PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

18 November 2003

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By authority of the Victorian Government Printer

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FIFTY-FIFTH PARLIAMENT — FIRST SESSION

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TUESDAY, 18 NOVEMBER 2003

Tuesday, 18 November 2003

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.05 p.m. and read the prayer.

CONDOLENCES

Cecil William John Burgin

The SPEAKER — Pursuant to the practice set down in sessional orders I advise the house of the death of Cecil William John Burgin, a member of the Legislative Assembly for the electoral district of Polwarth from 1970 to 1985.

I ask members to rise in their places as a mark of respect to the memory of the deceased.

Honourable members stood in their places.

The SPEAKER — I shall convey a message of sympathy from the house to the relatives of the late Cecil William John Burgin.

RULINGS BY THE CHAIR

Questions without notice: private members

The SPEAKER — Order! I wish to make a statement before questions without notice. In recent sitting weeks there have been two attempts to direct a question without notice to a private member. On both occasions I have ruled the question to be out of order.

As there appears to be some misunderstanding as to when a private member may be asked a question, I wish to clarify the position.

Standing order 121 permits private members to be asked questions 'relating to any bill, motion or other public matter connected with the business of the house in which such members may be concerned'.

In ruling on 6 November 2003 I made a reference to a 1973 ruling of Speaker Christie, which I support. Speaker Christie ruled that a question may only be put to a private member about a matter on the notice paper in the private member's name. It is immaterial, therefore, whether the member asking the question has a matter on the notice paper in his or her name; the issue must be one in the private member's name.

When a question is addressed to a private member about a matter in his or her name, it should relate only to issues of timing and procedure. Questions which do not comply with other procedural requirements, such as the rule of anticipation, will be ruled out of order.

The primary purpose of question time is for ministers to be questioned on issues relating to government administration for which they are accountable. The review function of the house is very important. The overall effectiveness of question time would only be diminished if private members could be asked about any issue on the notice paper, or indeed about matters of general interest.

QUESTIONS WITHOUT NOTICE

Royal Children's Hospital: AKZ Consulting

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. The Premier agreed on radio this morning that Mr Andrejs Zamurs, who provided advice on the Royal Children's Hospital, did so as a consultant from AKZ Consulting and I ask: is Mr Zamurs — —

The SPEAKER — Order! Without the assistance of Labor backbenchers, the Leader of the Opposition.

Mr DOYLE — That is acceptable, is it?

The SPEAKER — Order! I did not notice anything. I ask members on both sides of the house to allow the member to ask his question.

Mr DOYLE — I will start again. The Premier agreed on radio this morning that Mr Andrejs Zamurs, who provided advice on the Royal Children's Hospital, did so as a consultant from AKZ Consulting, and I ask: is Mr Zamurs a private consultant, as indicated by the Premier on radio today, or a political staffer in the Minister for Health's office, as indicated in the current *Victorian Government Directory*, or is he both?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. Andrejs Zamurs, to whom the Leader of the Opposition referred, is the same Andrejs Zamurs who worked in the health department for 20 years. More recently, his more senior position was head of aged care under the then health minister, Rob Knowles.

Mr Doyle interjected.

Mr BRACKS — Yes, I will go into that.

Mr Doyle interjected.

The SPEAKER — Order! The Leader of the Opposition! I ask members to cooperate with the Chair

to allow question time to continue in a more dignified manner. I ask them to be quiet and allow the Premier to respond.

Mr BRACKS — Included in his distinguished career was also a period, as I understand it, as head of disability services within the then Department of Human Services under the then minister, who is now the member for South-West Coast. After the previous government lost office he was about to retire, but the then health minister employed him, because of his wide experience, as chief of staff for a period. When the new health minister took over the portfolio, Andrejs Zamurs became a consultant, an adviser, to both the government and the minister.

Medicare: reform

Mr CARLI (Brunswick) — My question without notice is for the Premier. Can the Premier advise the house of the government's reaction to the new Medicare package announced this morning and the implications it has for the Victorian health system?

Mr BRACKS (Premier) — I thank the member for Brunswick for his question and for his continued, abiding interest in making sure we get a sensible arrangement between the commonwealth and the state on health funding in the future. I know that has been one of the key issues the member for Brunswick has taken up in the past.

Today the federal health minister announced a new adjustment to the Medicare funding arrangements which included a $1.5 billion injection of funds over four years, principally to encourage and support some more bulk-billing for GPs and some provision of extra GPs. Whilst this is welcome as an initial first step, and I think there is room to offer support to the federal health minister for starting the process of repairing the health system in this nation, there is a long way to go. Whilst this will go some way on some issues in relation to access to doctors and bulk-billing in particular, we still have a situation where there is no attempt to address the overcrowding in our hospital system around the country and in particular in emergency departments.

There are two major issues which are still outstanding and which we are keen to discuss further with the federal health minister. All states and territories, and Victoria in particular, are keen to trial and operate some of these arrangements in the future if the federal government would work with us on the funding of these proposals.

One is to look at GP bulk-billing services in association with emergency departments around Victoria. If we achieve that, we will achieve a significant gain in supporting people who are currently presenting at emergency departments who may easily be able to be dealt with by their GP if there were a bulk-billing facility next to, adjacent to or within the hospital system itself. That is a proposal that originated with Victoria and has been taken up by every state and territory, and it is something which we believe would make a significant difference to support of the hospital system and the health system around the country.

Secondly, whilst some of the GPs proposed for our aged care system are welcomed, it does not address the actual number of beds in our aged care facilities in Victoria. This is the second matter which goes to the very heart of provision of health care in Victoria — that is, if we got some support from the federal government to increase the number of nursing home beds, we would immediately relieve the pressure on our emergency hospital departments, which are currently taking up that responsibility, whereas it would be more appropriately taken up by the federal government.

The job has been started. This is something that should have been in place when the first Medicare package was announced. It is welcomed that there is an attempt to increase bulk-billing, but it is only a start. We still have a situation around the country where health funding has been removed from the Australian health care agreement. In Victoria's case $350 million has been removed for the next four years.

These are practical, sensible and achievable ways to make a difference, and we are prepared to work with the federal government health minister to achieve that. It would make a difference: we would treat more patients and relieve pressure on our emergency departments as well.

Hazardous waste: containment sites

Mr RYAN (Leader of the National Party) — My question is to the Minister for Major Projects. I refer to the government's announcement last week of three short-listed sites for a toxic waste dump, and I ask: did the government seek the permission of any of the affected landowners before filming their properties for the government's promotional video?

Mr BATCHELOR (Minister for Major Projects) — Last week the Bracks government made an announcement that puts us at the forefront of the management of industrial waste worldwide — and the National Party asks if we sought permission to film

from a public road! The answer is no, we did not seek permission from the local council to film from a public road.

We made a decision that put us at the forefront of the environmental management of industrial waste. We are committed to developing a total containment facility for the safe storage of industrial waste, and we make no bones about it.

Honourable members interjecting.

Mr BATCHELOR — This was a hard decision, Speaker, as you can see from the reaction of the opposition, but we are committed to working with each of these communities to ensure that an open and fair process commences.

This is the commencement of a process; it is not the end of a process. We have simply identified study areas on which environment effects statements will be undertaken so the government and the community can be better informed when a decision is ultimately made. No doubt about it, a decision will be made. We do not make any apologies for making tough decisions, and we will continue to do that in the best interests of Victoria. We are committed to ending the current and unsustainable practice of putting waste material into landfill.

The study areas have been identified after a rigorous technical search of the state. We found those study areas that best fitted the siting criteria, including geology, hydrology, transportation, flora and fauna, and buffer requirements.

Members will no doubt recall the tipping policy — tip it anywhere — of the previous government. We are prepared to end that unsophisticated approach. Our approach has been based on the siting of an industrial waste facility which is subject to strict scientific criteria, and we have examined and used 30 criteria in narrowing down the search for the three study areas. We have made this decision because it is good for the people of Victoria and good for the environment.

Rail: Ballan derailment

Mr HOWARD (Ballarat East) — My question is to the Minister for Transport. Will the minister advise the house of the latest details regarding Saturday's train derailment at Ballan?

Mr BATCHELOR (Minister for Transport) — The member for Ballarat East joined with me in visiting part of his electorate on Sunday to investigate the circumstances surrounding the very serious train incident that occurred just out of Ballan.

When I visited the site with the member for Ballarat East we were shocked at the circumstances that confronted us: the overturned, derailed carriage; the other carriages on the track listing to the side; and the potential that could have confronted us with people being killed or people being much more seriously injured than they were. Nevertheless, there were still 44 passengers who were injured. Four remain in hospital, two were not seriously injured but one has head injuries and another has spinal injuries. We wish all those who are still carrying injuries from this incident a speedy recovery.

I would also like to place on the record the fantastic work of a string of heroes who engaged themselves at the incident site — people like Mick Rowan, Carolyn Lawford and Daniel Mayman, who were passengers in the front carriage of the train, which overturned. They went out of their way to help people get out of the carriage and to provide comfort and assistance, putting their own injuries, concerns and fears to one side to help the elderly and people who were upset and confused. Their effort and that of countless other unnamed people made a great contribution to making sure that the injuries were minimised.

I also thank the driver, Kevin Roberts, and the conductor, Peter Coffe, who also had to deal with a very difficult set of circumstances in their work environment. These two upheld the professionalism that one expects from the railway workers currently employed by V/Line, and we pay tribute to them.

As you would be aware, Speaker, two men have been charged in relation to this incident. They appeared yesterday in the Ballarat Magistrates Court, which will deal with the charges levelled against them.

When I heard that this accident had occurred I invited the Australian Transport Safety Bureau to investigate the incident. However, once the cause became apparent, its role became to assist the police in their early investigations. It was then decided that, following the declaration of the derailment site as a Victorian police crime investigation scene, the bureau's investigation was no longer appropriate. A separate board of inquiry has been established by Freight Australia and V/Line Passenger, and its role will be to examine any rail safety issues arising out of the incident. When that is fully reported on by the board of inquiry and when the government has had time to consider it, the completed report will be released to the public.

Royal Children's Hospital: AKZ Consulting

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer him to his previous answer, and I ask: does the Premier consider it proper and appropriate to engage a political staffer as a consultant to examine the Royal Children's Hospital crisis when that consultant, Andrejs Zamurs, is married to Kerrie Cross, the chair of the hospital board, and when the chair herself is a partner in the same consulting firm, AKZ?

Mr BRACKS (Premier) — As I mentioned in my previous answer to the opposition leader, to which he referred, the association, marriage or partnership between Andrejs Zamurs and his wife occurred when she was a manager of a private hospital while he was managing aged care and disability services. It is not uncommon in the health area for people to be involved in different sectors of it. Just as the previous government received advice from Andrejs Zamurs, so our government is also pleased to receive that advice.

Hazardous waste: containment sites

Mr HELPER (Ripon) — I direct my question to the Minister for Manufacturing and Export. Will the minister advise the house of the action the Bracks government is taking in regard to the management of industrial waste and outline how this is in the long-term interests of all Victorians?

Mr HOLDING (Minister for Manufacturing and Export) — I thank the member for Ripon for his question. As the Minister for Major Projects advised earlier, this is a difficult area for government to consider.

It is a difficult decision but at the same time a necessary one to take Victoria forward and to make sure we have the best-engineered solution to this problem and a solution which is in the environmentally sustainable interests of all Victorian people.

Honourable members would be aware that when the Bracks government was elected in 1999 it came to power with a commitment to end the unsustainable process of dumping these prescribed medium-level industrial wastes as landfill. That was the policy of the previous government. I can report to honourable members that in the last four years we have been able to reduce by 50 per cent the volume of industrial wastes going to landfill. We have done that by working constructively in partnership with industry to make sure that we reuse more of these prescribed industrial wastes and that industry uses less of them in manufacturing processes. So we have substantially reduced the volume of industrial waste. At the same time we have announced the establishment of a soil recycling and treatment facility at Dutson Downs, which will also treat some of these other wastes.

But there are some wastes that cannot be reused, cannot be reduced and cannot be recycled. It is those medium-level industrial wastes that we want to make sure go to a long-term total containment facility rather than seeing them go into landfill, which has been the practice. For that reason the Bracks government announced last week the identification of three sites for consideration for the establishment of a long-term containment facility. It was not an easy decision, and I have to say that the phone calls that the Minister for Major Projects and I made to local landowners and residents last Wednesday were the most difficult thing that I have done in my time in politics.

Honourable members interjecting.

Mr HOLDING — Listen to the members of the opposition! They clearly would not have taken the action of ringing the local landowners themselves and talking to them about how they use their land and about the period of time this land has been in the family. It will be a difficult decision but one that the state government is willing to address and work through with those local landowners to make sure that we achieve an outcome which is in the best long-term interests of Victorians.

We are all responsible for the manufacturing of the by-products that require these — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is far too high.

Mr HOLDING — If we drive cars, if we use washing machines, if we use fridges, if we read magazines, newspapers or printed materials, or if we drink soft drink from cans then we are responsible for the production of these medium-level industrial wastes. For that reason we want to make sure that they are contained in a facility which is sustainable in the long term. For that reason we are willing to work with industry to achieve an outcome which will be better for the storage of waste and make sure that the technology for reducing the recycling of these wastes is more sustainable and viable in the long term. At the same time we are committed to working with the local landowners, residents and councils to make sure we work through all of the complicated issues and through the process of identifying the most appropriate site.

Royal Children's Hospital: AKZ Consulting

Mr DOYLE (Leader of the Opposition) — My question is to the Minister for Health. I refer to the briefing to the Premier from Andrejs Zamurs regarding the current funding crisis at the Royal Children's Hospital, and I ask — —

Honourable members interjecting.

The SPEAKER — Order! I ask members of the Labor Party to be quiet.

Mr DOYLE — Does the minister agree with Mr Zamurs that Kathy Alexander, the chief executive officer (CEO) of the Royal Children's Hospital is, and I quote, 'soft' and has 'not managed communications effectively', and has made serious errors of judgment? Has Mr Zamur's wife, in her role as chair of the hospital board, conveyed these sentiments to the CEO?

Ms PIKE (Minister for Health) — I thank the Leader of the Opposition for his question. I receive advice from the department, from my own office, from contractors and from the community, and I take all of that advice into account when I make decisions.

Mr Doyle interjected.

The SPEAKER — Order! The Leader of the Opposition will contain himself.

Blueprint for Government Schools

Mr DONNELLAN (Narre Warren North) — My question without notice is to the — —

Mr Doyle interjected.

The SPEAKER — Order! I warn the Leader of the Opposition.

Mr DONNELLAN — My question is to the Minister for Education and Training. Will the minister outline to the house how the Bracks government's *Blueprint for Government Schools* will deliver improved outcomes to Victorian government school students?

Ms KOSKY (Minister for Education and Training) — I thank the member for Narre Warren North for his question, and indeed for his interest in government school education. As members will be aware, last week I launched the government's *Blueprint for Government Schools* following six months of very comprehensive consultation and research.

Mr Honeywood interjected.

Ms KOSKY — The Deputy Leader of the Opposition is saying that it reflects Liberal Party policy at the last election, but I will get to that.

The vision followed very extensive consultation and research. When we came to office we put in a lot of additional resources and targeted those initiatives, and we have been seeing improvement in student outcomes. But we wanted to further improve the improvements we have seen to date, and so the *Blueprint for Government Schools* is about driving significant improvement in our government school system. The blueprint is also about actively pursuing excellence in teaching in all of our government schools. It is not about having only a few excellent government schools, which was the opposition's policy, but indeed having a system of excellent schools right across the board. To date the reception has been very positive and heartening.

Principals say that it will raise the bar; the union supports the blueprint; and parents welcome the emphasis on student needs. The school council organisation says that it will enable schools to get on with the job. Academic support has also been very strong; academics have said that the blueprint is fundamentally important.

There has been one lone voice in the wilderness. The member for Doncaster, who is contradicting the member for Warrandyte, talked about a hidden message. The message is very clear about this blueprint. We want to provide support for schools so that they can continue to provide improved learning outcomes for students. We want our good schools to be great; we want our great schools to be even better; and we want those schools that are currently underperforming to improve. That is where we are going to provide support and emphasis. We are making the hard decisions around education and particularly around government schools, which the opposition was not prepared to do. Its policy was about divide and conquer; it was about only the tough surviving.

The SPEAKER — Order! The minister is debating the issue. I ask her to return to answering the question.

Ms KOSKY — Our blueprint is about ensuring that we have excellence across the entire government school system. We have also provided resources for that. Through the Leading Schools fund we have provided $150 million over four years for teachers and facilities across our secondary school system to focus on whole-school improvements — not just improvement within a classroom, but whole-school improvements. We have also provided professional leave for

460 teachers a year so they can focus on their teaching practices to enable them to better teach so that student outcomes improve.

The focus of the blueprint is very clearly on students. This government is absolutely committed to government for all Victorians, so it is for all students whether they are in the government system or the non-government system. This blueprint will provide an even stronger learning culture in our schools for the benefit of all Victorian students.

Royal Children's Hospital: AKZ Consulting

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer the Premier to the briefing on the Royal Children's Hospital by Andrejs Zamurs, consultant and political staffer for the Minister for Health and the husband of the chair of the hospital, Kerrie Cross. I ask: does the Premier accept the criticism by Andrejs Zamurs of the roles played by Professor Glen Bowes; chief executive officer, Kathy Alexander; the Royal Children's Hospital Foundation; senior management of the *Herald Sun* and Channel 7; and former chair, Peter Bartels, in the Royal Children's Hospital funding crisis?

Mr BRACKS (Premier) — The government's response to the issues relating to the Royal Children's Hospital is obvious in that we put more resources into the case weight, to the issue of the cost of paediatric care. We put more money into the capital cost of upgrading the cancer ward, and importantly we now have an examination of the long-term structural cost to the Royal Children's Hospital in relation to paediatrics. I commend and congratulate all those people who have supported — —

Mr Doyle — On a point of order — —

Honourable members interjecting.

The SPEAKER — Order! I ask Labor members to be quiet and allow the Leader of the Opposition to put his point of order.

Mr Doyle — On the question of relevance, Speaker, this is not a matter of government policy, it is a question about the written briefing by Andrejs Zamurs and the criticism of bodies and people contained in that. The Premier has so far failed to mention any of those people or to make any reference at all to the briefing.

The SPEAKER — Order! I do not uphold the point of order at this stage. It seemed to me that the Premier had only just started introducing his response.

Mr BRACKS — As a government our response has been to address the fundamental issues around capital over recurrent funding, and that is ongoing. In relation to the other groups and organisations — the clinicians, the foundation and the other key groups who have supported the Royal Children's Hospital — I have nothing but praise and support for the work they have done and the support they have given to the children's hospital in the past and will give in the future as well.

Kew Residential Services: site development

Mr LANGUILLER (Derrimut) — My question is for the Minister for Community Services. Will the minister outline to the house the action the Bracks government is taking to provide better accommodation and services for the intellectually disabled residents of Kew Residential Services?

Ms GARBUTT (Minister for Community Services) — This government is getting on with the job of giving 480 people with intellectual disabilities who live at Kew a better life in the community. Closing Kew is about providing a better life for people with disabilities. All other arguments are secondary. That is our priority. There is an urgent need to close this institution, and let us be clear that Kew as it stands now is a Dickensian institution. It cannot provide the sort of accommodation that most of us take for granted.

We want to end the uncertainty for residents and their families, so the government has decided to gazette the planning amendment and to provide for the planning itself. We are making the tough decisions. We are standing up for disabled residents at Kew — against the Liberals, who are more interested in selling them out for political gain.

The need to close Kew is emphasised in the most recent community visitors report tabled in this house. Its first principal recommendation is to close Kew:

> as the uncertainty of the extended transition process is seriously disadvantaging the people who continue to live there.

That is its principal recommendation.

This is clearly more than just a local issue; it is one of statewide significance. Kew Residential Services residents will be moving into new homes all over the state — closer to their families, friends and services. The project is too important to be a political football or to be plagued by uncertainty.

Our plan will provide high-quality housing, full-time services and a car for every community residential unit, and it will preserve the character of the local

neighbourhood at Kew. And importantly every cent raised from the redevelopment will go towards providing that high-quality housing and services for disabled residents — every single cent.

The central question about this issue is: does the opposition support giving the most vulnerable people in the community, the disabled, an opportunity to move out of an institution, or does it sell them out for political gain? We will always defend the rights of the vulnerable people — the intellectually disabled people of Kew.

GAS INDUSTRY (RESIDUAL PROVISIONS) (AMENDMENT) BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to amend the Gas Industry (Residual Provisions) Act 1994 and for other purposes

Read first time.

PETITIONS

Following petitions presented to house:

Housing: loan schemes

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

The humble petition of the following residents to the state of Victoria sheweth the state government sponsored home loan schemes under the flawed new lending instrument called capital indexed loans sold since 1984–85 under the subheadings: CAPIL, deferred interest scheme (DIS), indexed repayment loan (IRL), home opportunity loan scheme (HOLS), and shared home opportunity scheme (SHOS), are not fit for the purpose for which they were intended.

We the undersigned believe these loans are unconscionable and illegal and have severely disadvantaged the low-income bracket Victorians the loans were meant to assist.

Your petitioners therefore pray that:

1. the existing loans be recalculated from day one in a way as to give borrowers the loans they were promised — 'affordable home loans specially structured to suit your purse';

2. the home ownership be achieved within 25 to 30 years from date of approval;

3. the payments to be set at an affordable level (i.e. 20–25 per cent of income for the duration of the term for all the loan types);

4. past borrowers who have left the schemes be compensated for losses that have been incurred by them being in these faulty structured loans;

5. any further government home ownership schemes be offered in a way as to be easily understood by prospective loan recipients;

6. the interest rate will be at an affordable rate (i.e. a flat rate of 3 per cent per annum or less for the length of the term of the loan) geared to income;

7. capital indexed loans be made illegal in this state to protect prospective loan recipients.

We ever pray that we may lead a quiet and peaceable life in all godliness and honesty. (1 Tim 2:2)

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

By Mr LOCKWOOD (Bayswater) (38 signatures)

Housing: loan schemes

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

The petition of certain residents of the state of Victoria draws to the attention of the house that we object to the exorbitant amounts of public funds being used to mount an unethical defence of litigation brought against a government department by impecunious recipients of failed state government created home loan schemes.

The petitioners further draw to the attention of the house that these loan recipients have maintained their loans in a meticulous manner and through no fault of their own have been burdened with a lifetime of debt. And that this litigation occurs as a direct result of the refusal of past and present government ministers to acknowledge the government's responsibility to the people who embraced the promise of home ownership offered to them through Home Loan Schemes, especially designed for them by the state government of Victoria.

Your petitioners therefore request the house to initiate an independent board of inquiry with the scope to fully investigate the loan schemes. Further your petitioners respectfully request that until such an inquiry is held, the Minister for Housing ceases and desists from sending letters containing incorrect information to elected members and that legal representatives acting on behalf of the defendant in this matter be instructed to act as model litigants.

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

By Mr LOCKWOOD (Bayswater) (34 signatures)

Housing: rent increase

To the Legislative Assembly of Victoria:

The petition of residents of Victoria draws to the attention of the house we oppose the state government changes to increase public housing rebated rent for all existing tenants to 25 per cent of their total household income commencing on 17 August 2003.

The petitioners therefore pray that the Legislative Assembly of Victoria amend the rental rebate policy so that all public housing tenants will pay the rebated rent at the rate of 23 per cent of total household income.

And your petitioners as in duty bound will ever pray.

By Ms ALLAN (Bendigo East) (1118 signatures)

Taxis: multipurpose program

To the Legislative Assembly of Victoria:

The petition of residents of the state of Victoria draws to the attention of the house that the proposed changes to the multipurpose taxi program will have discriminatory outcomes for many Victorians and will especially create financial and social hardship for rural dwellers.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria not introduce a financial cap to the multipurpose taxi program and that any proposed legislation be delayed until such time as full and proper consultation has been held with stakeholders, including the taxi industry, to consider other options for the efficient operation of the program, and so that the special circumstances and needs of the elderly and disabled in rural Victoria are fully considered.

By Mr MAUGHAN (Rodney) (140 signatures)

Knox: rates

To the Legislative Assembly of Victoria:

The petition of residents and ratepayers who reside in the City of Knox draws to the attention of the house that Knox City Council has increased its rates by a stated average of 17.3 per cent which has had the effect of increasing rates by amounts of up to $1000, or more than 100 per cent in many cases, causing hardship and distress to thousands of its residents and that they have done this without proper and thorough consultation.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria sack the Knox City Council and institute fresh elections as soon as possible with the objective of implementing a fairer system of rates distribution.

By Mr WELLS (Scoresby) (32 signatures)

Laid on table.

Ordered that petition presented by honourable member for Scoresby be considered next day on motion of Mr WELLS (Scoresby).

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17B a licence by the Watery Gully Creek Reserve Committee of Management Incorporated

Domestic Building (HIH) Indemnity Fund — Report for the year 2002–03

Health Services Act 1988 — Report of the Community Visitors for the year 2002–03 — Ordered to be printed

Financial Management Act 1994:

Reports from the Minister for Agriculture that he had received the 2002–03 annual reports of the:

Dairy Food Safety Victoria

Greater Victoria Wine Grape Industry Development Committee

Report from the Minister for Environment that he had received the 2002–03 annual report of the Alpine Resorts Co-Ordinating Council

Report from the Minister for Health that she had received the 2002–03 annual report of the Optometrists Registration Board

Financial Management Act 1994 — Budget Sector — Quarterly Financial Report No 1 for the period ended 30 September 2003

Museums Board of Victoria — Report for the year 2002–03

Planning and Environment Act 1987 — Notices of approval of amendments to the following Planning Schemes:

Ararat Planning Scheme — No C5

Bayside Planning Scheme — No C34

Boroondara Planning Scheme — No C53

Brimbank Planning Scheme — No C57

Frankston Planning Scheme — No C27

Greater Dandenong Planning Scheme — No C24

Greater Shepparton Planning Scheme — No C25

La Trobe Planning Scheme — No C15

Maroondah Planning Scheme — Nos C16, C35

Melbourne Planning Scheme — No C84

Monash Planning Scheme — No C31

Moorabool Planning Scheme — No C27

Moreland Planning Scheme — No C36

Mornington Peninsula Planning Scheme — No C45

Wangaratta Planning Scheme — No C11 Part 2

Wodonga Planning Scheme — No C23

Yarra Planning Scheme — No C20

Planning and Environment Act 1987 — Urban Growth Boundary — Amendments modifying the following Planning Schemes:

Cardinia Planning Scheme — No C55

Casey Planning Scheme — No C70

Frankston Planning Scheme — No C29

Greater Dandenong Planning Scheme — No C53

Hume Planning Scheme — No C48

Kingston Planning Scheme — No C38

Knox Planning Scheme — No C41

Melton Planning Scheme — No C41

Mornington Peninsula Planning Scheme — No C57

Nillumbik Planning Scheme — No C27

Whittlesea Planning Scheme — No C63

Wyndham Planning Scheme — No C62

Yarra Ranges Planning Scheme — No C36

Public Employment Office — Report for the year 2002–03

State Trustees Limited — Report for the year 2002–03 (together with Financial Statements of the Common Funds) (two papers)

Statutory Rules under the following Acts:

Evidence Act 1958 — SR No 131

Magistrates' Court Act 1989 — SR No 132

Subordinate Legislation Act 1994 — Minister's exemption certificates in relation to Statutory Rule Nos 131, 132

Victorian Relief Committee — Report for the year 2002–03.

The following proclamation fixing an operative date was laid on the table by the Clerk pursuant to an order of the house dated 26 February 2003:

Seafood Safety Act 2003 — Part 3 (except sections 9, 17 and 18) and section 60 on 13 November 2003. Sections 9, 17, 18, 23, 27 to 58, 64(5) and 92 on 1 January 2004 (*Gazette G46*, 13 November 2003).

NOTICES OF MOTION

Ms DELAHUNTY having given notice of motion:

Mr Baillieu — On a point of order, Speaker, the minister has just given notice of a motion seeking ratification of some 13 planning scheme amendments. My reading of the section in the Planning and Environment Act suggests that each planning scheme amendment should be ratified by a separate motion. I believe the minister should have given notice of 13 separate motions.

The SPEAKER — Order! I have had discussions with the Clerk in relation to this matter, which I understand was raised earlier today. I understand from the information I have been provided with that the ratification of planning scheme amendments can be moved as one motion.

Mr Baillieu — On a further point of order, Speaker, I ask whether you will re-examine that matter and come back to the house with more formal advice. In terms of ratification, the action the government is taking is precedent setting. I indicate that I will contest that understanding, and I think the house deserves a further explanation.

The SPEAKER — Order! I am quite happy to provide a fuller explanation, which I will do before the matter comes up for debate. That was not a point of order but asking for a further explanation which I have agreed to give to the honourable member**.**

Ms Delahunty — On the point of order, Speaker, the member for Hawthorn — —

The SPEAKER — Order! What is the point of order?

Ms Delahunty — My point of order relates to the process for the ratification of these planning schemes.

The SPEAKER — Order! I have ruled on the point of order. In my belief that notice of motion is appropriate, but I will give the member for Hawthorn a fuller explanation before the matter is debated. If the minister wishes to speak to me privately before I do that, she can raise that with me then.

Ms Delahunty interjected.

Mr Perton — On a point of order, Speaker, earlier today you made a significant ruling with respect to an interpretation of the rights of members to ask questions. I ask that in future when such rulings are to be made each of the parties, including the opposition and the National Party, be given an opportunity to make submissions in respect of those sorts of rulings.

Regarding this matter, I have had an opportunity to speak with parliamentary counsel about the issue the member for Hawthorn has just raised with you, and it appears that the law is uncertain, so the interpretation of the statute, where it refers to 'a direction' and the like, is important. I ask that you hear from the member for Hawthorn in chambers prior to your ruling on this matter and that that become a custom where the Speaker is to make significant rulings that are not made on the run in the house.

The SPEAKER — Order! That is not a point of order, but I am more than happy to have the member for Hawthorn visit me in my chambers.

In relation to the ruling I gave earlier, it was not a new ruling but an explanation of previous rulings of the house. There was some confusion in relation to questions asked last week and the previous week about notices of motion and who had put the motions on the notice paper. It was a restating of previous rulings of the house.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 9

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 9 of 2003 on:

ANZAC Day (Amendment) Bill
Cemeteries and Crematoria Bill
Crimes (Money Laundering) Bill
Firearms (Amendment) Bill
Fisheries (Further Amendment) Bill
Forests and National Parks Acts (Amendment) Bill
Gambling Regulation Bill
Health Legislation (Further Amendment) Bill
Parliamentary Committees Bill
Partnership (Venture Capital Funds) Bill
Residential Tenancies (Amendment) Bill
Road Safety (Drug Driving) Bill
Shop Trading Reform (Simplification) Bill
Victorian Curriculum and Assessment Authority (Amendment) Bill
Wrongs (Remarriage Discount) Bill
Wrongs and Other Acts (Law of Negligence) Bill

together with appendices.

Laid on table.

Ordered to be printed.

ROYAL ASSENT

Message read advising royal assent on 11 November to:

Aerodrome Landing Fees Bill
Cemeteries and Crematoria Bill
Child Employment Bill
Education Legislation (Miscellaneous Amendments) Bill
Education (Workplace Learning) Bill
Extractive Industries Development (Amendment) Bill
Port Services (Port Management Reform) Bill
Royal Botanic Gardens (Amendment) Bill
Scots' Church Properties (Amendment) Bill
Victorian Curriculum and Assessment Authority (Amendment) Bill
Victorian Qualifications Authority (Amendment) Bill
Water Legislation (Amendment) Bill.

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Fisheries (Further Amendment) Bill
Gambling Regulation Bill
Health Legislation (Further Amendment) Bill
Parliamentary Committees Bill
Road Safety (Drug Driving) Bill
Wrongs and Other Acts (Law of Negligence) Bill.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order 6(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 20 November 2003:

Crimes (Stalking) Bill

Transport (Rights and Responsibilities) Bill

Health Legislation (Further Amendment) Bill

Fisheries (Further Amendment) Bill

Forests and National Parks Acts (Amendment) Bill

Partnership (Venture Capital Funds) Bill

ANZAC Day (Amendment) Bill

Wrongs and Other Acts (Law of Negligence) Bill.

Mr Perton interjected.

The SPEAKER — Order! Is there some confusion about the listing?

Mr Perton interjected.

The SPEAKER — Order! I cannot do much about that except to go with what the Leader of the House has said. Does the Leader of the House see an inconsistency between the two?

Mr BATCHELOR — I will have it checked while I am on my feet. I think it has to do with alphabetical order.

The SPEAKER — Order! Yes, I think that is what the only difference is — that these are in alphabetical order and the Leader of the House has read them in a different order.

Mr BATCHELOR — I will double check it. There might be a hidden trick in there that has us all tripped up. I do not know — the clerks play some funny tricks on us at times! But we will check it.

The program for this week is to complete eight bills, one of which is the Crimes (Stalking) Bill, which was previously split, and some amendments have been made available to the Opposition prior to today. In relation to that we had a request to defer it until next week, and we were in agreement in trying to do that, but apparently the opposition was not ready to proceed with the possible replacement bill, the Road Safety (Drug Driving) Bill.

The National Party was ready and raring to go on that particular bill, and as the Labor Party was as well, we were prepared to accommodate it. But notwithstanding the fact that briefings on the road safety bill were given several weeks ago, apparently the opposition is still considering this matter, and it is not able to change. So in the context of the tasks that are before us coming to the end of the parliamentary session, we will be proceeding with the Crimes (Stalking) Bill.

I thank the National Party for trying to accommodate the Liberal Party this week with its agreement to bring forward the road safety bill in preference to dealing with the Crimes (Stalking) Bill. The government was pretty neutral on which one — the Crimes (Stalking) Bill or the Road Safety (Drug Driving) Bill — it dealt with this week. We were prepared to accommodate the requirements of the Liberal Party on this occasion.

I advise members that this is the government business program, to be completed by 4.00 p.m. on Thursday. In addition to that — and this may have us sitting some time past 4.00 p.m., until we are finished — there are the amendments of which the Minister for Planning gave notice today. It is the government's intention to proceed with that debate, commencing it and concluding it on Thursday, and if it takes us past 4.00 p.m., that will be accommodated by the government's procedures. We will provide sufficient time for those who wish to speak on those planning amendments on Thursday so that these matters can be dealt with this week.

Mr PERTON (Doncaster) — The opposition opposes the government business program. The reason we do so is that a number of these pieces of legislation are being brought in without appropriate notice being given to the opposition or to the National Party of the amendments that are to be moved.

In regard to the Crimes (Stalking) Bill, which as members will know has been in the house for many months after the Crimes (Stalking and Family Violence) Bill was split in two and which is to be further considered in committee, the amendments that are to be introduced by the Attorney-General were only shown to the opposition late in the afternoon.

The Leader of the House has talked about the conversations we have had. It is correct that about 2 hours ago he suddenly had a rash of reasonableness and said, 'We will swap it for another bill'. Last week it was not the Leader of the House who was organising the government business program, it was the Premier's office. It had fixed the list, and when I raised the issue of the Crimes (Stalking) Bill with it and said we had not received the amendments, I was told it was of no moment — this bill was to proceed.

The members of the Labor Party who are in this chamber should actually look at the amendments that are to be introduced — —

Mr Seitz — Members of the government!

Mr PERTON — You should read it, George, because — —

The SPEAKER — Order! The member for Doncaster, through the Chair.

Mr PERTON — It would be worth while for the honourable member who has just interjected without being corrected to read the amendments and see their potential impact on members of Parliament. They introduce a form of criminal libel which could catch members of Parliament like the member for Burwood in pursuing, as he has done in the house and elsewhere, consumer affairs matters on behalf of constituents. It could catch members of the media — whether they be from television, newspaper or radio — and as I said, given the way it and the amendments are constructed it could create quite serious difficulties for members of the house.

Mr Haermeyer interjected.

Mr PERTON — It is all right for the Minister for Police and Emergency Services to interject, but he is notorious for not having read the contracts he signs, much less the legislation that comes into the cabinet.

In the negotiations that took place there was no offer, until a short time ago, to take the Crimes (Stalking) Bill out of the government business program. In fact, in the conversation we had we said, 'There is another Attorney-General's bill there — the Wrongs

(Remarriage Discount) Bill', but the government did not want to proceed with that.

In fact the Road Safety (Drug Driving) Bill, which is significant and on which consultation is taking place, has not gone to shadow cabinet, because the Premier's office had indicated that the eight bills that were presented were the eight bills that were to proceed.

But more serious is the item that is not on the government business program — that is, the planning amendments introduced by the Minister for Planning through the motion she has given notice of today. They are about very serious and significant changes to Melbourne's planning schemes. What happened in respect of that? Nothing was offered until the Liberal Party was notified by email yesterday that there would be a briefing at 8.30 a.m. Not 'Are you available?' or 'What time would be appropriate?'; an email was sent in the middle of the afternoon.

The shadow minister, the honourable member for Hawthorn, was with the minister and her advisors during the afternoon, but there was no mention of this. However, the honourable member for Hawthorn did go to the briefing. The government claimed that an email on giving them a briefing had been sent to members of the National Party, but that is a lie — no email went to the National Party spokesman on planning. She had to pursue a briefing on this very serious matter, and it was not until 11 o'clock this morning that she had that briefing. This business program demonstrates that the government believes the house is nothing more than a tool of executive power.

Mr MAUGHAN (Rodney) — The National Party will also oppose the government's business program for similar reasons to those already outlined.

Let me first deal with the Crimes (Stalking) Bill. This is a very important piece of legislation that results from the Crimes (Stalking and Family Violence) Bill being divided some four months ago, on 4 June. The government has had time since that date to get these amendments right and give the opposition parties access to the amendments. It is appalling that it was 4.00 p.m. yesterday before the amendments were delivered to the National Party. That not only provides no opportunity whatever for the person concerned — in this case the Leader of the National Party, with all of his other engagements — to get his mind around them, it also provides no opportunity to consult with all those who have a specific interest in this very important piece of legislation that can have far-reaching consequences. Time and again we have found in this house that when we rush through legislation without having time to adequately consider it, without having time to adequately consult with people who might have a less partial view than we have in this place, mistakes are made. They can be serious mistakes that have consequences for members of the public and potentially for members of this house. It is totally unacceptable for the National Party to be notified of these amendments a matter of hours — less than 24 hours — before the bill is to be debated.

We will accommodate the government. We have a very, very capable Leader of the National Party. He has worked hard, he has his mind around the issue and he is prepared to debate the bill, but on principle we will be opposing this business program, because that is not the way the government should operate. This government claims to consult and to be interested in consulting with interest groups, but it is a total sham, because it is not even giving members of the opposition parties the opportunity to properly consider this legislation.

Likewise with the planning amendments of which the Minister for Planning gave notice for the first time less than 30 minutes ago. Let us set the record straight. As at yesterday the member for Shepparton, the National Party spokesperson on planning issues, had not received any notification at all about these changes to planning issues.

It might well be argued, as was said, that there was a difficulty with the computer system yesterday, so it might well have been sent, but it most certainly did not arrive; it most certainly was not followed up by a phone call; it most certainly was not followed up by any personal communication.

The government says it is fair dinkum about consultation. These planning amendments are very important to the municipalities concerned. We are talking about changes to people's lifestyle and significant changes in each of the 13 planning amendments. But what does the government do? It bundles them together, does not even deal with them one by one, does not give adequate notification to enable the spokesperson to be briefed on them, let alone consult on them. Yes, we have a hardworking spokesperson for planning in the member for Shepparton, who attended the briefing at 11 o'clock this morning, but only because she is prepared to put herself out and cooperate to get these issues resolved.

On principle on those two issues alone, let alone the fact that we are dealing with eight bills plus one we are

going to deal with after 4.00 p.m., we oppose this government business program.

I am not sure whether it is that the Minister for Planning's office is complacent or that she herself is complacent or whether it is that she is incompetent or whether it is that she is prepared to treat the opposition parties with contempt; I suspect it is the latter. The government shows absolutely no consideration at all for the need for the opposition parties to adequately prepare for debate after their being briefed at 11.00 a.m. today on a bill that is to be debated during this sitting week.

For those reasons the National Party will be joining with the Liberal Party and opposing the government's business program for this week.

Mr MILDENHALL (Footscray) — This spring 2003 sitting will be known as one of the breakthrough periods because of the efficient way the house's business program has been managed. It has been done in a rational, well programmed way. In each sitting week we have had a substantial legislative program, and it is quite unusual that we are not seeing an enormous number of legislative items jammed into the second last week of a sitting period. We have a solid but predictable program that is consistent with the way this session has been managed.

The bills complained of by the opposition parties have been subject to wide consultation. The Crimes (Stalking) Bill has lain in the house for some time, and briefings have been provided for the opposition on the government's intent and the consultation process with the community and media agencies that forms the backdrop to the amendments before the house. In the same way the Road Safety (Drug Driving) Bill has been the subject of briefings for the opposition.

It is a bit rich for the opposition to try to blame the government for its lack of internal management and consultation processes, and particularly to give the government a lecture about the way urban growth boundaries are set around the place. These were done by imperial fiat by the former member for Pakenham and Minister for Planning and Local Government in times gone by, without any meaningful surveillance by the Parliament. So for the Parliament to have the opportunity to consider these amendments in detail in each house is another step forward for our democratic processes. It had previously been done by administrative fiat under the imperious hand of the planning minister.

This is a good government program; it is well managed and well rationed. It is not for the opposition to criticise the government when it has failed to bring its administrative practices and processes to bear on managing its contribution to debates on the legislation before the house. Nor should it criticise the government when it does not have the ability to conduct a reasonable discussion and find a reasonable agreement on substitute bills given that it feels it is not able to debate the stalking legislation, which is the first item on the agenda. It is a good program and it ought to be recognised as such by every fair-minded member of the opposition parties.

Mr McINTOSH (Kew) — The government stands condemned for this business program. It is basically thumbing its nose at this place, saying, 'This place is just a rubber stamp; it is irrelevant. We have all the mushrooms sitting up the back. We have the numbers: we can crash through any piece of legislation we like'. The member for Footscray talked about wide consultation. Let us talk about the consultation that took place on the Crimes (Stalking) Bill, which has been hanging around on the notice paper for almost nine months. It came on early in the last session as part of the Crimes (Stalking and Family Violence) Bill, and it was split in two and then held over to be considered in committee. It is only in committee at this stage, and the most important thing is that there are real issues about fundamental rights.

Let us talk about one of the general principles thrown up about freedom of speech, the ability in a democracy to say what you like. It is part and parcel of what we are about, but this government is impinging upon that. It has recognised that there is a profound impact on a fundamental right that we all hold sacred, and it is seeking to introduce amendments.

Two weeks ago I was contacted by the Attorney-General's office and told that some amendments were coming into the house. Indeed I was given a 15-minute briefing on what translates into about four amendments. There were no precise details about the number of amendments or which sections or clauses were to be amended, but two basic propositions were put to me. At the end of the briefing I thanked the government very much and said I would like to see them in writing, because that is basically what we do. We require advice on bills to be in writing rather than just orally thrown around in the ether, because it is we who make the laws. Being a lawyer and a member of Parliament, of course I asked whether the government could give me the details in writing.

I was told that they were not yet available but that as soon as they were the government would provide me with a copy. Those requests continued over the next

two weeks. I understand that my office telephoned the Attorney-General's office yesterday on three occasions, pleading for a copy of the amendments because we could see that this bill was on the government business program. As a result of those entreaties, at 5.30 p.m. I received a copy of the amendments in my office. At 5.30 p.m.! But what appalled me even more was the politics of the way the government leaves the opposition completely out of the loop.

I understand that people from two substantial media outlets made submissions to the government six months ago about the impact of this bill on freedom of speech, but what did the government do? It completely ignored them. It ignored the people, the lawyers and the media outlets that were concerned about the operation of this bill. It did not get back to them, so they did not see copies of the amendments and did not have an opportunity to consider them. It was not until this morning, in normal business hours, when I started contacting them, that I realised that a number of the people with whom I had been dealing earlier in the year and who had raised substantial concerns about this bill had been completely ignored by this government.

Not only is this government treating this place with contempt in the way it is introducing and dealing with business and going through a sham process of consultation, but the rest of the community — substantial stakeholders in matters arising out of these bills — is being completely ignored. The government knows perfectly well that there are enough mushrooms sitting at the back of the chamber who will put their hands up for anything, notwithstanding that it could have a direct impact on all their lives and the lives of all Victorians. That is a profound concern.

There are substantive issues arising out of the Fisheries (Further Amendments) Bill in relation to retrospectivity, and there are issues relating to the Wrongs and Other Acts (Law of Negligence) Bill. The government is changing the law of negligence, the third tranche of its bills, blithely throwing it away by saying, 'You'll be right. We don't care, we have the mushrooms sitting up the back of the room, and we can crunch it through both houses'. On top of that it is substantially amending the laws relating to green wedges and planning, with little or no consultation at 11 o'clock this morning! It is an outrage, and the government stands condemned. We all know that it is treating this place and the public of Victoria with utter contempt.

The SPEAKER — Order! I call the member for Mildura.

Mr SAVAGE (Mildura) — I listened with some interest to the — —

Mr Perton — On a point of order, Speaker, the call normally goes from one side of the house to the other — and if that is not the case then it should have been the member for Warrandyte — but in fact the member for Burwood should have had the call. The member for Mildura was given the call in the debate on this matter two weeks ago, and you otherwise give the call according to the proportions of the house. So your proper call on this occasion, Speaker, should have been either the member for Burwood or, in disregarding him, the member for Warrandyte.

The SPEAKER — Order! I thank the member for Doncaster for his helpful advice. However, it is important that all members — those representing the parties and the Independents — have the possibility of expressing their views in relation to the government business program. I have already heard the views of the government, the Liberal Party and the National Party. It is appropriate that the Independents also have the right to express an opinion.

Mr SAVAGE — I rise to indicate some concern about the comments that were made by the member for Kew when he referred to 'mushrooms'. I have been here long enough to have seen — —

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster has had his turn. I ask him to be silent and allow the member for Mildura to continue.

Mr SAVAGE — The member for Doncaster is so narrow-minded he could see through a keyhole with both eyes.

The SPEAKER — Order! The member for Mildura will address himself to the point of the government business program.

Mr SAVAGE — I listened with some interest to what the member for Kew said about this Parliament treating legislation in a cavalier way. I guess at times you could level that criticism, but I have been here long enough to know that both sides of politics occasionally abuse that privilege. The comments that I heard from the member for Kew were very similar to what the previous opposition would have said.

Honourable members interjecting.

The SPEAKER — Order! The member for Warrandyte and the member for Doncaster will allow the member to continue speaking.

Mr SAVAGE — The member for Doncaster is showing his venomous nature in this place once again. There is some hypocrisy in some of the elements of this place. I agree that there are times when we do not debate bills. A good example was during the last parliamentary sitting week. We had the Road Safety (Amendment) Bill, a very important piece of legislation and there was only a lead speaker from the Liberal Party, the National Party and myself. There was no government speaker. We are not giving legislation appropriate scrutiny in this place at times. There are often too many bills, but that is the nature of this place. I have noticed it does not matter who is in government — we do the same. So it is hypocrisy to come in here and say, 'This has changed'. No, it has not changed; this is the same arrangement we had before.

Honourable members interjecting.

Mr SAVAGE — There is some relevance. The speaking times have been changed so there are more members speaking on the bills; there have been some significant changes which have given more people opportunities in this place.

An honourable member interjected.

Mr SAVAGE — Many members here have missed the point on this. I have opposed the business program on many occasions. I am not going to oppose it on this occasion because what opposition members are saying is not consistent with their previous positions.

The SPEAKER — Order! As I have now heard six speakers, I will put the vote.

House divided on motion:

Ayes, 61

Allan, Ms
Andrews, Mr
Barker, Ms
Batchelor, Mr
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Campbell, Ms
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Garbutt, Ms
Gillett, Ms
Green, Ms
Haermeyer, Mr
Harkness, Mr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Ingram, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
Lockwood, Mr
Loney, Mr
Lupton, Mr
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Overington, Ms
Pandazopoulos, Mr
Perera, Mr
Pike, Ms
Robinson, Mr
Savage, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 24

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Napthine, Dr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Motion agreed to.

MEMBERS STATEMENTS

Heinz Wendt

Mr HAERMEYER (Minister for Police and Emergency Services) — It is with some sadness that I rise today to mourn the passing of Mr Heinz Wendt, who was a leader of the German community here in Melbourne. He was born in Berlin in September 1929 and died on 11 November after a long illness. He leaves behind his wife, Inge, his daughter, Brigitte, and eight grandchildren.

He migrated to Australia in 1956 and made a huge contribution to the German community here in Melbourne. He was president of the Tivoli club, otherwise known as the German club, from October 1986 until October 1987, with a second term from November 2000 to November 2003 — he died in office.

For a long time he was president of the Melbourne Oktoberfest, which comprises a number of German clubs in Melbourne that celebrate our multicultural heritage. Heinz Wendt attended his last Oktoberfest just a few weeks ago. He was a big man with a big heart. He certainly spread the concept of gemütlichkeit to everybody, no matter what their ethnic background. It

is with great sorrow that I say to Heinz Wendt, 'Prost mein freund' or, 'Goodbye, my friend'. Cheers.

Knox: rates

Mr WELLS (Scoresby) — This statement calls on the Labor state members representing the Knox area to stop whinging, whining, carping and complaining about the recent large rate increase in the City of Knox and stand up and be counted by lobbying for and ensuring that the Minister for Local Government intervenes to cap the Knox City Council rates in future.

The Local Government (Democratic Reform) Bill, which recently passed through this house, maintains the ability of the state government and the Minister for Local Government to limit individual council rates as a reserve power. The ratepayers of Knox, including myself, have heard a great deal of noise from the local Labor members of Parliament, with petitions and speeches in Parliament calling for something to be done about the rate increase. Now they can approach the Minister for Local Government and insist that the Knox City Council caps its rates. The ratepayers of Knox want to see more direct action from their local Labor members of Parliament, not theatrics. If Knox Labor MPs refuse to take this direct approach with the minister, then they must explain to the Knox ratepayers why they have backed away and failed.

Knox City Council has increased rates by an average of 17 per cent, meaning that some ratepayers have had a significant increase of many hundreds of dollars. It is pointless local Labor MPs whinging, whining and complaining. Here is a golden opportunity for them to stand up and make a real difference to the ratepayers of Knox who will wait with great anticipation.

Disability services: companion card

Mr LIM (Clayton) — Last Friday, on behalf of the Deputy Premier, who is also the Minister for Victorian Communities, I attended the launch of the companion card for people with a disability. Up to 80 000 Victorians with disabilities will benefit from this new scheme to ensure fairer access to entertainment and sporting venues.

Launching the companion card with an Australian great — the four-time Olympic gold medallist Betty Cuthbert — the Minister for Community Services said that the statewide scheme, which is an Australian first, will enable people with a disability to attend a wide range of venues and events without paying for their companion. The Bracks government has provided $1.75 million from the Community Support Fund to administer the program over the next three years. So it was with great pride that I attended the launch in my capacity as the Parliamentary Secretary for Victorian Communities.

This wallet-sized card will provide free entry to venues across Victoria for companions of people with a disability. In the past a person with a disability who required a companion was often required to pay two admission fees to attend events. This innovative card will ensure thousands of people with disabilities get a fair go and can access Victoria's great sporting and cultural venues without being financially penalised. The companion card will be issued free of charge to eligible Victorians with a disability. Around 40 organisations across Victoria have formally committed — —

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

Consumer and tenancy services: delivery

Mr MAUGHAN (Rodney) — Another broken promise. This is the government that promised a better deal for country Victoria and here it is cutting services yet again. This time the consumer and tenancy advocacy services are to be withdrawn. Currently there are 18 tenancy and consumer advice services delivered by a variety of agencies across the state with 16 offices of those agencies operating in country Victoria. They provide an invaluable face-to-face service and advice to clients to better enable them to tackle the system, whether it is in the field of housing or consumer affairs.

These are people who for the most part are already disadvantaged because of disability, poverty, mental health problems or in trying to find adequate early intervention services for their children. They need a professional, personal, caring and supportive service that is available to them close to where they live and which has local knowledge and networks to refer people to other services where needed.

This is the sort of service that these agencies provide and yet this heartless and uncaring government is now turning its back on country people by completely withdrawing funding from consumer and tenancy groups that are already grossly underfunded for the wonderful work that they do. The Bracks government stands condemned for its shabby and uncaring treatment of some of the most vulnerable and disadvantaged people in country Victoria.

Cathouse Players

Ms BEATTIE (Yuroke) — I rise to pay tribute to the Cathouse Players from the Craigieburn theatre

company. Later this month I will be attending their latest production, *Bedding Roses*.

Last September the Cathouse Players celebrated their 21st anniversary as a local theatre group, and I enjoyed a fantastic night at their production of *In the Blood* and the brilliant *Bombshells*. The Cathouse Players are a well-known and much loved part of Craigieburn and, of course, the wider Victorian theatre network, and have attracted players and audiences from all over the state. Twenty-one years ago the company started its productions in an old council neighbourhood house that was formerly an emergency hall and old time dance hall. Their first production was a play called *Something to Hide* — like the Liberal Party — and since then they have weathered ups and downs to establish themselves as a firm favourite with theatregoers.

Cathouse Players has been at the Cathouse theatre since 1984. The group participated in the Victorian state festival and won prizes in each year of the last 10 Ararat awards ceremonies, including best actor, best actress, best play and best production, and in 1996 and 1997 it became the first theatre group to win back-to-back first prizes. I wish the players well as they recover from a recent setback where their stage area was set alight and burnt down, and I am sure they will rebound successfully. I look forward to their future productions and I will be attending.

Taxis: multipurpose program

Mr COOPER (Mornington) — It is to be hoped that the Premier and his Minister for Transport, having totally ignored the protests by the community and the Liberal Party, will listen to the plea by an ex-Labor Party member of this Parliament for an immediate reversal of the decision to cap the usage by vulnerable people in the community of the multipurpose taxi program.

Licia Kokocinski, a former Labor Party member of the Legislative Council, has described the decision by the Bracks government to cut funding to the multipurpose taxi program as 'penny pinching and unjust', and she has said that the decision will only increase people's cynicism and belief that government is exempt from the principles that it demands others follow. This disgraceful and heartless decision by the Bracks government is being roundly condemned by all sections of the community, and now we have one of the Labor Party's own demanding that the decision be reversed.

Licia Kokocinski has it exactly right in her recent letter to the Premier when she states, 'If the issue is fraud, then deal with the issue of fraud'. What everyone is saying to this government is: deal with the real issue and reverse your decision to make the disabled, the elderly and other vulnerable members of the community pay the price of your government's incompetence and inaction.

Women's Health West

Ms GILLETT (Tarneit) — It is with pleasure that I advise the house of the 15th birthday and the relocation to new premises of Women's Health West last week. It was my privilege to represent the Premier and the Minister for Women's Affairs at the celebration which marked both of these important events. It was also my pleasure to be in such fine company as the member for Footscray and the Minister for Education and Training, both of whom have in their past lives as mayors of Footscray helped and worked with Women's Health West to initially establish it.

It is important to thank Melissa Afentoulis, the chief executive officer, her wonderful staff and her fantastic board for the wonderful work they have done over the last 15 years of being advocates for women's health, women's safety and women's wellbeing. It is true to say that the service is regarded as having enormous integrity in the field of advocating on women's health and wellbeing issues. It is a remarkable organisation which survived the attempts of the Kennett government to destroy women's health during those seven dark years. It is wonderful to be in this place to congratulate Women's Health West and all of their marvellous supporters on their new home and 15 years of fantastic service to the women of the west.

Allansford and District Primary School: playground

Dr NAPTHINE (South-West Coast) — On 10 November Ken Drake, president of the Allansford and District School Council, wrote in the Warrnambool *Standard*:

> I am writing to express my absolute disgust at the Minister for Education and Training's ignorance, arrogance and total lack of interest in the plight of Allansford and District Primary School.

He states further:

> As president of our school council I have had a gutful of negative response from the minister.

Mr Maxfield interjected.

The SPEAKER — Order! The member for Narracan!

Dr NAPTHINE — The Allansford school had an enrolment a couple of years ago of 154 students. This year the enrolment is 192, and next year it is expected to be over 200, yet it has totally inadequate and unsafe playground space. Indeed a grade 6 student, Caitlin Boyce, wrote to the Warrnambool *Standard* on 27 October:

> There is also a safety risk having four or five games going at any one time and there is little room on the oval for even two games.

So I have a real issue of playground safety and playground space at Allansford primary school. There is a solution to this problem, and that is closing Caroline Street and purchasing the houses and blocks of land adjoining Caroline Street and the school. Earlier this year the Warrnambool City Council agreed to close Caroline Street, but the government did not proceed with the purchase of those houses.

We must proceed with the purchase of those houses. If a revaluation of those houses by the Valuer-General is needed, let us do it; if it needs compulsory acquisition, let us do it. The school council has offered to pay the difference between the Valuer-General's price and the vendor's price. We need the minister to take real action to solve this problem.

Box Hill: Youth Connections centre

Ms MARSHALL (Forest Hill) — It was with great pleasure yesterday that I launched the opening of the Youth Connexions information centre in Box Hill along with the member for Burwood and the mayor of the City of Whitehorse, Jessie McCallum. This was the realisation of a vision held by a group of passionate people who wanted to create new solutions that connect youth to workplaces. Their particular vision was to make available a youth-friendly location to provide information and assistance on education, training and employment pathways. The centre represents a vision of service and partnership that can be used as a model for others to follow.

The Box Hill shopping centre was the target area, but the idea needed partners to give it arms and legs. The first major breakthrough was the interest shown by the Whitehorse council and its family and youth services team, particularly Warren Anderson and Bridget Lamb. This is a great partnership between a state government initiative, the local learning and employment networks, local government through Whitehorse City Council and the federal government through Centrelink. In addition, other organisations are now coming forward to support it, including Box Hill Institute, RMIT University, the Department of Education and Training and the Victorian Employers Chamber of Commerce and Industry. This connected approach between the various levels of government, community, industry and education providers is living proof that youth can be better served through cooperative partnerships. I would hope many of the retailers in Centro and nearby support agencies will also support the development of this facility. The commitment of the Bracks Government to community capacity building can be seen to be working through projects such as this, and I congratulate all involved.

Hazardous waste: Tiega

Mr SAVAGE (Mildura) — I rise to indicate my concern at the choice of Tiega as a waste dump in my electorate. There is no doubt that there is a need in this state for a medium-level toxic waste facility as the previous arrangements certainly were not satisfactory. I cannot comment on the suitability of other sites that have been nominated, but the Tiega site is in my electorate and I have some understanding of it.

As the local MP it is my responsibility to represent the interests of my electorate, and there are a number of land-holders in the Tiega area who are now very grievously affected by this announcement. As members can imagine, no-one can sell their land with that sort of decision hanging over their heads and it has a significant impact on the value of land in the area. Three Tiega families will lose their homes if that site is chosen and a compulsory purchase order is made against them, and even if they lose some of their farms that could put the viability of the rest of the properties on hold. My experience with compulsory purchase is such that it is not a perfect solution and often people are disadvantaged by the process.

I wish to put on the record of this Parliament those people who are affected. They are: the Morrish family, the Munro family, the Wakefield family and the Poole family.

Murrumbeena Pharmacy: quality accreditation

Ms BARKER (Oakleigh) — On Friday, 7 November, I had the great pleasure of again visiting the Murrumbeena Pharmacy to present Bev Baxter and her staff with their Quality Care Accredited Pharmacy Certification. This pharmacy was first awarded accreditation three years ago and has been reaccredited because of its commitment to continually improving its training, its very high professional standards and engagement with the community to provide the best possible services and health care advice.

Bev is a dedicated and enthusiastic pharmacist. She really enjoys her work and has an absolute commitment to those who come in to her pharmacy for advice and assistance. She also believes in striving for excellence and has introduced a number of important initiatives to further improve outcomes for her clients. She has implemented the home medicine review program with great enthusiasm, which sees Bev in her own time visiting people in their own homes to discuss medication and their appropriate use.

Bev knows and understands that to provide that professional service you need good staff, and she certainly has that. I congratulate Donna, who has completed stage 3 of the guild-accredited training package, a program for vocational training in the industry. Stephanie, who is a senior staff member, has qualified as a dispensary assistant and is a great asset to this very caring pharmacy.

The community of Murrumbeena is very lucky. It has an excellent service in the Murrumbeena Pharmacy, and I commend and thank Bev, Donna and Stephanie for their continuing commitment to excellence and for their enthusiasm, professionalism and personal service to the community of that area.

Mobile phones: cameras

Mr KOTSIRAS (Bulleen) — I call upon the Victorian government to work closely with the commonwealth to find answers to the issues of camera phones in our community. Mobile telephones that take photographs are a real privacy issue. Victorians are justified in feeling nervous and anxious when a phone is produced in a public change room.

Governments are struggling to come to terms with how to deal with the pace of technology, and more importantly what to do when it is used incorrectly.

A camera phone was used to photograph naked females overseas in a public sauna bath and the photographs were sold to a web site, while in Brisbane a man used his phone camera to take photographs of a teenage girl at a shopping centre. It is important that the government become proactive and take appropriate measures in working with the federal government to address privacy issues stemming from the intrusive use of camera phones.

In South Korea, for example, the government has ensured that all new handsets emit a beep with at least a 65-decibel level whenever a picture is taken — so there is a beep instead of a peep — and this function cannot be turned off. This is just one novel idea reflecting what other governments are implementing to address privacy issues.

While this government has promised to update our privacy laws to stop this from happening, it has once again sat on its hands and instead relied on the federal government to show leadership.

The Premier's party is the government. Do something novel for once. Be proactive, work with the federal government — —

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

Water: conservation initiatives

Mr STENSHOLT (Burwood) — Recently, in response to the invitation of the Minister for Water to all MPs, I held a Burwood water forum and expo and sent all my constituents information on the water green paper and ways to save water.

I thank Yarra Valley Water's Save Water campaign, Waterwise Systems, the Water People, Water Wizz, Rotary, the Boroondara City Council, Bunnings and Lockley Services, with its Metlund system, all of whom either spoke or had displays at the water forum and expo.

I also commend the 450 schoolchildren who entered the Save Water colouring competition I held in association with the forum and expo. I thank Hartwell, Wattle Park, Solway, Roberts McCubbin and Parkhill primary schools and the Ashwood school, and I congratulate the 22 winners.

The first prize overall went to Rosie, and the age winners were Fraser, Jasmine and Elizabeth. The other finalists were Amelia, Riley, Sophie, Laura, Olivia, Lucy, Anthony, Walter, Megan, Tom, Megan, Tyler, Laura, Alex, Maddi, Sarah, Edward, Nick, Jordan, Andrew, Liam, Emily, Eleanor, Harrison, Melanie, David, Laura, Elly, Nicole, Georgy and Rosie. They all provided excellent colourings. If you ever want to see them — —

Mr Cooper interjected.

Mr STENSHOLT — If the member for Mornington wants to see them, he can see them in my office. They are on display there. They certainly provided a good message to the whole of the community about saving water.

We know it is hot out there, and we need to make sure that we save as much water as we can. We have to

change our habits in the community. That is why we had a save water forum and expo in Burwood, to bring that message home to the community. The community reacted very strongly to it, and we have had many messages of commendation and action by the local community.

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

Dairy industry: government assistance

Mr JASPER (Murray Valley) — I refer to the continuing difficulties being experienced by specific sections of the farming community, despite the generally more favourable weather conditions and pricing for some farm products. The state government should be aware of the continuing problems being faced by dairy farmers at the western end of my electorate of Murray Valley in the Cobram and Numurkah areas.

Many are still suffering from the effects of the drought and lower water allocations than in previous seasons, resulting in lower levels of production and difficulties with the calving of cows and just trying to keep the herds together. Some have received assistance through the Centrelink Farm Help program, just to put food on the table.

Recently a number of fruit growers suffered huge losses in their stone fruit production because of frost damage, which was the specific subject of earlier representations I made in the Parliament and directly to the Minister for Agriculture.

Unfortunately the exceptional circumstances assistance that has been provided to beef and sheep farmers was not extended to the dairy industry, and now fruit growers, in the Cobram and Numurkah areas. Despite the representations we have only seen point scoring between the federal and state governments, whilst the desperate plight of many farmers is not being dealt with.

The state government must provide departmental and financial assistance to the affected dairy farmers and stone fruit growers, with immediate assistance in the coordination of applications to the federal government for additional support through exceptional circumstances provisions.

James and Daniel Chaffey

Mr SEITZ (Keilor) — I would like to congratulate two brothers in my electorate, James and Daniel Chaffey, two young men who won in the intermediate junior division of the south-eastern championships in rock 'n roll dancing.

It was of great significance for their family, particularly following the tragedy of their father becoming wheelchair bound. They accompanied their mother, who got them out on the dance floor and participating in social activities. They have developed skills in dancing to the point of winning awards, which is a big thing for boys, who are always shy about going onto the dance floor. In many dancing schools, particularly in my electorate, there is always a shortage of boys to partner the girls. The same thing happens with ethnic communities. I am talking about the age group of 9, 10, 12, 14, up to about 16, where there is always a shortage of boys.

I congratulate this family and those boys in particular. They should be very proud, and I am sure their mother and father are proud of their achievement. I encourage them to continue in the practice of dancing, particularly in competitions, where they are publicly seen and are submitted to judging and winning points equally with their peers.

Stamp duty: reform

Ms ASHER (Brighton) — I refer to the *2003–04 Quarterly Financial Report No. 1* released yesterday, which shows that financial and capital transactions revenue — principally stamp duty — for the first quarter alone was $744 million, which represents 31.7 per cent, and not 25 per cent, of the budget estimate.

In Brighton the ramifications of this tax by government are significant. According to the Real Estate Institute of Victoria figures released the other day, stamp duty on a median-value property in Brighton is $54 312; stamp duty on a median-value property in Brighton East is $35 020; and stamp duty on a median-value property in Hampton is $31 960.

This is not just a tax; this is an asset grab by the Bracks Labor government — nothing more, nothing less. What we are seeing from these tax collections is a financially rapacious government making sure that its tax collections take place in my electorate and indeed in other electorates where people have saved hard all their lives to purchase their homes.

I reiterate that this is not just a tax, this is an asset grab, purely and simply — nothing more, nothing less.

Hazardous waste: Dutson Downs

Mr MAXFIELD (Narracan) — I want to condemn the member for Gippsland South for his deliberate misleading of his own electorate. Even though he was told many months ago that a toxic storage facility would not go into his electorate, he continued to scare and mislead those in his electorate. Even though the recycling facility at Dutson Downs has been shown to be a facility that will not cause any harm to the local environment or local constituents, he has continued in the most disgraceful way to mislead those in his electorate by falsely making allegations and accusations about the facility that are not true.

As a result of this businesses are being scared away from the electorate. A lot of locals are being frightened and worried because their own local member of Parliament is either unwilling or unable to tell the true story to his electorate. If he wanted to be a fair dinkum local member — —

Mr Walsh interjected.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Swan Hill will cease interjecting.

Mr MAXFIELD — He should work with his local people. He should work with his electorate to enhance his constituents' environment. Why not sit down and work on what he can do to assist in developing his own area? It is very sad that he puts political gain and scaremongering in his electorate above looking after those people.

We know the Liberal Party has abandoned rural Victoria; we know he has abandoned his electorate, and he should do better. National Party members are supposed to represent rural Victoria, not be lackeys to the Liberal Party.

Northland Secondary College: technology facility

Mr LEIGHTON (Preston) — Last Wednesday I attended at Northland Secondary College for the launch of construction of Ntec@nsc, the manufacturing technology facility to be based at the school. The facility will run vocational education and training certificate courses in engineering, automotive and furnishing to year 11 and 12 students in both the Victorian certificate of education and the new Victorian certificate of applied learning.

Despite high youth unemployment in the northern suburbs, there is a shortage of skilled workers in areas such as fitting and turning, tool making and metals. The proposed facility will provide vocational training and education about the importance of the manufacturing industry, not only to Northland students but also to students from a range of schools across the district. I congratulate the other schools for their support.

Ntec@nsc will provide a whole-of-school and whole-of-industry approach. A particularly valuable aspect of the proposal is that Northland has secured the cooperation of key industry groups, who are either already working with the school on their existing teaching programs or are keen to be involved with the proposed programs.

Northland Secondary College has a long history of working with industry, employer groups, community groups, Koori groups and others which positions them well to undertake this role. My congratulations are extended to Daniel Knott and the principal, Raffaela Galati-Brown. Despite the best efforts of the Kennett government to close it, Northland Secondary College is flourishing and is committed to providing innovative, progressive and quality programs.

Maroondah Hospital: service awards

Ms BEARD (Kilsyth) — Yesterday it was my great pleasure to attend the presentation of the Maroondah Hospital's annual service awards. This occasion was a wonderful celebration of the achievements of volunteers and staff members of the hospital. Associate Professor John Rasa, chief general manager of acute services for Eastern Health, welcomed us with a presentation displaying the performance of the hospital. It was most informative to hear of the improvements in service the hospital is now able to provide.

A recently completed $10 million upgrade of the emergency section is having an immediate effect, with the number of patients being treated up by 7 per cent to 9 per cent. Maroondah has improved from an average of 12 ambulance bypasses a month to now having almost none. The extra nursing staff employed under the Bracks government has made Maroondah a show place in the east. Yet the previous government proposed to run down Maroondah in favour of a private hospital outside the area.

It was pleasing to share this special occasion with the member for Warrandyte, and I am sure he was impressed by the progress made at Maroondah. I am proud to have Maroondah Hospital in the Kilsyth electorate and look forward to the second stage upgrade, which will complement the work already carried out.

Awards were presented for outstanding achievements in allied health, medicine and nursing and also for 5, 10, 15, 20 and 25 years of service to Maroondah by both volunteers and staff. After the formalities it was a privilege to meet the recipients and the other dedicated staff. I wish to congratulate all the award recipients and Maroondah Hospital for providing excellent service to our community.

Housing: Mulgrave facility

Mr ANDREWS (Mulgrave) — On Wednesday, 12 November, I was pleased to welcome the Premier and the Minister for Housing to the Mulgrave electorate to open an important new facility in my local community. The Premier and minister were in Noble Park North to officially open 18 brand-new one and two-bedroom units for older Victorians. These units are part of the government's continued investment in public and social housing, particularly in Melbourne's south-east. This important development includes 13 one-bedroom units and 5 two-bedroom units, all equipped with facilities for seniors and disabled residents.

This project is the result of a $2.7 million investment by the Bracks government and adds considerably to the local public housing stock. Most importantly new residents of the Jacksons Road units are impressed by their quality and are pleased to be located in these new purpose-built homes, which are adjacent to Waverley Gardens shopping centre and close to public transport.

During the opening the Premier, Minister Broad and I toured two of the units. It was clear that residents are pleased with the finished product and are well on the way to building a new community on Jacksons Road. I would like to thank Mrs Parsons and Mrs Bailey for inviting us into their new homes on this very special day.

As I said, these units are part of the government's overall boost to public housing across Victoria, an investment which includes $590 million to buy and build new housing stock as well as $477 million to upgrade existing properties. That is more than $1 billion of investment. This new, 18-unit development shows that the Mulgrave electorate and my local community are sharing in that important boost.

CRIMES (STALKING) BILL

Committee

Resumed from 4 June.

Clause 1

Mr HULLS (Attorney-General) — I move:

1. Clause 1, page 2, line 3, after "offender" insert "where the offender intended to cause harm or arouse apprehension or fear or knew that engaging in a course of conduct of that kind would be likely to cause harm or arouse apprehension or fear".

In so doing I will explain to the house what it is all about. Having carefully considered and supplied the opposition with a copy of these amendments, I look forward to its support for this important legislation.

As the chamber will remember, when this legislation first came before the house it related to two matters: one was stalking and the other was family violence. There was a problem with intervention orders. That part of the bill was committed, and the domestic violence matters were dealt with. That then went out of committee and has now been passed. What we are now dealing with is the other part of the bill, which relates to stalking, including cyberstalking.

The reason the bill was split was twofold in effect. It was important that as soon as possible we fixed up the issues in relation to intervention orders, and that was done; but there were some communications over whether the original legislation relating to stalking was too broad. Indeed a number of media outlets expressed concern to the government that perhaps that aspect of the bill was too broad and would capture circumstances it was not intended to capture.

As members of a government that listens and then acts, we took on board the concerns of those media outlets and put out a further discussion paper — an options paper, in fact — on that aspect of the legislation. In the course of the consultation it was suggested to the government that the legislation might have been too broad in relation to stalking in that it would have allowed a person to be charged with and convicted of stalking if they had no subjective intent to stalk somebody and did not cause any harm to a particular person. Again we listened to the community, and these amendments narrow the scope of the legislation.

I am very proud of this legislation, because it is groundbreaking. But I repeat that following the introduction of the legislation concerns were raised that the proposed stalking amendments may have

unintentionally restricted freedom of speech by extending the course of conduct which constituted stalking to cover the publication of material on the Internet. In particular, concerns were raised that the legislation could potentially make journalists and media organisations liable for stalking by virtue of the fact that the newspaper in which the article appeared was published on the Internet.

As I said, the legislation was split, and after subsequent consultation a number of concerns were expressed. We believe those concerns had merit, and accordingly the house amendments were amended to respond to the potential adverse effects of the bill. The proposed amendments are intended to ensure that the offence of stalking does not apply to a range of legitimate conduct, such as the conduct engaged in by media organisations in the normal course of their business. Also the amendments will require actual harm to be proved for an offence to be made out where the accused did not form a subjective intention to cause harm.

In narrowing that second aspect of the bill there has been substantial consultation with stakeholders, in particular with groups such as the centres against sexual assault and the like. They are very supportive of the bill and the proposed amendments.

In relation to the consultation with media outlets, as I said, an options paper was put out and material was sent back by the media outlets and by Minter Ellison, acting on behalf of the *Age*. We believe the amendments adequately address those concerns. The government believes this is appropriate legislation and should be supported.

Mr McINTOSH (Kew) — Clause 1 sets out the purposes of the bill. The first purpose is to cover cyberstalking; the second is about no longer requiring proof of actual harm; and the third is about its having an extraterritorial application.

The opposition said that it does not doubt there is a need to deal with cyberstalking. It is a significant problem in our community, and everybody with whom the opposition has consulted has confirmed that there is an opportunity here to do something about cyberstalking, along with the provisions in the Crimes Act which were amended in relation to the introduction of the crime of stalking.

However, I make this point bluntly: the opposition has taken the view that the government has not got it right. In its enthusiasm and eagerness it is potentially trampling on a fundamental right that we in this place all hold sacred — the opposition holds it sacred and the government pays lip service to it — and that is freedom of speech.

One of the definitions of cyberstalking is 'publishing on the Internet or by way of email or other electronic communication to any person a statement or other material relating to that person or the ultimate victim'. That is it; there is no suggestion that it has to be done with malice or by arousing an apprehension of fear. That has to be part of establishing that, but under the bill you would not have to prove that harm, apprehension of fear and mental anguish had occurred. This is of profound concern to the opposition.

By its very nature the political process is very robust. All of us on this side are in the business of ensuring that the government is held accountable for its actions, and some of that means that the government will be roundly criticised, held up to public ridicule or condemned in a number of ways. Indeed that could even include calling for the resignation of a minister, with the subsequent financial impact that would have upon them. All of that could be caught by the operation of the bill. The media said that this was a great concern and could have an impact on an individual's right or the right of the media to freedom of expression.

I use the example of Mr Tweed, who was buying BHP shares from little old ladies for a price very much under the market value. A well-known media outlet pursued him, and the relevant law has now been changed. But it is a profound concern that the amendments that have been proposed to fix up these problems by using such a broad, ambit definition of cyberstalking do not go far enough. The preferred option would have been for the government to ensure that the definition of cyberstalking as set out in clause 3 was profoundly narrowed to meet the proper purpose of the bill, which is to deal with people who are actually physically or mentally harmed by stalking and not just to prohibit anybody publishing material about any other person, because that is essentially what stalking could be constituted by.

If the bill passes in its current form, even with the definition of cyberstalking, the impact upon individuals could be profound, because there will be a major impact upon freedom of speech. At the end of the day the crime of stalking is serious, and no-one denies that. Someone who publishes material about another person to cause them harm or mental anguish, to hold them up to public ridicule and condemnation or to have an impact financially on their business could end up being sent to jail for 10 years. When it is doing something as significant and draconian as that, it is incumbent upon the government to get it right. In relation to the material

which I will deal with later, I am not convinced that the government has got it right. The government ought to go back to the drawing board.

I do not believe the government has properly consulted with the bodies that made the original submissions, because if it had it would have got it halfway right, which is certainly not yet the case.

Mr MILDENHALL (Footscray) — This is a classic case of the Bracks government listening and acting. The original legislation that was before the house was subject to considerable comment in the community on two grounds. It is worthy of note that upon receiving representations the Attorney-General issued additional discussion papers inviting comments and seeking to work with those who made them to clarify and refine the amendments proposed to the Crimes (Stalking) Bill.

The purpose of the bill is to ensure that the offence of stalking covers cyberstalking, that proof as to the actual effect on the victim of the course of conduct engaged in by the offender is no longer required and that the offence has extraterritorial operation.

Two broad comments were made about the original bill. One was that the offence was extremely broad and would catch within the definition a range of legitimate conduct, particularly that engaged in by media organisations in the normal course of their business. It was also said that it would have a potentially significant impact in curtailing free speech. In addition it was said that the offence would create significant criminal liability in the absence of subjective intention on the part of the offender.

In response to that, house amendments have been introduced to ensure that the offence of stalking does not apply to a range of legitimate conduct, such as the conduct engaged in by media organisations in the normal course of their business. Most significantly it also requires that actual harm be proved for an offence to be made out when the accused did not have a subjective intention to cause harm. That is an important safeguard against the worthy but perhaps broad ambition of the original bill.

The government has listened and is taking action that will remedy the difficulties identified by a number of correspondents to the government. There has been considerable discussion, and the government is confident that the package is now in an appropriate form to pass into the statute books.

Mr RYAN (Leader of the National Party) — This is important legislation. We are now dealing with the amendments introduced by the Attorney-General, who has outlined the history of the bill and how it came before the house. Cyberstalking is a crucial issue that has to be dealt with, and it was one of the motivating factors for the legislation being brought in in the first place. The National Party supports endeavours to deal with the issue, given the nature of the world in which we live and the technology that is now available.

I point out that, insofar as this debate is concerned, the Attorney-General has said there was a response to the discussion paper that focused on the concerns expressed by media outlets. I understand that, and I also understand that we are dealing with clause 1, but I ask him to outline in his general comments before we come to consider the specifics of clause 3 how it was that industrial disputes and other political activities, which are referred to in amendment 3, came into all of this as a result of the consultation process. So far we have heard nothing about the issue of industrial disputes. I accept that we will come to it specifically when amendment 3 is dealt with; nevertheless, I think it would help the house in this debate if we were to have some general comments about this issue in his opening remarks.

I received a briefing from the department on 5 November. I was, as ever, grateful to receive it, but unfortunately this amendment was not made available to me. I wrote to the Attorney-General yesterday morning — that is, 17 November — and asked for a copy of the amendment. I see on the fax heading that it was provided to me at 15.58 yesterday, or 4 o'clock yesterday afternoon. It has only been today, because of meetings and other things last night, that I have had a chance to look at it. I appreciate that keeping abreast of these things is somewhat difficult, but there is no doubt that getting these amendments at that time complicated an already pretty complex issue.

Inasmuch as clause 1 is intended to reflect the purposes of the bill, there is an element of it that the Attorney-General needs to turn his mind to. Bearing in mind the importance of that purpose provision in the context of this overall debate, it is all the more important to consider that element.

The purpose clause, clause 1, says in regard to the offence of stalking that it covers cyberstalking, and that is fine. It also says that the legislation:

> (b) no longer requires proof as to the actual effect on the victim of the course of conduct engaged in by the offender …

Then it sets out to make the changes detailed in amendment 1. It seems to me that after the word 'knew'

in the second line of the amendment there should be inserted the words 'or should have known' or other words reflecting what is said right at the bottom of the page in amendment 4, which proposes to substitute new section 21A(3)(b), which says in part 'in all the particular circumstances to have understood'.

Words to that general effect should go in after the word 'knew', otherwise the bill will not accommodate the situation of an individual who conducts himself in a particular way and then later tries to plead that he did not know the conduct complained of would have the outcome it did. You need to accommodate the fact that the conduct was such that he should have known that would be the outcome.

In the end result it is picked up in amendment 4, which proposes to substitute what will be new section 21A(3)(b); but if this amendment is going to be absolutely right, clause 1 needs to reflect that change. As to the general issues, we will discuss those as the debate unfolds.

Mr McINTOSH (Kew) — I want to raise a number of questions for the Attorney-General's consideration. The government has made much play of its process of consultation, but I certainly did not become aware of the specific details of the amendments until I received a copy from the government at about 5.30 p.m. yesterday. It was originally faxed through to my electorate office and then to Parliament, where I was yesterday afternoon. I understand that the Leader of the National Party is in a similar position, having only recently seen a copy of the amendments.

I had the opportunity of talking to the solicitors for the *Age* newspaper, which put in a substantial submission to the government during the initial debate on this bill. They had not seen the amendments as of this morning. They have written to the Attorney-General, and I will perhaps deal with that later in the debate on clause 3; but the most important thing is that they were not aware of these amendments.

I have not had an opportunity to speak to the Law Institute of Victoria, which put in a submission to the government. Liberty Victoria, I understand, also put in a submission on this, as did the Criminal Bar Association of Victoria. I have not seen its submission, but I was informed six months ago by the executive office of the bar council that the criminal bar association had put in a submission.

I wonder if the Attorney-General could clarify when the *Age* — which put in a substantial submission — was informed about the details and given a copy of these amendments. When was the law institute given a copy of these amendments; when was Liberty Victoria given a copy of the amendments he is proposing; and when was the criminal bar association given a copy?

Two weeks ago I had a meeting with representatives of the Attorney-General's office, who briefed me about the aspects of the bill. It was a very short briefing, and it was always on the basis that I wanted to see the amendments. But rather than saying there was a process of consultation, perhaps the Attorney-General could make a distinction between those groups — the *Age*, the law institute, the criminal bar association and Liberty Victoria — being given copies of the amendments as opposed to their just being informed orally of the nature and effect of the amendments.

Certainly the impression I had from the solicitors for the *Age* was that they did not understand that the amendments were coming into the chamber and being debated today. Accordingly I ask the Attorney-General to indicate when the nature of the amendments was communicated to these bodies, together with when actual copies of these amendments were delivered.

Mr WYNNE (Richmond) — I rise in relation to clause 1 and to the contribution by the shadow Attorney-General. There is no attempt by the government in relation to the circulated amendments or in fact the bill itself to restrict freedom of speech. There has never been an intention to do so.

Mr McIntosh interjected.

Mr WYNNE — The shadow Attorney-General says that that is a consequence. That is not our view.

Mr McIntosh interjected.

Mr WYNNE — The test is that actual harm has to be done. The second-reading speech gives examples of the type of activity that would be undertaken in cyberstalking and would fall within the purview of the bill and the amendment. It would include conduct such as:

> sending obscene, threatening or harassing emails; posting false information about a person on the Internet; assuming the identity of a person on the Internet; uploading doctored images or other material relating to a person; tracing a person's use of the Internet; and causing an unauthorised computer function in a person's computer.

Clear intent is the test here and that actual harm is done. To suggest that there is any intent on the part of the government through the bill itself or the amendment to curtail freedom of speech is quite wrong. The intent is to deal with legitimate concerns that were expressed

after the introduction of the bill, certainly by media outlets. There may have been an unintended consequence in relation to the publication of material by legitimate media outlets, and that matter has been picked up. As the Attorney-General said, there has been widespread consultation with the relevant media outlets on the amendment.

Mr McIntosh interjected.

Mr WYNNE — The shadow Attorney-General asks for clarification on that matter. The Attorney-General is at the table, and I am sure when he next seeks to contribute to this debate he will answer those queries.

It is absolutely important that where in this bill there is a potential unintended consequence of restricting media outlets that matter should be addressed. I believe the Attorney-General has addressed it by way of consultation with the relevant media outlets and the subsequent proposed amendment of the bill.

My colleagues have already indicated some of the more important aspects of the amendments to the bill, and I do not seek to canvass those now, save and except to say that the contribution by the shadow Attorney-General has been, can I say, a little florid. He seeks to draw a very long bow in suggesting that the amendments we are putting up today would in any way restrict freedom of speech. That is certainly not the intent or consequence of the bill.

By way of this amendment the Attorney-General has sought to ensure that any potential curtailing of the legitimate rights of media outlets to report is dealt with.

Mr HULLS (Attorney-General) — The shadow Attorney-General raised concerns about the definition of cyberstalking. He said it is all about contacting the victim or any other person by post, telephone, fax, text message, email and the like.

An Honourable Member — He quoted from the bill.

Mr HULLS — That is right, but he forgot to advise the chamber that that alone — simply sending those things — is not cyberstalking. The bill goes on to say that the conduct would have the intention of causing relevant harm. It states:

> … with the intention of causing physical or mental harm to the victim or of arousing apprehension or fear in the victim for his or her own safety or that of any other person and the course of conduct engaged in actually did have that result.

The government believes that should be supported by everybody. It is fairly straightforward, and I would hope the opposition is not opposing cyberstalking legislation.

The shadow Attorney-General also raised the issue of consultation. I believe the consultation that has taken place on the bill in the interim has been quite extraordinary. Not only were we prepared to consult with the relevant outlets, we put out an options paper for goodness sake! We sent it to all relevant organisations, and they wrote back to us. We believe we have encompassed all their concerns in these amendments.

The shadow Attorney-General seems to be suggesting, although he did not say it, that he only got the amendments late last night. The Leader of the National Party said the same thing. To be fair, I was reluctant to even send the amendments. The chamber is well aware of what the normal requirements are with cabinet documents and the like, and we are introducing them into the house, but we are more than happy to release them.

I recall with the previous government — I do not like harking back to the previous government because they were dirty old dark days — but how often did we come into this place where the former Attorney-General, Jan Wade, would simply just plonk amendments on the table? No consultation — —

Mr Mildenhall interjected.

Mr HULLS — Often those amendments, as my colleague the member for Footscray says, were actually bigger than the bill itself. There was no consultation.

We are introducing what we believe to be groundbreaking legislation. We are very keen to get the support of the opposition, because we believe this legislation is not only groundbreaking but addresses all the relevant concerns of stakeholders. We would hope legislation as important as this has bipartisan or tripartisan support. We do not believe this is a piece of legislation where political point scoring should take place. Sure, there are some bits of legislation that come into this place where that happens — we understand the politics, and we understand how they work — but this is pretty important legislation.

We have consulted widely, and we believe we have addressed all the concerns of those who have been consulted. Obviously in some areas there will be some philosophical differences, but the fact is that we have made what we believe are appropriate decisions. We believe this groundbreaking legislation should be supported.

Mr CLARK (Box Hill) — The Attorney-General asks how can it be that this legislation, as he proposes to amend it, will have the consequences that the opposition fears. We think that to answer that question you need to consider not only the passage that the Attorney-General quoted but the extended definition of intention which is proposed to be inserted into the legislation by a combination of the bill and the amendments. If the provisions related solely to the intention, properly defined, of causing physical or mental harm to the victim or arousing apprehension or fear, then arguably you would not have a problem. However, even that depends on a very proper and correct interpretation of the word 'intention', which is not always the case in judicial decision making or other interpretations of the law, particularly by inferior tribunals. Perhaps even then it would not be adequate, for reasons that I will come to.

The situation is made far worse by the extended meaning of the word 'intention' that the bill and the amendments will achieve, because it is not simply that the offender intends the harm, in the sense of its being the purpose or objective of the conduct. The offence is also committed if the offender knows that engaging in such a course of conduct would be likely to cause harm or arouse apprehension or fear, or indeed if the offender ought to have understood that and it actually had that result. But let us concentrate on the first of those two situations and look at two examples — firstly, investigative journalism, particularly for television, and secondly, some of the remarks about the conduct of members of Parliament that are made from time to time by other members either inside or outside the house.

In the former case, investigative journalism, particularly of the type that involves chasing an alleged fraudulent business person or other malefactor around with a TV camera with the intention of exposing them and driving them out of business, it could certainly be argued that the alleged offender — that is, the media company — knew that engaging in that course of conduct would be likely to cause mental harm to the victim. Prima facie there is an offence in that circumstance. Then the accused is driven to the defence that is proposed in new section (4A) of proving that

> … the course of conduct was engaged in without malice —
>
> (a) in the normal course of a lawful business …

If it is granted that it was in the normal course of a lawful business, we then get down to establishing the meaning of the words 'without malice'. I certainly hope that when we come to clause 3 the Attorney-General will explain that, because it is absolutely pivotal to escaping liability.

Similarly in the case of remarks by members of Parliament about other members — and the Minister for Manufacturing and Export has entered the chamber at a timely moment in that regard — when a member attacks another member's personal conduct or travel activities inside or outside this chamber they often know that the attack may cause that member mental harm.

Based on the extended definition of the offence, it would seem that all the elements of it have been committed. Again the accused — that is, the member of Parliament who would argue that in the public interest they are exposing misconduct by another member — is driven to the defence of having to show that their course of conduct was engaged in without malice. In that context, again the question is: what is the definition of 'without malice'? Depending on how broadly you construe that, you could ask: does this avoid giving carte blanche to intimidatory tactics in the course of an industrial dispute? There needs to be a very clever definition behind the words 'without malice' to achieve both those results. I look forward to the Attorney-General's explanation.

Mr HUDSON (Bentleigh) — Some of the contributions by the opposition on these amendments seem to arise from the proposition that the clauses about stalking are somehow new to the Crimes Act. In fact the provisions on stalking — that is, those in section 21A — were inserted in 1994; and section 21A(1) was amended in 1997. In effect the Crimes (Stalking) Bill expands the range and methods of communication that might be taken to constitute stalking under the Crimes Act. It does not alter the nature of the crime of stalking. Section 21A describes stalking as follows:

> (1) A person must not stalk another person
>
> …
>
> (2) A person (the offender) stalks another person (the victim) if the offender engages in a course of conduct which includes any of the following —
>
> (a) following the victim or any other person;
>
> (b) telephoning, sending electronic messages to, or otherwise contacting, the victim or any other person …

A new section 21A(2)(b), to be substituted by clause 3, refers to:

> (b) contacting the victim or any other person by post, telephone, fax, text message, e-mail or other electronic communication or by any other means whatsoever …

In other words, the various means and media by which stalking might be undertaken are being expanded, but the actual crime of stalking is not being altered. Similarly new paragraphs (ba), (bb) and (bc) refer to:

> (ba) publishing on the Internet material …
>
> (i) relating to the victim …
>
> (bb) causing an unauthorised computer function … in a computer owned or used by the victim or any other person;
>
> (bc) tracing the victim's or any other person's use of the Internet or of e-mail or other electronic communications …

So these are all new sections about the medium through which people can be stalked, but the actual elements in relation to stalking in the Crimes Act have not been changed. In fact they have been there for a number of years.

Now we come to clause 4, the test of the requisite intent that is required to prove that stalking is taking place. First you have to prove that you intended to cause harm or fear. That is straightforward. In relation to the existing Crimes Act, section 21A(3) refers to the intention of causing 'physical or mental harm to the victim' or of arousing 'apprehension or fear in the victim for his or her own safety or that of any other person'. Secondly the offender 'ought to have understood that' it could cause harm or fear. This is the other test that is being used. There you have to actually prove that they did cause the harm or fear.

So it seems that this is not really a debate about free speech, because free speech in our community is always circumscribed by the laws of defamation. Free speech is also circumscribed, as it has been for some time, by the laws in relation to stalking. One has to prove the requisite elements of the offence either in relation to intention or to understanding that it would cause harm or fear and also proving that they did cause that harm or fear in order for the offence to be made out. I commend the bill to the house.

Mr PERTON (Doncaster) — The area of stalking, in particular the question of cyberstalking, is an issue that is still relatively new to parliaments. The Internet and new forms of media pose challenges in terms of both the ability to commit crimes and harass other people. In talking about harassment I suspect that you, Chair, like the rest of us receive dozens of emails a month from people in Nigeria and elsewhere inviting us to engage in investment schemes. There are many crimes — —

Mr Cooper — Don't tell me you haven't taken up the offer!

Mr PERTON — I thank the member for Mornington. No, I have not, but sadly my junk mail filter does not seem to get rid of them. They come up with new formulae every now and then.

So for parliaments to deal with these issues in sensible ways that do not have unforeseen circumstances is still relatively new. I recall that in the late 1990s Baroness Thatcher, in an excellent speech on these issues delivered I think in New York, said that legislators are not well equipped to deal with these issues because the consequences of our legislation can be quite unpredictable.

To actually have a look at the way in which this bill operates — particularly the amended bill, and the way clause 3 and this amendment work together — really throws up the question of why do you distinguish between publishing on the Internet, by email or other electronic communication, and by paper-based communication? It seems to me there is no difference between the two and yet we have this focus that publishing on the Internet or other electronic communication can have that purpose. I presume electronic communication includes radio and television. Again what are the consequences of an investigative journalist or an investigative MP — whether it is someone like the Minister for Manufacturing and Export pursuing his fellow parliamentarians or whether it is those parliamentarians who are pursuing — —

Honourable members interjecting.

Mr PERTON — Indeed, as the Attorney-General points out, the minister pursues not only people from the opposition but also people from his own side — an explanation for his popularity!

But these are difficult issues and that is why you need to proceed slowly and think through the consequences. The shadow Attorney-General, the member for Box Hill and the Leader of the National Party have indicated that there are strong issues. So too has Minter Ellison, in submitting on behalf of the *Age* and others.

I ask the minister why has he not published these amendments so that there can be a proper and informed discussion? The law institute, Liberty Victoria, the criminal bar association, the *Age* newspaper and others are prepared to engage in a proper and considered discussion to tease out the consequences of these amendments. These amendments were produced by 25 October. Why is it that many of the people who are concerned with these provisions or concerned with the

impact were only informed yesterday or today? And this debate goes on in the Parliament. Whose advice did count? What method of analysis was taken? The Attorney-General has been quite studious in ignoring the questions that have come from this side of the house. When were these amendments given to the *Age*? When were these amendments given to the criminal bar association and the law institute? What opportunity did they have or do they have to respond to these amendments, to have experts tease through the examples, tease through the consequences and work out the impact?

The opposition, like the government, is determined to deal with criminal conduct known as stalking, whether it takes place in conventional ways or whether it takes place in the ways of the Internet and electronic communications. But what we do not want is an impact that limits freedom of speech, whether it is for the responsible media — or even the irresponsible media — whether it is for members of Parliament who are legitimately pursuing causes that their constituents bring to them, or whether it is ordinary citizens pursuing matters in the public interest.

Mr WILSON (Narre Warren South) — I believe people have the right to conduct their personal and professional lives free of harassment and threats either to themselves or to those that are close to them. The Crimes (Stalking) Bill refers to the intention of the offender to cause fear, or that the offender ought have known that the target would be fearful of their actions. That is important here. Cyberstalking is no less a crime than traditional stalking. It is no less serious and in fact involves the same behaviours. Empirical evidence suggests that the effects of cyberstalking are sometimes more serious than traditional stalking.

What are the sorts of issues that constitute cyberstalking? The sending of obscene, threatening or harassing emails, the posting of false information on the Internet, the assuming of another's identity on the Internet and the uploading of doctored images, and they are very serious activities. Technological advances allow greater threats while there remains a physical separation between the offender and the victim while the offender is carrying out their activities.

The amendments standing in the name of the minister ensure that if no malice was intended and the activities were part of a normal, lawful business, including news services and as has been said before, parliamentary business and other issues, that defence is reasonable and is allowed. I therefore support the bill and look forward to it passing through this house.

Mr COOPER (Mornington) — The member for Narre Warren South made a heartfelt plea to discourage and make illegal the crime of cyberstalking, and as has been said by a number of people already in this debate, I doubt if any member opposes the overall aims of this bill. Cyberstalking or any kind of stalking is to be deplored and must be brought under the auspices of the courts so that it can be dealt with when an offence has occurred.

The point that has been made from this side of the house, and it seems to have escaped the honourable member for Narre Warren South, is that we are worried about the unseen impact of what is being proposed in the minister's amendments. That point has now been made several times, and it is one that I want to go over again because the member for Narre Warren South used the expression that a person 'ought to have known'. He went on to address the issue of malice, which is dealt with in amendment 3 and which properly should be debated when we come to that amendment rather than now. However, these things are all linked, and those particular matters were addressed by the member for Kew and the Leader of the National Party when they said that the words 'ought to have known' should be contained in amendment 1.

When we come to the question of malice and of requiring a defendant to prove that they did not engage in particular activities with malice, it comes down to the definition of 'malice'. What is the definition the Attorney-General is going to tell us applies in this bill and in the law that will no doubt come into operation?

We are concerned that people who have conducted normal activities up until now will be required to defend themselves in a court if the person against whom they conducted those activities decides to take action. The honourable member for Kew mentioned before that predatory equities bottom dealer, David Tweed, and that is probably the best example one can give outside of the political arena. The media generally, but certainly the *Age*, set out to deal with the activities of that individual, and I suggest that the *Age* would be hard pressed in a court to say that it did not do it with malice. Of course it did it with malice; it set out to damage that man's company and his activities and, on the other side of the coin, to protect people from his activities. Yet here we have a bill which tells us that if it had been law when the *Age* did that, then Mr Tweed would have been able to take action against that newspaper and his lawyers would have been able to say to the *Age*, 'You prove to us that you did not carry out your activities with malice'. I suggest that it would be very hard for the people acting on behalf of the *Age* to do that.

Mr Mildenhall interjected.

Mr COOPER — There are many other examples, and the member for Footscray ought to understand that in the normal course of his political activities he could well be hauled up to prove that he had not conducted something with malice — as we all could. It would be very difficult, because of course there is some malice in the political spectrum. We are trying to destroy our political opponents; that is the name of the game.

It is absolute nonsense to say to people, 'This is not going to stifle free speech', because that is an unintended consequence of this bill. That is the position we are putting to the government today, and that is the position we are seeking answers on.

Mr LUPTON (Prahran) — I wish to make some short comments on the amendments standing in the name of the Attorney-General. I have listened with some interest to the contributions that have been made so far on these amendments. When I listen to opposition members, it is a bit like being in a time warp. It is as if these amendments were not before the house. If we were debating the bill as it was originally introduced some months ago and were not currently debating the amendments that have been circulated by the Attorney-General, then there may have been a skerrick of commonsense and credibility to the contributions that have been made by the opposition so far, but we are currently talking about the amendment to clause 1 — although the debate so far has been somewhat wide ranging, and as the member for Mornington just said, all of the clauses are rather intimately linked.

We are dealing with the outcome and the product of a very sensible, long consultation process that went on after the bill was originally introduced. Very legitimate and proper concerns were raised by people, particularly in the media, and the government took the appropriate action. It split the bill and left this part of the legislation in abeyance so that a proper and full consultative process could be entertained and engaged in with the organisations that raised those legitimate concerns.

That consultation has led to the amendments that have been circulated by the Attorney-General today. We are addressing the very issues that the opposition says have not been addressed. The legitimate concerns of media organisations about the potential to limit freedom of speech have been properly addressed in that consultative process, and as a result we are amending a number of clauses today to make it perfectly clear that in the normal course of media work and that of other business organisations matters without malice will not be caught by this legislation. It is a great example of a government that consults, that listens and then acts in the public interest.

Mr PLOWMAN (Benambra) — It is the unintended consequence of the amendments that is of most concern to the opposition. We support changes to the legislation because we see the legislation is flawed, but it is the amendments that we are concerned about. I think you would have to say that Australians are renowned for straight talking, particularly country Australians and particularly when they are under pressure. It is this issue of malice that was questioned. Being a non-legal person myself, I bring it into question.

Can I just give an example. We have the classic case of three communities in country Victoria being faced at the moment with the prospect of a toxic waste dump coming into their backyard. They are up in arms, understandably. They are really upset by this. They want the Minister for Transport and the Minister for Industrial Relations to come up and explain to them why their particular area has been decided upon. Clearly those three communities are saying things now which I would have thought could be deemed to be malicious, but do we want to stop those people making those sorts of statements? As I said before, I am not a lawyer, but I — —

Mr Hulls — But you should be.

Mr PLOWMAN — But I would like the Attorney-General — and I will take up his interjection: I am not a legal person — to define for me the word 'malice'. What does the word 'malice' mean in this context? As I understand it, it is not defined in this legislation; it is certainly not defined in the amendments. Can he also explain to me the difference between being malicious and having an intention? Those are the two things I would like the Attorney-General to explain to me as a non-legal person.

Mr HULLS (Attorney-General) — In summing up, I thank people for their contributions on the first amendment. Can I say at the outset that we are amending the original Crimes Act, of which the Leader of the National Party has a copy, by replacing section 21A(2)(b) with a new definition that is broader. As members can see, it covers a range of things and includes a definition of cyberstalking. Paragraphs (c), (d), (e), (f) and (g) remain.

It could be said that under the current legislation — put aside what we are trying to do — which I think was

introduced as groundbreaking legislation by Jan Wade some years ago, the only defence for any of those offences under 21A was the defence set out in subsection (4), which states in effect that the subsection does not apply to conduct engaged in by a person performing official duties for the purpose of — and then it sets out what those purposes are. That in effect is the only defence to stalking under the Jan Wade legislation.

It could also be said about the issue that was raised concerning journalists, that those journalists could well be caught under one of those provisions — not the least of which is the one we are amending, which in its current form is section 21A(2)(b) — and that their only defence would be that set out in section 21A(4), which indeed they would not be able to avail themselves of because it could not be said that they were acting for the purpose of the enforcement of criminal law, the administration of any act, the enforcement of a law imposing a pecuniary penalty, the execution of a warrant or the protection of the public revenue.

So we are putting in a further defence to tighten up the old Jan Wade legislation to allow there to be yet a further defence, which is set out in the amendment to clause 3. We are not debating clause 3 at the moment, we are only debating clause 1. Nonetheless, there is an extra defence which certainly gives succour to journalists and anybody acting in a legitimate capacity as long as they are acting without malice.

What is being suggested is that we ought to remove 'without malice' so that a person acting in those capacities with malice would have a defence! I would like the shadow Attorney-General to go out and explain to the many concerned women's groups in our community that what he is proposing is to remove the defence of acting without malice, therefore allowing people to act in a stalking capacity with malice but to have a defence. Good luck selling it, because I can tell you there is absolutely no way that any women's group, and I would hope any sensible men's group as well, would support that. The amendments the government is proposing have been run past many of the very concerned women's groups — including Margaret Darcy, as I said. I am sure she is known to many people in this house. Those groups are fully supportive of these amendments; they believe we have the balance right. It is always a balancing act when it comes to new legislation, particularly groundbreaking legislation such as this, but we certainly believe we have the balance right.

As everyone in this house would know, there is obviously extensive common-law jurisprudence on what 'without malice' means, but to remove it from the legislation and to allow talking to take place, the defence being that a person acted with malice, is not in my view something the government would agree to. I repeat: there is a defence under the current legislation — a fairly narrow defence — for a person who acts in a stalking capacity. We are adding to that defence to narrow or better define the defence, and we believe that is absolutely appropriate.

I not only wholeheartedly support the legislation, I wholeheartedly support the amendments. It could have been said that the original legislation was too broad. We took on board the views of relevant stakeholders, and I repeat that material was sent to us by Minter Ellison; I am quite sure it sent material to the opposition as well. We also received material today from Minter Ellison in relation to this matter about without malice.

Since receiving that letter an adviser from my office has personally contacted Peter Bartlett from Minter Ellison. The notes I have — I say this in effect on a without prejudice basis, because I have not personally spoken to Peter Bartlett about this but I do have the notes — say that he:

> Agrees with the concept of 'without malice' —

heated agreement! —

> but wants judicial discretion narrowed by putting in a set definition of 'malice' in the bill.

We believe the common law covers it. He was also advised that:

> … we are happy to rely on common law and the discretion of the courts in interpreting 'without malice'.

We on this side certainly believe in judicial discretion. The other issue raised by Minter Ellison was the issue of 'public affairs'. If you read the letter from Minter Ellison you will see it was very keen to have that amended to 'public interest'. The notes I have from the telephone conversation are that he is not too fussed, does not see it as a big point and agrees that there is not really a substantial difference between 'affairs' and 'interest'. We believe these are minor matters.

There was another point raised in debate by the Leader of the National Party. If you go back to the bill itself, you see that clause 1(b) reads:

> no longer requires proof as to the actual effect on the victim of the course of conduct engaged in by the offender …

The amendment goes on to say:

> … where the offender intended to cause harm or arouse apprehension or fear or knew —

the Leader of the National Party said that in there after the word 'knew' should be the words 'or ought to have known' —

> that engaging in a course of conduct of that kind would be likely to cause harm or arouse apprehension or fear.

The advice I have is that those words, if they were put in there, would distort the whole purpose of the bill — that is, the amendments. It is true that in the original bill it would have been an offence if a person knew or ought to have known that their conduct was of a stalking nature, and it would not have mattered at all whether or not harm was caused. That was in the original bill, it is true. After consultation it was agreed that that needed to be narrowed, whereby now if a person knows that their conduct is of a stalking kind, it does not matter whether they caused harm or not; they could still be convicted of stalking because it is the behaviour itself that is the criminal conduct. Indeed if the person did not have the subjective intent but to the person on the Clapham omnibus it was pretty obvious that their behaviour was of a stalking nature, to be convicted of stalking then they would have to have shown harm — that is, there would have to be harm to the victim — which is the current situation under the Wade legislation, if I can use that expression from that legislation.

But it is true, I say to the Leader of the National Party, that our original bill was broader than that. Our original bill allowed for a person to be convicted of stalking if subjectively they knew that they were stalking, or indeed objectively they should have known that they were stalking, and it did not matter whether or not harm occurred as a result. We have now narrowed that, so that in that objective circumstance harm has to have been done. We believe that balance is right. That is why the issue that has been raised by the Leader of the National Party is not appropriate.

I think it has been an interesting debate and, I repeat, a groundbreaking piece of legislation. I make no bones about the fact that the original legislation, when it was brought in here, was very broad legislation, because we believe the evil of stalking, and indeed cyberstalking, ought to be captured by broad legislation. But some legitimate concerns were raised, particularly by media groups, and in addressing those concerns it was agreed that the legislation was too broad, and as a consequence we have narrowed the legislation and we believe we absolutely have the balance right.

Will the legislation work? We hope the legislation will receive bipartisan support, but there will be some difficulties. I make no bones about the fact that there will obviously be some difficulties in relation to the extraterritorial nature of cyberstalking. The honourable member for Doncaster is an expert in this field — and I do not mean an expert in cyberstalking; I mean an expert in the Internet and palm pilotry and the like. He would certainly know how difficult it can be getting a conviction for somebody who is in one country and is stalking somebody on the Internet in another country — it is very, very difficult. But that does not mean we should not proceed with the legislation. We do believe we need to give the policing authorities the power to at least attempt to track these people down and bring them to justice.

We are hopeful that the legislation will work. I repeat: it is groundbreaking legislation, and I certainly hope it has bipartisan support.

Mr PLOWMAN (Benambra) — The Attorney-General did not even attempt to answer my question on a definition of the word 'malicious' or 'malice'. On the basis that he said the common-law definition would suffice, could he read into *Hansard* exactly what that common-law definition of 'malice' is, or at least attempt to give us an understanding of it?

Mr HULLS (Attorney-General) — I think the honourable member is indeed being malicious in the comments that he makes. If the honourable member actually intends to stand up in this place and make it public that we should be narrowing judicial discretion in relation to common law, he ought to go on the front steps of Parliament House and say that. Because on this side of the house we certainly do not intend to do that. We believe there should be broad discretion on behalf of the judiciary in relation to this defence, but if the honourable member for Benambra is of the view that judicial discretion should be narrowed by the Attorney-General standing up and trying to codify what the common law is in relation to particular areas, he is in la-la land, and it is no wonder he is not a lawyer.

Mr Plowman — On a point of order, Acting Chair, I believe the Attorney-General has just impugned me, and I would like him to retract that. I have no intention of going out onto the steps of Parliament House to make those accusations, nor did I make them in the debate — —

The ACTING CHAIR (Mr Nardella) — Order! There is no point of order.

Mr Plowman — I ask him to withdraw.

The ACTING CHAIR (Mr Nardella) — Order! Can the honourable member for Benambra clarify whether he claims that he is being impugned or that he wants a withdrawal. He started off saying that he has

been impugned, and then he went to requesting a withdrawal. Can he clarify the position for me? If it is a withdrawal, I would also seek his assistance by letting me know what that is about.

Mr Plowman — I will simplify it by asking the Attorney-General to withdraw. What I ask him to withdraw is the statement that I had sought to lessen the judicial intent of the amendment. If they were not the words, they are very close to the words that were actually uttered. I certainly did not say that at any stage, and therefore I asked him to withdraw those comments.

Mr Hulls — On the point of order — —

Mr Perton — It is not a point of order, you have to withdraw.

The ACTING CHAIR (Mr Nardella) — Order! I thank the member for Doncaster, but I will make the rulings here.

Mr Perton — How is it that Labor chairmen can require Liberals to withdraw without question and you are prepared to let the attorney debate this? It is a double standard.

The ACTING CHAIR (Mr Nardella) — Order! The advice I have received is that the honourable member finds the words offensive, so I request that the minister withdraw those words.

Mr HULLS — Far be it from me to offend the honourable member for Benambra; we will leave that for another day. I withdraw.

Mr COOPER (Mornington) — I am a little apprehensive about saying anything now.

Mr Hulls — I am offended that you are apprehensive!

Mr COOPER — This really opens up a can of worms in relation to this legislation, because the question that was put to the Attorney-General by the member for Benambra was very simple. It was based on a statement by the Attorney-General that the government is relying on the common-law definition of 'malice'. Having said that, he was then asked by the member for Benambra if he would mind advising us what the common-law definition of 'malice' is. The Attorney-General said, 'Well no, I am not going to do that. I am not going to tell you what it is. You just have to trust me that there is a common-law definition of 'malice' out there and everything will be okay'. I have been in this place long enough to know that when somebody says, 'Trust me', or, 'I am not going to tell you', there is something a little deeper going on.

We are asking a simple question. The member for Benambra prefaced his remarks by saying, 'I am not a lawyer. I want a non-legal explanation of what the word "malice" means so that I can understand what it is that this government is doing with this legislation'. It is as simple as that. In return he got a 'No, I am not going to tell you' response. It is not good enough for members of the opposition to be told by the Attorney-General in answer to their concerns and apprehensions over the matter of a defence based on an action being without malice that there is a common-law definition of 'malice' but that he is not going to tell what that is.

The Attorney-General knows well enough that debates in this place are taken into account in courts — or he should know well enough — and therefore it is incumbent on him as Attorney-General to inform the committee fully on these matters. It is his task to do that and to convince us that he has it right and we have it wrong. If he does not do that, then we will be convinced that we have it right and he has it wrong — or alternatively that the government has again not got it quite right. That is the point we are making. This government has on so many occasions — —

Mr Seitz — On the clause.

Mr COOPER — I thank the member for Keilor for his help. This government has on many occasions brought legislation into this Parliament and given all sorts of assurances about it, and then we have found out later that the legislation has significant flaws in it. Indeed we will be dealing with some of those over the six days of the remainder of this sitting.

The government first introduced the bill into the Parliament in June this year, and it has been cranked through the portals of government in an attempt to try to get it right — and that is fine. The government has taken on board criticisms that were made in the original debate and has now produced some amendments, which are dated 31 October and which we did not get until yesterday, and now we are being given explanations in answer to our genuine concerns that there could be some serious problems with what the government is proposing to do. We are being told by the Attorney-General that everything is okay, there is a common-law definition with regard to a key part of the amendments that he has produced here. Yet when the member for Benambra asks him for a definition of the word 'malice', he is refused that explanation.

The point we need to make over and over again to the Attorney-General is that he cannot flum this one through. He cannot just ignore this; he has to deal with it. If he does not know how to deal with it, it might be a good idea to report progress so he can go off and get the definition of 'malice' from someone who actually knows and then produce it for us. If there is common law that says there is a definition of 'malice', we want to know what it is.

I again make the point, it is incumbent on the Attorney-General to provide this committee with that information. If the Attorney-General cannot do it now, there is an option open to him to report progress, so he can go off and find it and then when the committee proceedings are again opened we can all be informed — as the member for Benambra wants to be informed, as I want to be informed and as I am sure every member on this side of the house wants to be informed. I ask the Attorney-General: what is the common-law definition of 'malice'? He should tell us.

Mr MILDENHALL (Footscray) — That was not the malicious attack that we might have expected from the member for Mornington, but it is certainly mischievous. There are a number of qualifications and protections for freedom of speech, and then there is not only the use of the term 'without malice', but amendment 3 proposes the insertion of section 21A(4A), which states in part:

> (a) in the normal course of a lawful business, trade, profession or enterprise (including that of any body or person whose business, or whose principal business, is the publication, or arranging for the publication, of news or current affairs material) …

That is a fairly clear range of activities: normal, lawful, without malice. The intent of these amendments is very clear, and there is mischief afoot among opposition backbenchers as part of their little vendetta for having to debate this bill earlier than they thought.

Mr CLARK (Box Hill) — Let me respond to some of the points raised by the Attorney-General and also by the members for Prahran and Bentleigh. The member for Bentleigh asked why it is that the opposition is concerned about the amendments when many of the key provisions are in the act as it currently stands, an argument I think the Attorney-General repeated.

The pivotal source of the concern is the bill's extension of the offence of cyberstalking to cover all elements of electronic publication. Proposed section 21A(2)(ba) refers to:

> publishing on the Internet or by an e-mail or other electronic communication to any person a statement or other material.

This transforms the legislation from what is essentially private communication to the victim or to another person to publishing to the whole world, so it brings into play the full scope of publication by the established media channels of radio, television and Internet publishing — reporting that would not previously under the legislation have been covered at all. Also, of course, it brings in the publishing of non-media organisations, of individuals who have their own web sites, who put their own media releases on their own web sites or some other web sites. It is a dramatic transformation of the scope of the legislation. It is no wonder that media organisations and many others are alarmed about its ramifications.

The Attorney-General says that in some instances under the existing legislation some acts in investigative journalism could constitute stalking and — he did not say this, but by extension — that some acts of private communication relating to potential news stories could constitute stalking.

That is a very limited matter and under the existing law, as the member for Kew pointed out, in each instance it requires actual proof of harm, which in a practical sense is a significant requirement.

To come to the other major issue of 'without malice', the Attorney-General has consistently avoided responding to the reasonable requests of the opposition for some explanation of what the term is intended to mean. Let me put a possible interpretation on the record to elaborate on the concerns of the opposition. Without malice could be intended to refer to what was traditionally described as without malice aforethought, which was regarded as the traditional mental element constituting a criminal offence. If that is the case, under Australian law, as I recall my criminal law, malice aforethought can be constituted either by intention or by recklessness — that is, not caring whether or not particular consequences occur. If that is the case, arguably it would mean the defence is only available in the situation set out in proposed section 21A(3)(b), or if the accused knew the result may occur as described in proposed section 21A(3)(a), provided that did not constitute reckless conduct.

How exactly is it intended to be cast? Malice would not seem to refer to maliciousness in the ordinary sense of the word; it would seem to refer, on one interpretation, to without malice aforethought in the traditional meaning of the term, which can be constituted either by intention or recklessness. Some would argue, although not I, that pure knowledge as set out in paragraph (a) of subsection (3) can constitute the reckless element of intention.

This is not just an idle question but goes to the scope of the defence, and it raises the legitimate concern that people who act in the genuine course of their activities in the media or in other professions and occupations or in the course of political discourse could still be convicted of an offence.

Mr LUPTON (Prahran) — It seems to me that the word we ought to be debating the meaning of is 'disingenuous' and not 'malice'. The committee is quite familiar with numerous pieces of legislation coming before it, including terms such as 'intention', 'reckless' and the like. We do not put the definition of those words into every piece of legislation. They are concepts and terms that are well known to the courts in this country. Judges charge juries on the meaning of those words and expressions at the end of a trial.

The committee can deal with certain elements of it, but it is not necessary in legislation such as this to deal with a word such as 'malice', because it is for the courts in the state to determine and to charge a jury at the end of a trial what malice means. That is the point of the exercise. Accordingly the way this legislation will work will be determined in the course of cases coming before the courts as appropriate.

Honourable members interjecting.

The ACTING CHAIR (Mr Nardella) — Order! I ask the opposition to allow the member to make his own contribution.

Mr LUPTON — When the amendment to clause 3 is dealt with by the committee the legislation will include a wider definition and defence than currently exists compared with the legislation put in place by the previous government.

Stalking as a criminal offence has been part of the statute since 1994. That legislation is now broadened to include the serious matters of cyberstalking. The defence that is available under this legislation is wider than it has been under the previous narrower stalking defence, yet opposition members, as I said before, disingenuously say, 'We are not happy with this because there is no definition of "malice"'. The point of the exercise is whether or not there is malice in a particular case will be determined in the courts when the case is determined. A court will make that decision based on evidence before it. It is not appropriate for the committee to come up with its own definition of what malice means in any given circumstances. It is completely inappropriate.

The Attorney-General has rightly said in this debate that it is inappropriate for the committee to try and limit the discretion of the courts in determining what malice is by attempting to define it either in the legislation or in the context of this debate. We are running a real risk if the member for Box Hill had his way of having the courts look at the debate in this house and try to work out from the non-erudite comments of the member for Box Hill what is meant by malice. That is not the point of the exercise. The point of the exercise is to make it clear that the courts will make these decisions. They are best placed to make those decisions and have the discretion to make them and that is the way it ought to be.

Mr HULLS (Attorney-General) — The committee can see why the honourable member for Prahran was such a well-respected and a highly paid advocate of the bar. Who could have put it better than the honourable member for Prahran. The bar's loss is our gain, because the member is exactly right. The opposition is playing funny buggers and it knows it. If the opposition is really saying to the committee that it believes it should be appropriate for a person to act in a stalking nature with malice and that ought to be a defence of that stalking behaviour, it should go out and sell it and let us see how far it can get.

We all know what the common law is and how the common law is bound. If the opposition is saying the purpose of stalking conduct was to cause harm and that does not indicate a presence of malice, I think that it is failing to understand what the common law is and what judicial discretion is all about. They revert to type because in a roundabout way what they are saying is that they are prepared to impinge upon judicial discretion; that they do not believe judges should take into account the particular circumstances of the case; that they do not believe judges should look at the matter in a holistic way to ascertain whether a person acted with or without malice and that we ought to be the ones who are better judges than the judges themselves. It is interesting to note that the honourable member for Kew is saying, 'I got him on that one'. I would have hoped the member would be the first shadow Attorney-General to come into this place and for the first time support judicial discretion.

I notice the honourable member for Doncaster is smiling and laughing because when in government he used to run around the state, being a huge advocate for judicial discretion, but all of a sudden — —

Mr Perton — On a point of order, Acting Chair, the committee is on clause 1 and while the Attorney-General is always entertaining, his comments are not relevant to the debate.

The ACTING CHAIR (Mr Nardella) — Order! The is no point of order.

Mr HULLS — The government believes common law ought prevail and that judicial discretion is appropriate. It is a matter for judges to decide individual cases on their merits. Far be it for politicians to be imposing their will on the judiciary.

So my suggestion is that we stop playing funny buggers with this legislation. It is important legislation. It ought to be supported, and I hope all members will support it.

Amendment agreed to; amended clause agreed to; clause 2 agreed to.

Clause 3

Mr HULLS (Attorney-General) — I move:

2. Clause 3, line 3, before "In" insert "(1)".

3. Clause 3, after line 22 insert —

'(2) After section 21A(4) of the **Crimes Act 1958 insert** —

"(4A) In a proceeding for an offence against sub-section (1) it is a defence to the charge for the accused to prove that the course of conduct was engaged in without malice —

(a) in the normal course of a lawful business, trade, profession or enterprise (including that of any body or person whose business, or whose principal business, is the publication, or arranging for the publication, of news or current affairs material); or

(b) for the purpose of an industrial dispute; or

(c) for the purpose of engaging in political activities or discussion or communicating with respect to public affairs.".'.

I think that the arguments that have been advanced already in relation to clause 1 are of such a holistic nature that they cover amendments 2 and 3 in my name.

Mr McINTOSH (Kew) — It is important to note that this has nothing to do with judicial independence. This is the Parliament, where we make laws; and yes, it will be up to the courts to interpret those laws. But when you are introducing amendments which he would have us believe are significant, and when you are introducing words like 'intention', 'harm' or 'malice', you would think the Attorney-General would be able to offer some explanation of what he means by the word 'malice' or the term 'without malice'. The most important thing about it is that if at the end of the day there is any ambiguity, his words — or all our words — may have significant importance when a court has to make an interpretation of this particular clause.

The most important thing about this is that it is not some insignificant thing. It is not as though you are going to get a penalty infringement notice: this is not like a speed camera. Ultimately what we are doing is creating an offence that has a penalty attached of up to 10 years imprisonment. I would have thought it was incumbent upon us all to search for the definition of 'without malice', because it is apparently a defence as a result of an extensive consultation process which we, the Law Institute of Victoria, Liberty Victoria and the *Age* got left out of but which has been gone into to protect freedom of speech and freedom of expression!

I quote this definition of the word 'malice', which says it means:

> … a motive for or a purpose of defaming a party —

this relates to the law of defamation, which is the area where you usually get the use of the term; you do not necessarily get it in the criminal law —

> that is inconsistent with the duty or interest that protects the occasion of the publication. It is the motive or purpose for which the occasion is used that is ultimately decisive, not the party's belief in the truth of the matter.

This amendment creates a defence in relation to the press, industrial disputes, political activities or other communications in respect of public affairs. We can argue about whether it is broad enough or whether it is clearly defined, but clearly the duty is specified. It is the duty which we are looking at and which this amendment is attempting to establish in a very clumsy way. By putting this amendment in the Attorney-General is saying, 'Yes, if you have some form of duty or motive — that is, that you wish to communicate something in relation to public affairs — then you should be given a defence'.

What I do not understand — and this appears to be a logical inconsistency which the courts will have to grapple with — is why the definition of 'malice' says that if you are acting in a way that is inconsistent with that motive, then that is malicious. Therefore if an accused person establishes on the balance of probabilities that they were engaged in political activity, an industrial dispute or their normal course of business, as long as they were behaving in that way — and they have already established that as a matter of fact as part of the defence process — what is the purpose of the additional words 'without malice'?

If you accept the definition of 'malice' as acting in a way that is inconsistent with either the duty or motive

that has already been established, what is the precise meaning of the word? I have offered a definition, and I will repeat it for the Attorney-General. It means:

> … a motive for or a purpose of defaming a party that is inconsistent with the duty or interest that protects the occasion of the publication. It is the motive or purpose for which the occasion is used that is ultimately decisive, not the party's belief in the truth of the matter.

If I am wrong, for the benefit of everybody in this place who is a law-maker and for the benefit of everybody out there who may be interpreting or relying on the law, will the Attorney-General say so, because that is my understanding of meaning of the word 'malice'. The Attorney-General should define the word 'malice', because it is a critical issue. The people in here who make the laws are entitled to that. The courts are also entitled to some sort of direction from the Attorney-General, because we are dealing not with a speeding fine but with an offence that could carry a 10-year jail term.

Mr RYAN (Leader of the National Party) — Insofar as clause 3 is concerned, and with due respect to the member for Prahran and the Attorney-General, the fact is that this Parliament defines words such as 'malice' every day. There is no point in either the member for Prahran or the Attorney-General pleading to the contrary. Indeed, in his contribution the member for Prahran referred to the fact that we cannot have the Parliament trying to define, in his example, the expression 'intention'. I am sorry to report to the member for Prahran that the very amendment that is the subject of this debate includes the government's own definition of the word 'intention'. By its own hand, in the series of amendments now under discussion the word 'intention' is being defined.

This Parliament quite rightly, from time to time, offers these definitions. What is being sought is that the definition be offered again in this instance.

Through the addition of cyberstalking now being incorporated by way of definition into the Crimes Act, it has significantly expanded the verbiage which otherwise appears in section 21A(2)(b) of the act. We are deleting the old paragraph (b) and we are inserting the new. The new version is much broader and more up to date than was the old, and that is a good thing. I commend the government for that — I think we all do — and I do not think that is an issue.

Out of the process, through the amendment, the government is also offering this extended defence — if I can term it that way — and says it has done that in response to the position put to it by the media. I am still awaiting the commentary from the Attorney-General, by the way, on how it is that industrial disputes got into this as well as other political activities, but they are separate points and I ask him to deal with them.

Having offered that other defence, for it to work the accused bears the onus of establishing it. The accused has the responsibility of being able to avail himself of that defence, of making out the matters which go to establish that defence in his favour. That being the case, it highlights all the more the importance of getting the definitions in this right, so that all know on the way in as this legislation takes effect what the expression 'without malice' means for the future interpretation of this legislation. The Parliament, as the lawmaker, needs to get on the record a definition which is going to accommodate that issue.

It can happen in one of two ways: through the Attorney-General offering the definition, which he says is reflective of the common law, or alternatively there can be a statutory definition which is included in the amendment. Insofar as the options are concerned, in the handwritten notes that were passed on to the Attorney-General by way of the hearsay commentary from the government's legal advisers there was a comment about an either/or situation. However, the author of the comment recorded in those notes ultimately came down on the side of allowing the common law to prevail.

I would say to the Attorney-General that to do it on the run in that fashion and to respond in the course of the phone call, which he did, which his very able advisers made to the legal adviser, is simply not the way to deal with this. It ought to be dealt with in a way that is considered and has regard to the crucial significance that is applied to the legislation now the subject of this discussion. I understand the frustration of all of this, but equally it is very important.

Further, if I may, I adopt the point made by the member for Kew in the course of his recent contribution where he read out the definition of 'malice'. When you marry that with the provisions of the amendment, particularly those setting out the circumstances in which the defence is going to be available, as set out in paragraphs (a), (b) and (c) of new section 21A(4A), then it is imperative that we get a proper definition into this for the consideration of the chamber.

Mr HULLS (Attorney-General) — The arguments that have been advanced were advanced on behalf of the government in relation to clause 1. This debate is a bit like Groundhog Day. We believe that this is good legislation, that we have got the balance right and that it

is a matter for the courts to take into account the particular circumstances of a particular case.

I repeat — if members of the opposition, whether it is the member for Benambra or anyone else, would care to listen — and I ask the member for Benambra to listen to what I say because he may find this offensive, but this is what I thought I said last time: if the member for Benambra is of the view that this place ought be infringing upon judicial discretion, then he ought get out on the front steps of Parliament House and say that. It is my memory that that is what I said previously, and he took offence at it. Indeed, I would have thought that it is a reasonable thing to say, because we are passionately of the view that judicial discretion ought be maintained and that the judiciary ought be able to deal with matters on a case-by-case basis. I repeat what has already been said: we are actually broadening the defences in relation to stalking.

I do not know if the shadow Attorney-General was here at the time — perhaps he was; maybe he was an adviser at the time when the original 1994 legislation was introduced, and I suspect we supported it — but the defences under that legislation are pretty narrow. We are broadening the defences to ensure that journalists and the media are not inadvertently caught by stalking legislation or cyberstalking legislation. That is why we believe the legislation has the right balance and is appropriate legislation.

Mr McINTOSH (Kew) — Just in relation to the defence, the Attorney-General has referred to the broad concept of judicial discretion. Apart from the fact that the government is making a law that will somehow confine judicial discretion, the Attorney-General has brought into this place a bill with the word 'malice' in it, and one would have thought that an Attorney-General bringing in his own bill would have some idea — just a modicum of an idea — of what the meaning of the word is, particularly when the impact of it in this bill could be a 10-year jail sentence. One would expect an Attorney-General to understand the meaning of the word and the different nuances and why the word 'malice' was selected.

However, I raise one matter. If my definition is correct — and certainly if my definition of 'malice' is not correct the Attorney-General could correct it — there is clearly a duty or an obligation or a motive, if you like, created by paragraph (a) and paragraph (c) of proposed section 21A(4A). In paragraph (a), if you are a member of the press, which is specifically included, as long as you are acting in the normal course of a lawful business, trade, profession or enterprise, which for the press is the publication of news or current affairs, that is part of the defence that the accused will be required to establish. As long as you are doing that, then I can certainly understand that obligation, duty or motive. Therefore if you are acting in a way that is inconsistent with that, it is clearly malicious, but then you would not establish paragraph (a).

In relation to paragraph (c), clearly you have to engage in political activities, or communicating with respect to public affairs. Again the motive would be to adhere to that particular matter, and if it was in a way that was inconsistent with that you would not have established your defence, and as a second guess that would apparently be malicious.

What I do not quite understand is why paragraph (b) is included. Why is there some significance and importance about an industrial dispute? Why should it be treated differently from the press or someone engaged in political debate or public affairs? Why not just have a general defence? I would like to know from the Attorney-General, in relation to paragraph (b), what is the particular duty or motive that the industrial dispute would create? What is the duty that you would look at in relation to the issue of malice? How would a court determine whether or not somebody was acting maliciously or otherwise? What is the obligation in an industrial dispute? Is it truth? Is it fair comment? Is it qualified privilege? Is it something in the public interest whereby we are advancing a cause, or something in the interests of workers or something like Saizeriya, where we are just having an all-out barney, a demarcation dispute between two unions — and who cares about truth, because at the end of the day it does not matter? What is the duty, obligation or motive he is trying to impose in relation to paragraph (b) to be inserted by this bill?

Finally, I would like to ask the Attorney-General whether or not he has had an opportunity to read the case of *Roberts v. Bass*. I have only just found out about this case, and I certainly have not read it, but one would expect an Attorney-General who is using the word 'malice' to have looked at a case such as this. *Roberts v. Bass* is reported at (2002) 194 ALR 161.

An Honourable Member — You said you hadn't read it.

Mr McINTOSH — I haven't. I only found out about it at 1 o'clock today, just before I came into the house. It came from a very good friend of mine, a silk at the bar who practises extensively in defamation. He immediately went to this case. It is a recent decision, an appeal from the South Australian Supreme Court involving a political debate in the middle of an election

campaign. I was wondering whether the Attorney-General is going to refer to this, because essentially the High Court is saying that in relation to political debate between two candidates for election, and the publication of material, the issue of malice is almost otiose — almost irrelevant — when it comes to political debate, as long as they do not offend against the other issues of defamation. The High Court is saying that the issue of malice is almost otiose in relation to political commentary. How then does that sit with the political activities and the obligations of accused members of Parliament?

Mr LUPTON (Prahran) — A number of these matters were canvassed quite extensively when we were discussing clause 1 a little earlier, but in particular the Leader of the National Party raised one or two matters which are relevant to this part of the debate and to which I want to respond. It is again being suggested by the opposition and the National Party that we ought to be including a specific definition of 'malice' in this legislation. Earlier I made the point that terms such as that need not always be defined in legislation. In fact it is often the case that it is best to leave the determination of those terms to the courts. It is not always the case that we do that; it is often decided that it is in the public interest to codify certain matters and that can be done from time to time. However, as far as this issue of malice is concerned, the government has determined — I think appropriately — that malice in the context of this legislation is best left to the discretion of the courts and that the ability of the courts to make those judgments from time to time is the most appropriate.

As distinct from the meaning of malice being left to the courts and not being defined in this legislation, there is a definition of intention in clause 4. This was pointed out by the Leader of the National Party in a sense attempting to suggest that I may not have accurately reflected the amendments before the committee.

In the legislation that we are debating tonight the point about the definition of intention is a completely different one. The word is being defined in this legislation because we are changing the meaning of it and giving it a specific meaning that this bill recognises as appropriate and necessary. The distinguishing feature between intention and malice is that it is believed to be inappropriate in this case to change the meaning of malice. We simply leave that up to the common-law definition as appropriate, but we are making a change to the meaning of intention, because this legislation will now require that actual harm be proved for an offence to be made out where the accused did not form a subjective intention to cause harm. If we did not define that special meaning of intention in this legislation we would not be carrying out the legislative intent properly.

So there is a clear distinction to be made between malice and intention. That was the meaning that I was giving to it before. It is clear that in some cases it may be appropriate to add a legislative definition to a term such as this. In others it may not be appropriate. The government in my view has made an appropriate decision in this case to allow the courts to define the meaning of the term 'malice' as it is appropriate in the cases that come before it.

Mr RYAN (Leader of the National Party) — I will just follow on from the point made by the member for Prahran. This example is off the top of my head, but it is in the context of the position that he applied.

I still need a response from the Attorney-General as to why industrial dispute appears in this whole thing anyway. But let us take that issue as an example. Back in the days of the waterside workers' dispute with Mr Corrigan, there was plenty of material flying around in relation to assertions by the union movement against Mr Corrigan and the motives for doing what he was doing. There is no doubt that in the course of those arguments being put by and on behalf of the union movement the various mechanisms which are now contemplated by the definition of cyberstalking were used. So all those technological weapons were available in their various forms.

I want to know, in the context of this amendment, where an industrial officer for a union would stand if Mr Corrigan were to seek to lay a complaint that that individual be charged under the Crimes (Stalking) Act because of cyberstalking. If the charge were laid, the union officer would be in the position of having to make up the defence. On the amendment before the committee, that union officer would have to make out his defence with the precursor to the defence being that he did what he did without malice. I suggest strongly to the member for Prahran that since the words 'without malice' appear there, they are going to be extraordinarily difficult for the union officer in that circumstance to be able to satisfy. It is going to be extraordinarily difficult.

An honourable member interjected.

Mr RYAN — The answer is, it is best left up to the court. I say that for the union officer — if they are going to have unions in this for whatever reason, which is yet to be explained, and if we are to have industrial disputes incorporated in this — it is patently unfair to members of the union movement that any such

individual be exposed to the prospect of being prosecuted under the Crimes (Stalking) Act and facing 10 years in jail when you have this nebulous expression being used. It also begs the question as to whether the expression should be there at all, if a person in a perfectly appropriate and proper — and many would say otherwise — legal pursuit of his position as a union official wants to make the case on behalf of those whom he represents and yet has got this hanging over his head. That example just goes to highlight the uncertainty which is being introduced by use of an amendment which carries this verbiage because it is so unfair to those who are going to be subject to it.

An honourable member interjected.

Mr RYAN — I raise the issue, and I am ready for anybody to respond to it. The answer is that there has to be actual harm proved. I have no doubt that Mr Corrigan would be able to advance many instances where harm had been proven. I do not think the member for Prahran can rely upon that as an out. The whole thing would be predicated on the fact that harm had been established because otherwise the charge would not have been laid in the first place. I do not think that is an issue. I think we just presuming that that is there.

Mr Lupton interjected.

Mr RYAN — Actual physical harm, says the member for Prahran by way of interjection. So Mr Corrigan has gone down to the picket line and sought to cross it in the course of the dispute, and said union official conducts himself in such a way either personally by his own hand or to incite some other form of activity or he uses cyberspace to exhort action of this nature on behalf of his fellow union members.

An honourable member interjected.

Mr RYAN — He says it is completely unreal, but I think the proposition that I am advancing, far from being unreal, is perfectly reflective of why the government has made this amendment in the first place. The government understands that in this day and age, through the use of cyberstalking in its various forms these things can happen. Therefore the words 'without malice' need to be properly defined or should be deleted from the amendment altogether.

Mr CLARK (Box Hill) — The arguments raised by the Attorney-General and the member for Prahran on this are absolutely appalling. Either the first law officer and a former member of the bar are being deliberately obtuse or, as I suspect, they are guilty of what proposed subsection 3(b) refers to: in all the circumstances they ought to have understood what the point was about. The Attorney-General might seek to bluster his way through this chamber by grandiose references to interfering with judicial discretion, but I think any member of the judiciary or member of the bar reading the *Hansard* of this debate will be appalled that the first law officer of the state should believe that seeking to explain to the judiciary exactly what is intended by a piece of legislation is interference with judicial independence. They would be appalled at such a piece of subterfuge.

As for saying, 'Let us leave it to the courts to reach the decision', as the honourable member for Prahran will know, in the case of decisions on particular sets of facts that may well be the case, but the court needs to understand exactly what the statutory intention is. At the very end of his remarks the member for Prahran offered in passing what I think was an attempt at an explanation of what he believes 'malice' means. He contrasted it with the term 'intention' and presumably — I do not want to put words into his mouth — he is arguing that 'without malice' means not maliciously, in the ordinary or dictionary sense of the word.

But if that is what the government intends, then hopefully the Attorney-General will authoritatively say so on behalf of the government. There at least two other possible meanings of the term 'without malice', the first being the one outlined by the member for Kew in terms of the way it is used in relation to defamation law, and the second being the use of the word 'malice' that I referred to earlier in terms of malice aforethought constituting the mental element necessary for the commission of an offence. The Attorney-General does not need to give us a full-blown legal lecture on what the term means, and certainly the opposition is not calling for a definition to be hard-wired into the act. We are simply saying, 'Please tell us which interpretation of the words "without malice" you are asking the Parliament to agree to'.

To make it simpler for the Attorney-General and the members for Footscray and Prahran, they can simply stand up and say, 'We intend that this means "not maliciously" in terms of the dictionary meaning of the words'. Or they can say, 'We mean "without malice" as it is used in relation to the law of defamation', or, 'We mean "without malice" as it is used in relation to the law of criminal intent'. That would short circuit a whole lot of this debate. But it is clear from the ducking and weaving that has gone on on the government side throughout the course of this committee debate either that it does not have a clue — which I suspect is the more likely — or, if it does have a clue, that it is

certainly not something on which it wishes to enlighten this committee.

Mr PERTON (Doncaster) — I think the matters that have been raised by honourable members on this side merit an answer from the Attorney-General. The question raised by the Leader of the National Party, particularly in respect of the words 'for the purpose of an industrial dispute' and the impact of the word 'malice' in that respect, begs a number of questions.

In looking at this amendment and its impact — and I would like to ask the Attorney-General whether I have got it wrong — it appears to me that it provides an extraordinary exemption for someone engaged in an industrial dispute. What is otherwise criminal conduct — following the victim or any other person; telephoning, sending electronic messages to or otherwise contacting the victim or any other person; entering or loitering outside or in the victim's or any other place of residence; or interfering with property in the victim's or any other person's possession — appears to now be lawful for the purposes of an industrial dispute. So you can set out to — —

Mr Lupton interjected.

Mr PERTON — But both sides of the argument need to be answered. You are creating a criminal offence with a long penalty; you need to have some certainty about what you are doing.

It appears that while other people are subject to these laws, in this exemption the government is saying that a unionist or a person engaged in an industrial dispute can set out to undertake all these activities — and in the course of an industrial dispute clearly strike action and the like are designed to damage a person. As the shadow Attorney-General said in looking at the case of *Roberts v. Bass* in the High Court and other cases, it is clear that the word 'malice' is rendered almost otiose or obsolete, because it is irrelevant. If you are engaged in an industrial dispute, particularly in strike action or similar boycotting action, you are determined to damage the employer or other people doing business with them. It appears that the effect of this amendment is to allow — —

Mr Lupton interjected.

Mr PERTON — No it is not, because this exemption applies not just to cyberstalking but to the other elements of the offence of stalking. So all these elements of conduct which in the ordinary course of life are rendered criminal are completely lawful in the case of someone engaged in an industrial dispute, including handing out offensive material to the victim or other people or keeping the person under surveillance. But the word 'malice' is completely irrelevant if what you are doing in the course of an industrial dispute is setting out to damage the employer or those who do business with them, because you are going to have a complete defence to this charge. Or, if the member for Prahran is to be believed, we are going to enter into a confused position where someone will have to go all the way to the High Court, as did Lange and the other parties in *Roberts v. Bass*, to determine what this means in respect of an industrial dispute.

The Attorney-General is being irresponsible in bringing in these amendments while refusing to accept the challenge from the member for Benambra and others to properly define the words 'without malice' insofar as they apply to these three areas of defence — that is, media publication, an industrial dispute or political activity, or discussions or communication with respect to public affairs.

This is a very serious matter. The Leader of the National Party has pointed out that people may be charged with these offences and have to make a defence. On the other hand, those who are the subject of this sort of victimisation, including the handing out of offensive material, will be kept under surveillance. If they see union officials in the course of an industrial dispute having carte blanche to engage in an activity which is otherwise criminal, then people will feel very hard done by and will believe that this Parliament has not done its duty to protect the citizens of the state.

Mr COOPER (Mornington) — We have finally come to the nub of these amendments, because we have got to clause 3, which of course we have been debating all day, even while talking about the others. It is important that we deal with — —

Mr Ryan — We are like that!

Mr COOPER — Yes, we are like that. It is important that we deal with these issues. It was interesting that in his final words on clause 1 the Attorney-General offered the committee the observation that in his view the word 'malice' means 'to cause harm'; that is what I recall the Attorney-General saying.

Perhaps we have gone part of the way towards getting an analysis of the expression 'without malice' that has been put into this amendment, but it was interesting to hear, when the Leader of the National Party concentrated on the word 'harm', the interjection by the member for Prahran, who said that in his view 'harm' means physical harm. Now we are getting a bit further

down the track, aren't we? Where does this lead to? I suggest at least to a can of worms that the government is now regretting it has opened, because this is a very important matter.

I notice the member for Prahran is heading back to his seat, so I have obviously inspired him to make a further contribution. This is an important matter; it is absolutely essential to the nub of the amendment that has been put forward by the Attorney-General. We are dealing now with three courses of activity that will be brought into the net of the 'without malice' defence. They are, firstly, 'in the normal course of a lawful business, trade, profession or enterprise'; secondly, 'for the purpose of an industrial dispute'; and thirdly, 'for the purpose of engaging in political activities or discussion'.

I made the point earlier, and I make it again, that members of this house should be concerned about the latter, because all of us are engaged daily — seven days a week for most of us — in political activities or discussion. We are not here being limited to the question of political activities or discussion with regard to our activities on the net, because clause 3 of the bill talks about contacting the victim or any other person by a whole range of means or by any other means whatsoever. They can be personal visits, confrontation, face-to-face stuff. So we are now starting to see that when you have a debate in one form or another in the political arena, you could well be in court defending your action in regard to whether it was without malice.

I made the point earlier that with political activity against your political opponents of course you have malice: you have malice because you are trying to make a point that could cost that person votes or cost that person's party votes, therefore there is malice in it. You can establish that loss could occur through that attack. That could then be a situation where you have done somebody a serious injury: you could cost a member their seat, you could certainly cost a minister their position if in fact the attack was well founded, and that will cause that person to make a loss and could therefore lead to an action being taken.

Again we come back to the point made earlier, and I suspect that the honourable member for Bentleigh, who obviously has significant legal qualifications, may be able to get on his feet and answer this: we come back again to the question of the definition of 'malice'. The Attorney-General has told us that it is well defined in common law. The member for Prahran has attempted to add to that, but I suggest that all that has happened with the Attorney-General making his comment about 'without malice' being to cause harm and the member for Prahran saying that 'harm' means physical harm is that this whole matter has been opened up to the extent where it would appear that the best course of action for the government and the minister would be to report progress and to bring back to this committee something we can all understand.

The ACTING CHAIR (Mr Nardella) — The question is that amendment 2 be agreed to.

Committee divided on amendment:

Ayes, 51

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lim, Mr
Bracks, Mr	Lindell, Ms
Brumby, Mr	Lockwood, Mr
Cameron, Mr	Loney, Mr
Campbell, Ms	Lupton, Mr
Carli, Mr	Marshall, Ms
Crutchfield, Mr	Maxfield, Mr
D'Ambrosio, Ms	Merlino, Mr
Donnellan, Mr	Mildenhall, Mr
Duncan, Ms	Munt, Ms
Eckstein, Ms	Neville, Ms
Garbutt, Ms	Overington, Ms
Gillett, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Harkness, Mr	Pike, Ms
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Howard, Mr	Trezise, Mr
Hudson, Mr	Wilson, Mr
Hulls, Mr	Wynne, Mr
Jenkins, Mr	

Noes, 24

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr

Amendment agreed to.

The ACTING CHAIR (Mr Nardella) — Order! The question is that the words and expressions proposed to be inserted by amendment 3 be so inserted.

Committee divided on amendment:

Ayes, 51

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lim, Mr
Bracks, Mr	Lindell, Ms
Brumby, Mr	Lockwood, Mr
Cameron, Mr	Loney, Mr
Campbell, Ms	Lupton, Mr
Carli, Mr	Marshall, Ms
Crutchfield, Mr	Maxfield, Mr
D'Ambrosio, Ms	Merlino, Mr
Donnellan, Mr	Mildenhall, Mr
Duncan, Ms	Munt, Ms
Eckstein, Ms	Neville, Ms
Garbutt, Ms	Overington, Ms
Gillett, Ms	Pandazopoulos, Mr
Green, Ms	Perera, Mr
Harkness, Mr	Pike, Ms
Helper, Mr	Seitz, Mr
Herbert, Mr	Stensholt, Mr
Holding, Mr	Thwaites, Mr
Howard, Mr	Trezise, Mr
Hudson, Mr	Wilson, Mr
Hulls, Mr	Wynne, Mr
Jenkins, Mr	

Noes, 24

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr

Amendment agreed to.

The ACTING CHAIR (Mr Nardella) — Order! The question is that clause 3, as amended, stand part of the bill.

Committee divided on question:

Ayes, 52

Allan, Ms	Kosky, Ms
Andrews, Mr	Langdon, Mr
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lim, Mr
Bracks, Mr	Lindell, Ms
Brumby, Mr	Lobato, Ms
Cameron, Mr	Lockwood, Mr
Campbell, Ms	Loney, Mr
Carli, Mr	Lupton, Mr
Crutchfield, Mr	Marshall, Ms
D'Ambrosio, Ms	Maxfield, Mr
Donnellan, Mr	Merlino, Mr
Duncan, Ms	Mildenhall, Mr
Eckstein, Ms	Munt, Ms
Garbutt, Ms	Neville, Ms
Gillett, Ms	Overington, Ms
Green, Ms	Pandazopoulos, Mr
Harkness, Mr	Perera, Mr
Helper, Mr	Pike, Ms
Herbert, Mr	Seitz, Mr
Holding, Mr	Stensholt, Mr
Howard, Mr	Thwaites, Mr
Hudson, Mr	Trezise, Mr
Hulls, Mr	Wilson, Mr
Jenkins, Mr	Wynne, Mr

Noes, 24

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr

Question agreed to.

Amended clause agreed to.

Clause 4

Mr HULLS (Attorney-General) — I move:

4. Clause 4, lines 27 and 28, omit all words and expressions on these lines and insert —

'(2) For section 21A(3) of the **Crimes Act 1958 substitute** —

"(3) For the purposes of this section an offender also has the intention to cause physical or mental harm to the victim or to arouse apprehension or fear in the victim for his or her own safety or that of any other person if —

(a) the offender knows that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear; or

(b) the offender in all the particular circumstances ought to have understood that engaging in a course of conduct of that kind would be likely to cause such harm or arouse such apprehension or fear and it actually did have that result.".'.

Amendment agreed to; amended clause agreed to; clauses 5 and 6 agreed to.

Reported to house with amendments.

Third reading

The DEPUTY SPEAKER — Order! The question is that this bill be now read a third time.

House divided on question:

Ayes, 55

Allan, Ms	Langdon, Mr
Andrews, Mr	Languiller, Mr
Barker, Ms	Leighton, Mr
Batchelor, Mr	Lim, Mr
Beattie, Ms	Lindell, Ms
Bracks, Mr	Lobato, Ms
Brumby, Mr	Lockwood, Mr
Cameron, Mr	Lupton, Mr
Campbell, Ms	Marshall, Ms
Carli, Mr	Maxfield, Mr
Crutchfield, Mr	Merlino, Mr
D'Ambrosio, Ms	Mildenhall, Mr
Donnellan, Mr	Morand, Ms
Duncan, Ms	Munt, Ms
Eckstein, Ms	Nardella, Mr
Garbutt, Ms	Neville, Ms
Gillett, Ms	Overington, Ms
Green, Ms	Pandazopoulos, Mr
Harkness, Mr	Perera, Mr
Helper, Mr	Pike, Ms
Herbert, Mr	Savage, Mr
Holding, Mr	Seitz, Mr
Howard, Mr	Stensholt, Mr
Hudson, Mr	Thwaites, Mr
Hulls, Mr	Trezise, Mr
Ingram, Mr	Wilson, Mr
Jenkins, Mr	Wynne, Mr
Kosky, Ms	

Noes, 24

Asher, Ms	Mulder, Mr
Baillieu, Mr	Napthine, Dr
Clark, Mr	Perton, Mr
Cooper, Mr	Plowman, Mr
Delahunty, Mr	Powell, Mrs
Dixon, Mr	Ryan, Mr
Doyle, Mr	Shardey, Mrs
Honeywood, Mr	Smith, Mr
Jasper, Mr	Sykes, Dr
Kotsiras, Mr	Thompson, Mr
McIntosh, Mr	Walsh, Mr
Maughan, Mr	Wells, Mr

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.32 p.m. until 8.02 p.m.

TRANSPORT (RIGHTS AND RESPONSIBILITIES) BILL

Second reading

Debate resumed from 8 October; motion of Mr BATCHELOR (Minister for Transport).

Mr MULDER (Polwarth) — I rise to join the debate on the Transport (Rights and Responsibilities) Bill, which provides for authorised public transport officers to check tickets after a public transport journey has been completed — that is, after a passenger has just left a vehicle or railway station. It repeals the detention powers of authorised officers that were introduced under the 1999 franchising and now relies on formal powers of arrest. Transport franchisees will be paid a small part of a fare-related infringement notice to cover costs — and I will address that later in my contribution. The Secretary of the Department of Infrastructure will be able to inquire into rail accidents rather than requiring ministerial sign-offs. The bill provides for the enforcement of fines in railway commuter car parks by authorised officers. It further restricts the transfer of taxi licences to minimise not-at-arm's-length transfers. I will not cover all those issues in my contribution, but I will deal with issues that I believe are significant and relevant at this time.

Under part 2 of the bill proposed section 129UA will enable the Secretary of the Department of Infrastructure to conduct inquiries into rail accidents. This particular part of the bill should ring alarm bills throughout the community. It is of concern because of the number of rail accidents in the state since the Labor government came to power, but more so in the last 12 months. We are still waiting on the outcome of an inquiry into a crash involving the Broadmeadows ghost train and a loaded passenger train at Spencer Street. There was the more recent passenger train crash at Spencer Street where a Sprinter train collided with a stationary train with passengers on board. More recently at the weekend there was the crash at Ballan. I join the sentiments expressed by the Minister for Transport in saying that it was very fortunate that the situation at Ballan was not more tragic, and I trust and hope that all those people who were injured enjoy a speedy recovery. I also express my gratitude to the people who were involved in the rescue operation.

There are some serious concerns raised by the department secretary taking on the role of investigating train crashes. At the briefing it was indicated to us that the role of the department secretary would be more about looking at trends than at individual crashes, but the problem the opposition has with this clause is that it

believes it will allow the Minister for Transport to hide behind a bureaucrat if and when there is a serious issue in relation to rail safety in Victoria.

Proposed section 129UB, which is headed 'Public release of report', says that the secretary may publicly release a report of an inquiry or any part that is available. It is of grave concern when a department secretary, who has gone through the process of investigating a trend or issues in relation to rail safety, may make public a report of an inquiry or any part of an inquiry. It would be absolutely outrageous if a department secretary who had gone down the pathway of investigating issues in relation to rail safety did not make the results of the inquiry and the report available to the public as soon as any issues were raised in relation to public safety.

The bill also states that the department secretary may make public any interim findings or recommendations arising out of an inquiry. It is important that any findings of an inquiry carried out by the government into train accident trends within the state — or indeed an individual accident — are made known to the public as soon as possible. I would hate to think that the opposition would have to go down the freedom of information path to drag this type of information out of the government and to put it out in the public arena.

Given the spate of rail accidents in the state and the safety problem with the tram system, the opposition's real concern is that this government is heading down the pathway of the New South Wales Labor government and building a brick wall which will allow the minister to hide behind bureaucrats and not come out and face the music in relation to rail accidents in Victoria.

I refer to a media release issued on 17 November, which indicates to all members my fear regarding the role of the Minister for Transport and his unwillingness to come clean about train accidents and reports into rail accidents in Victoria. The minister continues to deny that he has received a report into the Spencer Street train crash of February 2003. He said, 'I haven't got the report and therefore I can't release it'. We know that in August the minister received a draft report and that on 28 October he received the final report. The minister is obviously sitting on the final report into the Broadmeadows runaway ghost train that ploughed into a loaded passenger train at Spencer Street station but for some unknown reason does not want to release details of the report. The opposition can only put this down to the fact that the minister will hold the report over until this parliamentary session has concluded and will then release it so that he cannot be questioned in the house about the details of the report and why he sat on it for so long.

You would think, in order to gain some sort of support in the community and particularly from the people who use the train network throughout Victoria, the minute the minister obtained a report from the Australian Transport Safety Bureau about a train crash he would release it. The minister says the report is very technical and will take some time to analyse. I do not believe the report is all that different from the draft report the minister has received. As I say, the results of the report should be released to the community.

Victoria has had a number of these accidents now, and issues have been raised in the past regarding the rail system. A report into a rail accident in the early days of the latest Labor government in Victoria pointed to problems in the radio network of the train system. Apparently radios failed in some sections of the train system and drivers had to carry mobile phones as backup. Recently the government cancelled a significant upgrade to the communications system, saying it was adequate. The public now has real doubts about the safety of the system. The previous coalition government instigated the upgrade of the communications system because it was recognised at that time that it was antiquated and that work needed to be done, but what has happened is that the Minister for Transport looked at the cost of the upgrade of the communications system, immediately had heart failure and has found some means to back away from it and release the companies of their obligation to improve the system.

We can go through a host of issues regarding rail safety in Victoria. We have the example of the Hitachi trains, where a youth was jammed in a door and dragged along a railway platform. We have $160 million worth of brand-new Siemens trains sitting in holding yards around the state and the government cannot get those new trains onto the system.

I refer to proposed section 143D to be inserted by clause 4, the condition forbidding the transfer of taxicab licences. All members recognise that the taxi industry is not an easy industry. Over a long period it has suffered with its image in the community. No-one could have done more for the taxi industry than the previous coalition government. It ensured all taxicabs were painted in a particular colour so that they could be identified; it put drivers in uniforms; and it introduced codes of conduct. There was a great relationship between the previous coalition government and the taxi industry, but one can see what has happened since the Labor government came to power. The image of the

taxi industry in Victoria has been badly damaged, simply because the Minister for Transport does not believe in private enterprise and has given no support to the taxi industry in any way, shape or form.

The minister's misunderstanding of private enterprise has firstly seen him throw a host of peak licences onto the ranks in Melbourne, particularly at night. You only need go down Collins or Bourke streets at night and talk to the taxidrivers and they will tell you that their income stream has dropped considerably. They will tell you they are working longer hours to make money, and you see the green tops sitting among them. They have not done a lot in relation to supporting or raising the profile of the industry.

Earlier I referred to touting at Melbourne Airport. I used to go there regularly and was touted on a number of occasions by people who would walk into the airport, and as you were collecting your baggage from the carousel tap you on the shoulder and say, 'Twenty-five dollars for a trip to Melbourne!'. They then take you over to the short-term car park, take your luggage and drive you into town. In the meantime drivers who have been sitting for hours waiting for a fare are overlooked. The Liberal Party has pointed this out to the minister on a number of occasions. We raised this issue with the media, and it was not until the media became interested that a couple of strong articles were written about this issue and the fact that young people could be picked up at the airport with no idea where other people picked up by the touter are going to and no identification of the driver and so on. Once we brought these issues to the attention of the media and a number of articles appeared in the press, the government finally acted on it and rounded up some of the touters. Touters at the airport are a great concern for the industry because they add nothing, take money out of the pockets of the regular drivers and give the industry a bad name.

I refer also to a current issue in the industry, and the government has no-one to blame but itself, the multipurpose taxi program. For a long period that program has been tremendous for people with disabilities and the frail elderly. We know that right under the nose of the minister for a long period we have had graft, corruption and rorting in the system. The minister knew about this and had a report in front of him two years ago that told him the system was being rorted of the order of $10 million — —

Mr Nardella — On a point of order, Acting Speaker, the bill is specific. Clause 1 refers to the purpose of the bill, and it does not mention the multipurpose taxi program. This bill has nothing to do with that program, and I ask you, Acting Speaker, to bring the member back to the bill.

Mr MULDER — On the point of order, Acting Speaker, the bill relates to taxi brokers who will have to be accredited and listed on the Bendigo stock exchange regarding the transfer of taxi licences. If the image of the industry is damaged to such a degree that a taxi licence is worth nothing, the owner of the licence will have nothing to transfer. It is very relevant to refer to the current situation of the multipurpose taxi scheme. The simple fact is that if a taxi licence is devalued because of the image of the industry — —

The ACTING SPEAKER (Ms Lindell) — Order! I will rule on the point of order. I do not uphold the point of order at this moment. Members are aware that the lead speaker of the opposition in the second-reading debate has a wide scope. I am sure the member for Polwarth understands that his main concerns should be about the clauses in the bill. I am sure he will come back to those clauses.

Mr MULDER — The issue is very relevant to the taxi industry, because if the image of the business is damaged to such a degree that the licence becomes worthless, the industry will be well and truly affected.

The legislation deals with the fact that taxi brokers, as I stated, will have to be accredited and listed in order to deal with the transfer of taxi licences. This is to ensure arm's-length dealings in relation to the transfer of licences. I wonder what this will mean for some of the smaller operators.

I was on the coast on the weekend and noticed a 'Taxi service for sale' notice in the window of an estate agent. Should the estate agent be successful in negotiating the sale of the business, I imagine that the owner-operator of the taxi licence would find himself having to deal with an accredited broker over a brokerage fee and also with a real estate agent in terms of selling his business with a licence attached. I am not sure that that issue has been relayed to the industry, but it could obviously have an impact in that regard.

Prior to the interruption by the member for Melton I was discussing the overall reputation of the industry and where it is heading. There is a lot of work to be done with the taxi industry. It has been allowed to drop significantly behind since the change of government. We know that there is a taxi working party in place and that a consultant is being paid tens of thousands of dollars to work with the industry.

There is a great deal of frustration within the taxi industry working party about the Minister for

Transport's showing absolutely no interest in the work it is carrying out. To this point in time he has failed to even show at any of the meetings, which have been ad hoc. People from the working party have been saying to me that decisions are being made outside the working party, without reference to it. They are the last to hear, and they are wondering whether the working party is simply window-dressing while the minister heads off on his own agenda and deals with issues in the way that he sees fit.

As I said the transfer and value of licences are a real issue not just in Melbourne but also in country Victoria. This $550 subsidy cap will have an impact not just on the taxi industry but on people with disabilities and the frail elderly in my community. It must be understood that for those people in country Victoria — and I do not believe the Bracks government has come to grips with this at this point in time — it is their only option in getting out of their home to where they need to go, whether it is to a doctor's appointment or a primary health care service or simply to do their shopping. They have no other avenue of travel. As much as it will impact enormously on those people, it will obviously impact on the taxi operators in those areas as well.

I lived in Barongarook, on the outskirts of Colac, before I moved into town. During the last two weeks I had visits from the Easton family, who live just down the road from me. Ms Easton, who is legally blind, said, 'I am absolutely concerned about what this is going to do to me. This is going to cost me a fortune, and I do not have the money. I can't afford to pay the additional money'. It is people in the country areas who will be hit hardest by the $550 cap. I am not saying that people in Melbourne are not going to miss out, because I have had numerous emails from people in the metropolitan area. I have had more emails on this issue than on anything else.

The government has attacked the wrong people in this regard. The Minister for Transport knew very well, as I said, that there was rorting in the system. He decided to turn his back on the rorting and to instead target those people who were missing out badly in relation to the taxi industry. I will move on now, if I may — —

Mr Nardella — On a point of order, Acting Speaker, as long as he moves on, that is fine.

The ACTING SPEAKER (Ms Lindell) — Order! I do not uphold the point of order.

Mr MULDER — I will move on to clause 10, which inserts new section 213A, headed 'Administrative costs in respect of ticket infringement'. Under this clause the amount to be paid to private companies is to be prescribed by regulation.

The point was raised during the briefing that the companies that issue infringement notices do not get anything for it. No real dollar figure was made known to opposition members when we went through the process of analysis and asked the bureaucrats who provided us with the briefing. They said, 'It could be somewhere of the order of $10 or up to $20'. But is this a bonus payment? What will this do to the authorised officers in relation to the issuing of infringement notices? Is it possible that there could be a bonus scheme within the operator's organisation for authorised officers who get to a certain level of infringement notices in a day? We raised this issue on a number of occasions. We know very well that something of the order of $50 million a year is lost from the system because of fare evasion. It has to be dealt with — there is no doubt about that.

The government would be well and truly aware of what has happened in recent weeks in relation to doubling bonus payments to the operators of speed cameras in Victoria. Once again the government is prepared to go down the pathway of issuing bonus payments to companies which issue infringement notices. The government needs to be very careful about how that works within the operator's system and whether this will create aggressive inspectors or authorised officers trying to discover infringements.

I will move on to the power of ticket inspectors to issue infringement notices after a journey has been completed. We can all agree that this has been a contentious issue for some time. It came about as a result of passenger Orlowski being approached by an authorised officer after leaving a tram and issued with an infringement notice. This went to court, which ruled in favour of Orlowski. The government has now gone down the pathway of introducing this legislation to allow infringement notices to be issued to passengers who have just left a tram or train.

Once again this brings us back to the issue of asking what does 'just left' mean? We will have to allow this to go back to the courts to decide, because there is no interpretation within the bill as to what is meant by 'just left'; it is vague, to say the least, to have this in a bill. To say that someone has just left will throw the whole thing back to the courts for the courts to sort the issue out.

I raise another issue, as it has been raised with me by a number of people, about multi-users of the same ticket — for example, family or group tickets. What

happens when people buy those tickets, someone decides to jump off when the tram pulls up at a stop, heads off on his way, an inspector jumps off behind him and says, 'Where's your ticket?' and the tram has gone on its way? What happens in that case? As I say, this opens up one hell of a can of worms, because the bill just does not appear to address those particular issues.

Mr Carli interjected.

Mr MULDER — You have to ask where this is all going to end.

Mr Nardella — And what's your view?

Mr MULDER — I am asking you. This is the legislation. I am saying that the Liberal Party does not oppose the legislation. We are here to debate the issue, we are here to raise the questions and the issues, and these are the issues that I am asking you about. How do you deal with multi-users of the same ticket?

Mr Nardella interjected.

The ACTING SPEAKER (Ms Lindell) — Order! Members' comments should be made through the Chair.

Mr MULDER — The member for Melton says that we are hopeless in relation to this situation, but I guarantee that he does not have any answer to that issue. The government is going to be faced with this particular issue. It is going to come up, there is no doubt about it, and at some stage the government is going to have to deal with it and the courts are going to have to deal with it.

The issue of a passenger who has just left a train or a tram is going to end up in the courts. You are going to have situations of multi-users of tickets, and the actions are going to be thrown out the door. Or you are going to have your authorised officers trained to such a position where they will have to interpret whether or not the person is actually a party of a multi-user ticket system, or indeed whether a person has climbed off the train or tram without a ticket. It is open ended; there is no real answer to that situation. The Liberal Party has raised this issue in the past.

Mr Nardella interjected.

Mr MULDER — The member for Melton raises the issue of fare evasion. The government has come up with no new initiatives in dealing with fare evasion. This particular issue here is very light.

I also look at issues in relation to car parks at railway stations. Authorised officers, indeed inspectors, are going to be also thrown the role of patrolling car parks and issuing car park infringement notices. Given the fact that they have also just been down the pathway of training with a new code of practice — how they talk to people, how they talk to teenagers, being a lot more conciliatory in their approach to passengers — they now have additional responsibilities: they are going to become car park attendants. Yet they will be supposed to deal with very vague legislation in terms of how and when they can issue penalty notices. It gets back to the issue of the fees that will be paid by the government to the private operators and of the government saying in effect, 'We're also throwing you a hit of about 20 or 30 bucks to catch as many people as you can'. As I say, the Liberal Party is not opposed to the legislation. I have gone through the various clauses and noted several issues.

I refer to the government's total abandonment of the taxi industry. There is no doubt about it, you only could call it a total abandonment. One would have to wonder whether there is some form of attempt to undermine the value of taxi licences. We know and understand that there is a view within the Labor Party that it would like somehow or another to undermine the value of taxi licences, to get people out of the industry who have been long-term investors, and to basically dismantle the current system. It is well known within the industry that that is the view of the government of the day. Given the government's absolute and total lack of support for the industry, one would have to ask: is the government starting to head down that pathway?

As I say, because of the complete and total abandonment by the Labor Party of people with disabilities or the frail and elderly under the multipurpose taxi program, and the impact that that has had on those particular groups within the community, one would also have to ask: why did the government not act quickly to sort this out with the taxi industry; has it totally abandoned that industry; and is it prepared to take people with disabilities, indeed the frail and elderly, down with itself? There can be no other explanation for this, given the outcry by the various groups and organisations who work with people with disabilities and the frail and elderly. They are at a loss to understand what this entire process is about, why a government that claims to have had some form of a hold on compassion would deal with the most vulnerable people in the community in such a manner as it has. On that note I wish the bill a speedy passage. The Liberal Party does not oppose the bill, but it does raise several concerns about some clauses.

Mr WALSH (Swan Hill) — Interestingly, the last time honourable members debated a transport bill in this house we had a similar number of people in the peanut gallery up the back.

On the Transport (Rights and Responsibilities) Bill, the National Party realises the importance of a good public transport and taxi system and, despite the laughter from the other side of the house, that system needs to extend beyond the boundaries of Melbourne. Country people view public transport and taxis as a luxury, whereas a lot of people in Melbourne take for granted that these are services that they just have. As I work through the bill there are some issues that we would like to raise, because we have some serious reservations about how the government is handling the public transport and taxi system. We do not believe they are doing a good job of that.

Working through the bill, we see that clause 3 changes the powers so that the Secretary of the Department of Infrastructure can instigate inquiries into accidents in the transport industry and into apparent trends of concern for public transport safety in general. Previously only the minister could instigate inquiries where there had been accidents, so it will be interesting if the Secretary of the Department of Infrastructure actually instigates an inquiry into the standard of the Mildura train line. One of the very hollow promises of this government was that it would upgrade that train line. We have a train line there, but I do not believe we could run a passenger train on it because there would be serious safety issues there.

Ms Overington interjected.

Mr WALSH — Before we could ever have a passenger train back to Mildura there would have to be some serious work done on that line.

Mr Nardella — That's what we're doing.

Mr WALSH — I don't know what you are doing, because I have yet to see any action on that train line.

Mr Nardella interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Melton!

Mr WALSH — It will be interesting to see whether the secretary does instigate an inquiry into concerns about public transport safety on the Mildura train line, and the fact is that I do not believe we will be able to have a passenger train on that line until it is upgraded.

Ms Overington interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Ballarat West!

Mr WALSH — Clauses 4 to 7 of the bill talk about the issue of taxi licence regulation and the fact that we are setting up an accredited approved-security exchange to trade in taxi licences. That is an excellent idea and an excellent way to deal with these things. What is good about this is that negotiations are now taking place with the Bendigo Stock Exchange to enable it to be the exchange that deals in taxi licences. It is great to see that the government realises there are places outside Melbourne when it comes to doing things. It is great that it has realised that Bendigo is there and actually has the facilities to do this sort of thing. The Bendigo Stock Exchange is an excellent facility, and it is great to see that the government is utilising that resource.

Other parts of those clauses talk about the issue of 600 new off-peak taxi licences that are going to be released at the rate of 25 a quarter. That is legislated so these new taxi licences cannot be traded back into the system, because they are assigned for a specific purpose. However, we have to be careful of something the previous speaker touched on, that the majority of people who take taxis in country towns for the most part cannot drive for some reason. They may be elderly or have sight impairment. Occasionally they may have had one or two drinks too many, but I think you would find that the regulars who use the taxis are people who want to come down the street to go to the doctor or to get the groceries or to get their prescriptions filled. We have heard all the publicity about the multipurpose taxi issue at the moment. In my electorate we are raising a petition — —

Ms Overington — A Vic Nats petition?

Mr WALSH — It is. We are getting a lot of people who are very concerned about this, because capping the entitlement at $550 is going to mean that a lot of people are going to run out of their entitlement very quickly and will not be able to go to the doctor. Take the towns in my electorate — say Swan Hill, as one of the centres there — people from Lake Boga, Woorinen or Nyah West have to come in to see the doctor, to get their groceries and have their prescriptions filled. After six months they will have used up their entitlement, and the taxis will lose quite a bit of business there. This will have an impact on the value of those taxi licences in the future.

What is even worse is that the people who are in the system with the problem we have now will be able to keep going until they run up to their cap of $550, but if they become visually impaired or disabled in a way that

prevents them from driving in the future apparently it is going to take three months before any new applications to pay the $16.50 to get a card to access the multipurpose taxi in the future are processed. For the next three months, people who are not in the system but who have a need to use those taxis will not be able to get into the system. There will be a huge problem for the taxis in country Victoria if we do not manage it well.

Clauses 10 and 11 talk about the issue of — —

Ms Overington — Talk about the bill.

Mr WALSH — I have been talking about the bill. Clauses 10 and 11 talk about the fact that the public transport owners can get a percentage of the fee collected from fines to cover the cost of people who give out the infringement notices and help collect the money. That is an excellent idea and in our consultation on this bill we wrote to M Train and M Tram. I would like to read some of the response we got in a letter from Alan Chaplin of that organisation. It states:

> M Train and M Tram fully support all elements of the bill. Ticket inspectors undertake one of the most difficult jobs in public transport, and we believe the individual elements of the package will support our staff to more effectively undertake their duties.
>
> We also welcome the government's intention to increase the fine for fare evaders. The cost of the fine has not increased for 10 years and therefore has not kept pace with CPI. We strongly support the concept of a graduated fine system for hard core fare evaders — we believe this will prove to be a deterrent.
>
> We believe that the collective elements of the package will result in a better public transport system for both the customer and the industry.

We are more than prepared in this place to give credit where it is due, and there are some elements there that are good for the transport system, as has been said in some of the interjections. I do not think any of us support fare evaders; we want to see people get a fair ride, and I think the ticket inspectors have a very hard job. This will go some of the way towards making sure that people pay their fair share and do the right thing. It is a good thing.

Clause 15 of the bill is effectively a tidy up where we sort out some of the language in the system, making sure that we do not have two terms in the bill. Previously we had 'authorised persons' and 'authorised officers' and we ended up with just 'authorised officers' in the bill.

It is amazing the number of bills that have been debated in this place that have authorised officers. Obviously out there somewhere there is a huge pool of authorised officers waiting to be employed or who are employed. If we look at the budget report about the increase in the number of public servants and the increase in salaries under this government, no doubt a fair percentage of that has gone into authorised officers doing some of the things that we have done in this place.

Clause 13 of the bill concerns this issue of authorised officers actually being able to serve an infringement notice on someone who has left public transport. Again it is a response to an issue, the Orlowski case, something that has some merit. Again we have to be careful about the implementation of this part of the bill. Where do you actually draw the line of when you have left the train? Is that when you are still in the train station? Is it when you are still on the train platform? Or is it when you get out into the street? I think it would have been better if we had had a clearer definition of what is actually 'left public transport'. It is probably simpler with trains and train stations. It gets a lot greyer with trams. Is it when you are standing at the tram stop, when you get off or when you have crossed the road to the footpath or whatever? I would be interested in the minister's response in his summing-up as to how this part of the bill is going to be implemented. We need to be very careful in this place that whatever we do in the way of legislation is actually enforceable and sensible and people do not have to rely on the courts for some convoluted rulings to find out how it is actually going to be implemented.

Clauses 24 and 25 amend the act so that those authorised officers I have talked about before can actually issue parking infringements. Apparently, from the background reading that I have done and in consultation on the bill, parking infringements at railway station parking lots and those sorts of places were supposedly going to be enforced by local government.

An honourable member interjected.

Mr WALSH — They have actually, yes.

They were supposed to be enforced by local government parking officers. On our consultation apparently that has not been working as well as it could, so we are going to have the authorised officers being able to issue parking infringements on railway and public transport land. Again it is something that sounds quite simple and straightforward, but it is something that we need to be careful of in the implementation. As the member for Polwarth interjected, if people are actually acting as authorised officers on trains, doing their job riding those trains and making sure we do not

have fare evaders, if they are actually spending most of their time going around railway stations looking for parking offenders either we are going to have to have a lot of people to do those jobs, or they are not going to be able to do the job they were originally intended to do.

The majority of this bill is machinery of government, so to speak. It does quite a few things that improve the implementation of the public transport system and the taxi system in Victoria.

As I said at the start, we hold the view that access to public transport should be a right for all people. I would like to see in the future this government put some more effort into making sure that country people have access to public transport — a lot of people do not have that access to good public transport — and to making sure that we support the issue with the multipurpose taxi rules. No-one wants to support the rorting of the system. No-one wants to support people taking money that they do not earn. But we do not want to find that we disadvantage the people who we are trying to help with this multipurpose taxi system, such as those people who do not have the ability to drive, those people who have a visual impairment or whatever, and need to get to town to go to the doctor, to do their grocery shopping, to go to the chemist to get prescriptions filled or whatever.

The National Party does not oppose this bill and hopes the issues that I have raised will be addressed in the minister's summing-up and that the implementation of the bill actually does something to improve the transport system.

Mr CARLI (Brunswick) — It is a great pleasure to rise to speak on the Transport (Rights and Responsibilities) Bill. It is an important bill. It is fundamentally about rights and responsibilities as the government continues to improve public transport in the state, including improvements to public transport in country Victoria.

I appreciate the speech by the member for Swan Hill, because he gave a balanced approach and he called on the Bracks government to contribute to improving public transport in country Victoria. That is what we have been doing and will continue to do, because we are committed to public transport. More importantly we are committed to public transport through the state, and we are demonstrating that by our fast-rail program, by improvements to bus services in many regional centres and by the reopening this year of the Ararat and Bairnsdale lines and in future the Leongatha and Mildura lines. I appreciate a balanced speech, a speech which really does look constructively at contributing to public transport in the state.

That is in contrast to the member for Polwarth's contribution, which was first of all about scaremongering and about creating the myth in Victoria that our train system is dangerous and that our trains are crashing everywhere. He wants to contribute to a sense that our rail system is in crisis. Can I say that the level of safety on Victorian rail systems is benchmarked with other states? It rates very well in terms of those benchmarks, and more importantly it is far safer than private transport. The rate of serious injuries — —

An honourable member interjected.

Mr CARLI — These are facts! The member for Polwarth does not contribute to the debate in this house; he merely comes here and scaremongers and makes all sorts of accusations.

The fact is that the level of serious injuries on public transport is considerably lower than those involving cars or motorcycle travel. Improvements in road safety must continue to occur. Accidents do happen, but we have a lot of processes in place to ensure that there are continuous improvements and a thorough investigation of crashes.

That is what this bill is about. It gives the Secretary of the Department of Infrastructure the ability to investigate rail incidents or accidents and to investigate trends in the industry, because we want to have a system of continuous improvement. We want to be in a situation where we learn from accidents that occur — and there is no doubt that they occur. We have a very safe rail system in this state. The member for Polwarth is no friend of public transport or the rail system. He tries to scare people into not using the train system, into being fearful of it. But we know the facts, and they show that it is a very safe system.

In terms of taxi reform, again we have heard a lot of nonsense from the member for Polwarth about what has been a very comprehensive reform program because of the failure of the Kennett government's taxi program. The Kennett government painted the taxis and put the drivers in uniform, but the fundamental industry problems continued. The high leasing fees continued, and people who wanted to drive in the industry could not make a decent living. That is what the peak hour cabs are about. They not only provide competition and cabs to meet peak hour needs, they also provide work for drivers who want to stay in the industry and who want to make some money out of it. It gives them an

opportunity without being ripped off by high leasing fees.

It is important to see these reforms in the context of what is happening in our taxi industry. The Bendigo Stock Exchange fits into that because it is creating transparencies to get rid of some of the things the Kennett government refused to look at — some of the practices in the taxi industry and some of the rorts in the way the brokers fleeced drivers and operators in leasing and selling licences. We are trying to create transparency and build competition and a more sustainable industry, but there is no doubt that it will take time.

Mr Mulder interjected.

Mr CARLI — All we get from the member for Polwarth is criticism and carping. He has no vision and is a complete policy vacuum. He throws up a whole lot of improbable situations and causes, none of which contributes to public transport or the taxi industry.

There is the further issue of the multipurpose taxi program. It is a difficult decision for government to put a level of control on the blow-outs in the multipurpose taxi program.

Mr Mulder interjected.

The ACTING SPEAKER (Ms Lindell) — Order! The member for Polwarth has made his contribution!

Mr CARLI — The member for Polwarth interjects about rorting. The previous government had a voucher system, which was rorted. In government we introduced a smart card system, which got rid of a lot of rorting from the industry. On evidence gathered using the smart card, a number of drivers have had their licences revoked. We will continue to improve the smart card, because we want to ensure that we can fight rorting, but it is not an easy process. It is a process that we are continuing to fight. We have revoked many licences, particularly since the introduction of smart cards, and we have acted against people who have tried to rip off the system. Since March we have been building a case regarding systematic fraud. We have taken the case to the fraud squad, and we are waiting for it to prosecute cases of serious fraud.

It is a difficult program to control in terms of the blow-out. It has increased by 6 per cent, and currently it costs $42 million to run the program. In four years time it will cost an estimated $57 million. It is growing at a rate that we can no longer control. The program includes 180 000 people; it is bigger than all similar programs in all the other states combined, because it is a more generous program. We allow more people into the program than any other state.

We are trying to ensure that the multipurpose taxi program is a sustainable system and that it works for those in need. The changes are about ensuring the sustainability of the program and acting responsibly as a government. These are hard decisions to make, but they are decisions that will ensure that the system can survive. Again the opposition refuses to acknowledge that there are difficulties in the system. We have to act, and that is what we are doing.

It was good to hear the member for Swan Hill talk about the support from the public transport providers in terms of the enforcement powers and procedures and the changes we are introducing, including the graduated fines, ensuring that the administrative costs can be recouped by the public transport providers. The changes also clarify the issue of authorised officers and ensure the power of arrest for authorised officers. There are a whole series of changes, and I will move quickly through them because I am running out of time. They are important changes which are supported by Connex, Yarra Trams, M Train and M Tram on the basis that we are trying to fix the mess left by the previous government.

The ticketing system has been a major problem, and we have been acting on the problem of fare evasion. We inherited all those things, and we have extraordinarily strong support from the public transport providers. We are acting.

We are actually improving the system, and that is what we are on about. We are ensuring that we improve public transport. We are committed to public transport: we are building public transport in metropolitan Melbourne, in the regional centres and in country Victoria. All we get from the member for Polwarth is constant criticism, constant attacks on public transport and constant carping on what this government is doing to improve public transport. We get no vision, no policy, no ideas and nothing creative — just a great big vacant space.

Mr COOPER (Mornington) — This bill has six major aims and a number of subsets of those aims. In the short time available to me I clearly cannot cover everything, so I will concentrate my remarks on three major points of the bill — and hopefully I will have sufficient time to get through those.

The first matter I want to deal with is the provision in the bill for the Secretary of the Department of Infrastructure to inquire into rail accidents rather than

requiring a ministerial sign-off. It concerns me because it has become a bit of an art form in New South Wales to put public servants in the front line when things go wrong and to have them out there explaining and dealing with things while the minister stands well back in the background. I hope this is not a signal that the same kind of attitude is starting to develop here in Victoria.

It is all very easy for things to go wrong in a system as large as our public transport system, and I know the member for Brunswick would agree with me. We have seen a few of those in recent times on the rail system, and I am not pointing any finger of blame or having a shot at the government. The fact is that things go wrong, and when they do it is all very easy for the minister to slip into the background when there are nasty things to explain to the general public and to the media and to allow public servants to be pushed into the foreground.

That is what concerns me about this particular provision, because it gives the minister the legislative ability to push the Secretary of the Department of Infrastructure forward when things are going badly in the rail system or when there are accidents. I hope this is not a signal that we are going to get the New South Wales approach to dealing with problems with the system. I will leave it at that, but I believe the government needs to take that on notice. If the opposition sees what I call the New South Wales syndrome developing in the future, then the government needs to understand that it will not get away with it scot free, because we will be pointing that out.

I well remember Simon Lane, a significant and well-respected public servant who worked for the Public Transport Commission. He was attracted to and went up to work for the New South Wales government as the head of the rail system. He got it in the neck because he was blamed for everything that went wrong. The minister made him the scapegoat. I do not think we want to see that occurring to our public servants here in Victoria.

I also want to deal with the question of taxis. Putting to one side the question of the multipurpose taxi scheme — I will respond later to a couple of the matters the member for Brunswick raised about that — I will address the difficulties that the taxi industry is having in this state. My understanding is that the number of trips in Victoria is down from 32 million to 25 million, which is putting an enormous amount of pressure on the industry. While the owners of taxis are able to weather the storm, it is the drivers at the end of the line who pay the price because they are driving on commission and nothing else. When there is a downturn in the industry it is the drivers who are severely affected. I speak from personal experience, having been a part-time taxidriver many years ago, so I know how difficult it is. You really have to know how to make a dollar, and you have to work very hard to make that dollar. There is no such thing as sick leave or anything else; if you are not behind the wheel driving your cab, then you have a real problem with income.

We have to deal with this because in recent years more taxis have gone onto the streets. We even have the part-time taxies, the green tops, out there now, and that is putting even greater pressure on the industry and particularly on the drivers. The common complaint is that when it rains in Melbourne you can never find a cab, and I suppose that has always been the case; but the problem is that on a day like today there are cabs everywhere. When you are out at Tullamarine and you get in a cab, which I do fairly often, and you say to the driver, 'How long have you been sitting here?', the answer will usually vary from an hour and a half to maybe 3 or 4 hours. When a driver tells me he has been waiting for 3 or 4 hours I always say, 'What are you sitting here for? It would have been cheaper to drive back and try to get some fares in Essendon rather than sitting on the rank waiting for fares to eventuate'.

The fact is that they are doing it hard. This house needs to understand that taxidrivers are not getting it easy, and sometimes the efforts of government, either by regulation or by legislation, as it is in this case, make it even harder for the taxi industry and harder for drivers.

Returning to the multipurpose taxi scheme, the member for Brunswick talked about rorts in the taxi industry. While I am sure he did not mean it to be a broad-brush statement, he came across as saying that there appears to be major rorting in the industry. That is not so. There is no doubt that there is rorting — the government even admits there is — and that those rorts need to be addressed. The sad part is that even though the member for Brunswick has said the government has done a lot by introducing the smart card, the reality is that the card has not been smart enough to eliminate the rorts, and as a result the users of the system will now be paying the penalty.

It appears that the government has virtually no intention of seriously addressing the rorts in the multipurpose taxi program. If it has, we have not heard about it and neither has the media — and therefore nobody in the general public has heard about it either. To talk about addressing the issue of rorts in the multipurpose taxi program by issuing a smart card and hoping it will

work is a nonsense. The reality is that rorts need to be addressed. The proposed cuts to and caps on the multipurpose taxi program from the start of next year are a disgrace. They will affect the very vulnerable in our community, and the government needs to go into reverse gear as far as that is concerned.

In the 2 minutes left to me I want to briefly touch upon the repeal of the detention powers of authorised officers that were introduced in 1999 when public transport was franchised, the intention of the government now being to rely on formal powers of arrest by authorised officers. This is an extremely dangerous provision, and I am not happy about it at all.

There are probably only two people in this house who really understand the problems in the public transport area, and they are the present minister and me, as the previous minister. I had to deal with it, and now I have great sympathy for the present minister in having to deal with the problem too. I understand the direction the government is going in, and I understand why the minister has decided to take this course of action; but I think it is a very dangerous course of action, as is hypothecating part of the fine revenue back to the providers of the system. That is also a very dangerous precedent to establish, and it is one that I would certainly warn this government against.

Giving ticket inspectors the power of arrest — because that is what this bill will in fact do — is dangerous and the government needs to press forward on that with great caution. As far as hypothecation of fine revenue is concerned, I would suggest that will not be in the best interests of public transport users. They will see themselves as the victims here and believe there is far more concentration on getting people fined than getting them to buy tickets. With those words I will complete my contribution on this bill.

Mr Mulder — Acting Speaker, I draw your attention to the state of the house.

Quorum formed.

Ms ECKSTEIN (Ferntree Gully) — I am also pleased to make a contribution in support of this bill. The bill makes a number of important changes to offences relating to ticketing and the conduct of authorised officers who inspect tickets, and such things. It also deals with a number of other matters, such as the secretary of the department being able to hold an inquiry into an accident or incident involving rail infrastructure, rolling stock, and things of that nature, and regulating powers regarding the transfer and assignment of taxi licences. I do not propose to address all the measures contained in the bill, but I want to address several matters in relation to ticketing and the conduct of authorised officers.

The bill is about responsibilities as well as rights. It clarifies the power of authorised officers to inspect tickets immediately after a journey. This will enable ticket inspectors to require a person who has just left a mode of transport, such as a tram or railway station, to produce a valid ticket. The bill will also enable fare evaders to be fined at differential levels when repeat offences occur within a given period.

Public transport users have a responsibility to have a valid ticket and to produce this when requested by an authorised officer. Graduated fines for repeat offenders will help to reduce fare evasion. While I accept that the provision of public transport is a service to the community provided by the government, we do expect people who use the service to make a contribution to the cost of the provision of that service. Those who evade paying fares on our public transport services are short-changing the rest of the community and are not contributing their fair share.

The legislation will assist with the reduction of fare evasion, which costs all of us as a community an estimated $50 million a year. There needs to be a disincentive for those who habitually evade paying fares because they believe it is cheaper to pay a fine every now and then rather than purchasing a valid ticket all of the time. The bill ensures that routine fare evaders are appropriately penalised through increased fines for repeat offences.

Public transport users have the right to expect to be treated in a fair and reasonable manner by the authorised officers who inspect their tickets. The bill will ensure that this is the case through a uniform code of conduct, and the Department of Infrastructure will monitor compliance with that code to ensure these standards are met.

The bill will also enable authorised officers to enforce parking regulations at railway station car parks and other railway or tramway land leased for public transport purposes. It is important that car parking made available for public transport commuters is available for them to access and use. Railway car parks are frequently near shopping centres and are often used by non-commuters. It is important for public transport commuters to have these car parks available to them in order to encourage more people onto our public transport system. This car parking should not be taken up by local shoppers at the expense of commuters. The bill will seek to ensure that parking rules at such

parking facilities are more effectively policed for the benefit of public transport users.

I commend the bill to the house and wish it a speedy passage.

Mr CAMERON (Minister for Agriculture) — I thank the honourable members for Polwarth, Swan Hill, Brunswick, Mornington and Ferntree Gully for their contributions to the debate on the Transport (Rights and Responsibilities) Bill. This is a good bill for a good state, and I wish it a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

HEALTH LEGISLATION (FURTHER AMENDMENT) BILL

Second reading

Debate resumed from 29 October; motion of Ms PIKE (Minister for Health).

Opposition amendments circulated by Mrs SHARDEY (Caulfield) pursuant to sessional orders.

Mrs SHARDEY (Caulfield) — I rise to speak on the Health Legislation (Further Amendment) Bill. I have given notice that the opposition has proposed some amendments to this bill, which will in effect delete those clauses related to the abolition of the Pathology Services Accreditation Act.

The Health Legislation (Further Amendment) Bill does four major things. Firstly, it amends the Chinese Medicine Registration Act 2000 and the schedules referring to other health registration acts — the Chiropractors Registration Act 1996, the Dental Practice Act 1999, the Medical Practice Act 1994, the Nurses Act 1993, the Optometrists Registration Act 1996, the Osteopaths Registration Act 1996, the Pharmacists Act 1974 and the Physiotherapists Registration Act 1998.

Secondly, the bill amends the Health Records Act 2001 to ensure that consistency with the sovereignty of governments principle is respected, therefore making clear that commonwealth bodies are not required to comply.

Thirdly, the bill repeals the Pathology Services Accreditation Act 1984, and it is this portion of the bill that the Liberal Party opposes, although it does not oppose the remainder of the bill.

Fourthly, the bill authorises the conduct of Health Purchasing Victoria and public hospitals in relation to the commonwealth Trade Practices Act 1974. I will look at those four areas separately.

The amendment to the Chinese Medicine Registration Act 2000, the Chiropractors Registration Act 1996 and the other acts mentioned clarifies mechanisms involved in the registration boards registering one of their members as a Chinese medicine practitioner. This includes examinations et cetera. I refer to the report of the parliamentary Scrutiny of Acts and Regulations Committee, which explains it a little more clearly. It tells us that clause 3:

> provides that a person may not use the title, either in English or any other language, Chinese medical practitioner, acupuncturist or Chinese herbal medicine practitioner if they are not registered under the Chinese Medicine Registration Act 2000.

Clauses 4 to 11:

> make amendments to a number of health practitioner related acts in respect to endorsements under those acts for practitioners to be exempt in respect to the practice of acupuncture or in the case of the Pharmacists Act 1974 an exemption endorsement in respect to dispensing Chinese herbs.

In effect I believe that says that people who are registered under the other acts, if they are to perform acupuncture or dispense Chinese herbs, may well need their registration to be endorsed by their board so they may carry out these procedures.

The opposition is concerned that the bill may make it more difficult for other registration boards to endorse the registration of their registrants to practise Chinese medicine modalities, thereby increasing the pressure on other health professionals to duplicate registration through the Chinese Medicine Registration Board. Those, for instance, who are qualified with an MBBS and who perhaps are trained general practitioners who have undertaken further education may now need to have their registration endorsed as being capable of delivering procedures under the Chinese Medicine Registration Act. We are concerned that such practitioners have such a breadth of training and experience that they should be well qualified, for instance, to deliver acupuncture.

It will put pressure on doctors and other practitioners, whether they be chiropractors, optometrists, whatever, to have their registration to perform these procedures endorsed through their board. We are concerned about

this because the government has not produced any evidence that public safety will be improved by these changes that have been requested by the Chinese Medicine Registration Board.

The Liberal Party was responsible for the Chinese Medicine Registration Act and did all the original work on that legislation. We are very proud of that but are concerned that it is putting pressure on those boards, particularly in relation to those who are trained medical practitioners who may well have to have their registration endorsed under the Chinese Medicine Registration Act before they can deliver those procedures. We are worried about that aspect of it. I raise that as an issue with the minister, and I ask her to explain, if she has an explanation, that amendment.

The second key amendment is to the Health Records Act. It clarifies the position of the commonwealth public sector agencies. This legislation will make it clear, consistent with the sovereignty of governments principle, that commonwealth bodies are not intended to be regulated by Victoria's health privacy laws. These commonwealth bodies are already regulated under commonwealth privacy laws.

The Liberal Party is concerned that the commonwealth act contains few specifics of the type contained within the Health Records Act and therefore this bill in effect asks us to support the principle that those dealing with such commonwealth bodies, for example, should be offered less protection. Does that mean that federal companies or statutory authorities, say Telstra, would not be subject to the Health Records Act here in Victoria whereas perhaps Optus would be? Does it mean that Telstra does not have to comply with the same standards in relation to privacy principles under the Health Records Act that Optus would? I see my parliamentary secretary colleague rushing to the advisers to seek some clarification on this issue. I welcome that clarification, because it is an important principle, and perhaps it could be made more specific.

The opposition supports the Victorian health records legislation, which will protect the use and treatment of health information in relation to health employees as well as others. It is all very well to talk about hospital records within the public hospital system and the way they should be treated, but we are moving away from that and talking about the health records of the people who work for Telstra — and that company would hold considerable health information through various modalities, including insurance checks, health checks, whatever you like. We would like to think that everybody will be protected in the same way in this state. There are some concerns with that second amendment made by the bill.

Thirdly, the bill amends the Health Services Act 1988 in respect of Health Purchasing Victoria. Health Purchasing Victoria undertakes collective purchasing on behalf of the Victorian public hospital system, and by and large it probably works pretty well. This bill authorises the conduct of Health Purchasing Victoria and public hospitals in relation to the commonwealth Trade Practices Act 1974.

The bill aims to provide some legal certainty for public hospitals operating within Health Purchasing Victoria. In a sense, and put very bluntly, the amendment seeks to ensure public hospitals in particular cannot be accused of collusive behaviour because they are buying in bulk.

They need to be given some surety that they cannot be accused of collusive behaviour, as I understand this provision in the bill. I understand in the past there may have been some questions about hospitals either being threatened or cases muted, but that has not occurred. In any event the opposition believes this is a reasonable amendment.

The final part of the legislation and the part that the Liberal Party is deeply concerned about concerns the repeal of the Pathology Services Accreditation Act 1984.

Mr Nardella — Have you read the report?

Mrs SHARDEY — Yes, I have the report. I recognise that the member for Melton chaired the expert panel which wrote the report. I will quote some sections of the discussion paper and final report. I hope the member understands the rationale for the Liberal Party not supporting the repeal of this act. We believe the retention of this legislation is in the best interests of Victorians in terms of their safety and assurance of high-quality pathology services within Victoria, which it has a fine and unique record of delivering, as noted in the discussion paper. In that respect the paper identified the uniqueness of the system in Victoria, one which the Liberal Party seeks to continue.

In October 2000 the then Minister for Health, the Honourable John Thwaites, requested the member for Melton to chair a panel to review the Pathology Services Accreditation Act.

Mr Nardella interjected.

The ACTING SPEAKER (Mr Plowman) — Order! The member for Melton has been recognised by

the member, but I suggest he confine his remarks to when he makes his contribution.

Mrs SHARDEY — The panel produced a discussion paper in 2001 and a final report in early 2002. The now Minister for Health introduced this bill incorporating the abolition of this important watchdog. The government argues that the Pathology Services Accreditation Board (PSAB) duplicates commonwealth regulations. I refer briefly to page 7 of the discussion paper, which gives a brief description of pathology services. It states:

> The national health strategy (discussion paper no. 6) explains that pathology is a diagnostic and interpretive science concerned with 'disease processes and the demonstration of them' … Pathology relies upon the detection of changes in the tissues of the body, including blood, and other body fluids to understand the causes of illness or assist in establishing the cause of sudden or unexpected death …
>
> Currently, pathology is divided into seven different disciplines …
>
> > Anatomical pathology … is concerned with tissue diagnosis …
> >
> > Chemical pathology … involves detecting changes in a range of substances … in blood and body fluids …
> >
> > Genetics … analysis of chromosomal abnormalities …
> >
> > Haematology … is concerned with diseases that affect the blood …
> >
> > Immunology … is concerned with the immune system …
> >
> > Microbiology … is concerned with diseases caused by organisms such as bacteria …

General pathology is the final area:

> Current Victorian legislation does not define pathology but instead describes a pathology service as:
>
> > … a service in which human tissue, human fluids or human body products are subjected to analysis for the purposes of prevention, diagnosis or treatment of disease in human beings and includes any premises from which a service is conducted …

I found the next section a little difficult to understand. Perhaps the minister or the member for Melton may provide the house with an explanation. It states:

> Although Western medicine considers pathology as one of its basic disciplines, the review panel is of the view that the act's description of pathology services facilitates a broader view of pathology, thereby including the interests of complementary and alternative medicine in the study of disease.

I did not understand how the interests of complementary and alternative medicine in the study of disease had anything to do with pathology, which is identifying changes in the body and looking at the capacity of identifying the causes of disease or death. I asked someone I am very close to who happens to have been in the medical field for a very long time about it. He did not understand it either. Nevertheless that statement is included in the discussion paper. I am sure the member for Melton has a clear understanding of the connection, but I fail to have that understanding.

I turn now to pages 16 and 17 of the discussion paper, which refer to the dual coverage of pathology services — those covered by the commonwealth for those services funded under Medicare and the coverage of other services not funded by Medicare, but including those run by Medicare. Members will understand that in a minute.

Section 3.2, entitled 'Overview of the scope of the commonwealth's legislation', states:

> In terms of pathology services, the purview of the commonwealth's Health Insurance Act 1973 extends only to those services for which a Medicare benefit is sought.

These services are covered under federal legislation. The paper continues:

> To attract a Medicare benefit, a pathology services must be:
>
> > performed in a pathology laboratory (it must be an accredited pathology laboratory (APL));
> >
> > provided by or on behalf of an approved pathology practitioner (APP) …
> >
> > performed in an accredited pathology laboratory of which the proprietor … is an approved pathology authority.

Section 3.2.1 states:

> In order for a pathology laboratory to gain APL status, application (in the form of a submission and fee) … to the Health Insurance Commission … must be made. A separate application for inspection of the premises must be lodged with the National Association of Testing Authorities (NATA) —

a very important body. Page 17 refers to Victorian legislation. The discussion paper makes clear that:

> Unlike the commonwealth legislation, the Victorian Pathology Services Accreditation Act 1984 extends both to pathology services that are eligible for Medicare rebates, and to those services that are either ineligible or do not seek access to such rebates.

The Liberal Party supports the objectives of the Victorian act, which are really important, and that is why the opposition is opposing this part of the government's legislation. The paper further states:

> The objectives of the Victorian act are to:

> ensure that proper standards of practice and technical procedures are observed routinely in pathology services;
>
> ensure adequate standards of record-keeping in pathology services;
>
> encourage the use of safe working practices in pathology services and to discourage the use of unsafe or potentially unsafe practices; and
>
> ensure that staff employed in pathology services have had adequate and appropriate training.

We believe those objectives support the notion that this act and the accreditation board should be maintained in the state.

Mr Nardella interjected.

Mrs SHARDEY — Yes, I have the final report and I will also quote from it. Victoria is the only state to have its own pathology regulatory body. The commonwealth regulates bodies that seek Medicare reimbursement, as I have said, but it does not regulate those providers that do not bill Medicare directly or indirectly. These include new tests yet to be scheduled by Medicare, testing undertaken for research purposes, occupational health and safety testing, some genetic testing services, health screening services, for example, for cholesterol, heavy metal testing and so on. The opposition believes there is a strong case to maintain the Victorian PSAB. The significance of the PSAB was demonstrated in 2002 when Genetic Diagnostic Laboratories had its accreditation limited by the PSAB after more than 30 000 women, who underwent Pap tests with GDL, were urged to be retested at another laboratory. We believe this is a very significant event.

The rescreening followed a number of checks by the official testing authority that found some of General Diagnostic Laboratories' procedures to be unsatisfactory. The National Association of Testing Authorities, or NATA, had been highly critical of some of GDL's laboratory procedures and found an abnormally high number of negative results, some of which were in fact positive.

I know some of my colleagues do not think this is important, but I must say as a female in this Parliament I think that this is absolutely critical.

Mr Andrews interjected.

Mrs SHARDEY — This is not disgraceful. I am pointing out the important role of the PSAB. My colleague will have every opportunity to agree with me.

As a result the Health Insurance Commission sought to withdraw GDL's Medicare accreditation for Pap tests. This became embroiled in legal manoeuvring and a great deal of confusion. The company sought an order suppressing all public comment, and this was explained to us very clearly in the briefing. The PSAB was concurrently conducting a separate probe into GDL. The board determined that GDL's Pap testing had not met the standards and requirements under the Pathology Services Accreditation Act. It then successfully imposed a limitation on GDL that excluded Pap tests from the list of tests it was licensed to perform. Let me draw the line under that.

That demonstrates that the role of the PSAB was very important in regard to that issue. It provided the way forward to bring some end to what was occurring. I believe this state legislation performed a very important role in this area. I understand that submissions to the review panel were divided on the proposed abolition of the PSAB — I am sure the member for Melton will agree. Some argued that it will not lead to a significant reduction in costs but may lead to a deterioration in pathology quality. I should point out at this time that the total cost of running the PSAB is only some $20 000 annually, which is not a great deal, and many would say it is therefore very important that it continue.

In regard to the observation about pathology services accreditation under the commonwealth and Victorian governments, I would like to refer to the final report of the review of the Victorian Pathology Services Accreditation Act, which shows two things. First of all, in relation to dual accreditation I refer to page 11 of the report, which makes it clear that dual accreditation works pretty well. It says:

> One indication of the effect of the conscious alignment of the two sets of standards is that a single inspection by NATA/RACGP assessors is able to serve both Victorian and commonwealth requirements. Hence, other than staff supervision requirements, the additional burden of the Victorian accreditation requirement for dual accredited laboratories is merely that of additional paperwork, plus the fees involved. Aside from staff supervision requirements … the size of the restriction on competition imposed on this group as a result of the accreditation requirement must be considered minimal, at least within the context of the presumed continuation of the commonwealth's accreditation system.

It is claimed that there is nothing additional that makes it difficult to have laboratories that are accredited under the dual system — that is, by both the Victorian and commonwealth governments, but when it comes to services accredited only under the Victorian act, all of a sudden this report starts to claim that there is some sort of burden in terms of costs and process. Quite frankly I find that very difficult to understand.

I turn now to some of the comments made in relation to this final report and the repeal of the Victorian legislation. The Australian Association of Clinical Biochemists, Victorian branch, argued that there will be no major reduction in costs in abolishing or scaling down the PSAB, only a major reduction in the standard of some of the Victorian pathology services. Similarly, Network Pathology and the Austin and Repatriation Medical Centre argued that option 5, which is the one that abolishes the act, would not address the issues of concern and would potentially dangerously expose the public to unscrupulous practice. Likewise the Medical Scientists Association of Victoria argued that the Victorian government should not consider removing legislation that performs the monitoring process at a time when there is increased pressure to improve quality outcomes and the overall quality of pathology laboratories.

The Peter MacCallum Cancer Institute stated that it did not favour option 5, which would repeal the act, as there is a need to accredit laboratories performing pathology services that are not covered by the commonwealth scheme. Because the commonwealth has looked at this issue, I would like to turn to its report, entitled *Evaluation of the Australian Pathology Laboratory Accreditation Arrangements*. I quote from page i of the executive summary, which says:

> Because the commonwealth can only regulate pathology services through its administration of the Medicare benefits scheme, a small volume of pathology services that do not attract Medicare benefits remains unregulated. Complementary state-based legislation, as currently applies in Victoria, may be appropriate to regulate these services and to assist with timely enforcement of compliance with national standards when there is a significant risk to public health and safety. The DHA should initiate discussions with the states with a view to further examining the potential cost-benefit of such legislation.

So the commonwealth supports other states taking up the Victorian legislation.

Further, at page iii, the commonwealth report says:

> In occasional circumstances a failure of quality systems in pathology will require notification of patients or referring practitioners. This activity should be coordinated by the Department of Health and Ageing, in cooperation with the HIC and state and territory health authorities.

So clearly the commonwealth very strongly supports the sort of legislation that exists here in Victoria.

Mr Nardella — That's your interpretation.

Mrs SHARDEY — I think my interpretation is very reasonable.

Finally I would like to quote from a press release by the Medical Scientists Association of Victoria. About the changes it says:

> This will allow unqualified staff to perform tests and interpret and issue results … We require qualified professionals — doctors and nurses — to administer blood transfusions, but the minister seems quite happy to have a situation where unqualified persons can crossmatch blood and issue blood products, work currently done by degree-qualified medical scientists.

I would ask the minister to clarify if this is true or not true, and I would ask her to guarantee that this is not the case.

The press release continues:

> If it were Minister Pike's child in accident and emergency needing an urgent blood transfusion, I'm sure she would want to have the blood crossmatched by a qualified scientist. Perhaps she hasn't thought of that.

It continues:

> Among other adverse consequences, the repeal of the legislation will allow new private laboratories performing tests that are not rebatable under Medicare to open without any regulation of their equipment, staff, facilities or quality control.

An honourable member interjected.

Mrs SHARDEY — I note one of my colleagues opposite claims that this is a disgrace. I do not believe it is a disgrace.

At page 1639 of *Hansard* of 16 May 2002 the then Minister for Health is reported as saying:

> The people of Victoria must have confidence in the pathology system …
>
> It is important that our pathology services not only remain at the cutting edge of quality control but that Victoria's regulation also remains at the cutting edge.

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

Mr DELAHUNTY (Lowan) — I rise on behalf of the Nationals to speak on the Health Legislation (Further Amendment) Bill.

Mr Nardella interjected.

Mr DELAHUNTY — Just wait and see. As we know there are four parts to this legislation. It amends the Chinese Medicine Registration Act 2000, the Health Services Act 1988 and the Health Records Act 2001, and as highlighted by the member for Caulfield, it repeals the Pathology Services Accreditation Act 1984.

We have consulted very widely. We have had only a few responses but, and I highlight, no objections to the legislation before us today.

A briefing was organised appropriately, and I thank the briefing staff — Milena, Pauline, Catlin, Anthony and Ann — for their kind help in giving us further information on and an understanding of this legislation.

Mr Andrews interjected.

Mr DELAHUNTY — The parliamentary secretary says, 'We aim to please'. I wish he had not said that, because of the email I got from him at 5.47 p.m. today. I appreciate that it was in relation to the Chinese Medicine Registration Act 2000, but when I looked at it I noticed that it had been forwarded to him early yesterday morning. I was a bit disappointed that I had not had more time to read this very important document. I thank the briefing staff for giving me and my colleague in the other place, the Honourable Damian Drum, some understanding of the provisions.

We are not opposed to the overall legislation. There are some concerns about the Chinese Medicine Registration Act, but we are aware that there are also concerns about the repeal of the Pathology Services Accreditation Act.

The Liberal Party has circulated some amendments that would stop the repealing of the act. I note in the second-reading speech and from discussions we have had that the government proposes to have more targeted forms of regulating those pathology services that are not commonwealth accredited. I would like to get some time line for that, because from my reading of the bill the legislation will be implemented on 1 January 2004, if not before. That is not far away. If there are going to be more regulations applied to controlling services that are not commonwealth accredited, I would have thought we would have had some indication from the parliamentary secretary or the government of the form they will take. That would obviously dissipate a lot of the concerns that have been raised by the member for Caulfield and others who have read the reports, and I would be interested to hear them. It is a pity that we did not have the details before we got into this debate tonight.

As we know, the first part of the legislation deals with the Chinese Medicine Registration Act 2000. Clause 3 provides that a person may not use the title, either in English or in any other language, of 'Chinese medicine practitioner', 'acupuncturist', or 'Chinese herbal medicine practitioner' if they are not registered under the Chinese Medicine Registration Act. My understanding is that there has been some ambiguity in relation to the act, particularly sections 61(2) and 61(3), and some concerns have been raised about that. My understanding from the people we have talked to is that the bill takes away that ambiguity and clarifies it. The National Party is not opposed to that change.

We were made aware in our discussions, and it was referred to in the briefing provided by email by the parliamentary secretary, that about 800 practitioners have been registered with the Chinese Medicine Registration Board since its implementation in December 2000. Of the 840 applications that have been made, 640 practitioners have been registered, either in the acupuncture or the Chinese herbal medicine division of the register; 41 practitioners have been refused registration; and some practitioners have ceased to practise due to the introduction of the registration requirements.

It was interesting to look through the 27 complaints received last year and again this year. These involved 4 health care fraud cases, 3 false qualifications, 1 illegal brothel — —

Mr Walsh interjected.

Mr DELAHUNTY — Yes, it was in Farrer House, and I will come to that a little later. Thanks for the assistance.

It is interesting that in October 2003 in the Magistrates Court the board secured its first successful prosecution of a practitioner who was not registered but who was practising acupuncture while claiming to be both qualified and registered. Acupuncture is a growing industry, as indicated by the number of people who have been registered since 2000. There are always people who break the law, so it is pleasing to see that the board has taken those people on.

An Honourable Member — It's a prickly issue.

Mr DELAHUNTY — It is a prickly issue. It did this because the practitioner presented a serious risk to public health and safety due to her lack of training, and the board strongly pursued the prosecution of the case. From that point of view we were pleased to see the governors on the board taking action on that.

To highlight the situation I refer to an article on page 10 of the *Herald Sun* of May 27 under the heading 'Medi-bonk: the sex cheat doc'. It states:

> An illegal brothel that provided fake medical receipts so clients could claim the cost of sex from their health fund is facing a three-way investigation.

…

> National Party state director Meredith Dickie yesterday revealed that Dr Li recently attempted to buy premises in the National Party building at 24–28 Collins Street —

commonly known as Farrer House. I am just wondering if there is more going on, because it is a very big building. The Victorian Farmers Federation is in there, as the Minister for Agriculture has said.

Mr Cameron — Not the landlord?

Mr DELAHUNTY — We wish we owned all of it, but again it is one of those things that goes on. I also want to quote from an article in the *Age* of 21 September 2002 under the heading 'Why complementary therapies are winning patients'. This was written by Wendy Tuohy, who investigated the globally thriving alternative medicine industry.

> A survey released this week by Adelaide University professor Alistair MacLennan suggests that millions of Australians agree. We are spending $3.2 billion on complementary medicine and therapies, which, according to Professor MacLennan is four times as much as the public contribution to the cost of pharmaceuticals.

There was some disagreement about what was happening in relation to these alternative medicines, and I do not have time to go through them all. The article continues:

> But scientists including David Vaux, the principal research fellow at the Walter and Eliza Hall Institute, are not so convinced —

that this is beneficial.

> Dr Vaux said natural medicine had not been proved to work, was not proved safe, and some was dangerous and 'just plain quackery'.
>
> …
>
> A survey by the Royal Children's Hospital released earlier this year found many cases of interaction between herbal and conventional medicines in patients causing adverse reactions.

Again there are differing views of alternative medicines, but importantly it highlights both the fact that we need a registration board and the good work that it has done to control alternative medicine and make sure it is safe for people out there in the community.

I will quickly cover the changes to the Health Services Act. We know that during the debate on the act that was brought in not that long ago hospitals in particular raised concerns with me that Health Purchasing Victoria would be the collective purchasing authority for public hospitals and that the arrangements authorised by the Parliament of Victoria should not breach the Trade Practices Act. Hospitals consulted with us about the initial Health Services Act and the changes to it, and since those changes went through they have not raised any complaints, so it must be working well.

The next part of the bill amends the Health Records Act. As we know, the current act does not specifically exclude commonwealth agencies. My understanding on reading through this — and we do not have any problem with it — is that the amendments will ensure that these agencies are not caught up with the act.

The main part of the bill is the repealing of the Pathology Services Accreditation Act. The second-reading speech and information we have received state that this removes unnecessary dual regulation through state and commonwealth legislation. Currently a majority of pathology services are subject to dual accreditation requirements, and my understanding from the research I have done is that Victoria is the only state to have its own legislative requirement. Under the commonwealth Health Insurance Act 1973 commonwealth accreditation is required to attract Medicare payments for pathology tests. Both Victoria's Pathology Services Accreditation Board and the Health Insurance Commission have contracted the National Association of Testing Authorities, commonly known as NATA, to perform inspections of pathology services on their behalf. That is an overview which again highlights the importance of having a good pathology service.

Like the member for Caulfield, I was given a copy of the discussion paper on a review of the Pathology Services Accreditation Act of 1984. As we know, pathology services accreditation legislation governs the conduct of pathology testing in Victoria through a state-based accreditation system and establishes the Pathology Services Accreditation Board to administer that legislation. I heard the member for Caulfield say that it costs about $20 000 a year to run that board, and that is also my understanding. In the overall context of health it is not a lot of dollars, but with the problems we have in health services right across Victoria it is clear that if we look after the pennies, the pounds will look after themselves.

Last Thursday one of our staff attended the launch of the Victorian Health Care Association's report, which reveals the financial disasters many Victorian health services face and the looming problems that will persist if the Bracks government does not address them. There is a total deficit across the state's 84 health services of about $120 million, and 9 out of 14 major regional

hospitals in group B are in deficit, the net figure being about $5.6 million. Total wages in hospitals have increased by nearly 10 per cent, while revenue has risen by just 7.4 per cent. The report by the Victorian Health Care Association shows that superannuation costs have gone up about 35 per cent.

What it all adds up to is that if we do not get more money into the health system, it is going to have to cut services. I do not think cutting $20 000 by abandoning the Pathology Services Accreditation Board is a way of saving money.

Business interrupted pursuant to sessional orders.

ADJOURNMENT

The ACTING SPEAKER (Mr Nardella) — Order! The time appointed by sessional orders for me to interrupt business has now arrived.

Spanish and Latin American Welfare Centre: funding

Mr HONEYWOOD (Warrandyte) — I wish to raise a matter for investigation by the Minister assisting the Premier on Multicultural Affairs. It relates specifically to a number of commitments that have been made to the Spanish and Latin American Welfare Centre, known as CELAS, which does a wonderful job for and on behalf of various Spanish-speaking communities. Many of them come from backgrounds in which they have not received English language training to any great degree and often they have escaped to this country as refugees.

What concerns me and what I wish the minister to investigate is the statement of the member for Derrimut from the government side of the house. He made verbal commitments at the 25th annual general meeting of CELAS last year that the Bracks government would contribute $1 million for community housing for Spanish-speaking people in the Brimbank area — $1 million to be provided for providing services to Spanish-speaking elderly citizens. Not surprisingly — as we have found with so many commitments from this government, particularly to people who do not understand the implications of its window-dressing policy of promising one thing and doing nothing — over 12 months down the track there is absolutely nothing forthcoming from the member for Derrimut nor from the Bracks government of this $1 million for housing for older Spanish-speaking citizens.

This comes on top of the withdrawal of home and community care (HACC) funding for ethno-specific services. It is interesting that the former Liberal government provided vast amounts of money, millions of dollars, in ethno-specific funding for HACC services and it has now been withdrawn by the Bracks government and given to local government. That means that non-English-speaking background communities do not really get access to it any more. It comes on top, as the minister at the table will be aware, of the withdrawal of that wonderful community business employment program which was initiated by the former Liberal government — $10 million a year, a large part of which went to ethno-specific service delivery agencies. Again this government has withdrawn that money from those ethno-specific organisations that used to employ people from their own background to assist people in a culturally sensitive way — —

The ACTING SPEAKER (Mr Nardella) — Order! I ask the honourable member for the action he is seeking?

Mr HONEYWOOD — I have already spelled out on two occasions the action I wish the minister to take, which is to investigate why this $1 million commitment has been given in a verbal context and nothing has been followed through on, and furthermore that the Minister for Employment and Youth Affairs has withdrawn the community assistance employment program funding for ethno-specific service delivery. Again this government does not support ethno-specific delivery.

Housing: eastern suburbs

Ms MARSHALL (Forest Hill) — I rise tonight to raise a matter with the Minister for Housing. The action that I seek from the minister is an undertaking to take the necessary measures ensuring that those people in my electorate of Forest Hill, and in the eastern suburbs more generally, who have such a need, will have adequate access to public housing.

It is often assumed that homelessness is not an issue of high priority or need in the eastern suburbs, but this is far from true. Unfortunately the number of homeless people in the eastern suburbs is growing, especially amongst the young, which is of particular concern. Generally these young people are forced to leave home due to situations such as violence, drug and alcohol abuse and family breakdown.

I commend the efforts of community organisations such as the Box Hill-based Family Access Network, which for 22 years has helped homeless young people aged between 16 and 25 years, and also state government initiatives such as the utility grants scheme, the non-mains winter energy grants scheme and the capital

grants scheme, which provide financial assistance to those struggling to make ends meet and can often help keep them in their homes.

Access to equitable housing is of particular concern at the moment as housing prices across Melbourne continue to increase in price, with some areas in my electorate increasing by as much as 28 per cent in the 12 months from June 2002 until June 2003. These higher house prices mean that the eastern suburbs is one of the state's most expensive private rental markets, in addition to it having less public housing than other areas of metropolitan Melbourne. This makes it difficult for these people, particularly younger people, to stay in the areas of their choice. Many of these people who are homeless or are in danger of becoming homeless have links to the area, such as family and educational links, which they have built up over many years and which they understandably want to maintain.

I am aware that the Bracks government has taken further steps to make housing more affordable and accessible for those in need, and I hope the minister will outline how this will benefit the people of the eastern suburbs particularly who require this assistance. Can the minister also give an undertaking to ensure that any new opportunities for the establishment of public housing in the eastern suburbs are considered whenever possible and that adequate pressure is maintained on the federal government to ensure it continues to commit enough funding to public housing and any schemes that are aimed at preventing homelessness?

Schools: Joining the Chorus program

Mr MAUGHAN (Rodney) — I wish to raise a matter for the attention of the Minister for Education and Training. It concerns funding for a program called Joining the Chorus. This is a marvellous program that some members might not be aware of. The Joining the Chorus program was established in 1995 by the Department of Education and Training. It is only for students attending government schools and it provides training in singing, dance and theatre production for students from all over the state and particularly those from country Victoria who travel many miles week after week to gain that training. I have students in my area from Tongala and Kyabram who have been travelling to Melbourne every week for, in one case, seven years in order to achieve the degree of excellence that they do. It is a great program and students come from all over the state, from Bairnsdale, Geelong, Ballarat, Colac and certainly my electorate. The choir and the dance group perform at a whole range of functions, education dinners, the return of the Olympic flame to the Melbourne Cricket Ground, the welcome of the Olympic athletes in 2000 and so on.

It organises, coordinates and stages the biennial State Schools Spectacular at the Rod Laver Arena. This is a marvellous spectacle, staged with state school students providing a full orchestra, somewhere around 1700 dancers and I understand a choir of up to 1600 choristers. It is a truly spectacular event, and the students reach a very high standard.

The Joining the Chorus program promotes excellence in the performing arts for students in government schools. Since it was formed in 1995 the program has provided opportunities for over 10 000 students to gain world-class arts experience. The concern is that students have been told that funding for this program might be jeopardised for next year and that there is no assurance that there will be auditions for the following event. I therefore ask the minister to give an assurance that funding for this outstanding program will be continued and to agree to meet with a deputation of interested parents to discuss the future of the program. I also seek some assurance that the program will be continued so that people can make their plans for the next school year.

Motor vehicles: blue lights

Mr LIM (Clayton) — I rise to ask the Minister for Transport to investigate recent trends in vehicle lighting, specifically the use of blue lights on non-emergency vehicles. Many people are under the impression that only emergency vehicles are permitted to be fitted with blue lights, yet many non-emergency vehicles now display bright blue lights while driving. They can be numberplate lights, bud lights, bonnet lights, floodlights which light up the road under the sides and front of the car or they can be blue-tinted driving lights.

I have had numerous complaints from constituents who find these blue lights very confusing. When they see blue lights in their driving mirrors they assume that an emergency vehicle is coming through and either worry that they are being asked to stop by a police officer or think that they ought to move aside to let an ambulance or fire truck get by. Displaying blue lights is not illegal, as I understand it, provided they are not flashing — flashing blue lights are reserved for emergency vehicles. However, the motion of the vehicles these blue lights are fitted to often gives the impression that these fashion-statement lamps are flashing.

Drivers have enough distractions already without adding to the confusion by having to carefully

scrutinise every vehicle with blue lights to decide whether or not it is an emergency vehicle. This is a disturbing trend, and I ask the minister to investigate this issue with his department with a view to reviewing the law in relation to coloured lights on motor vehicles.

Princes Highway: Geelong–Colac duplication

Mr MULDER (Polwarth) — The issue I wish to raise for the Minister for Transport concerns the Princes Highway between Geelong and Colac. This section of road is literally falling apart. It is dangerous, and there will be more accidents and fatalities on it unless something is done about its rapid deterioration. Vicroads has identified the Princes Highway West as a key east-west route in south-western Victoria. One of the key initiatives of the corridor strategy for the Princes Highway West set down by this government is the progressive duplication of the highway between Waurn Ponds and Colac.

I wish to bring to the minister's attention the section between Waurn Ponds and Winchelsea, which is in a dangerous state, and the section from Winchelsea to Colac is not much better. Recent rains have opened up potholes which have only been temporarily patched, the edges of the road have been washed away in places and the surface of long stretches of the road is rough, uneven and breaking down.

I am advised that 114 sections of road between Winchelsea and Geelong have been identified with paint markings by Vicroads as requiring attention. These sections have been painted out for some time, and no work has been carried out on them. Driving on this section of road, particularly at night and in heavy rain, is an absolute nightmare. A number of my constituents have contacted my office to describe their anxiety at travelling on the road and to express their concern that there will be more fatalities than those already experienced if something is not done to improve the conditions.

The Princes Highway as a whole serves many important state industries, and with the strong emphasis now being placed on tourism it is predicted that travel demand through the Geelong–Colac section will increase by 3.5 per cent per annum. Surely the members of the driving public deserve a road that is capable of supporting them in all manner of weather conditions. They deserve a road that is not full of gravel-filled potholes, ridges and broken road edges. They deserve a road surface which will reduce the incidence of severe road crashes. Without improvement there is no doubt that this section of the Princes Highway will progressively experience operational deterioration. The crash rate is greater than the state average along this highway. The provision of additional overtaking lanes, tactile edge lining and shoulder sealing needs to be done to address this situation.

I therefore call on the Minister for Transport to urgently address this rapidly deteriorating situation and to make funding available for urgent works for the repair of the highway until funding is available for duplication between Geelong and Colac.

Employment: Parents Returning to Work program

Mr DONNELLAN (Narre Warren North) — I wish to raise a matter for consideration by the Minister for Employment and Youth Affairs. As a new father I have increased interest in the support mechanisms provided to parents by governments at all levels, and from what I have seen the Bracks government is committed to assisting Victorian families. The action I seek from the minister is to ensure that parents in my electorate are supported when trying to return to work after having children.

Obviously one aspect of this issue includes the provision of after-school care. At the last election the Premier unveiled the Bracks government's plan to give parents and families a helping hand. For many Victorian parents the financial cost associated with job seeking or training becomes the main barrier to their re-entering the work force. Recently the Parents Returning to Work program was launched, and I understand it is very successful in ensuring that parents are supported in their quest to return to work after having children. Many people in my electorate took the opportunity to use this program. I wrote to many women in my electorate specifically about this and had many successful applicants.

In addition to this program the Bracks government is trying to open up additional out-of-school-hours places for Victorian children, but this is difficult when the federal government does not lift caps on funded places. The federal funds simply do not keep up, especially in areas such as Casey, which is the third-fastest growing council in Australia. The Bracks government is committed to assisting employees and employers to achieve a better balance between work and family responsibilities.

Whitehorse Community Health Service: dental clinic

Mr CLARK (Box Hill) — I raise with the Minister for Health the government's election promise last year

to provide funding for a 10-chair dental clinic for the Whitehorse Community Health Service in Box Hill. I ask the minister to make clear to the health service and the community when the funding to honour this promise will be provided.

An eight-chair dental clinic was announced by the Kennett government in 1999, but this was shelved by the Bracks government when it came to office. At present the health service has just a single dental chair, and the region has a 30-month waiting list for general dental care and a 32-month wait for dentures. More than 4500 people are waiting for non-emergency dental care.

Whitehorse Community Health Service is a very well-managed organisation which has provided excellent service to the community for many years under governments of all persuasions. Last year the health service identified an opportunity to relocate to bigger and better premises in Carrington Road, Box Hill, at an annual rental saving of some $135 000 per annum. The opportunity arose because a large business was looking to relocate and was willing to assign its lease on very favourable terms. After some lobbying the government agreed to provide the fit-out funds necessary for this move but was prepared to pay for the fit-out for only a single dental chair, not for the fit-out for the 10 dental chairs included in the election promise. However, due to some careful budgeting and scrounging by the health service and with some minor amounts of additional funding provided by the health department, the health service was able to pay for the fit-out of premises for 10 dental chairs.

However, the service has still not been given any firm commitment by the government as to when the approximately $800 000 of funding for the remaining nine dental chairs themselves or the recurrent funding for the dentists and the other staff to operate those chairs will be provided. We thus face the situation where the service may well move into its new premises and have nine dental chair rooms and associated support rooms all fully fitted out but lying idle because it has no chairs or dentists to put in them. These rooms will be ready for use around April next year. To be able to staff them and run the dental clinic the service needs to be hiring a dental manager now who can start recruiting dentists to begin work from April, but the people at the service cannot hire a dental manager or sign up dentists unless they know they are going to get the money in next year's state budget or earlier.

If the government is going to honour its election promise next budget or earlier I ask that the minister tell the people at the health service now, either formally or informally, so they can start preparations and avoid having nine dental rooms lying idle for months. If the government does not intend to honour its promise in next year's budget or earlier, would the minister at least have the decency to tell the people at the health service now so their expectations are not raised and then dashed and so they can start informing the many patients on their dental waiting lists that they will have to remain on those waiting lists for a long time to come?

Chronic fatigue syndrome: research

Mr ROBINSON (Mitcham) — I want to raise a very serious issue this evening for the attention of the Minister for Health. It concerns chronic fatigue syndrome (CFS) sufferers, of whom there are many thousands in Victoria. I raise with the minister the desirability of having CFS listed for consideration at a future meeting or meetings of state ministers of health, which happen on a regular basis.

Last Friday I was pleased to host in this very chamber with the ME/Chronic Fatigue Syndrome Society of Victoria a forum looking at CFS, its impact and what is known and more importantly not known about it. It was a terrific occasion. The forum was chaired by the society chairman, Simon Molesworth, who is well known, and featured a number of very impressive speakers, including Dr Don Lewis, Dr Nicole Phillips, John Berrill, Chris Hunter, and most importantly — and I see the member for Benalla is very excited — Alastair Lynch, the champion three-time premiership full-forward with the Brisbane Lions.

Alastair Lynch in particular gave an extraordinary story about how this illness had debilitated him to the point where he could barely get out of bed — this being someone who had been a highly trained athlete able to perform at the highest level. He was fortunate in the sense that he had had a very intense support crew around him at the Brisbane Lions Football Club, but many others do not have that advantage. Chronic fatigue syndrome/myalgic encephalomyelitis (CFS/ME) is a debilitating condition which affects an estimated 15 000 people in Victoria. It is not so much a precise condition as a condition that is ascribed when the sufferer has a number of prerequisites, one of which is having suffered significantly for a given time.

The ME/Chronic Fatigue Syndrome Society of Victoria is very keen on having CFS listed for consideration by ministers at one of its forthcoming meetings. In particular it is keen to see a coordinated response across the states, which might allow for coordinated research. It is also very keen to access or try to devise a more

supportive health system. It pointed out on Friday that the pharmaceutical benefits scheme, for example, is more or less closed off for sufferers of CFS, who go to great expense to try and have the illness treated. Also there is a need for more accurate diagnostic tests which will set sufferers on the road to recovery.

The state government and the minister have been very supportive of the CFS society, and I think Victoria now offers a recurrent grant of $30 000. Going this one step further and getting it raised in a national forum would be of great advantage.

State Emergency Service: Casey unit

Mr SMITH (Bass) — I would like to raise a matter for the attention of the Minister for Police and Emergency Services. I ask that the minister respond to correspondence that has been sent to him on at least two occasions from the City of Casey in regard to the establishment of a Victorian State Emergency Service (SES) unit in the municipality.

As the minister would be aware, at this stage the City of Casey has approximately 206 000 people, and that will expand towards 300 000 people in the not-too-distant future. The trouble is that the city is not in a position where it can have an SES unit, and it has to rely on units in the surrounding municipalities of Cardinia, Frankston, Greater Dandenong and Knox to respond to some of the emergencies that the city staff and contractors call them to. I understand that since 1997 emergency units from the adjacent municipalities have had to come to the City of Casey to service approximately 1364 emergencies, so a local SES unit could have handled a lot of those.

The City of Casey is not just sitting back and saying, 'Hey, give us some money'. It has offered some land adjacent to the works depot for the exclusive use of the SES. The unit has looked at it and said that what is being offered is a very suitable site. Additional vehicular and equipment garaging facilities that are close to existing buildings would be provided as well.

The council has on two occasions written to the minister. We are aware that the minister has been under a bit of pressure lately with all the things that have gone wrong in his department, but he could at least have had the decency to write back to the City of Casey and offer assistance in the form of seed funding to allow a unit to be established in the location agreed to by the SES. State Emergency Service officers from the central region have indicated their full support for the proposal to set up an SES office. They have inspected the facilities at the City of Casey and have said it would be terrific to have the SES set up there.

When we consider that nearly 300 000 people will soon be living there and that problems and emergencies requiring SES assistance will occur from time to time, it would be good to have an SES unit there to assist the local people in good time. The minister — I must say it is very disappointing — has not been capable of writing a letter of response to say yes, no or whatever. All these people want is a response and some seed funding to set up this SES unit.

Surf Coast: dog control

Mr CRUTCHFIELD (South Barwon) — I raise for the consideration of the Minister for Finance in another place a matter relating to the lack of dog control by the Surf Coast Shire. I am requesting that the minister investigate and report to the house the potential public liabilities this and other councils may have if they do not attempt to patrol and enforce dog-free and dog-off-leash areas, both of which are as vital as each other. I am not advocating at all that all areas in every municipality should be for dogs on leashes. There need to be dogs-on-leash and dog-free areas as well as dogs-off-leash areas, for obvious amenity reasons. I am sure many members would have had many calls in their electorates about barking and unsocialised dogs. So those areas are indeed necessary.

Someone or something will be hurt by this lack of patrolling at Surf Coast — whether it is the fisherman who rang me about being attacked by two Dobermans while fishing at Fishermans Beach and having to run into the surf; whether it is the members of the family who were walking their dogs when they were rushed by dogs off leads; or whether it is someone like me in an incident which occurred yesterday afternoon and which I have subsequently reported to the council. I put in a formal report, and I congratulate the by-laws officers on their response. They conducted themselves very professionally.

My concern is not about the by-laws officers but about the number of them. As the member for Polwarth should understand, there are only two by-laws officers for the whole of the Surf Coast — from Torquay to Lorne — when a minimum of six is needed. On Saturday, when the temperature was 38 degrees, there were no by-laws officers — not one — and there are no by-laws officers on public holidays. There were traffic issues and dog issues on Saturday, and I believe the council has a duty of care, both to its by-laws officers and to the public.

Councils right across Victoria recoup hundreds of thousands of dollars from dog owners. There are no dog bins or bags at Surf Coast that I am aware of. There needs to be a by-law that should be enforced providing that people walking their dogs need to have a lead and bags on their person. That is one that is enforced in Queensland, and it is certainly enforced overseas.

I congratulate the City of Port Phillip. An article which appeared in the *Age* on Saturday looked at its successful patrolling of its beaches. I once again ask the minister to investigate the Surf Coast Shire in terms of its public liability issues to ensure that all customers are happy dog owners and non-dog owners.

Responses

Mr PANDAZOPOULOS (Minister assisting the Premier on Multicultural Affairs) — The member for Warrandyte raised an issue about CELAS. The issue he raised was quite surprising and I think a bit of an embarrassment to the opposition. Just last week I fortuitously attended its annual general meeting and noted that it was waiting for a representative of the state opposition. Nonetheless the federal minister and I were there, as well as the member for Footscray, and we were very pleased to be there. If the issues the member has raised were so important, you would think they would have been raised in the report given by the president, Rolando Guray, who has been a great president who has done an exceptional job and who announced his retirement from the organisation the other night.

You would think that if it had been a real issue it would have been raised at the annual general meeting as something with which to embarrass the state government. However, the president highlighted the great contribution of the state government and said that in the latest financial year's budget and government grants the organisation had received even more than the previous year, and he commended the government for that.

The member raised some commitments that the member for Derrimut made last year. I know the opposition is a bit too slow, because the member for Warrandyte said, when talking about this commitment not being delivered, that it was like two separate projects — one of about $1 million for housing and the other a separate project for Spanish-speaking older people. In effect it is the same project. The previous Minister for Housing, now the Minister for Health, as part of a community housing project that was commenced as an election commitment in 1999 by this government to help ethnic communities develop public housing where they owned the land and we could help them with the assets, actually announced it a few days before the member for Derrimut represented the government as guest speaker at the CELAS annual general meeting. That partnership was between the Spanish-speaking foundation for elderly people in Victoria, community housing and the state government.

The reality is that election commitments are delivered by this government. This was announced even before the election, and it will be delivered. It is a project in St Albans. I guess if opposition members had been there they might have actually been able to find out these things. Maybe at best they have read the minutes of the annual general meeting of last year, but they have not followed up and done their homework.

The member has even referred to the abolition of HACC funding for ethno-specific services. The reality is that there is a greater level of funding; there is a partnership with the Ethnic Communities Council of Victoria. It has ticked off on the project with the Minister for Aged Care; and again on that the opposition has got it wrong.

The opposition referred to there being no employment programs for CELAS. The reality is that CELAS, in partnership with the Serbian Welfare Association, will deliver employment programs to members of the respective communities both in the western suburbs and in the south-eastern suburbs in the area of Dandenong that I represent. It is a great partnership between Serbian welfare and CELAS. Again the member for Warrandyte has got it wrong.

The reality is that if you do not do your homework and you get it wrong it is highly embarrassing. It is fortuitous that I was at the CELAS annual general meeting as a guest speaker on behalf of the government. We have had great relationship with CELAS. The team there has been fantastic. Rolando has been fantastic. He has been a great advocate for the Spanish-speaking communities here in Victoria for a long period of time. We wish him well, and look forward to working with the new committee.

The reality is that the member for Warrandyte had better go back to first base. The opposition should send its representatives along to attend these functions, and it should consult with communities a lot more. This government is delivering more in financial resources to ethnic communities — way beyond what the opposition did when it was in government. Opposition members talk about all of these promises, but the reality is that it could not promise anything because it could not deliver

anything. We not only promise, we deliver. There are a lot more resources, and CELAS knows that.

Ms KOSKY (Minister for Education and Training) — The member for Rodney raised a matter in relation to Joining the Chorus, a group that was established under a previous Minister for Education, Minister Gude, for government school students to participate in theatrical and artistic areas such as singing and performance, and that has been continued under this government. It is fantastic to see the students who participate in this program over quite a few years and come together once every two years for a major event. They also participate within their regions and give up a lot of their spare time to really learn singing and performance. It has been a fantastic program.

There has been a little bit of concern recently about the future of Joining the Chorus because we have delayed the new funding contract. I can absolutely promise the member for Rodney that we are going to continue funding Joining the Chorus, because it is a fantastic program for students from government schools.

There has been a delay because we are trying to negotiate a change from the biennial statewide student performance to coincide with the Pan Pacific Games, which is for students from the Asia–Pacific area who are coming together for sports competitions here in Victoria in 2005. Then there is the Commonwealth Games in 2006. We are really keen to have the students perform at those two major events rather than the normal statewide event that they come together for on a biennial basis. We are wanting to renegotiate that contract, and that is why there has been a delay in the process.

I can assure the member for Rodney and others who have concerns that we are clearly continuing to fund Joining the Chorus. We very much support this fantastic initiative, and I am very happy to meet with the group of parents who have concerns.

Ms ALLAN (Minister for Education Services) — The member for Narre Warren North raised a matter with me as Minister for Employment and Youth Affairs regarding support for parents in his electorate, and I am sure parents all around Victoria also want to juggle the balance between their work and families. It would be remiss of me not to mention and congratulate the member for Narre Warren North on the recent arrival of baby Ben. Congratulations to him and his partner, Charlotte.

This evening the member for Narre Warren North has articulated that he well understands the pressures working families face in having to meet the balance between their work and family commitments. More families are experiencing greater levels of stress in trying to balance these arrangements.

The Bracks government shares this concern. We want to help and support them to find a better balance between work and family. We are doing what we can to help Victorian families. An outstanding example of doing what we can, as the member for Narre Warren North mentioned, is the Parents Return to Work program, which has been an outstanding program that was launched by the Premier in July. We are providing $11 million over the next four years to provide $1000 cash grants to parents returning to the work force to help them meet those return-to-the-work force costs. Clearly it is no surprise that women will be the great beneficiaries of this new program, which is going very well.

Another area in which we are demonstrating our commitment was announced recently by the Premier — in fact, only yesterday. The Premier announced that the Bracks government is ready to go with a $10 million package of support to schools and local councils to help them expand the number of outside-school-hours-care places. Members will know that to do this we need the federal government to help us. The Prime Minister has often stated that he wants to do more to help working families. This is an opportunity. We want him to lift the cap on child-care places in Victoria because there are estimates that there are between 4000 and 10 000 places of unmet demand — that is, 10 000 families, 10 000 young people who need outside-school-hours care but cannot access it because of the cap that was slapped on child-care places by the federal government.

The federal minister in this area has said he wants to take action, but he was promptly quashed by the federal Treasurer, which is surprising when only last weekend there was a glossy article in the *Sunday Age* which showed the Treasurer as the family man. He is reported as saying that he wants parents to realise that he is a parent like them with the same problems. He said that one of the difficult things in senior jobs is that the time demands are so extreme. He spoke of the pressures on his own family.

You would think the Treasurer would show that same commitment to Victorian families and show that he understands them by lifting the cap on child-care places and spending some of that $7.5 billion surplus to help working families, because when he does the Bracks government is ready to go and ready to take action. We have a $10 million package we want to use to support

families, and we call on the federal government to do the same.

The member for Forest Hill raised a matter for the Minister for Housing in another place; the members for Clayton and Polwarth raised matters for the Minister for Transport; the members for Box Hill and Mitcham raised matters for the Minister for Health; the member for Bass raised a matter for the Minister for Police and Emergency Services; and the member for South Barwon raised a matter for the Minister for Finance in another place. I will refer those matters to those ministers for their attention and action.

Mr Thompson — On a point of order, Acting Speaker, the Minister assisting the Premier on Multicultural Affairs made some reference to the opposition and attendances at multicultural functions. It is important for the house to note that multicultural policies are treated on a bipartisan basis and that non-attendance by government members at Italian, Greek and Filipino functions could also be alluded to. It is important that a bipartisan approach be maintained.

The ACTING SPEAKER (Mr Nardella) — Order! I have heard enough on the point of order. There is no point of order; it is more of a debating point.

The house stands adjourned until next day.

House adjourned 10.40 p.m.