going, that reference is made to material that needs to be continued, that further work is to be done, and they are clearly identified.

In making comparisons it is quite valid and acceptable to comment on things that have occurred in the past by referring to what needs to be done in carrying forward initiatives. This is a ministerial statement that we believe is constructed and will be delivered in the forms of the house, and if the opposition or the National Party had wanted the opportunity to debate these sorts of issues they had the opportunity during the notice period prior to this matter coming on.

The convention is for 2 hours notice, and as I understand it in excess of 2 hours notice was provided to the other parties, and indeed the Independents, for precisely the purpose of their making their views known prior to this debate.

Dr Dean — On the point of order. Mr Speaker, I would like to say that great minds think alike because I, too, when I saw this statement came to the conclusion that it did not fit the proper characterisation of a ministerial statement. In fact if you read the portion of *Erskine May* that was referred to by the Leader of the National Party, it says that these explanations are sometimes started by arrangement in reply to a question — in other words, the whole point of a ministerial statement is an explanation as to what is going to occur, to inform the house of what is going to happen.

I heard the Leader of the House say to you that you ought not to hear this point of order because it was not taken in chambers.

May I say that this is the place where members of Parliament have every right — and it is an appropriate right — to raise points of order. To suggest that if they raise a correct point of order it cannot be heard because it was not heard privately before you, Mr Speaker, prior to coming into the house is a complete reversal of the democratic process and what this house stands for.

As for the fact that the Leader of the House has suggested that the majority of this ministerial statement

is not about the past but about the future, I take you to the ministerial statement where on page 2 after, a very short opening, it says:

> I have great pleasure in informing the house today of the significant inroads that the Bracks government has made towards a safe and just society for all Victorians.

In other words 'I have great pleasure in telling you for the next 15 or so pages what we say we have done', which in no way talks about proposals for the future or some matter that the house ought to be informed about. In fact, to back up that particular proposal, if we look at page 10, which is almost at the end of the statement, it is only then that the minister says:

> However, I believe that some of the most challenging and innovative work is yet to be undertaken.

In other words, page 10 is the first time he even suggests something that might take place in the future.

The absolute bulk of this material statement is a rather embarrassing, puffed-up version of one might say a bit of self-indulgence by the Attorney-General to say what a good job he has done. That is not what a ministerial statement is for. A ministerial statement is not a political statement or a debating and argumentative statement. If you were to allow this, Mr Speaker, that is exactly what would happen. Obviously the opposition would have to get into debating whether these things did or did not happen under the Bracks government, and that is exactly not what a ministerial statement is for.

The SPEAKER — Order! I am prepared to rule on the point of order raised by the Leader of the National Party. In raising his point of order he made reference to *Erskine May*, 22nd edition, page 306, which refers to ministerial statements:

> Explanations are made in the house by ministers on behalf of the government regarding their domestic and foreign policy; stating the advice they have tendered to the sovereign regarding the retention of office or the dissolution of Parliament; announcing the legislative proposals they intend to submit to Parliament ; or the course they intend to adopt in the transaction and arrangement of public business.

The Leader of the National Party, as part of his contribution on the point of order, went on to infer that that paragraph has to be read and that all its components have to be contained within the ministerial statement. It is my view that that paragraph could be read as a number of components that a ministerial statement could encompass. The key component of that is the first part of the paragraph, which says

> Explanations are made in the house by ministers on behalf of the government regarding their domestic and foreign policy.

I have examined the statement to be presented by the Attorney-General, and I have found that it does conform in that its contents are presenting what his government's policy has been with regard to this particular area.

The second component of the point of order raised by the Leader of the Opposition was in regard to the ruling of Speaker Wheeler in regard to the Speaker omitting material from a ministerial statement which might be deemed to be inappropriate. I concur wholeheartedly with Speaker Wheeler's ruling in that regard. As Speaker I have used that previous ruling to recently amend a ministerial statement that came before the house.

In regard to the component of the ruling he made regarding casting aspersions, I interpret that to mean that it is standing order 108 that is being referred to, which refers to casting aspersions against individual members of the Parliament.

I do not uphold the point of order raised by the Leader of the National Party.

MINISTERIAL STATEMENT

A fair, accessible and understandable justice system

Mr HULLS (Attorney-General) — I wish to make a ministerial statement.

Introduction

As the Attorney-General of Victoria, I am honoured to present to the members of this house, this government's achievements and vision for a fair, accessible and understandable justice system. Significantly, this is the first time in ten years that an Attorney-General has made a ministerial statement to the Victorian Parliament. The former Kennett government and the previous Attorney-General clearly weren't interested in keeping Victorians informed on justice issues. Instead, the previous government was more interested in maintaining secrecy and eroding Victorians' fundamental rights.

The Bracks government is turning this legacy around, as is demonstrated by its *Growing Victoria Together* strategy. It is taking a balanced approach, where government and the community listen, act and work together to achieve a better and more caring society. Creating a fair, accessible and understandable justice system is an important part of this. The Bracks government understands that justice is not an abstract

concept, but something that affects all of our lives in a very real sense. Justice is about openness, transparency and accountability. It is about protecting the rights of all citizens and ensuring that people are treated fairly. It is about ensuring equality of access before the law, regardless of financial resources, gender, ethnicity, age or sexual orientation. It is about ensuring that our legal profession, our judiciary and our juries are representative of the rich, diverse community in which we live. It is about creating courts that are modern and accessible, not only in terms of our court buildings but in the way that they dispense justice. Ultimately, it is about working together to create a fair, accessible and understandable justice system.

This is a government that believes in delivering on its promise to reform Victoria's justice system. The Bracks government's track record in developing a progressive law reform agenda and pursuing a robust legislative program is proof of this commitment. But neither I nor this government is resting on our laurels. A number of strategic initiatives will be implemented through the term of this government which will complement the considerable inroads that have already been made. The development of a justice statement and the Courts Strategic Directions project will further improve confidence in our legal and courts system and enhance access to justice services for all Victorians.

Achievements in the justice portfolio

The Victorian Labor Party came to the last election with a strong commitment to upholding individual freedoms and restoring democracy, values which had been undermined by the previous government. I was honoured to be appointed Attorney-General and to take on responsibility for leading a program of legislative reform to deliver greater transparency and accountability in government and to restore Victorians' confidence in our system of justice. The government's vision for a safer and more just society required it to take decisive action in a number of areas, including:

Protecting the rights and freedoms of all Victorians;

Taking a proactive approach to reforming Victoria's laws;

Developing an accessible and responsive legal system; and

Creating modern courts and court processes.

I have great pleasure in informing the house today of the significant inroads that the Bracks government has made towards its vision of a safe and just society for all Victorians.

Protecting the rights and freedoms of all Victorians

As Attorney-General I have a strong commitment to protecting and advancing individual rights and freedoms. This is a commitment shared by the Bracks government. Many fundamental rights were eroded by the last government. This government has not only restored, but strengthened rights and freedoms for all Victorians.

Improving the rights of victims of dust disease

One of my first steps in office was to make a simple amendment to the Administration and Probate Act 1958. This amendment provided for certain causes of action in relation to dust diseases to survive beyond a claimant's life. The amendment allowed the claimant's action to be pursued by his or her estate, so that families who have lost a loved one to this terrible form of disease to pursue a claim on behalf of that family member and receive adequate and appropriate compensation.

Providing better services for victims of crime

Reinstating compensation for pain and suffering, so callously abolished by the Kennett government, was a key to the Bracks government's commitment to improving services for victims of crime. Compensation serves as the primary means of financial assistance in the aftermath of victimisation and this important mechanism was restored through the Victims of Crime Assistance (Amendment) Act 2000, allowing for primary victims of violent crime to claim additional financial assistance for pain and suffering, in addition to entitlements for counselling, loss of income and medical expenses.

The review of services to victims of crime is another way that the Bracks government is supporting victims of crime. The service model left by the Kennett government was uncoordinated and unaccountable and the final report of the working group found that there are multiple entry points to support services, no common service standards, and insufficient data about the quantity, quality and effectiveness of services. The review recommended a major revamp of government services to victims, including the establishment of a helpline to cover all agencies and a victim support agency to manage all government-funded victim services. I am currently reviewing the report's recommendations. However, in recognising the importance of counselling services to victims of crime, the government immediately announced that an additional $1 million would be available for counselling services.

Protecting Victorians' privacy

All Victorians have a right to privacy, a right which should not be open to abuse by public sector agencies. The Bracks government's commitment to responsible handling of personal information in the public sector was demonstrated by the Information Privacy Act 2000 and the creation of the Office of the Privacy Commissioner. The act establishes information privacy principles, which determine what personal information can be collected by government agencies and how that information is used. The commissioner will also be able to receive complaints about how information is handled. Victorians can now be confident that their private information will be appropriately protected against abuse by the public sector.

Protection for whistleblowers

The Kennett government's legacy of secrecy and lack of transparency was delivered a further blow by the Whistleblowers Protection Act 2001. The act furthers the Bracks government's commitment to the principles of open, honest and accountable government, promoting a culture in which whistleblowers feel safe to make disclosures and protecting people who disclose information about serious wrongdoing within the public sector. The act also provides a framework for investigating disclosed matters, ensuring that allegations of wrongdoing in the public sector are thoroughly scrutinised.

Redressing discrimination against same sex couples before the law

All Victorians have a right to equal treatment before the law and protection from discrimination. These rights are enshrined in federal legislation and in the Victorian Equal Opportunity Act. Despite this, many facets of the law have previously distinguished between people in domestic relationships depending upon their gender. The Statute Law Amendment (Relationships) Act and the Statue Law Further Amendment (Relationships) Act were significant steps towards reducing discrimination against people in same sex relationships, amending approximately 57 pieces of legislation to ensure that the rights and liabilities of partners in domestic relationships are recognised, irrespective of gender.

Improving workplace safety

Another vital area of law reform activity has been in the area of workplace death and serious injury. One of the Bracks government's highest priorities is improving workplace health and safety in Victoria and to that end has introduced the Crimes (Workplace Deaths and Serious Injury) Bill.

The Bracks government has developed a coordinated approach to improving workplace health and safety, which includes the provision of advice, education and training to employers and employees about workplace safety and increasing resources for inspection of workplaces to identify health and safety risks. The government is already delivering and will continue to deliver on these commitments.

Improving justice outcomes for indigenous Victorians

Addressing discrimination and disadvantage experienced by indigenous Victorians, and making the justice system more responsive to the needs of Aboriginal people, has been one of the overriding imperatives of the Bracks government. The Aboriginal justice agreement is a joint initiative developed between the departments of Justice and Human Services, ATSIC, the Victorian Aboriginal Justice Advisory Committee and the Koori community to achieve improved justice outcomes for indigenous Victorians. Central to the agreement is the fact that there cannot be an improvement in indigenous justice outcomes without the Koori community having greater input in the development and design of justice policies, programs and services that impact on the Koori community.

Taking a proactive approach to reforming Victoria's laws

One of the most important roles I undertake as Attorney-General is to ensure that Victoria's body of law is reflective of community values, is readily understandable, appropriately balances individual rights and freedoms with the need for community protection, and is consistent with national and international legislative trends.

Restabilising the Law Reform Commission

Governments cannot be adequately informed about legal developments without the assistance of an independent body constituted to conduct research and consultation and to provide advice on law reform. Victoria had this, until the Law Reform Commission was ruthlessly abolished by the Kennett government. One of the first things I did as Attorney-General was to ensure that the commission was re-established, to place Victoria at the cutting edge in law reform across Australia. The Victorian Law Reform Commission has developed an inclusive, innovative and independent approach to the law reform process that encourages and values community participation. The commission is

currently working on a number of references including sexual offences, homicide and compulsory treatment and care of people with intellectual disability.

Reviewing sentencing laws

When I became the Attorney-General in 1999, I was conscious that sentencing law was one area of the law that required review and reform as a matter of priority. Sentencing of offenders is a very complex task, requiring more than just a one-size-fits-all approach. Sentencing laws must balance the need for appropriate punishment with the need to protect the community and reduce the incidence of crime in our community. It is for this reason that I have consistently opposed the introduction of mandatory sentencing as discriminatory, inhumane and unjust.

The sentencing system is constantly evolving in light of changing community attitudes and better information about what works in sentencing practice. Accordingly, I commissioned a review of Victoria's sentencing laws to provide a mechanism for community discussion about the purposes of sentencing, the nature and effectiveness of sanctions, and the appropriate range of sentences for various offences and offender groups. I had great pleasure in informing the house about the findings of the review on 19 March 2002, as contained in Professor Arie Freiberg's final report *Pathways to Justice*.

The report made a series of innovative recommendations, including the establishment of a sentencing advisory council to allow informed community views to be incorporated into the sentencing process, and the introduction of guideline judgments, to promote consistency in sentencing and guide other courts' sentencing penalties for particular crimes. The government is supportive in principle of both of these recommendations and is developing the appropriate legislative framework through which to introduce these initiatives.

Reforming the law relating to street sex work

I believe that the government's commitment to identifying and developing law reform proposals in consultation with the community is amply demonstrated by the work undertaken to address the issue of street sex work in the Port Phillip area. The previous government put this issue into the too hard basket, despite numerous calls for action from the Port Phillip council, local residents, and welfare agencies. I established the Attorney-General's street prostitution advisory group to identify the key concerns regarding street prostitution, identify possible options for addressing these concerns, and to make recommendations as to how the government should respond. The advisory group's interim report indicates that legislative reform may be necessary to reduce the harms associated with street sex work.

Developing an accessible and responsive legal system

The third strategy to achieve a fair, accessible and understandable justice system is through the development of an accessible and responsive legal system. One of the principal concerns of this government has been to improve access to affordable, high quality services that are responsive to the needs of users.

Improving regulation of the legal profession

Accordingly, questioning how the legal profession should be regulated, including the important area of dealing with consumer complaints, was the subject of examination by the government. Last year I released a report which found significant weaknesses in the current regulatory scheme, including a complex complaints system, multiple paths for issues resolution, and a lack of attention to consumers of legal services. The report proposed that a legal services commission be created to receive and monitor all consumer complaints. A commission would be accountable to an independent board comprised of legal professionals and community representatives. I have sent a letter to every registered lawyer in Victoria, enclosing the recommendations of the review and inviting their comments.

Delivering improved legal services to government

A major initiative of the Bracks government is the revamp of the way that legal services are provided to government by private law firms. In December 2001 I announced a multimillion dollar tender for the provision of private legal services, a major part of our commitment to centralising the provision of legal services, which includes establishing panels to handle departmental work, using the government's buying power to extract a better deal from law firms, and facilitating the exchange of legal information across government. This process will ensure that government gets the best advice for the best price. Firms tendering for government services will also need to demonstrate a commitment to pro bono work and that they adhere to equal opportunity and model litigant principles.

Improving delivery of pro bono services

I am also committed to encouraging private law firms to put back into the community by providing low cost or free (pro bono) legal services to disadvantaged

members of our community. The government has complemented existing pro bono services through establishing the innovative pro bono secondments scheme, which puts private practice lawyers to work in community legal centres and legal aid offices. The scheme is designed to bring the private and public sectors together to deliver a range of services to the community. Many of Victoria's top private law firms have pledged their commitment to the scheme. The scheme will ensure that more Victorians gain real access to justice.

Securing the future of CLCs and VLA by increasing funding

Community legal centres (CLCs) and Victoria Legal Aid (VLA) provide low-cost, accessible legal services to disadvantaged members of our community. When the government came to power, Victoria's CLCs were facing a funding crisis, due to the commonwealth government's decision not to grant funding to CLCs for the full 2001–02 financial year. The Bracks government is committed to securing the independent future of CLCs. Last year I announced the allocation of $1.05 million in funding for Victorian CLCs, the most significant single funding increase for CLCs in the last 15 years, as well as a $1.1 million increase in funding for VLA as demonstrating this commitment.

Establishing the Judicial College of Victoria

The Bracks government's commitment to reforming the legal profession and supporting the provision of low cost legal assistance is paralleled by its support for judicial professional development. An act to establish the Judicial College of Victoria (JCV) was passed by this Parliament last year. The college will provide professional development, training and ongoing education to judicial officers. The government sees this as crucial in enhancing the independence and stature of the judiciary.

Increasing diversity in judicial appointments

This commitment was underlined by my recent decision to seek expressions of interest for judicial appointments to the County and Supreme courts. These were not job advertisements as such, but a means of ensuring that there is a broad pool from which to make judicial appointments. The advertisements sought expressions of interest from people with a range of appropriate personal qualities, such as integrity, fairness and commitment to public service. Sensitivity to issues of gender, sexuality, disability and cultural and linguistic difference, as well as a commitment to judicial education, are qualities that I was particularly keen to emphasise. I believe that bringing people with these qualities into consideration for appointment to the bench will work towards ensuring that our judges remain accountable to and representative of the breadth of the Victorian community.

Modern, accessible courts and court systems

The fourth area of achievement that I want to discuss is the delivery of modern, accessible courts and court systems. The government is committed to a modern court infrastructure, to further enhance Victorians' access to justice and accessible legal services. As Attorney-General, I also have a strong interest in exploring new ways of seeing justice done. Invoking the concept of therapeutic justice, exploring alternative dispute resolution and challenging traditional notions of how courts should operate is an important part of this. Enhancing mechanisms for resolving civil disputes outside the adversarial system is a priority for the Bracks government. Similarly, the development of new forums for addressing offending behaviour in an integrated, culturally sensitive manner, and additional support for court-based diversionary programs, demonstrates the Bracks government's commitment to identifying and responding to the causes of crime in our society.

Building better courts

The Bracks government is delivering on commitment to enhance and improve Victoria's courts. As part of its courts capital works program, the Bracks government is constructing a new $25 million Latrobe Valley court and police complex in Morwell. The Moe Magistrates Court will also be upgraded as a part of the project. A new court complex in Mildura and an upgrade of the Heidelberg Magistrates Court are also well under way.

Expanding the diversion and CREDIT programs

The Bracks government believes that, to be tough on crime, it needs to tackle the causes of crime. Breaking the cycle of offending and preventing first time offenders from commencing on the treadmill is a significant priority. Accordingly, the government is committed to enshrining and expanding the Magistrate' Court diversion programs, as well as the CREDIT, (court referral for evaluation for drug intervention and treatment) program. This government has already extended the CREDIT program to the Sunshine, Ringwood, Dandenong, Moe and Geelong Magistrates courts. CREDIT will be expanded to other courts in metropolitan and regional Victoria during the year. The government has also established a drug clinician program in the Children's Court, underlining its

commitment to providing appropriate drug treatment services to young offenders.

Establishing a drug court

I am committed to exploring options for more serious drug users, whose drug use is related to their offending behaviour. I commissioned professor of criminology Arie Freiberg to prepare a discussion paper on 'Drug courts and related sentencing options' as part of his larger review of sentencing laws and the government has now introduced legislation into Parliament to establish Victoria's first drug court. I believe that drug courts are an important device in breaking the cycle between drug addiction and criminal behaviour and am extremely pleased that the legislation has received bipartisan support. The drug court will be piloted over the next three years, commencing at Dandenong by the middle of the year.

Establishing a Koori court

The Aboriginal justice agreement recognises the Bracks government's commitment to ensure that indigenous Victorians receive better justice. For too long, Aboriginal people have been overrepresented in the criminal justice system. The delivery of fair, equitable and culturally relevant justice services that improve the access of Aboriginal people to legal protection is a vital component of this strategy. My department established an Aboriginal justice working party to develop initiatives in the agreement, including the development of the Koori court. The working party has representatives from a range of agencies, including ATSIC, the Victorian Aboriginal Legal Service, Victoria Legal Aid, Victoria Police, and the Magistrates Court of Victoria. The Aboriginal justice working panel has developed a Victorian Koori court model, based upon consideration of the key features and underlying philosophies of existing models and what worked and what did not work. It was keen to create a court capable of meeting the Victorian indigenous community's needs. Koori courts will be established on a pilot basis in Shepparton and Broadmeadows. The development of a Victorian Koori court builds on the Bracks government's recognition that improved justice outcomes for Aboriginal people are achieved when government agencies and Aboriginal communities work in partnership.

Future directions in the Justice portfolio — justice statement and courts strategic directions project

The Bracks government's approach to delivering a fair, accessible and understandable justice system are responsible for significant achievements in the Justice portfolio over the last two and a half years. It is a very exciting time to be Victoria's Attorney-General.

However, I believe that some of the most challenging and innovative work is yet to be undertaken. The principles that establish the relationship between the Bracks government and the Victorian community will be articulated in a justice context through the development of a justice statement. Through this statement the government, in partnership with key stakeholders, will develop a vision for the future of Victoria's justice system. An important part of the statement will involve a focus on Victoria's courts and tribunals. This is referred to as the courts strategic directions project. I see these complementary initiatives as setting the vision and strategic direction for the justice system and our courts over the next ten years, with most of the work being done over the next five years.

Background to the justice statement and courts strategic directions project

Victoria's basic court hierarchy consists of the Supreme, County and Magistrates courts, complemented by the creation of the Court of Appeal in 1995, the Victorian Civil and Administrative Tribunal (VCAT) and this government's recognition of the Children's Court as a separate and independent court. Over the years, the size and jurisdiction of the courts has changed. The number of judges appointed to Victoria's court has increased significantly and the respective courts' jurisdictions have experienced similar increases.

A number of factors will impact upon the demand for justice in the future. A report commissioned for my department identified five drivers for the future of the courts, being:

new technologies, which are providing administrative solutions as well as increasing the complexity of the cases that the courts must hear;

social movements, which expand the notion of rights and challenge traditional ways of delivering justice;

democratisation of the courts, with increased pressures to become more accountable and more transparent;

globalisation, including new types of crimes and threats as well as jurisdictional issues and new relationships with courts and jurists throughout the world;

demographic shifts, including the shift to partnership values and an ageing society.

The concepts of therapeutic jurisprudence is also an important issue for the justice system. The fundamental principle underlying therapeutic jurisprudence has been described as 'the selection of options that promote health and are consistent with the values of the legal system'[1]. It is a concept that this government is committed to advancing.

The courts strategic directions project provides an opportunity to develop linkages between therapeutic justice and other contemporary philosophies that seek to influence how decisions are reached in the justice system. These include notions of restorative justice, which attempts to restore at least some of the victim's tangible losses and reinforce the offender's sense of accountability, and community justice, which stresses practices that have positive effects and involve the community in decision making.

Similarly, the government is committed to enhancing models of alternative dispute resolution. Avenues for the resolution of disputes outside the traditional adversarial system allow parties to take ownership not only of the dispute process, but also of the outcome, ultimately bringing greater satisfaction. Alternative and early dispute resolution often saves parties valuable time and money and recognises that many parties need to be able to maintain productive relationships with each other after the particular dispute is resolved.

Context of the justice statement

The development of a justice statement acts as an acknowledgment by this government that justice outcomes cannot be delivered unless the justice system and its respective agencies operate as exactly that — a system. One of this government's guiding principles is fostering a balanced approach where people are thinking and working together to achieve mutual goals. This government understands that a piecemeal approach to dealing with demand pressures in individual courts and tribunals and related justice agencies does not take advantage of opportunities that can be achieved by looking at the system as a whole.

The creation of a justice statement provides an avenue to apply a joined-up approach to the justice system, taking into account the agreed principles of the justice system, including the principle of judicial independence. The justice statement will build on the undoubted strengths of Victoria's justice system, and in doing so will ensure that Victoria has arrangements in place that are modern, innovative, effective and flexible.

Objectives of the justice statement

The objectives are:

a vision for the justice system that will take it forward over the next ten years;

a set of principles and objectives that will provide the overarching framework for the system and will operate as the driver of the vision;

a courts strategic directions statement that will provide the blueprint for administrative and structural reform in the courts over the next five years; and

identified initiatives and activities that will over a period of five years implement the vision, principles and objectives.

Necessarily, the justice statement will express not only my views as Attorney-General and the views of the government on the future direction of the justice system in Victoria. The justice statement will also accommodate the views of the courts, the Victorian Civil and Administrative Tribunal and key stakeholders such the Director of Public Prosecutions, Victoria Legal Aid, victims of crime, offenders and witnesses.

The justice statement will consolidate this government's significant contributions towards a fair, accessible and understandable justice system over the past two and a half years. It also builds upon the Bracks government's balanced approach and commitment to growing the whole of Victoria by encouraging community input and developing responsive services. This project is one of the most ambitious ever undertaken by the Department of Justice. It is a project that rejects the approach of the previous government, which was to look only to the short term. The justice statement is designed to facilitate sustainable, medium to long-term improvements in the way we think about and deliver 'justice'. I am confident that these initiatives will deliver very real and tangible benefits to all Victorians.

Conclusion

Unlike the previous Kennett government, the Bracks Labor government has a vision for Victoria's justice

[1] P. Casey and D. Rottman, *Therapeutic Justice in the Courts*, National Center for State Courts/Institute for Court Management, August 2000 (www.ncsc.dni.us/icm as of 20 March 2002

system. This vision is of a robust justice system that is fair, accessible and responsive to community needs. I am extremely proud to be in a position, as Attorney-General, to be involved in a range of initiatives that will contribute to the realisation of this vision. Although this government has achieved many important reforms to Victoria's system of justice during its first term of government, there is still much important work to be done. I believe that the development of the justice statement and the courts strategic directions project will provide the foundation for a range of innovative schemes to enhance community confidence in the justice system. Involving and working with the community is a vital part of the process. I commend this statement to the house.

I move:

That this house takes note of the ministerial statement.

Dr DEAN (Berwick) — I reckon that takes the prize for the most self-indulgent, self-praising load of rubbish I have heard in the time I have been here. What an extraordinary thing it is! Here is an opportunity for the Attorney-General to praise himself — the word 'I' being the most commonly used, and let's not forget the saying about the smaller your achievements the louder you have to shout — and what support has he got?

We have the Minister for Local Government at the table, who has to be here, and the Attorney-General's parliamentary secretary, who also has to be here. There was another member sitting over there for about half an hour, but he walked out. The honourable member for Mitcham walked in, had a look, heard what was happening and walked out again. Obviously Mr Speaker is busily engaged in his chamber. In fact we on the opposition side outnumber government members. I suppose someone should show that they can listen to garbage, even at the best of times. How embarrassing for an Attorney-General to have to lower himself and sing his own praises because nobody else will.

Let's have a look at the real record of the Attorney-General over the past few years. It has been one of incompetent, botched legislation, small inconsequential amendments designed to grab headlines, a bull-at-the-gate approach and shallow, shallow legislation. Let's look first of all at the botched legislation, because I am not going to just say a whole lot of things so members opposite can say, 'Of course the opposition would say that'. Let's go through the legislation and see how it has been botched. This is the most extraordinary display of botched legislation you have ever seen in your life.

We started off right at the beginning with amendments to the Freedom of Information Act, which I might say made no real difference to the act. Putting that aside, the very first piece of legislation was so badly drafted that the opposition had to draft amendments to ensure that the privacy provisions did not collapse. The opposition then made the mistake of showing its amendments to the Attorney-General prior to his coming in here. The Attorney-General rushed back to the parliamentary draftsman, copied the opposition's amendments and introduced them as his own to try and correct his legislation. What a great start!

Then we had the constitutional amendment bills. What a wonderful little episode they were.

Mr Ryan — Where's he gone?

Dr DEAN — He was the only one listening to himself, so he might as well go.

The government was two weeks old when it decided to amend the Parliament by introducing the first bill to amend the upper house. Having done no consultation, the government then found that the Independents and virtually its entire backbench were totally against the provisions it had introduced; absolutely nobody agreed with them. After wringing its hands for months the government then decided to introduce not one but two more bills. However, in doing so the government forgot to remove the bill it had already introduced, so it then had three different constitutional amendment bills before the house. It was a question of which one should we choose! I have never seen an Attorney-General introduce three different pieces of legislation with respect to the same topic at the one time. Then the crunch came.

Honourable members interjecting.

The ACTING SPEAKER (Mrs Peulich) — Order! The Attorney-General was heard in absolute silence, and I would expect the same courtesy to be extended to the shadow Attorney-General.

Dr DEAN — Then with three different bills before the house on the same topic the government suddenly realised it had removed all of the triggers for calling an election, save for a motion of no confidence in the government. It had removed the special bill trigger and the supply trigger, which meant that if there were a deadlock between the houses for four years the only way the Attorney-General could possibly break it would be to move a motion of no confidence in himself. That bill had to go, and all three bills went out in the same way in which a lot of this legislation has had to go.

Next we come to the transgender legislation. The Attorney-General thought it was a good topic that would get a lot of publicity. He thought the Liberals would not agree and that it would be a real punch-up and a lot of fun. The Liberal Party looked at the transgender legislation and said it was okay. The opposition was happy, so the Attorney-General had a massive majority. But there was one problem, which was that the Independents did not agree with it. There the Attorney-General was with virtually the biggest majority he could possibly get, enabling him to pass the legislation with a click of his fingers, but it went up into the stratosphere, where it waited for months as it was discussed.

I remember the wonderful scene of the Premier, the Attorney-General and the Independents all going into the strangers corridor to try and work out how to get the Attorney-General out of this fix. In the end, to meet the Independents' demands the government had to introduce amendments to its own bill, which detracted from it, while the opposition agreed with the original bill. What absolute nonsense! What botched and incompetent legislative procedures!

Next we go to the Juries Bill. Here was a chance for the Attorney-General to redeem himself. The Juries Bill was drafted by the previous government, to which the Attorney-General made one tiny amendment — he allowed people on bail to sit on juries to hear trials. The legislation came in, and everyone said, 'Shock, horror!'. Having now mucked up three pieces of legislation the Attorney-General did not know what to do, so up to the stratosphere it went, where it hovered while the Attorney-General scratched his head and tried to work out how he could possibly get out of this fix. He had people on bail, who could quite possibly be convicted of an offence, being allowed to sit on a jury listening to somebody else's criminal trial. In the end the opposition rode to the rescue and came up with a compromise proposal, so with a sigh of relief the Attorney-General was able to get the Juries Bill through.

Where do we go next? — the hapless Attorney-General! Next we go to self-injecting room legislation. Forget the principle, what do we find in the legislation? We find that the legislation, because it does not define the sorts of drugs that can be taken into the injecting room, allows a smorgasbord of drugs to be legally taken into the injecting room so that people can basically test various drugs. Then the government finds that it has not given civil liability protection to operators, so it now has another bill which is a complete disaster.

On we go. The Attorney-General says, 'Let's split up the Children's Court and the Magistrates Court — that is a good idea'. In comes the legislation and we find that the same two people — the head of the Children's Court and the existing Chief Magistrate — both have the power to determine whether a magistrate should go into the Children's Court or not. They both have the power so if one says yes and the other says no, we have a situation which is completely untenable. Again, it is a complete fiasco because we have an Attorney-General who does not read his legislation before it comes in. He is so busy skipping from headline to headline that he does not do the work that an Attorney-General should do — that is, bring in competent nuts-and-bolts legislation which keeps this justice system operating.

Where do we go from there? Remember the bloke called Dupas. Yes, that's right. We found out that Mr Dupas could not be asked questions about previous crimes in prison. So the Attorney-General, who was told by the civil libertarians that this is quite appropriate, stormed out to the television cameras and said, 'I am not changing this bill; this is absolutely correct. We should not be able to interview poor Mr Dupas in prison; that is an outrage'. The opposition said, 'Hang on a tick, this is ludicrous', and in the end the opposition had to bring in a private member's bill. Once the private member's bill was introduced, lo and behold, the Attorney-General had a change of heart and brought in his own amendment, which mirrored the opposition amendment in the upper house, to save himself.

It just goes on and on. We had whistleblowers legislation introduced which removed our parliamentary privilege until the opposition fixed that one up. Then we had the Judicial Remuneration Tribunal (Amendment) Bill that could give away private and secret confidential matters until we fixed that one up. Let us pick the latest piece of legislation, the DNA legislation. Along it comes, and the hapless Attorney-General says, 'I think I will move a couple of house amendments to make this that much better. We are going to ensure that all DNA sample taking is videoed, and we will have an independent person present'.

In it comes and up it goes to the upper house. In the meantime, reality strikes: the Police Association says, 'You must be joking!'. What does the Attorney-General do? In the upper house he gets his people to remove his own amendments from this place. So he is sort of amending his own legislation between houses. Then he gets upset when we say we are quite happy to help him do that.

There is the real record of total and absolute incompetence. Let's look at the comparison between the two governments. This is all about how rotten the Kennett government was and how good this government is. Let's look at the Kennett government's record of legislation in its first term. By the way, in the Kennett government's first term 38 bills were introduced by the Attorney-General, including the Commercial Arbitration (Amendment) Bill which changed the approach to commercial arbitration.

Why do I bring sentencing amendments up? Because this Attorney-General has had a sentencing review going on for 17 months. It is six months late, and he still has not made one change to the Sentencing Act. We made three changes to the Sentencing Act in the same time. There was the Legal Profession Practice (Guarantee Fund) Bill — changing nuts-and-bolts, not exciting, not getting headlines, but a major piece of legislation; the Equal Opportunity (Amendment) Bill, introducing administration and probate amendments — another major change to serious legislation; the Legal Aid Commission (Amendment) Bill; and the Courts (General Amendment) Bill which was to change procedures in the court.

Then the former government created a new court called the Court of Appeal, all in its first term. There were Coroner's Court amendments and children and young persons re-hearing conferences. It may not have been mind-shattering stuff, but it was the nuts and bolts of what an Attorney-General should be doing. There were also changes to the trustee and trustee companies legislation and a complete change of the domestic building contracts legislation. It was complex, difficult, hard legislative work, which took Victoria into the modern era. There were also big changes to the legal profession. Those are just some of the 38 acts introduced by the previous government.

The then Attorney-General never felt the need to come into this place and crow about all the stuff she had done, because it was quite obvious that she was doing a heap of work that was not in confidence and not inappropriate.

I will go through the Attorney-General's list. He amended the Administration and Probate Act to improve the rights of victims of dust disease. However, that had already been put in process by the previous government through its policy group. I was in that group; I knew it was there, because I picked it up from the previous government.

The Attorney-General says the government is providing better services for victims of crime. You must be joking! This is the Attorney-General who, if you look at the figures — —

Mr Wynne interjected.

The ACTING SPEAKER (Mrs Peulich) — Order! The honourable member for Richmond knows full well that the Attorney-General was heard in absolute silence, and I would expect him to extend the same courtesy to the shadow Attorney-General. He will have his turn!

Dr DEAN — This is the man who, in his own budget papers, reduced funding for the victims of crime assistance program by half. He then ran an inquiry that lasted about 12 months to keep those victims without counselling. Time and again we have seen in headlines what has happened. A letter went out from the Victims Referral and Assistance Service which said that only 100 victims a week could be seen in Victoria and that they would only be eligible for five sessions. That was the cut-off point. It is nonsense to suggest that the Attorney-General has done anything for victims other than ruin their lives in many cases.

The privacy act referred to by the Attorney-General was in fact the data protection legislation introduced by the Honourable Alan Stockdale in the previous government. Again, well done Kennett government!

I turn to the protection for whistleblowers. The government removed the privileges applying to the protection of Parliament as a consequence of the Whistleblowers Protection Act.

The Attorney-General referred to improving workplace safety. What a wonderful acknowledgment of his understanding of the legislation introduced into the house! This is what the Premier said on radio in relation to that legislation:

> And I think the claims made in the advertisement are misleading, because you can only be prosecuted under the draft legislation if you can prove to have deliberately caused the death of an employee. That is, you set out to deliberately cause the death by your practice in the workplace.

Well, Premier, that is called murder, not manslaughter! So if the Premier has no idea what sort of legislation is being brought into the house, how on earth can we expect the Attorney-General to know what is going on?

The Attorney-General referred to the indigenous Victorians justice agreement. Guess what? The only difference between what the previous government did and what this government has done is the change of the word 'plan' to 'agreement'. That probably took the Attorney-General about six months, because that is a

big decision. How do I know that? Because I chaired the committee which produced the plan! Then there is the massive help to Koori courts — $185 000 over two years for four courts. That will not even pay the salary of the magistrate concerned.

I turn now to the reviewing of sentencing laws. I cannot see one amendment — not one amendment — to the Sentencing Act. The review has been going on now for two and a half years. This is the Attorney-General who was doing so well that he tried to hide the original report. I invite honourable members to go back to the speech where I set out all the things that were hidden. I refer to things like Professor Freiberg saying that home detention was nonsense and should not be done and that we should encourage judges to give shorter sentences — and that vanished. He said that suspended sentences do not work, which was unfortunate, because the Attorney-General said that the only thing he was going to keep was suspended sentences. We will wait to see what happens there.

There has not been one piece of legislation relating to street sex workers, although that has been talked about and consulted on for ages.

Then there is the promised delivery of pro bono services, which is the biggest joke in the legal profession. By putting such work into some sort of bureaucracy, all the small firms will miss out. The big firms can easily do pro bono work, because they can have special departments doing it. They will pick up all the government work, and small and middle-size firms that struggle will not get a look-in — yet most of those firms are doing pro bono work and have been for years. I do not know of one solicitor or solicitor's firm that does not do a significant amount of pro bono work. What an insult to say that it virtually has to be legislated.

Next I turn to judicial appointments. My phone has not stopped ringing since the old judicial advertisement saying, 'If you want to be a judge, give us a call'. I will tell honourable members exactly what is going to happen. All those people who would not be chosen to be a judge in a fit will call, and all those who are magnificent lawyers and have pride and dignity will not call. Why should they? The Attorney-General is meant to know who they are; that is what attorneys-general do! Some of the wonderful people who I know quite well will never put their hand up in this way. They will not go into a rugby scrum to become a judge, and the result will be the complete opposite of what is intended.

I turn now to the program for better courts, and I will go through the previous government's building program for courts, as against this government's program. Let me just mention a few: Ballarat, Geelong, Dandenong, Melbourne, Ringwood, Frankston, the creation and beginning of the County Court, and of course the complete refurbishment of the Supreme Court. Now that is a building program. That is what governments should be doing. What is this government doing? I do not think it has finished one court yet. It has opened a couple that the previous government started, but in two and a half years I do not think it has opened one court that it has started.

An honourable member interjected.

Dr DEAN — I do not know whether it has the land up at Mildura yet, but if it has it has certainly gone ahead in leaps and bounds. So the nonsense goes on: expanding the CREDIT program, which was created and delivered by the previous government. In fact I simply cannot find one thing here which was not either engineered and created in the first place by the previous government, or has not been completely botched, or is not so insignificant and silly that it is designed purely for headlines and has no substance. Compared with the previous government's first-term record, the Attorney-General looks completely shallow.

Let us go through the Attorney-General's administration. If he cannot get the legislation right or get any programs up or finished, what can he do about administration? Do honourable members know that he has the worst freedom of information record of any minister around? At one stage he had the following freedom of information requests with him — one 89 days late, one 72 days late, another 72 days late, one 30 days late, one 20 days late, another 20 days late, and another 18 days late. Frankly, he must have assumed it was important to make them as late as possible to draw attention to himself.

Who could forget the Adams affair? What a botch! The poor Attorney-General found himself on the front page of the newspapers having interfered with and got too close to a proposal to remove a judge. Then the Supreme Court judges were crying out for funds, accusing the Attorney-General of not having sufficient judges — now that has not happened in a long time. Then we had the quiet increase in court fees — some of them went up 133 per cent — until, luckily, the shadow Attorney-General found out what was going on.

Then there was the attempt to hide the original Freiberg report. We tried to get it through freedom of information but were told, 'No, you cannot have it'. We went to VCAT and fought and fought, and were told, 'Yes, you can have it'. But when we looked at it, it was

twice as thick as the one that came out, but half of it had been removed because it said all the things that the Attorney-General did not want to be seen.

Then who could forget the royal commission? What a wonderful piece of administration that was. How many amendments to the terms of reference were there? I cannot recall. Was it eight? What was the cost of this royal commission conducted under the auspices of the Attorney-General — —

An Honourable Member — It cost $100 million.

Dr DEAN — He could have got a few courts up for that. He could have almost equalled the previous government's record.

I was going to say 'this very silly Attorney-General', but that would be casting aspersions. This man has come in here with such a lack of judgment that he has puffed himself up in a self-praising attempt to bolster his record, only to open up the truth and the reality of his record to exposure. As I believe I have just demonstrated, it is an absolute disaster.

Mr Ryan interjected.

Dr DEAN — A very big disaster! What I say to the Attorney-General is this: stop writing 13-page treatises on what he has not done, riddled with, 'I did this', 'me', 'my' and so forth, because he can use the time a lot more productively actually getting some legislation before the house that works, ensuring that the legislation he introduces into this house is not botched and that he does not make a fool of himself, getting involved in building programs and getting the courts going, and then starting to do something for himself.

He should wean himself off all the Kennett initiatives he has been following up for so long. He should say, 'I am actually the Attorney-General and I have to do something separate and different'. The tobacco industry? Yes, that's terrific. He should also have a go at mandatory sentencing, which nobody agrees with. He should try to grab the headlines, but try to get a bit of time for the real work an Attorney-General does — that is, looking after the justice system, introducing legislation to ensure that law and order in this place operates, being seen to be a leader, introducing some visionary policies which are applicable to justice and law and order and not to some stupid notion of self-publicity, and actually starting to take things seriously. If he cannot he should try to find another minister who can and stick with racing and manufacturing, because that is probably what he is best at.

In conclusion I say that I cannot believe that a man who is so fond of calling himself the first law officer but who has such an unbelievable repertoire of failures and disasters can be so ignorant as not to realise how badly he is doing. Or does he actually know it and think that we are so stupid that he can come in with a frivolous and silly statement like this and get away with it. Basically I say to this Attorney-General that he should start taking his job seriously.

Debate adjourned on motion of Mr RYAN (Leader of the National Party).

Debate adjourned until later this day.

HEALTH PRACTITIONER ACTS (FURTHER AMENDMENTS) BILL

Second reading

Debate resumed from earlier this day; motion of Mr THWAITES (Minister for Health).

Mr CAMERON (Minister for Workcover) — In summing up, I thank all honourable members who made contributions.

Debate interrupted pursuant to sessional orders.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Mr Doyle — On a point of order, Mr Acting Speaker, I do not mean to interrupt the business of the house — I understand the exigencies of finishing right on 4 o'clock — but I point out that some serious questions were asked in the initial part of the debate on health practitioners. I understand it was not possible for the minister to be here, but I would expect those serious questions raised in the debate this morning to be fully and completely answered in the other place.

The ACTING SPEAKER (Mr Lupton) — Order! I cannot accept the point of order; the situation is quite clear.

MELBOURNE CITY LINK (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Committee

Resumed from 17 April; further discussion of clause 1.

Clauses 1 to 15 and schedule agreed to.

Remaining stages

Passed remaining stages.

COUNTRY FIRE AUTHORITY (MISCELLANEOUS AMENDMENTS) BILL

Council's amendments

Message from Council insisting on following amendments considered:

1. Clause 11, line 15, omit "***section 115***" and insert "***sections 115 and 116***".

2. Clause 11, line 17, after this line insert —

   '"115. ***Transitional provision — Country Fire Authority (Miscellaneous Amendments) Act 2001 — Membership of Authority***

   (1) Despite the commencement of the **Country Fire Authority (Miscellaneous Amendments) Act 2001**, the Authority as constituted on and after that commencement is deemed to be the same body as the Authority as constituted before that commencement.

   (2) Despite the commencement of the **Country Fire Authority (Miscellaneous Amendments) Act 2001**, a person who is a member of that Authority under section 7 as in force immediately before that commencement, continues, subject to this Act, to be a member until the expiry of that person's term of office.'.

3. Clause 11, line 18, omit **"115"** and insert "**116**".

4. Clause 11, line 23, omit "9" and insert "10".

5. Clause 11, line 28, omit "9" and insert "10".

NEW CLAUSE

6. Insert the following new clause to follow clause 2 —

   'A. ***Constitution of Authority***

   In section 7(1) of the **Country Fire Authority Act 1958**, for paragraphs (d), (e) and (f) **substitute** —

   "(d) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Farmers Federation;

   (e) one is to be selected by the Governor in Council from a panel of not less than two names submitted by the Victorian Employers Chamber of Commerce and Industry;

   (f) one is to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of two persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district that is —

   (i) wholly or partly within the country area of Victoria; and

   (ii) within an 80 kilometre radius of the General Post Office (Corner of Elizabeth and Bourke Streets) Melbourne;

   (g) one is to be appointed by the Governor in Council from a panel, submitted by the executive committee of the Municipal Association of Victoria, of the names of two persons, each of whom, at the time of submission, is a councillor of a municipal council with a municipal district that is —

   (i) wholly or partly within the country area of Victoria; and

   (ii) outside an 80 kilometre radius of the General Post Office (Corner of Elizabeth and Bourke Streets) Melbourne.'.

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

That this bill be now laid aside.

Motion agreed to.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).

ADJOURNMENT

Mr BATCHELOR (Minister for Transport) — I move:

That the house do now adjourn.

Clyde Road, Berwick: traffic control

Dr DEAN (Berwick) — The matter I raise for the attention of the Minister for Transport concerns Enterprise Avenue in Berwick. My constituents are most concerned about what is happening at the intersection of Clyde Road and Enterprise Avenue. Enterprise Avenue has a fair degree of small to medium-size manufacturing businesses and over the years has become a very prosperous place, with a great deal of traffic movement. With the massive increase in population the traffic flow along Clyde Road is now starting to get out of control.

Under the previous government a portion of Clyde Road after Enterprise Avenue was made into a double-lane two-way carriageway, which was wonderful. Unfortunately the bit of Clyde Road that counts, between there and the village of Berwick itself,

was not. It is still just a two-way narrow road. As a consequence of that the traffic cannot get into Enterprise Avenue because of the massive traffic flow up and down Clyde Road. But matters are made worse because when the boom gates at the railway crossing are down that blocks all the traffic off and makes it impossible for cars to get in and out of Enterprise Avenue.

I ask the Minister for Transport to advise how he can assist the situation, how he can look at the railway crossing to make sure that it is either an overpass or an underpass that gives free flow to that traffic, and even if he cannot do that immediately to try to make sure he puts traffic lights in at Enterprise Avenue.

AMX Financial Services

Mr CARLI (Coburg) — I raise a matter for the attention of the Minister for Consumer Affairs concerning a series of advertisements that have been appearing in the local newspapers in my area from a Brunswick-based company called AMX Financial Services. The advertisements say things like:

> School fee money
>
> Are you a little short of money for school fees?
>
> …
>
> Approvals same day

It is basically a system of payday lending aimed at vulnerable parents who need money fast. There is nothing in the advertisements that shows the interest rates or the consequences of taking out of those sorts of loans. It is of great concern to me particularly since it is hard to know what the firm is dealing with, whether it is private school fees — I think that is unlikely — or voluntary school fees in the government school system which are in fact not compulsory.

It is of great concern that these advertisements are now going into local newspapers and young families are being targeted by payday lending firms. Even the name of the firm, AMX, seems to suggest American Express, but it is not American Express at all — it is a small finance group out there trying to exploit vulnerable and poor families.

I ask the minister to act to protect people in my electorate who have been approached by these types of payday lending firms. Clearly there is an opportunity for the government and certainly the minister to intervene in these cases. It is a scheme from which the public needs state protection. We are dealing with families, sometimes very young families, that are vulnerable. I understand the interest and charges on these loans can be in excess of 600 per cent per annum. That is an extraordinary interest rate, far higher than any comparable bank credit card or any other product.

Clearly these payday lenders are out there trying to exploit vulnerable and poor families. They make a substantial charge and profit on the money they lend. They do not provide either their interest charges or fees when people apply. It seems to me that these advertisements are creating the impression of fast and easy money. The consequence for those families is further debt, and often debt they cannot readily repay.

Road safety: driver education

Mr MAUGHAN (Rodney) — I raise for the attention of the Minister for Transport a matter concerning funding for driver education. As a preamble, I should say that Victoria has done a marvellous job in reducing the road toll over the years from 1088 to something under 400 now. I think that has been brought about by the introduction of seatbelts, .05 legislation, booze buses, credible speed limits, safer cars, speed cameras, better roads, penalties that hurt, alcohol interlocks, and the like. But the number of people that are killed on our roads is still unacceptable.

What greatly concerns me is the disproportionate number of young people. More than 8200 Australians aged between 14 and 24 years were killed on our roads in the period 1990 to 2000. In Victoria last year 28 per cent of drivers killed were aged 18 to 25, even though this age group represents only 14 per cent of all licence-holders. They are the brutal statistics.

The reality is that far too many young people are out there on the road without having sufficient experience or training to handle a modern motor car that is able to travel at very high speeds. Most young people are given licences before they have sufficient skills or experience to survive on the road. Most drivers, and certainly most young drivers, must have and develop a much better attitude toward driving behaviour.

I know many people advocate driving as part of the school curriculum. I am not necessarily advocating that tonight. What I am advocating is that we must have much tougher requirements for people to be able to get a licence to drive a motor car. That really involves proper driver training. There are a number of very good driver training schools at Charlton and Shepparton — and the driver education centre there is superb. Peter Brock, for example, has been advocating driver training, as have many others.

For a number of years now some of the local schools, such as Rochester Secondary College, have been giving all their year 11 students driver training at DECA — the Driver Education Centre of Australia. It is costing $295 per student, and that is becoming very difficult for many people to be able to cope with. Those that have done the course have had an excellent record in that there have been no deaths or injuries for about the past 10 years.

I therefore implore the minister to look very carefully at introducing proper driver training before young people are able to get their licences.

Schools: funding

Mr SEITZ (Keilor) — I raise for the attention of the Minister for Education and Training the need for action on behalf of the private schools in my electorate. As honourable members may be aware, the state government has made a commitment — which is the first time a state government has done so — to contribute towards capital funding in the private school system.

There are a number of private schools in my electorate, both secondary and primary. They include the North Keilor Catholic Regional College, a senior secondary college; the Overnewton Anglican Community College, which has two campuses in my electorate; and all the Catholic parish primary schools in the area. Their needs are great, particularly in a low-income area like my electorate. The Bracks government's commitment is certainly welcome. Gleeson is a small community group that has a secondary college and a primary school in my electorate in the area now called Taylors Hill. Those schools in the private system are looking forward to assistance from the Bracks government.

As the minister has been appointed to this new portfolio, I am asking her to ensure that funds are made available in the budget for those schools. The last round of funding for some of the schools was appreciated by the school community in particular, because parent fundraising can only go so far and they do need some assistance. The previous government let all the state schools run down, so there is the double necessity of not only improving the private system but also uplifting the state system in the region. Some of the areas in my electorate have quite old schools that need refurbishing.

Again I commend the minister on the refurbishing work that has been carried so far, which is why I am raising the issue once again. Given the new programming system of the minister's, I am sure that in the forthcoming budget the schools will not be overlooked and we will continue with a program which will be of great help to us until the state catches up.

The Kennett government did not develop new schools in the growth areas; instead, it closed schools and sold the land at a big profit. So those are my pleas to the minister: ensure that we do not finish up in the same situation, and in the meantime help the private system.

STARS Supernova program

Mr ROWE (Cranbourne) — I raise for the attention of the Minister for State and Regional Development the matter of the Glen Waverley Secondary College and the STARS Supernova program. This involves a contract which was entered into by former coalition government minister the Honourable Mark Birrell in the days prior to the last election and which the minister himself proudly announced the continuation of at a function with schoolchildren from Glen Waverley Secondary College. Mr Andy Thomas, the Australian astronaut who currently flies in the space shuttle, teachers from the college and Mr Kevin and Mrs Jenny Manning, who live in my electorate, are all NASA-trained educators.

The program aimed to provide a school in Victoria with the opportunity of developing an experiment to travel in the space shuttle. That was done, Glen Waverley Secondary College won the competition, and the project continued over a period of time. Unfortunately the flying part of the experiment had to be put off on a number of occasions, because, as one would appreciate, catching the space shuttle is not like going out to Tullamarine — a few things can go wrong! As a result the flight of the experiment was delayed over a period of two years.

The experiment has a flight date for the space shuttle of 9 July this year. Unfortunately the Department of State and Regional Development wrote to Spacehab in the United States in January this year terminating the contract. As a result of this termination the department is liable for $US60 000 in costs. The total cost of the project was $US65 000, so for a measly $US5000 we have seen some bureaucrat cancel a project which the children of Glen Waverley Secondary College have been working on for two years and which would gain us international recognition. The actions of the department have damaged our international reputation.

I call on the minister to override his department and have the funding reinstated so that the children who are flying to the United States on Monday under this program can see it completed on 9 July and see the experiment fly. I commend the project to the minister. I

know he would not have made that decision, because he trumpeted the project in the beginning.

Rural Finance Corporation: Bendigo

Ms ALLAN (Bendigo East) — I raise a matter for the attention of the Minister for State and Regional Development and ask him to take urgent action to reassure the people of my electorate of Bendigo East and the electorate of Bendigo West that the Rural Finance Corporation's relocation from Collins Street, Melbourne, to Bendigo will continue to go ahead as announced by the minister in Bendigo last Friday. People in Bendigo would have been very alarmed to hear the comments of the Leader of the Opposition on country radio today about the Rural Finance Corporation's move to Bendigo:

> I think Bendigo was chosen purely for political motives …

He went on to refer to:

> … areas like Shepparton which has a significant relationship with the Rural Finance Corporation. It does have a good track record of service there.

I point out to the Leader of the Opposition that Bendigo also has an office of the Rural Finance Corporation and that Bendigo and central Victoria have a good track record of service with the corporation.

The Leader of the Opposition went on to say that it was announced out of the blue. I remind him of the extensive feasibility study that was undertaken by Pricewaterhousecoopers, which found that Bendigo would be a suitable location. Bendigo can rightly claim to be the financial capital of regional Australia when you consider the financial services already there, such as the Bendigo Bank, the Bendigo stock exchange and North West Country Credit. It already has a strong financial sector, and the feasibility study showed that this shift would bring over $60 million in benefits to the Bendigo community over the next decade, including a one-off injection of $3 million for the community, bringing with it 40 jobs.

You have to wonder what the Liberal Party has got against Bendigo when you consider its record in office. It started the shift of the agricultural department head office immediately on coming to office. It privatised the railway workshops in Bendigo, which led to their ultimate closure. The federal Liberal Party privatised Australian Defence Industries, and we have seen massive job losses there. And under the former government Bendigo suffered massively from public sector cuts, particular in the areas of teaching and nursing. We also must remember the comments, particularly from the Deputy Leader of the Opposition, opposing the fast train to Bendigo. The people of Bendigo know the many benefits that the fast train would bring to our community. Now the Liberal Party is against the move of the Rural Finance Corporation to Bendigo.

The Bendigo and central Victoria communities voted the Liberal Party out at the last election. People in our area know it is the party that does not care about Bendigo. It turned its back on Bendigo when it was in government, and it continues to want to stop job growth and development in Bendigo.

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

Waverley Park

Mr BAILLIEU (Hawthorn) — I ask the Minister for Planning to reconsider the time frame for public comment on the redevelopment proposals for Waverley Park. The proposals for that redevelopment were put on exhibition on 27 March. Exhibition and comment from the public closes on 26 April. That period of some four weeks includes Easter, the school holidays and Anzac Day. We in the opposition have received considerable comment from those with an interest in the project as to the shortness of time. I understand the material on exhibition includes some 17 reports and obviously a large number of documents. The proposal runs to some 1700-odd dwellings and facilities for 3500 people. It is a big project and concerns have been expressed by the City of Monash as to the time frame and the capacity to make a reasoned submission.

The responsible authority for the project is the minister herself. This is a very compressed time frame with little opportunity for comment. Other groups and individuals have expressed similar concern, including the Save Waverley Park group and residents adjacent to the Waverley Park development.

I therefore ask the minister to confirm whether or not an extension or accommodation of the time frame has been made for the City of Monash. That has been suggested to us privately, but there has been no public comment. If an accommodation has been made for Monash, I ask the minister to also extend that accommodation to other groups and members of the general public so that people can make reasonable submissions in a reasonable time frame on an important project.

Housing: supported accommodation assistance program

Mr LANGUILLER (Sunshine) — I raise a matter for action by the Minister for Housing. Can the minister advise what action she intends to take to help support women and children at risk of homelessness because of family violence? I wish to put on record proudly that I applaud the minister for her efforts to turn around homelessness in Victoria after many years of neglect by the Kennett government. The Bracks government has provided or will provide in the order of $32 million over five years for the supported accommodation assistance program, or SAAP — an increase of some 30 per cent for homelessness services to Victorians.

The Bracks government has released the Victorian homelessness strategy — our vision for delivering better services to people experiencing homelessness and to help them get their lives back on track. While Victorians can be proud of the Bracks government's record on addressing homelessness, the problem does not simply go away. As an example, family violence continues to be a major contributor to the homeless population. We all know stories of women and children forced into homelessness because of the violence perpetrated against them. Data from SAAP's national data collection agency shows that family violence is the main reason for seeking support in 24 per cent of cases. Some 250 families are accommodated at any one time within refuges and the transitional housing management program.

I am proud to say today that our government and the minister have continually delivered on promises we made prior to our election. At the time we said we would boost spending on public and community housing by $90 million over the three years in government to build around 800 new housing units, and we are doing that. We said at the time that we would ensure that public rental was affordable to low-income tenants. We are working in that direction, and we are delivering. We said we would get local government to expand local and affordable housing arrangements and to work in partnership with the Bracks government, and indeed we are working in that direction.

We said at the time that we would work in the direction of improving transitional housing. This minister has been turning things around in the state since we came into office. We said we would improve the information available on housing options, including multilingual literature for non-English-speaking communities in the state, and indeed we are doing that. We said at the time that we would support the retention of the commonwealth–state housing agreement, and our minister and government worked very strongly in that direction. We also said we would foster a professional and stable building industry. The Bracks government is doing that.

I say lastly that, at the time, the Tenants Union of Victoria said it was confident the Bracks government would turn things around. I am very optimistic today that the tenants union would confirm that in fact we have done the job.

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

Tertiary education and training: TAFE vouchers

Mr VOGELS (Warrnambool) — I raise a matter for the Minister for Education and Training on behalf of Kate Savage, who recently discovered that after being reassured time and time again she would receive four TAFE vouchers to cover her entire tuition fees throughout the hairdressing course she is undertaking has now been informed she is only going to receive two TAFE vouchers.

Kate commenced her course on 4 February 2002 and it runs out on 7 March 2003. Kate left school to take up the course at no cost as she met the criteria — she was under 18, on a youth allowance and living away from home. Kate was informed through the office of education and training that the state government subsidises the course by way of vouchers and she was entitled to four vouchers. Each voucher is worth 400 hours. Kate has how been advised that the government has made changes to the criteria and that she is now only entitled to two vouchers. This young lady would not have left school and taken up this course if she had understood that she now has to find $3500 out of her own pocket, which she obviously cannot afford.

I ask the minister to take action to make sure that Kate receives her four vouchers. If the government has made changes to the criteria by giving hairdressing academies access to only two vouchers instead of four, someone is responsible.

The ACTING SPEAKER (Mr Lupton) — Order! I ask the honourable member to repeat which minister he is referring this to.

Mr VOGELS — I did — education and training.

The ACTING SPEAKER (Mr Lupton) — Order! I am asking you to repeat it.

Mr VOGELS — The Minister for Education and Training.

The ACTING SPEAKER (Mr Lupton) — Thank you!

Mr VOGELS — Someone is responsible for misinforming these applicants, and they should not be left out on a limb.

Warrnambool Racing Carnival

Mr ROBINSON (Mitcham) — I wish to raise a very important matter for the attention of the Minister for Racing. It concerns the forthcoming, time-honoured Warrnambool Racing Carnival. The action I am seeking from the minister is that he make arrangements to attend this significant meeting in person as a sign of the Labor government's very strong commitment to country racing in this state.

The Warrnambool Racing Carnival, as some honourable members may not be aware, is a very significant attraction to lots of people in the Mitcham electorate. Indeed for a long time it has been said that in the first week of May you will find more Mitcham residents at Warrnambool than you will in Mitcham itself. It is not surprising — —

An honourable member interjected.

Mr ROBINSON — It is understandable that the honourable member for Mitcham would want to service his electorate, wherever he may be.

The carnival is time honoured; it has been in operation for over 120 years, I believe. It is always held in the first week of May. It is a spectacular celebration of jumps racing. The three jumps races which are the highlight are the Brierly Steeple; the Galleywood Hurdle, named after that famous 1986 winner; and the Grand Annual Steeplechase, which features more jumps than any other jumping race in the world. It is a spectacular carnival.

I have been fortunate to have visited on a number of occasions. I recall taking the then opposition leader down there in 1998, I think it was, and we had a very fine day. It is also an historic meeting. It is reputed that the Warrnambool races was where the tune for 'Waltzing Matilda' was first heard, later being put to the words which accompany that great song.

Parliament will not be sitting in the first week of May, which again is testament to this government's great support of country racing, and I would encourage all honourable members to get down there.

The Labor government is strongly committed to country racing. I think it would be a wonderful thing if the Minister for Racing could find time in his busy schedule to attend the races in person and to indicate in his attendance Labor's enormous commitment to what is a fantastic event. I know that the honourable members for Warrnambool and Polwarth will wholeheartedly support my call, and perhaps even the Leader of the Opposition himself will find the charity in his heart to support the call to have the racing minister attend in person this most wonderful celebration of jumps racing in Victoria.

Port Phillip Prison

Mr THOMPSON (Sandringham) — I raise a matter for the attention of the Minister for Corrections. I had forwarded to me by a constituent, Denis Oakley, a series of letters and notes by Mr John Walsh, who is currently or had been in custody in Port Phillip Prison. I am advised that on 2 February this year, around the time he was due to appear in court, Mr Walsh was bashed while in his police cell and sustained fairly serious injuries. The injuries sustained were, I believe, seen by a medical practitioner. He suffered from nausea and lapsing consciousness, and since that time he has had blurred vision and other ongoing physical ailments.

The matter that I seek the minister to respond to and address is how the incident occurred, what investigation has taken place into it and what steps can be taken to ensure that people who are in custody and serving sentences nevertheless have the opportunity to serve their time in safe custody and not be subject to severe bashings while in jail. I ask him to investigate and review this particular matter.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Bulleen has 2 minutes and 20 seconds.

Office for Youth: director

Mr KOTSIRAS (Bulleen) — I ask the Premier to investigate whether an assessment made by a public servant about the minister is correct.

Public servants are often required to write speeches and briefs for ministers. A speech was written for the Minister for Gaming which included the following sentence:

> It is time we abandoned a Eurocentric orientation that perpetuates the notion of us and them … we are mature enough as a nation to promote a more inclusive approach which excludes no chapters.

Unfortunately Jennifer Fraser, the then acting director of VOMA — the Victorian Office of Multicultural Affairs — wrote:

> Perhaps a bit intellectual for Panda.

I am not sure which word or phrase is 'intellectual for Panda', but does that mean that ministers give different speeches depending on their intellectual ability? If so, could the Premier please advise? If not, I think Jennifer Fraser, now director of Youth Affairs, should be spoken to.

Also, when I made a freedom of information request and Ms Fraser received it, she wrote an email to her office saying:

> It looks like Nick Kotsiras wants to know what we have in our cocktail cabinet and whether the government funds wild parties in the boardroom. If you have any files could you let Lucille know please.

I would have thought our public servants should be fair, objective and unbiased. It seems that this particular public servant, who was moved sideways to Youth Affairs because she failed in VOMA, is very political — but she has also insulted the minister.

I get on well with the minister, although I disagree with him on many occasions, but I find it offensive that she has insulted him by claiming that he does not understand words such as 'Eurocentric', 'more', 'inclusive', 'time', 'we', 'mature', 'nation', 'promote', 'us' and 'them'. I ask the Premier to investigate whether this is a true assessment of this minister and, if not, whether he will take action against this public servant.

The ACTING SPEAKER (Mr Lupton) — Order! The time for raising matters on the adjournment has expired.

Mr Rowe — On a point of order, Acting Speaker, I wish to raise a matter with you, and you may advise me that I should raise the details of it with the Speaker in his chambers.

Today I raised a question in the house, and the honourable member mentioned in that question confronted me within the precincts of the house and abused me. I find this action inappropriate — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Lupton) — Order! The Chair will not tolerate that sort of language coming from the government benches. The honourable member for Cranbourne is entitled to raise a point of order. I do not appreciate government members speaking in that manner, and the interjection that came from the honourable member for Bendigo East is totally unacceptable. I ask her to withdraw.

Ms Allan — I withdraw.

Mr Rowe — Honourable Acting Speaker, I seek your advice and the advice of the Speaker on this matter to ensure that such confrontations between members do not occur in the future.

The ACTING SPEAKER (Mr Lupton) — Order! I will refer the matter to the — —

Ms Kosky — On the point of order, I seek proper clarification on the precedent of raising a point of order which clearly needed to be raised with the Speaker in chambers, as the honourable member indicated. I am just seeking advice on the precedent of raising the matter during the adjournment debate in this way, because I have certainly never seen it occur in the house before. I am interested in previous rulings that have allowed this to occur.

The ACTING SPEAKER (Mr Lupton) — Order! Because the honourable member raised a point of order I had to hear it before I could make a decision. I will now rule on it: the point of order will be referred to the Speaker for his consideration.

Ms Kosky — On my point of order, what is your response?

The ACTING SPEAKER (Mr Lupton) — Order! I do not uphold your point of order.

Honourable members interjecting.

Dr Napthine — On a point of order, Mr Acting Speaker, I clearly heard the Minister for Education and Training accuse the Chair of bias. That is an absolute outrage, and I ask her to withdraw.

The ACTING SPEAKER (Mr Lupton) — Order! As I did not hear the comment made by the minister I cannot ask her to withdraw.

Responses

Ms CAMPBELL (Minister for Consumer Affairs) — The honourable member for Coburg raised a serious matter relating to my consumer affairs portfolio.

The advertisement he refers to stated that money for school fees would be available through what is commonly known as a payday lender. The advertisement asks parents who are potentially running

into difficulties to contact AMX for a loan. I strongly discourage people from using payday loans. People in the community need to look to more readily accessible forms of loans, and certainly ones that are cheaper.

The fact is that when people are vulnerable and do not have access to ready cash some of our less prominent organisations, posing as financial services, are prepared to offer loans that incur, as the honourable member for Coburg said, of the order of 600 per cent interest or more. They do this by putting fees and charges, as distinct from percentages, onto the loan charges. I will follow up the matter raised by the honourable member for Coburg.

I want to make sure that any organisation that provides loans is aware that there is an interest cap of 48 per cent in Victoria. Some payday lenders are avoiding this through an array of creative fees and charges. Before the application of the consumer credit code to these loans, interest and charges were of the order of 1000 per cent. I will take up the specifics of AMX Brunswick, and details about the totality of products offered by the company will be communicated to the honourable member for Coburg and his constituents.

Mr BRUMBY (Minister for State and Regional Development) — I am happy to respond to the honourable member for Bendigo East, who raised the issue of the relocation of the Rural Finance Corporation to Bendigo. She referred in her contribution to comments made today by the Leader of the Opposition, who expressed his opposition to its relocation.

Honourable members interjecting.

Mr BRUMBY — I have a transcript here of an interview, where he says it should go to Shepparton. He says that we have put it in Bendigo purely for political reasons — notwithstanding that Bendigo has a bank. Are you aware of that? Do you know it exists? Have you ever been there? Have you ever met Rob Hunt? Do you know it offers community banking across Australia?

The ACTING SPEAKER (Mr Lupton) — Order! The minister will refer his remarks through the Chair, and the Chair advises him that it knows there is a Bendigo Bank.

Mr BRUMBY — I am trying to help the Leader of the Opposition. Bendigo also has Sandhurst Trustees, North West Country Credit and the Bendigo stock exchange. That is why the independent report which the government had undertaken recommended Bendigo as the appropriate location for the Rural Finance Corporation.

However, there is a bigger issue, which is just plain old sour grapes from the opposition. For seven years the Liberal Party and the National Party never did a thing for country Victoria. They never did a thing in their period in coalition government — they never shifted a single job outside Melbourne — and it has taken the Bracks government to do it.

When the government moved the State Revenue Office to Ballarat, what did the Deputy Leader of the Opposition say? She got herself into the press in Bendigo and said what an outrage it was and that it should not have gone to Ballarat but should have gone to Bendigo! It has taken the Bracks government to do it. Flip-flop, flip-flop, flip-flop! The Liberal Party had seven years in coalition with the National Party, and it could never bring itself to relocate a single job outside Melbourne.

Not just that, all of the hospitals they closed, the hundreds of schools they closed, the police, the nurses and the country rail lines — —

Ms McCall interjected.

Mr BRUMBY — Here we go — the crocodile tears on the other side. The people of country Victoria remember. They know that if, God forbid, the opposition ever gets into government again, it will do it all again. The Rural Finance Corporation is a country bank. How many clients does the Rural Finance Corporation have in Melbourne? Why does it need to be in Collins Street, Melbourne? The answer is it does not, so the government is shifting it closer to its client base. That will mean an injection of $60 million into the Bendigo economy over the next 10 years. It is a great contribution to country Victoria. The government will also locate the new commercial arm of Vicforests in country Victoria; the government will make a decision about that in the months ahead. Government members remember the seven years of coalition government, the attitude of the Liberal Party — —

Mr Perton interjected.

The ACTING SPEAKER (Mr Lupton) — Order! The honourable member for Doncaster is being disruptive and is out of his place.

Mr BRUMBY — We remember a National Party which for all of those years was doing nothing; it was a silent partner in bed with the Liberal Party while the Kennett government devastated country Victoria. The point is that if the Liberal and National parties ever got

back into coalition it would be exactly the same again. We would see the same old cutbacks in transport, in road, in rail, in health and in education. We would see an end to the Bracks government's programs of relocating activity to country Victoria.

I can assure the honourable member for Bendigo East that despite the opposition of the Liberal Party, the Leader of the Opposition and the Deputy Leader of the Opposition — I have to say that I am surprised at her attitude — to this relocation, there are no circumstances in which this relocation will not occur under the Bracks government. It will proceed and it will proceed on time. It will be a great boon for Bendigo as it will for country Victoria.

We on this side of the Parliament stand for the renaissance of country Victoria that has occurred under the Bracks government. We dread the day, should it ever occur, that the Liberal and National parties get back together in coalition to rip the heart out of country Victoria.

The ACTING SPEAKER (Mr Lupton) — Order! The other matter raised for the minister's attention came from the honourable member for Cranbourne.

Mr BRUMBY — I was not here. I have asked honourable members to indicate what that matter was but the opposition is not prepared to.

Mr Rowe — On a point of order, Mr Acting Speaker, for the information of the Treasurer it related to the Supernova project, the one he launched in relation to the NASA space project and the one the department withdrew funding from in January.

The ACTING SPEAKER (Mr Lupton) — Order! That is not a point of order — it is a matter of clarification. I do not want to ask you to repeat the point.

Mr BRUMBY — The matter is my responsibility in my capacity as the Minister for State and Regional Development responsible for the science, technology and innovation program. I did not hear the matter raised by the honourable member for Cranbourne, but I will seek information regarding it. There is a program to promote science in schools and it may be that the Minister for Education and Training is aware of this issue, I am not sure. Notwithstanding that, I will ensure that the honourable member for Cranbourne is provided with information at the earliest possible opportunity.

Ms KOSKY (Minister for Education and Training) — The honourable member for Keilor raised a matter for my attention about continuing funding to support non-government schools as well as a commitment to continued funding for government schools. Several weeks ago I announced capital funding for non-government schools across the state. It was the first time that such an announcement of capital for non-government schools had been made: $15 million over three years to support capital works projects in our neediest non-government schools. It was a delight for me to open a letter today from someone from a Christian college in Bairnsdale who thanked the government very much for the funding they have been provided with and indicating that they will continue to pray for me and for the government, which is doing a terrific job for education across the state.

As I said, this is a first. The government has made a commitment of an additional $57.5 million of recurrent funding over four years to support the neediest non-government schools. It is targeting those neediest non-government schools and has had a very positive response.

The government is providing funding to government and non-government schools to ensure that it can meet the targets it has set the state for education, literacy and numeracy, and participation rates at year 12. The government intends to continue its commitment to providing targeted resourcing and funding to ensure that all students around the state gain access to programs and achieve success in their education.

The honourable member for Warrnambool raised with me a matter in relation to a 17-year-old student who is currently studying hairdressing at the Australian College of Hair Design and Beauty. This private provider promised this student that she would receive four TAFE vouchers but she has now been told that she will only be receiving two TAFE vouchers.

There is a history to the TAFE vouchers and the youth allowance TAFE entitlements that precedes this change announced by the Australian College of Hair Design and Beauty. The guidelines in place for the youth allowance TAFE entitlement provide for a maximum of 400 contact hours of student training per student, although exceptions to this were approved in some sectors. A steep increase in the provision of these vouchers has recently become apparent given the number of cases of registered training organisations claiming payment for in excess of 400 hours of training provided to individual students — that is, they have gone over the entitlement — and what the government — —

Mr Honeywood interjected.

Ms KOSKY — The honourable member for Warrandyte would do well to listen to the entire response.

That was contrary to the aims of the program, which were to assist as many young people as possible to enhance their job readiness skills. From 1 March 2002 all young people eligible to access a youth allowance TAFE entitlement have been advised that they are now permitted to access only a single entitlement that provides for up to 400 hours of accredited training. Registered training organisations may seek an exemption from the single entitlement limit if a student who commenced prior to 1 March 2002 faces particular hardship. I am not sure whether this student fits into that category. I will take this up within the department, but I suggest that the honourable member for Warrnambool encourage Kate Savage to follow up the issue of hardship. We will do the best we can in relation to her continued education.

I will now address the matter raised by the honourable member for Cranbourne in relation to the Supernova program; I am not sure if he is still in the house. I understand that the department has reluctantly exercised its right to withdraw from the Supernova program. It has done this because there have been numerous delays of the launch from the scheduled date and a lack of information on the ongoing status of project. This has affected the department's confidence in the delivery of that program.

It is worth mentioning that the government has put a lot of money into science and science centres around the state, including $6.4 million to the Strathmore space centre, the Department of Education and Training producing trekking-through-space videos for distribution in Victorian schools, and Department of Education and Training and Department of Innovation, Industry and Regional Development funding of 102 Pulsar schools to run simulations of state-based experiments on the ground. Other funding has gone to universities including Royal Melbourne Institute of Technology, La Trobe and Swinburne. The government is putting a lot of money into the science program around the schools but it is with regret, as I have been informed, that the Supernova program at this stage has ceased.

The honourable member for Berwick raised a matter for the attention of the Minister for Transport. I will pass that matter to him.

The honourable member for Rodney raised a matter for the attention of the Minister for Transport and I will pass that on to him.

The honourable member for Hawthorn raised a matter for the attention of the Minister for Planning. I will pass that on to her for response.

The honourable member for Sunshine raised a matter for the attention of the Minister for Community Services. I will pass that on for her response.

The honourable member for Mitcham raised a matter for the attention of the Minister for Racing and I will pass that on to him for response.

The honourable member for Sandringham raised a matter for the attention of the Minister for Police and Emergency Services. I will pass that matter on to him for his response.

The honourable member for Bulleen raised a matter for the attention of the Premier. I seek clarification on a word he used. He talked about intellectual capacity in relation to some brief, but used a word that sounded like 'perpetuate'. I seek his clarification on that.

Mr Kotsiras interjected.

Ms KOSKY — Okay. I will pass that matter on to the Premier, although I cannot promise a response.

Motion agreed to.

House adjourned 4.55 p.m.