PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

7 October 2003

(extract from Book 3)

Internet: www.parliament.vic.gov.au/downloadhansard

By authority of the Victorian Government Printer

The Governor

JOHN LANDY, AC, MBE

The Lieutenant-Governor

Lady SOUTHEY, AM

The Ministry

Premier and Minister for Multicultural Affairs	The Hon. S. P. Bracks, MP
Deputy Premier, Minister for Environment, Minister for Water and Minister for Victorian Communities	The Hon. J. W. Thwaites, MP
Minister for Finance and Minister for Consumer Affairs	The Hon. J. Lenders, MLC
Minister for Education Services and Minister for Employment and Youth Affairs	The Hon. J. M. Allan, MP
Minister for Transport and Minister for Major Projects	The Hon. P. Batchelor, MP
Minister for Local Government and Minister for Housing	The Hon. C. C. Broad, MLC
Treasurer, Minister for Innovation and Minister for State and Regional Development	The Hon. J. M. Brumby, MP
Minister for Agriculture	The Hon. R. G. Cameron, MP
Minister for Planning, Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Community Services	The Hon. S. M. Garbutt, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. A. Haermeyer, MP
Minister for Manufacturing and Export and Minister for Financial Services Industry	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Workcover	The Hon. R. J. Hulls, MP
Minister for Aged Care and Minister for Aboriginal Affairs	The Hon. Gavin Jennings, MLC
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Racing, Minister for Tourism and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Health	The Hon. B. J. Pike, MP
Minister for Energy Industries and Minister for Resources	The Hon. T. C. Theophanous, MLC
Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Heads of Parliamentary Departments

Assembly — Clerk of the Parliaments and Clerk of the Legislative Assembly: Mr R. W. Purdey

Council — Clerk of the Legislative Council: Mr W. R. Tunnecliffe

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Ms G. Dunston

Joint Services — Director, Corporate Services: Mr S. N. Aird
Director, Infrastructure Services: Mr G. C. Spurr

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JUDY MADDIGAN

Deputy Speaker and Chair of Committees: Mr P. J. LONEY

Temporary Chairs of Committees: Ms Barker, Ms Campbell, Mr Delahunty, Mr Ingram, Mr Jasper, Mr Kotsiras, Ms Lindell, Mr Nardella, Mr Plowman, Mr Savage, Mr Seitz, Mr Smith and Mr Thompson

Leader of the Parliamentary Labor Party and Premier:
The Hon. S. P. BRACKS

Deputy Leader of the Parliamentary Labor Party and Deputy Premier:
The Hon. J. W. THWAITES

Leader of the Parliamentary Liberal Party and Leader of the Opposition:
Mr R. K. B. DOYLE

Deputy Leader of the Parliamentary Liberal Party and Deputy Leader of the Opposition:
The Hon. P. N. HONEYWOOD

Leader of the Parliamentary National Party:
Mr P. J. RYAN

Deputy Leader of the Parliamentary National Party:
Mr P. L. WALSH

Member	District	Party	Member	District	Party
Allan, Ms Jacinta Marie	Bendigo East	ALP	Languiller, Mr Telmo Ramon	Derrimut	ALP
Andrews, Mr Daniel Michael	Mulgrave	ALP	Leighton, Mr Michael Andrew	Preston	ALP
Asher, Ms Louise	Brighton	LP	Lim, Mr Hong	Clayton	ALP
Baillieu, Mr Edward Norman	Hawthorn	LP	Lindell, Ms Jennifer Margaret	Carrum	ALP
Barker, Ms Ann Patricia	Oakleigh	ALP	Lobato, Ms Tamara Louise	Gembrook	ALP
Batchelor, Mr Peter	Thomastown	ALP	Lockwood, Mr Peter John	Bayswater	ALP
Beard, Ms Dympna Anne	Kilsyth	ALP	Loney, Mr Peter James	Lara	ALP
Beattie, Ms Elizabeth Jean	Yuroke	ALP	Lupton, Mr Anthony Gerard	Prahran	ALP
Bracks, Mr Stephen Phillip	Williamstown	ALP	McIntosh, Mr Andrew John	Kew	LP
Brumby, Mr John Mansfield	Broadmeadows	ALP	McTaggart, Ms Heather	Evelyn	ALP
Buchanan, Ms Rosalyn	Hastings	ALP	Maddigan, Mrs Judith Marilyn	Essendon	ALP
Cameron, Mr Robert Graham	Bendigo West	ALP	Marshall, Ms Kirstie	Forest Hill	ALP
Campbell, Ms Christine Mary	Pascoe Vale	ALP	Maughan, Mr Noel John	Rodney	NP
Carli, Mr Carlo	Brunswick	ALP	Maxfield, Mr Ian John	Narracan	ALP
Clark, Mr Robert William	Box Hill	LP	Merlino, Mr James	Monbulk	ALP
Cooper, Mr Robert Fitzgerald	Mornington	LP	Mildenhall, Mr Bruce Allan	Footscray	ALP
Crutchfield, Mr Michael Paul	South Barwon	ALP	Morand, Ms Maxine Veronica	Mount Waverley	ALP
D'Ambrosio, Ms Liliana	Mill Park	ALP	Mulder, Mr Terence Wynn	Polwarth	LP
Delahunty, Mr Hugh Francis	Lowan	NP	Munt, Ms Janice Ruth	Mordialloc	ALP
Delahunty, Ms Mary Elizabeth	Northcote	ALP	Napthine, Dr Denis Vincent	South-West Coast	LP
Dixon, Mr Martin Francis	Nepean	LP	Nardella, Mr Donato Antonio	Melton	ALP
Donnellan, Mr Luke Anthony	Narre Warren North	ALP	Neville, Ms Lisa Mary	Bellarine	ALP
Doyle, Robert Keith Bennett	Malvern	LP	Overington, Ms Karen Marie	Ballarat West	ALP
Duncan, Ms Joanne Therese	Macedon	ALP	Pandazopoulos, Mr John	Dandenong	ALP
Eckstein, Ms Anne Lore	Ferntree Gully	ALP	Perera, Mr Jude	Cranbourne	ALP
Garbutt, Ms Sherryl Maree	Bundoora	ALP	Perton, Mr Victor John	Doncaster	LP
Gillett, Ms Mary Jane	Tarneit	ALP	Pike, Ms Bronwyn Jane	Melbourne	ALP
Green, Ms Danielle Louise	Yan Yean	ALP	Plowman, Mr Antony Fulton	Benambra	LP
Haermeyer, Mr André	Kororoit	ALP	Powell, Mrs Elizabeth Jeanette	Shepparton	NP
Hardman, Mr Benedict Paul	Seymour	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Harkness, Mr Alistair Ross	Frankston	ALP	Ryan, Mr Peter Julian	Gippsland South	NP
Helper, Mr Jochen	Ripon	ALP	Savage, Mr Russell Irwin	Mildura	Ind
Herbert, Mr Steven Ralph	Eltham	ALP	Seitz, Mr George	Keilor	ALP
Holding, Mr Timothy James	Lyndhurst	ALP	Shardey, Mrs Helen Jean	Caulfield	LP
Honeywood, Mr Phillip Neville	Warrandyte	LP	Smith, Mr Kenneth Maurice	Bass	LP
Howard, Mr Geoffrey Kemp	Ballarat East	ALP	Stensholt, Mr Robert Einar	Burwood	ALP
Hudson, Mr Robert John	Bentleigh	ALP	Sykes, Dr William Everett	Benalla	NP
Hulls, Mr Rob Justin	Niddrie	ALP	Thompson, Mr Murray Hamilton Ross	Sandringham	LP
Ingram, Mr Craig	Gippsland East	Ind	Thwaites, Mr Johnstone William	Albert Park	ALP
Jasper, Mr Kenneth Stephen	Murray Valley	NP	Trezise, Mr Ian Douglas	Geelong	ALP
Jenkins, Mr Brendan James	Morwell	ALP	Walsh, Mr Peter Lindsay	Swan Hill	NP
Kosky, Ms Lynne Janice	Altona	ALP	Wells, Mr Kimberley Arthur	Scoresby	LP
Kotsiras, Mr Nicholas	Bulleen	LP	Wilson, Mr Dale Lester	Narre Warren South	ALP
Langdon, Mr Craig Anthony Cuffe	Ivanhoe	ALP	Wynne, Mr Richard William	Richmond	ALP

CONTENTS

TUESDAY, 7 OCTOBER 2003

Tuesday, 7 October 2003

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.03 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

Hospitals: nurses

Mr DOYLE (Leader of the Opposition) — My question is to the Minister for Health. Will the minister confirm that the absenteeism of nurses at the Royal Children's, the Royal Women's and Royal Melbourne hospitals has reached 42 per cent, which is 4 out of every 10 nurses, as detailed by Royal Bank, the government agency used to fill nursing vacancies?

Ms PIKE (Minister for Health) — I thank the Leader of the Opposition for his question, and I remind him that he was the parliamentary secretary for health when 2000 nurses were removed from the health system! The Bracks government has had one of the most successful campaigns to recruit and retain nurses within our health system. We have recruited 4000 additional nurses, and remember that this is in a context — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is too high. I ask the opposition to be quiet and to allow the minister to answer the question.

Ms PIKE — Not only have we recruited 4000 additional nurses into our health system, we have also decreased the dependency of our hospitals on nurse agencies, saving some $20 million of additional resources that are now available for the health system.

Royal Women's Hospital: redevelopment

Ms MORAND (Mount Waverley) — My question is to the Premier. Will the Premier outline the details of the recent announcement of a new Royal Women's Hospital and advise how this contrasts with other efforts to support Victoria's health system?

Mr BRACKS (Premier) — I thank the member for Mount Waverley for her question, and I am particularly pleased it has come from somebody who used to be a nurse.

As this house would know, the government made a commitment during the last election campaign — almost 12 months ago, and pretty well close to the day — to fund the redevelopment of the Royal Women's Hospital to the tune of $190 million, with the land which is freed up also going into that redevelopment. In this case, with the memorandum of understanding that has been signed between the Royal Women's Hospital and the Royal Melbourne Hospital, that will be a total of $250 million, including the realisation of the land itself. The project will be completed by the end of 2007, about a year after the 150th celebration of the establishment of the Royal Women's Hospital.

This will be probably the second biggest hospital redevelopment in Victoria. As we know, the biggest hospital redevelopment in Australia is currently under way and soon to be completed — that is, at the Austin Hospital. I should remind the house that it was the previous government, now the opposition, which sought to privatise that hospital.

We are very pleased and proud to have two of the biggest hospital projects in the state afoot — and they are the Royal Women's and Austin hospitals. I might also mention the comments made in the press today and over the last couple of days by the new federal health minister, Tony Abbott. Some of these comments are certainly welcome on this side of the house. We welcome the opportunity to discuss with the federal minister options for change and reform under the current health care agreement. You only need to note that the recent quarterly hospital report which was tabled last week — —

Mr Ryan — On a point of order, Speaker, on the question of relevance, the matters now being mentioned by the Premier have nothing to do with the question he was asked. I ask you to ask him to return to that question.

The SPEAKER — Order! The Premier is making comments in relation to the health system generally, and the question relates to the Royal Women's Hospital. I ask the Premier to return to the question.

Mr BRACKS — On the general point of funding for the health system, obviously the Royal Women's Hospital project is a significant contribution the government is making: $190 million plus $60 million for the realisation of the land. In addition to that we have the funding for the Austin and Repatriation Medical Centre. What we are seeking is a partnership, a cooperative model with the commonwealth government, to seek a greater share of funding for the state that will assist us and support us in key health reforms in the future and will also enable the state contribution — which is increasing — to be recognised

in a greater way in treating more patients, in employing more nurses and in opening more beds.

Hospitals: funding

Mr RYAN (Leader of the National Party) — My question is to the Minister for Health. Is the minister aware that a number of Victorian hospitals are in such a disastrous financial position that they are being encouraged by the minister's department to breach their corporate responsibilities and use accumulated employee entitlements to cover day-to-day running costs.

Mr Nardella interjected.

The SPEAKER — Order! The question was to the Minister for Health, not the member for Melton.

Ms PIKE (Minister for Health) — I thank the Leader of the National Party for his question. It is true that all of our hospitals right across Victoria are facing a situation of unprecedented demand. We anticipated that they would admit an additional 35 000 patients; instead that number is closer to 60 000 patients. We are also operating within the context of what should be a fifty-fifty funding arrangement with the commonwealth, but the commonwealth's contribution has now fallen to 43.5 per cent of the amount it should be contributing.

In this context we are asking all of our hospitals to work efficiently and effectively to make the best use of the resources that we have given them. The Bracks government has added an additional $1 billion in funding in its first term into our hospital system. We anticipate adding an additional $1 billion and working very closely with the hospitals to ensure that they use these funds wisely.

I might say that given the unprecedented demand and given the difficult circumstances that we find ourselves in — not only diminished commonwealth funding but also commonwealth policy settings are having a huge impact on our health system — we are coping very well. On every measure, whether it be ambulance bypass, waiting lists or 12-hour waits, our hospital system is coping well. It is under demand; it is under pressure; there are concerns; but unlike you, who closed 12 hospitals — —

The SPEAKER — Order! The minister will address her comments through the Chair.

Ms PIKE — Unlike the previous government, which closed hospitals, sacked nurses and withdrew 15 per cent of hospital funding within its first two years of government, we are strengthening our hospitals and working closely with them.

Point Nepean: future

Ms BUCHANAN (Hastings) — My question is to the Minister for Environment, and I ask: can the minister outline to the house the latest developments to retain the former defence land at Point Nepean?

Mr THWAITES (Minister for Environment) — The Bracks government has developed a detailed plan for Point Nepean that achieves what the whole community wants — that is, a single, national park for Point Nepean. This plan forms the basis of our bid to the commonwealth government, which we lodged yesterday. Under our plan we will legislate in three years for a single national park — a Point Nepean national park — joining the defence land with the Mornington Peninsula National Park.

Under our plan we will see the heritage buildings preserved and adapted for reuse, including for use as a living museum to display Point Nepean's history, low-cost accommodation and camping, a restaurant and guest house, and a centre for environmental education.

A single national park is what the community wants; that is what the community said. The government's position has strong support from the member for Hastings, and also, I might say, from the federal Labor candidate for the area, Simon Napthine, who will be an excellent candidate.

Dr Napthine interjected.

The SPEAKER — Order! The member for South-West Coast can make a personal explanation later if he wishes. I ask the minister to continue with his answer.

Mr THWAITES — I am sure the member for South-West Coast can help us on this. Perhaps he also supports the position. It is clear that the federal government and the state opposition support a commercial leasing deal for Point Nepean. The opposition prefers private profit making over the interests of Victorians. The commonwealth government has a $7 billion surplus; now is not the time to be squeezing extra profits out of Point Nepean. The government urges the opposition to get on board with its plan. The government is prepared to give the opposition a briefing on its plan and to get it for one time to support Victoria instead of the Liberal Party.

Royal Children's Hospital: chemotherapy access

Mr DOYLE (Leader of the Opposition) — Will the Minister for Health confirm that the 42 per cent absentee rate for nurses and the resultant short-term bed closures at the Royal Children's Hospital are the major factors in turning away children with cancer in need of chemotherapy?

Ms PIKE (Minister for Health) — I thank the Leader of the Opposition for his question. It is true that the Royal Children's Hospital, like all of our major hospitals, has faced unprecedented demand in recent times. As I explained to the house earlier, we anticipated admitting 35 000 additional patients and in fact we have admitted 60 000 patients. We have also had a situation, as we have each year, of a late winter flu, and this year has been the worst in five years. Nevertheless, I am deeply concerned to hear of continuing difficulties at the Royal Children's Hospital for chemotherapy patients. I appreciate that these children require very careful scheduling to get the right preparation for their treatment, the right treatment itself and the right recovery services, and I am very disappointed that this has not been managed well at the hospital.

I have asked my department to ensure that priority attention is given to these patients. I will be meeting with the chief executive officer of the hospital, and I will also seek a written explanation of the actions that the hospital is taking right now, because I want to ensure that these chemotherapy patients receive the priority they deserve.

Crime: government strategies

Mr LUPTON (Prahran) — I direct my question to the Minister for Police and Emergency Services. Given that this week is Crime Prevention Week, will the minister outline some of the Bracks government's recent strategies and what works and what does not in tackling crime?

Mr HAERMEYER (Minister for Police and Emergency Services) — This week is Crime Prevention Week, which is part of the community safety month we have implemented to highlight community safety issues across a variety of disciplines. It is appropriate that this week is also the week in which the Crime Stoppers International conference is being held in Melbourne, the first time it has been held out of North America. Hundreds of delegates from countries all over the world are attending the conference here in Melbourne and looking at crime prevention issues around the theme of 'Joining forces down under: from crime to closure'.

A lot of focus is on what works in crime prevention, what works in crime response and what does not. What has come through is that Australia is regarded as one of the safest countries in the world. Everybody at the conference is remarking on the fact that Victoria is Australia's safest state, with a crime rate 20 per cent below the national average and a crime rate that has fallen by 10.2 per cent over the last two years. There is certainly a great deal of interest in what we are doing here in Victoria. I know the members opposite can only try to talk the state down.

There has also been an exchange of information and ideas so we can all share international best practice. Victoria is up there with international best practice, but there are a lot of ideas coming through from the conference which we are keen to follow through here. What has come through is that what is important in what works is, firstly, a whole-of-government, whole-of-community approach. Crime prevention is not just the responsibility of the police or of government agencies. It is the responsibility of the whole community — business, individuals and community alike. That requires an integrated and partnership approach to crime.

It is clear that we require a strategic, intelligence-led approach to policing that is not simply a response approach but is about identifying the issues behind crime, how we treat it and deal with it and how we provide local solutions to local problems. There is also a need for a cross-jurisdictional approach. We need to understand that a lot of crime in this day and age is not simply about our neighbourhood or about our state. We have to start looking at crime at a regional and international level. That is certainly coming through as well.

Appropriate laws are needed. On Sunday the government invoked the new search powers for police concerning weapons and knives. It is also clear that we have to look beyond simply sentencing and confinement as a means of dealing with crime. We have to focus on things like diversion, rehabilitation and preventive strategies, not just confinement.

What works is putting more police on the front line. What does not work is sacking police and cutting police numbers. What works is providing police with the resources to do the job. That includes things like the

mobile data network technology and metal detectors. That is what works.

What does not work is closing scores of police stations. What does not work is starving police of resources. What works is providing sufficient prison capacity. What does not work is talking tough on sentencing but then not having enough police to make the arrests and not having enough beds to put the prisoners in in the first place. Not having a corrections policy is what does not work. Where is the deterrence in your tough talk on sentencing if you do not have the police on the ground or if you do not provide one cent for an additional prison bed? It just does not stack up.

What this government is doing in this state is working. That is why we have a crime rate that has gone down 10.2 per cent over the last two years. We know we have more to do, but the results are coming in; we have the results on the board. All that members opposite have is rhetoric. They are hollow whingers, and none of it complements their actions. It is a very sad and sorry record.

Royal Children's Hospital: redevelopment

Mrs SHARDEY (Caulfield) — My question without notice is to the Minister for Health. I refer to the government's belated $8 million injection into the Royal Children's Hospital and the claim that it will fix the problems, some of which have been admitted by the minister today, and I ask: can the minister guarantee that this additional funding will mean that no sick child will be denied urgent treatment?

Ms PIKE (Minister for Health) — I thank the member for Caulfield for her question. I have already explained to the house today that all metropolitan health services are treating more patients, and they are doing it in the difficult context where we are receiving less resources from the commonwealth than we are entitled to. We are also doing it in a context that is well known, because many more people are coming to our hospitals — and the children's hospital experiences this a lot — because they cannot access a bulk-billing doctor or an after-hours general practitioner in the community.

I am very pleased that the new federal health minister, Tony Abbott, agrees with the Bracks government that more needs to be done in this regard. In fact his announcement today really shows that we were right when we said that opposition members here are Liberals first and Victorians second. We were right, because they bent over backwards to show support for a Medicare package that they knew would not work — —

Mrs Shardey — On a point of order, Speaker, the minister is now debating the issue. I asked for a guarantee in relation to the treatment of sick children.

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

Ms PIKE — Our capacity to treat sick children is of course dependent on the resources that the Bracks government puts in, and I will again outline those in a moment. But it is also critically dependent on the broader policy settings that we find ourselves in. Anybody who does not understand that hospital finances are fully impacted on by other settings such as the availability of primary health services does not understand the health system. The opposition has clearly been hung out to dry, because now the new federal health minister agrees with us that the policy settings have been wrong. The only response that the opposition was able to — —

Mr Perton interjected.

The SPEAKER — Order! I ask the member for Doncaster not to yell out in that matter. The Minister for Health will return to answering the question.

Ms PIKE — The only response that the opposition has been able to give to this broader policy issue, which now Tony Abbott is taking on board, is 'Stop sooking and take your medicine'.

Mr Doyle — Well, you did, didn't you!

The SPEAKER — Order! The Leader of the Opposition! I ask the Minister for Health to return to answering the question, which related to the Royal Children's Hospital.

Ms PIKE — In spite of all these broader policy settings, the Bracks government has not only been increasing funding to the Royal Children's Hospital. In fact it received $236 million in funding in the state budget this year compared to $229 million in the last financial year, which is a 35 per cent increase during the terms of this government and the previous government.

We have also announced an additional $8 million of funding because we have been doing some very detailed work on paediatric cost weights. That work was already under way. We anticipate that that work will identify that the unique and complex demands of paediatric surgery require a different funding model. On top of that, we have been strengthening governance and accountability through our governance review

panel. We have directed limitations on the employment of agency nurses.

Mr Doyle interjected.

The SPEAKER — Order! The Leader of the Opposition will cease interjecting in that manner!

Ms PIKE — These are a number of strategies that we have put in place over a number of years to more appropriately utilise the resources the government has provided. It is not about, as the Deputy Leader of the Opposition says, being a control freak; it is about making sure that we use the resources wisely so there are efficiencies in the system and every available dollar is there for the treatment of sick children.

That is the agenda of this government. That is why the government is improving efficiency in our health services through governance, through a better use of technology, through centralised purchasing, by using nurses more effectively, and now by evaluating paediatric weights and conducting a broader price review. All of this is moving towards building a stronger health system in Victoria in the context of increased demand and no assistance from an irrelevant opposition.

Students: literacy and numeracy standards

Ms BARKER (Oakleigh) — My question is to the Minister for Education and Training. Will the minister outline to the house what measures demonstrate that the Bracks government's initiatives in literacy and numeracy are achieving better outcomes for students?

Ms KOSKY (Minister for Education and Training) — I thank the member for her question and indeed for her interest in literacy and numeracy among students in this state. As everyone in the house is aware, this government is committed to improving the literacy and numeracy standards of our students. The government set itself the target that by 2005 Victoria would be at or above the national benchmarks for reading, writing and numeracy, and we have been seeing steady improvement in the literacy and numeracy skills of our students.

The most recent data again shows significant improvements. Since 1998 we have seen an improvement of 13 per cent in the number of prep grade students who are meeting the national benchmark — 76 per cent of prep students are now meeting that national benchmark. We have seen an increase of more than 13 per cent of grade 1 students meeting the national benchmark since 1998 — more than 84 per cent of students in grade 1 now meet the national benchmark. In grade 2, 94.6 per cent of students meet the national benchmark — that is, an increase of 9.6 per cent. We have seen steady improvements. That is a result of not only the investment of this government but also the absolute focus of our teachers on improving literacy and numeracy standards.

Last year I announced that we would report numeracy and literacy standards to parents against the national benchmarks. This will give parents more information about how their children are performing not only against the statewide data but also against the national benchmark. This week, for the very first time parents of grade 3 and grade 5 pupils will receive — —

Mr Perton interjected.

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

Ms KOSKY — Parents will receive information on their children's results, not only against the Victorian average but also against the national benchmarks in reading, writing and mathematics. That is the first time ever. The opposition never did it in government. We made a commitment at the last election, and this week parents are receiving that information. We also committed to extending literacy and numeracy tests to year 7 students, and this is the first time that has occurred in Victoria. As I have said, not under the opposition but under this government this test has been introduced for year 7 students.

More than 90 per cent of year 7 students across government and non-government schools in Victoria participated in the testing for numeracy and literacy. We are very pleased that we made that commitment and delivered on it. We are not alone in the endorsement of this strategy — not alone at all. The federal Minister for Education, Science and Training said, 'I strongly support the Victorian education and training minister in her decision to require schools to participate in the achievement improvement monitor test for year 7 students'. The opposition last year also supported the government in its stance and said it agreed with the government that mandatory statewide testing for year 7 students was vital for a world-class education system.

Consistency is not one of the hallmarks of the opposition.

Mr Perton — On a point of order, Speaker, the minister is debating the question. She should restrict her answer to matters of government administration.

The SPEAKER — Order! I uphold the point of order. The minister was debating the matter. I ask her to continue her answer to the question.

Ms KOSKY — As I said, Speaker, we are not alone in supporting this initiative. All other states and territories — —

Mr Honeywood interjected.

The SPEAKER — Order! I warn the member for Warrandyte to cease interjecting in that manner.

Ms KOSKY — It was disappointing to me that there was one lone voice criticising the government's efforts to report to parents, saying that such reporting was giving them and the students a false sense of confidence. And who said that? The new opposition spokesperson for education.

The SPEAKER — Order! I now ask the minister to conclude her answer. It is becoming quite long.

Ms KOSKY — The only false sense of confidence in the literacy and numeracy response in this state and what we are doing for students in this state comes from the change of mind and change of heart of members on the other side.

Royal Children's Hospital: funding

Mr DOYLE (Leader of the Opposition) — My question is for the Minister for Health. I refer to her previous answers and to evidence given yesterday to the Family and Community Development Committee by a director of nursing at the Royal Children's Hospital who said, 'We are broke. We have run out of money and need a new hospital', and I ask: can the minister guarantee the house that the Royal Children's Hospital will be properly funded, will not operate in deficit, will have appropriate medical equipment and will provide all appropriate patient services while she is minister?

Ms PIKE (Minister for Health) — I again thank the Leader of the Opposition for his question. I think I have outlined adequately to the house that the government supports the Royal Children's Hospital, that it knows this Victorian icon already provides wonderful services to many children in our community and that with the support of the government, with additional resourcing and with the work that it is doing to strengthen its governance and accountability and a range of other initiatives, it will continue to do so.

Provincial Victoria: campaign

Mr HELPER (Ripon) — I direct my question to the Minister for State and Regional Development. Will the minister please inform the house of the recent launch of a new campaign by the Bracks government aimed at encouraging Melburnians to live, work and invest in provincial Victoria?

Mr BRUMBY (Minister for State and Regional Development) — I thank the honourable member for Ripon for his question and his strong support for this campaign. It is true to say that under the Bracks government provincial Victoria is certainly the place to be. That is one of the reasons we have provided $1.3 million for what is an exciting new campaign which showcases people who have made the shift from Melbourne to provincial Victoria. They have done it successfully, and they are loving it.

Starting on Sunday advertisements were featured on television and in the newspapers. They encourage Melbourne residents to make it happen in provincial Victoria. Provincial Victoria is a name that really unites rural, country and regional Victoria and brings it together under a single new identity.

Obviously you do not embark on a campaign of this nature without undertaking some research, and research shows that around 21 per cent of the people who live in Melbourne — that is, around 600 000 people — would consider relocating to provincial Victoria if the circumstances were right. So somewhere in their minds is the thought, 'Will I make this shift?'. Quite frankly of course, the circumstances are right; the circumstances could not be better. The circumstances show that we have the lowest jobless rate in country Victoria we have seen for more than 20 years, we have key regional industries that are thriving, we have regional building construction running at an all-time high, and the population is already growing at more than one 1.2 per cent per annum — and that is what we want to see continue in the future.

The government has developed this campaign in partnership with the 48 provincial councils right around the state, and we have worked closely with them in developing this campaign. Of course they too believe that provincial Victoria is a great place in which to live, to work and to invest.

Needless to say, we have had plenty of support for this campaign. Darren Chester, who is the chief executive officer of Champions of the Bush — coincidently I understand he was also the Vic Nats candidate for Gippsland East at the last state election — has said:

> It's fantastic that somebody has at last woken up to how many opportunities there are to invest in regional Australia and has decided to help publicise this 'secret'.
>
> The federal government should take a close look at the Victorian campaign and evaluate whether such a program can be implemented in all states.

The member for South-West Coast — sometimes I think he shows he has more in common with this side of the house than with that side of the house — has been out there supporting policies. I quote from a press release headed 'Victorian opposition supports regional move campaign', in which the shadow Minister for State and Regional Development is quoted as saying:

> In country areas you don't have to line up to join the golf club, you don't have to line up to go to events, there is great sporting facilities, there is great health facilities, great community facilities in country Victoria, and the quality of life is just outstanding — so they're the sort of things we should be selling.

We appreciate his support for that campaign — and it is a good campaign! Provincial Victoria has more affordable housing, a real sense of community, great investment opportunities, shorter commuter times to work and great quality of life.

As I said, we think this is a great campaign. I guess the big question now is whether over the next few years, given the success of this campaign, we will see the Vic Nats change their name to the Provincial Nats!

TRANSPORT (RIGHTS AND RESPONSIBILITIES) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) introduced a bill to amend the Transport Act 1983 and the Road Safety Act 1986 and for other purposes.

Read first time.

ROAD SAFETY (AMENDMENT) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) introduced a bill to amend the Road Safety Act 1986, the Transport Act 1983, the Marine Act 1988, the Melbourne City Link Act 1995 and the Road Safety (Responsible Driving) Act 2002, to make consequential amendments to the Magistrates' Court Act 1989 and for other purposes.

Read first time.

PORT SERVICES (PORT MANAGEMENT REFORM) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

> That I have leave to bring in a bill to amend the Port Services Act 1995 and the Marine Act 1988 to make further provision for the establishment, management and operation of ports in Victoria, to make consequential amendments to other acts and for other purposes.

Mr PERTON (Doncaster) — I ask the minister to give brief details of the contents of the bill.

Mr BATCHELOR (Minister for Transport) (*By leave*) — This bill continues the port reform program that this government implemented following a report of Professor Russell. We have already seen major reform that has been widely supported within industry and by the users of port services — the people who work there. This bill continues that reform program, this time in relation to regional commercial ports.

Motion agreed to.

Read first time.

EXTRACTIVE INDUSTRIES DEVELOPMENT (AMENDMENT) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) — I move:

> That I have leave to bring in a bill to amend the Extractive Industries Development Act 1995 to make further provisions for extractive industries.

Mr PLOWMAN (Benambra) — I ask the minister to give us a brief explanation of the bill.

Mr Batchelor — Will you understand it though?

Mr Plowman interjected.

The SPEAKER — Order! The Minister for Transport and the member for Benambra! The comment by the Minister for Transport was totally unnecessary. I ask him to desist.

Mr CAMERON (Minister for Agriculture) (*By leave*) — The honourable member for Benambra should be fully apprised of this, as the bill has been fully debated in another place.

Motion agreed to.

Read first time.

RESIDENTIAL TENANCIES (AMENDMENT) BILL

Introduction and first reading

Ms PIKE (Minister for Health) introduced a bill to amend the Residential Tenancies Act 1997 to make provision for the director of housing to pay amounts of bonds on behalf of tenants by means of vouchers, to enable the refund of amounts of certain bonds to the director of housing, to provide that it is a function of the Residential Tenancies Bond Authority to collect certain information and to disclose that information to the director of housing and for other purposes.

Read first time.

ELECTORAL (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

That I have leave to bring in a bill to amend the Electoral Act 2002 and for other purposes.

Mr McINTOSH (Kew) — I ask the minister for a brief explanation of the bill.

Mr HULLS (Attorney-General) (*By leave*) — This arises out of a number of recommendations that have been made by the Electoral Commission following the last election. There are a number of technical amendments in the bill, probably the most significant of which is extending the cap on political donations to Tabcorp.

Motion agreed to.

Read first time.

CONSTITUTION (SUPREME COURT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

That I have leave to bring in a bill to amend the Constitution Act 1975 to broaden the eligibility criteria for appointment as a judge of the Supreme Court and to permit the appointment of an acting chief justice and an acting president of the Court of Appeal when there is or is about to be a vacancy in the relevant office.

Mr McINTOSH (Kew) — I ask the minister for a brief explanation of the bill, and perhaps the reasons for it.

Mr HULLS (Attorney-General) (*By leave*) — The bill will broaden the eligibility criteria for appointment as a judge of the Supreme Court and will also permit the appointment of an acting chief justice and an acting president of the Court of Appeal when there is or is about to be a vacancy in the relevant office.

Motion agreed to.

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), 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) (171 signatures) and Ms NEVILLE (Bellarine) (39 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.

By Ms NEVILLE (Bellarine) (70 signatures)

North Road, Clayton and Oakleigh East: service lane

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that it is extremely unsafe and dangerous to exit or enter a side street into North Road, Clayton and Oakleigh East.

Your petitioners therefore pray that a service lane be constructed on the north and south sides of North Road, Clayton and Oakleigh East, in such a manner as to allow traffic exiting in a side street to merge into an exit lane of the service lane thereby allowing for a safe exit from North Road.

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

By Mr LIM (Clayton) (131 signatures)

Hazardous waste: Dutson Downs

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

The humble petition of the undersigned citizens of the state of Victoria expresses their utmost concern at the prospect of the establishment of additional waste treatment facilities at Dutson Downs in Gippsland with the consequent threat of irreparable damage to one of the most fragile environments in the state of Victoria.

Your petitioners therefore pray that the Victorian government reject any proposal for the establishment of a soil recycling facility and/or a toxic waste dump at Dutson Downs.

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

By Mr INGRAM (Gippsland East) (568 signatures)

Children: employment

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

The humble petition of the undersigned citizens of the state of Victoria showeth that:

farming makes a very large contribution to the Victorian community and economy, and farming is the foundation of the rural and regional economy;

the overwhelming majority of farms in Victoria (98 per cent) are family farms;

there is a strong tradition in Australia that farming is a family activity and that all members of the family, including children, contribute to the work of the farm;

children working on farms is an integral part of a healthy and proper upbringing in rural Victoria;

it is common for family farms to be geographically close to each other, including the farms of extended family members such as grandparents, brothers and sisters, uncles and aunts, cousins, and their families, and that children will from time to time work for these extended family members;

the community is offended by the notion that farming families, including grandparents, siblings, uncles and aunts, should be required to undergo a police check to determine whether they are suitable to employ family children; and

all members of the extended family should be exempt from any requirement to obtain child employment permits for the employment of family children for farming and farm-based activities.

Your petitioners therefore pray that the government will act on this issue to exempt farm families, including the extended family, from any requirement to obtain a child employment permit to employ family children on Victorian farms.

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

By Mr McINTOSH (Kew) (3742 signatures)

Laid on table.

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

Ordered that petition presented by honourable member for Gippsland East be considered next day on motion of Mr INGRAM (Gippsland East).

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

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 7

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 7 of 2003 on:

Education Legislation (Miscellaneous Amendments) Bill
Education (Workplace Learning) Bill
Mental Health (Amendment) Bill
Planning and Environment (Port of Melbourne) Bill
Royal Botanic Gardens (Amendment) Bill
Scots' Church Properties (Amendment) Bill
Victorian Qualifications Authority (Amendment) Bill
Water Legislation (Amendment) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Interpretation of Legislation Act 1984 — Notice under s. 32(3)(a)(iii) in relation to Statutory Rule No 76

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

Bass Coast Planning Scheme — No C8

Darebin Planning Scheme — No C42

Greater Bendigo Planning Scheme — No C4

Greater Dandenong Planning Scheme — No C51

Hepburn Planning Scheme — No C14

Hume Planning Scheme — No C47

Loddon Planning Scheme — No C10

Melbourne Planning Scheme — No C75

Mornington Peninsula Planning Scheme — No C7

Murrindindi Planning Scheme — No C11

Stonnington Planning Scheme — No C25

Yarra Planning Scheme — No C69

Yarra Ranges Planning Scheme — No C14

Rural Finance Act 1988 — Direction by the Treasurer to the Rural Finance Corporation to administer the Land Aggregation Program

Statutory Rules under the following Acts:

Corporations (Ancillary Provisions) Act 2001 — SR No 107

County Court Act 1958 — SR No 109

Interpretation of Legislation Act 1984 — SR No 108

Supreme Court Act 1986 — SR Nos 107, 108

Tobacco Act 1987 — SR No 106

Victorian Civil and Administrative Tribunal Act 1998 — SR No 110

Subordinate Legislation Act 1994:

Minister's exception certificates in relation to Statutory Rule Nos 107, 108, 109, 110

Minister's exemption certificate in relation to Statutory Rule No 106

Water Act 1989 — Ground water management plans for the:

Campaspe Deep Lead water supply protection area

Katunga water supply protection area

Water Act 1989 — Water Supply Protection Area Declaration Order 2003 for Mid Loddon.

The following proclamations fixing operative dates were laid upon the table by the Clerk pursuant to an order of the house dated 26 February 2003:

Albury-Wodonga Agreement (Repeal) Act 2003 — Whole Act except for sections 4, 5, 6, 11, 12, 16 and 17 on 2 October 2003 (*Gazette G40*, 3 October 2003)

Control of Weapons and Firearms Acts (Search Powers) Act 2003 — Remaining provisions on 5 October 2003 (*Gazette G40*, 3 October 2003)

Dandenong Development Board Act 2003 — Whole Act on 20 October 2003 (*Gazette G40*, 3 October 2003).

ROYAL ASSENT

Message read advising royal assent to:

23 September

Albury-Wodonga Agreement (Repeal) Bill

30 September

Commonwealth Games Arrangements (Governance) Bill
Confiscation (Amendment) Bill
National Environment Protection Council (Victoria) (Amendment) Bill

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Mental Health (Amendment) Bill
Scots' Church Properties (Amendment) Bill
Victorian Qualifications Authority (Amendment) 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, 9 October 2003:
>
> Cemeteries and Crematoria Bill
>
> Grain Handling and Storage (Amendment) Bill
>
> Health Legislation (Amendment) Bill
>
> Instruments (Enduring Powers of Attorney) Bill
>
> Mental Health (Amendment) Bill
>
> Planning and Environment (Port of Melbourne) Bill

I bring before the house the government business program for the current parliamentary week. It consists of six bills, including a bill that has already been dealt with by the upper house — the Health Legislation (Amendment) Bill. The program is an achievable task this week given two other factors that will also occur. As members know, on Thursday, as a result of bipartisan agreement, a condolence motion will be moved with respect to Bali. I understand that the arrangements to be put in place on Thursday have been agreed to. It is anticipated there will be a short adjournment of the house following the debate. The procedure was the subject of some discussion while I was away, but I understand there is basic agreement to it.

The other piece of information that will fill out a relatively light legislative program is the proposal by the Attorney-General to deal with the Constitution (Supreme Court) Bill, which he gave notice of today. I understand discussions will occur across the chamber during the course of the day to work out how that will be facilitated. Neither of those two issues are contained in the government business program, but it is important to flag them so that members understand what is required to pace their respective contributions.

Mr PERTON (Doncaster) — The opposition will not oppose the government business program, but there are still some matters to be settled. While we join with the government in agreeing that the Bali commemoration debate on Thursday is important, some details still remain to be finetuned. However, agreement that debate take place and that there be the appropriate adjournment is joined in by the government, the Liberal Party and the National Party.

In respect of the legislation to be introduced by the Attorney-General, it is only very recently that the opposition has become aware that this bill has to pass through the house. It remains the opposition's view, given that we will lose nearly all of Thursday morning's legislation debating time for a very important purpose, that if the government wishes to bring a further bill into the government business program it ought to do that by forgoing the matter of public importance debate on Thursday.

Mr Lim interjected.

Mr PERTON — The branch stacker from Clayton — —

Honourable members interjecting.

The SPEAKER — Order! The member for Clayton! The member for Doncaster will continue to debate the government business program.

Mr PERTON — In relation to the proposal to be brought in by the Attorney-General, the bill is obviously not before the house yet. I would have thought that an amendment to the constitution would require all members of the house to at least have access to the legislation and to debate it appropriately, not for legislation that has not been brought in yet to take up debating time this week. I would have thought it appropriate that if the government believes the legislation is urgent and that a constitutional amendment is required, there ought to be a serious debate, which ought to take the place of the time allocated for the matter of public importance.

In respect of the legislation, as usual I suspect we will be debating through the lead speakers initially and then returning to bills that require further debate. Obviously the National Party Whip and I will be discussing those matters with the Leader of the House. With those

comments, as I have indicated, the opposition will not oppose the government business program.

Mr MAUGHAN (Rodney) — The National Party will also not oppose the government business program. Discussions have been held regarding the Bali commemoration debate on Thursday. At this time the National Party is not privy to how many speakers there are or what the arrangements are for Thursday.

I bring to the attention of the Leader of the House the importance of the National Party's role in facilitating the legislation which the government has introduced today and wants to get through. I make the point that we would like to be kept involved in any discussions regarding the timing on Thursday.

With regard to the legislation that has come before the house today involving the constitutional amendment, I do not understand why, if this government is well organised, it did not come in at an earlier stage so we could have considered — —

Mr Honeywood interjected.

Mr MAUGHAN — Let me go back and say that I think it is appalling that we have been presented with legislation today, and of which we have been given notice today, which is so urgent that it needs to be passed this week. The National Party understands the reasons for that and is prepared to cooperate with the government, but it requires a bit of cooperation on the government's part as well to include the National Party in the discussions regarding the timing for Thursday.

I make the final comment that the discussions I have had have been on the basis that we will be finishing at 11 o'clock tonight and tomorrow night and that we will make every attempt to be on the adjournment debate by 4 o'clock on Thursday. On that basis the National Party will be not opposing the government's business program, but I make the point again, as I frequently do, that it is important for country members that they are able to get going at a reasonable time on Thursday afternoon. I simply point out to the government that on that basis we can work through the program this week.

I pick up the point made by the member for Doncaster that it would have been more appropriate, given that the opposition parties are facilitating the government, firstly on the Bali motion and secondly on the motion brought in by the Attorney-General, if some accommodation had been made on the debate on matter of public importance that is listed for Wednesday. The government could have forgone that to allow sufficient time to debate these important matters that are before the house.

Motion agreed to.

MEMBERS STATEMENTS

Frankston: ministerial visit

Mr HARKNESS (Frankston) — The Minister for Sport and Recreation in the other place, the Honourable Justin Madden, visited Frankston on Wednesday, 10 September, to meet local community representatives and members of sporting clubs. Representatives from the Frankston Arthritis Support Group, the Fabulous 50s Swimming Club, the Frankston and Mornington Peninsula Swimming Club, South-East Metropolitan Swimming Association, Swimming Victoria and several competitive elite swimmers attended my office to meet with the minister and me, and the mayor and other representatives from Frankston City Council.

It was useful for the minister to meet with aquatic facility users, many of whom travel large distances to attend and access adequate facilities. There is strong support locally for such a community aquatic centre, which should incorporate multi-use aquatic areas, a 50-metre pool with regional spectator facilities, health and fitness areas, secondary spend areas, leased areas for health services, and social and relaxation areas.

This will not just be a swimming pool. This project will provide an opportunity to instil pride in Frankston and bring people together. Jim McGarvin, an active Frankston resident, has visited many existing aquatic centres throughout Melbourne and has witnessed, for instance, fathers spending time with their children. 'What is the social cost of not building this facility in Frankston?', he has asked.

The sports minister also took the opportunity to visit the Ballam Park athletics track, which, as a result of an election commitment by me, will soon be upgraded. Noteworthy is the fact that elite sports people such as Jana Pittman join with Frankston's Olympic heroes of tomorrow to train at this venue.

Lastly, the minister joined me at the Karingal Bulls Football Club to meet with over 240 representatives from Frankston's sporting clubs to listen to their views and issues. School sports captains also attended for a barbecue and to have a chat. As its local member, I am standing up for Frankston, including all of Frankston's sporting groups.

Children: employment

Mr McINTOSH (Kew) — Three and a half thousand Victorians have asked this arrogant

government to withdraw the child employment laws which it imposed recently. Victorians feel justifiably offended that a government that cannot manage itself and is more interested in media spin could introduce such flawed legislation. This bill has had a dramatic and devastating impact across this great state, perhaps most importantly in rural and regional Victoria.

The permit system it has introduced is a bureaucratic nightmare. It restricts young Victorians wishing to take part in farm life or any other form of family business that involves parents and guardians. Not only are the new laws oppressive, but it is a matter of grave concern that the minister does not know the contents of his own bill and does not know the definition of the word 'employment'. The definition of 'employment' takes into account voluntary employment — that is, employment without pay — and that is the most significant and oppressive part of this legislation.

This arrogant government has demonstrated that it is just not interested in consulting with the community. Otherwise it would be listening to the 3500 Victorians who have petitioned this house today. Rather, it is more interested in simply doing the bidding of its union mates. Luckily the Liberal Party has forced the Bracks government into a very embarrassing backflip in relieving grandparents and other members of the extended family from the requirement of having police checks. But it is simply too little too late. Let us hope this arrogant government can ensure that ordinary Victorians can actually conduct their businesses — —

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

Lap for Leukaemia

Ms MARSHALL (Forest Hill) — It was with great pleasure that this morning I launched, along with the Minister for Sport and Recreation in the other place and various sporting greats including Sue Stanley, Tamsin Lewis and Tony Shaw, the Bone Marrow Donor Institute's Lap for Leukaemia, a four-day challenge being held on Collins Street. Lap for Leukaemia is a national awareness campaign which aims to provide those who work in the heart of the city with ready access to a number of treadmills to raise money by walking or running in teams each day from 8.00 a.m. to 6.00 p.m., completing as many laps as possible. Teamwork is crucial, and by way of company or individual sponsorship, or even a donation on the day, the participants' every lap is monitored and converted into vital finances to be utilised in funding research and community-based projects.

Leukaemia is a cancer of the bone marrow and can be acute, progressing rapidly over days, or chronic, progressing slowly over years. In Australia more than 6500 people are diagnosed each year, and it is the most common form of childhood cancer in the world. Within the next five years an estimated 30 000 Australians will be diagnosed with leukaemia, and a bone marrow transplant is often the only cure. Some achievements of the Bone Marrow Donor Institute include establishing the Australian Bone Marrow Registry, the life-saving cord blood bank and accommodation for patients and their families from regional areas who are undergoing long-term treatment.

The Lap for Leukaemia runs every day this week until Friday, 10 October, at 447 Collins Street. As there is no need to pre-arrange a participation, by simply making a donation people can start walking and clocking up laps. I urge every member to take some time out of their schedules and do a lap.

Benalla: Tidy Town awards

Dr SYKES (Benalla) — Community spirit is alive and well in the electorate of Benalla. The Moyhu, Violet Town, Murchison and Wandiligong communities have all won awards in the recent 2004 Keep Australia Beautiful Tidy Towns awards. Moyhu scooped the pool for communities with populations of less than 200 people — a classic case of the mouse that roared. Moyhu won its section awards for Victoria's tidiest town, litter abatement and waste resource management. The efforts of the Moyhu Lions Club and the Moyhu and District Grapevine Newsletter were also recognised, as were the special efforts of Jill Graham, who won the Dame Phyllis Frost individual community service award.

Wandiligong Primary School, led by its energetic principal, Julie Smith, won the proud primary school award for communities of less than 200 people, and the Violet Town campus of Perambin Primary College won the same award for communities with 200 to 750 people. Violet Town's market and community house were also recognised, as were Lorraine Sinclair's individual efforts. Murchison's John Dunlop and the Murchison community were also recognised.

In summary, country people are proud of their communities, and they walk the walk rather than just talk the talk. This government could help our communities in their further endeavours by assisting them to get things done rather than introducing layer on layer of bureaucracy and poorly written and impractical legislation such as the Child Employment Bill.

Italian Senior Citizens Club of Bundoora

Ms D'AMBROSIO (Mill Park) — I wish to inform the house of my recent visit to the Italian Senior Citizens Club of Bundoora for a lunch to celebrate its 14th anniversary on 2 October. The club has over 300 members and meets twice weekly in the two locations of Bundoora and South Morang.

I wish to pay tribute to the club's leaders, who are responsible for having organised a highly successful club boasting the formation of many long-lasting friendships and a variety of social activities. I wish to pay particular respect to the committee, comprising Fernando Filippi, president; Giovanni Scacco, secretary; Salvatore Ientile, treasurer; and Armando Brugliera, vice-president; and committee members Francesco Sena, Gilda Cornetta, Maria Ardolino, Maria Biondo and Palmira Azzolino.

This special event also saw the handover of the position of public officer by Robert Mammarella, founder of the club, to Justin Mammarella. I was also pleased to have been in the company of Augusto Mammarella. Augusto has played a pivotal role in the club's formation and history, having been the club's first president from 1989 to 1999. Augusto is also a recent recipient of the Centenary Medal. It was obvious to me on the day that the club is truly proud of Augusto for his dedication to the club and the broader Italian community. The honour bestowed upon him that day was well deserved.

Being of Italian origin, I was particularly humbled by the club's warm welcome and salutations. These Italian-born people of the Victorian community have helped build the road upon which descendents like me can walk, and I wish to thank them for their courage, determination and strength.

Barwon Water: board appointments

Mr MULDER (Polwarth) — I draw the attention of the house to the recent announcement by the Minister for Water of the new appointments to the board of Barwon Water. The minister has endorsed the appointment of two new board members, both of whom reside in the Geelong area and one of whom is a union mate. Unbelievably, in order to reward another union mate with a board appointment this minister has approved the removal of the only member who represented the areas from Colac through to Apollo Bay. It is obvious that this decision has been taken with a total disregard for ratepayers in the areas that make up a large part of Barwon Water's catchment.

I can assure the minister that his announcement has already caused significant dissatisfaction, and I have no doubt it will continue to do so in the light of the current discussions on a new water resources plan put forward by Barwon Water. To believe that any changes to water distribution in Barwon Water's catchment can be put in place in a fair and equitable manner without the input of a Colac and Apollo Bay representative on the board is confirmation of the fact that this government will reward union mates to the detriment of an entire community. I call on the minister to assure the residents of Colac and Apollo Bay that the new union appointee to the Barwon Water board will make the journey from Geelong to the Colac and Apollo Bay areas when ratepayers seek appointments and representation.

I can assure the minister that I will make the contact details of his union mate, Roger Lowrey, available to all ratepayers seeking representations to Barwon Water. This former Cain and Kirner adviser will certainly add a new dimension to the Barwon Water board.

Neighbourhood houses: problem gambling grants

Mr LUPTON (Prahran) — On Friday, 3 October, with the Minister for Community Services I was very pleased to attend the Prahran neighbourhood house to launch the Problem Gambling/Local Community Partnership project's grant scheme, and in particular to make a direct allocation of $10 000 to the Association of Neighbourhood Houses and Learning Centres to support the capacity of neighbourhood houses to submit proposals under this grant scheme.

In November 2002 the government released its policy entitled *Responsible Gaming — Labor's Plan for Better Gambling Regulation in Victoria*. That document outlined the commitment to undertake a range of problem gambling initiatives, including the provision of seeding grants to local government and community organisations. In the May 2003 budget the government allocated $12 million over two years to implement those problem gambling initiatives. I am pleased to see that the government has commenced that program of funding and made a direct allocation to the Association of Neighbourhood Houses to assist in submitting applications for grants.

I look forward to the neighbourhood houses and community organisations in the Prahran electorate — and there are two neighbourhood houses in the electorate — putting in their applications for grants under this very important scheme.

Mitcham–Frankston freeway: tolls

Mr WELLS (Scoresby) — This statement condemns the Bracks Labor government and the Minister for Transport for once again deceiving the people of the outer east and south-east on the issue of the Bracks tollway. Prior to announcing the massive lie on the tolling of the Scoresby freeway the Bracks government, through the Department of Infrastructure, advertised for community representatives from municipalities along the Scoresby corridor to participate in a freeway community advisory group. More than six months later the government has still not formed the group, nor has it announced who the successful community representatives will be, leaving many bitter applicants to question the real intent and legitimacy of the so-called advisory group.

Applicants were interviewed in March this year and were told that a decision on appointees would be made by Easter. To make matters worse, applicants who acted in good faith and gave up their valuable time to take part in the selection process have not even had a courtesy letter to advise why there has been a delay. In failing to form the advisory group the Bracks government has once again been caught out sitting on its hands and snubbing the people of the outer east and south-east.

The real reason the group is yet to be formed is simple. Minister Bachelor and Premier Bracks have been overwhelmingly embarrassed by the huge backlash over the toll decision and are now doing another backflip over the community consultation process. In an attempt to gag real community debate on the tollway and to save further embarrassment the Bracks government is now looking for Labor Party hacks and yes-men to form the advisory group, instead of selecting respected local community representatives who have applied for positions.

Seymour Agricultural and Pastoral Society show

Mr HARDMAN (Seymour) — I rise to congratulate the Seymour Agricultural and Pastoral Society on once again running a very successful Seymour show on Saturday, 4 October. Local shows are a very important way for country communities to showcase local industry and leisure activities. They bring all sections of the community together to celebrate and learn about activities that are happening in their local area. This year the Seymour show was opened by an esteemed life member of the Seymour Agricultural and Pastoral Society, Tom Tehan. The show attracted a great number of exhibits in several animal classes, and this year I am told that 160 alpacas were entered in the show.

It was great to see the new Seymour exhibition centre at Kings Park being utilised by a variety of exhibitors — for example, the Department of Primary Industries, the Seymour Historical Society and BEAM, a local environment group. It is fantastic to see that happen.

I also had great pleasure in opening the new Lone Tree Hill Cutting Club arena, which was supported through Sport and Recreation Victoria by a grant of $30 000. The facility will bring much more activity to the Seymour district, because it has two to three events a month. It will be great for our local economy as visitors spend their money in the local community buying fuel and food. I congratulate Gail Kubeil, Mark McMahon and the many other members and supporters on their achievements.

I had great pleasure in judging the Dog on the Ute competition. I am very experienced in those competitions, and it was fantastic to see organiser Monica Kelly doing a great job.

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

Parks Victoria: fencing policy

Mr WALSH (Swan Hill) — Parks Victoria is surely the neighbour from hell. I have a constituent farmer who is unlucky enough to share a boundary with the Kara Kara State Park near St Arnaud. He needed to clear the line to replace a boundary fence, and what should have been a simple process turned into a bureaucratic nightmare.

A Parks Victoria ranger visited the site but had no authority to designate the trees for removal or lopping, so she took photographs. On a second visit, in the absence of the owner some trees and branches were marked for cutting without any consultation with the property owner. Parks Victoria then wrote to him listing seven conditions to be fulfilled. The fifth of those conditions was that he be billed at a commercial rate for the tiny quantities of merchantable forest product that he was deemed to be gaining from the exercise — $23.50 for one so-called strainer, two posts and 2 cubic metres of firewood.

He was required to buy the timber before he could start work, although it was of no use to him as the heavily infested white ant country requires concrete strainers and steel posts. He offered to push it back over the line into the park as habitat, an offer which was refused. The cost of this exercise to the public purse and the farmer

is outrageous. Who would ever want to be a neighbour with Parks Victoria? Not only is it not controlling rabbits and weeds, but it is now charging adjoining land-holders when they want to replace a boundary fence.

Sheep: live exports

Ms LOBATO (Gembrook) — Today I wish to speak about our Australian sheep. After enduring truck and train journeys these animals are loaded onto ships for long voyages of weeks and months on end to distant parts of the globe. En route they endure crowded conditions where they have to compete with each other for feed and water. They are subjected to extremes of weather, including high temperatures and almost unbearable humidity, while being restrained so they cannot move. They stand in a wet slush of water combined with excrement and can suffer from debilitating respiratory conditions and conjunctivitis. Having arrived at their destination these animals are subjected to the cruel and vicious slaughter that we allow in the name of cultural freedom.

At the moment there are 50 000 sheep languishing at sea. Reports claim that thousands have already perished. While the federal government talks without acting, this animal suffering continues without an end in sight. Something must be done immediately to end this national disgrace. We cannot continue to send live animals on horrific journeys and then place them in countries which have no animal welfare legislation. The humane treatment of animals on Australian soil is a smokescreen if we do not require that same level of respect to be shown to our animals once they leave our shores.

I conclude with a quote from an article by Peter Davis in the *Age* last Saturday:

> Buy buy back sheep, our boat is overfull.
> Why sir, why sir, are you such a fool?
> You fall for your master,
> And you fall for the game.

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

Mornington Community Information and Support Centre

Mr COOPER (Mornington) — On 26 September I attended the annual general meeting of the Mornington Community Information and Support Centre. This centre was established at a public meeting in November 1982 and opened for business in October 1983 in a purpose-built building provided by the then Shire of Mornington.

The Mornington Community Information and Support Centre is an independent community organisation staffed mainly by volunteers. It provides a range of services to the local community and to visitors to Mornington, including personal counselling, tourism information, financial counselling, no-interest loans, advocacy, legal aid, a taxation help program and an emergency relief program. Each week the centre is staffed by 48 volunteers. In the 2002–03 year these volunteers worked a total of 11 000 hours. There are many similar centres in Victoria, but the Mornington Community Information and Support Centre is the busiest in the state, with 27 165 inquiries having been handled in the 2002–03 year.

I commend the chairman of the centre, Stephen Alty; his able and talented committee of management; the manager of the centre, Carmel Spyrakis; and all of the wonderful volunteers who provide such a terrific service to the local community. This great centre has now been operating for 21 years. Long may it continue.

Clayton Road, Clayton: speed limits

Mr LIM (Clayton) — I wish to inform the house that on 1 August, on behalf of the Minister for Transport I had the pleasure of switching on new electronic speed signs in Clayton Road. This busy shopping strip, which runs through the heart of my electorate, was the first in Victoria to pilot a 40-kilometre-an-hour speed limit in high activity times. Clayton Road is one of 14 metropolitan Melbourne shopping strips piloting time-based 40-kilometre-an-hour speed limits in what would normally be 60-kilometre-an-hour speed zones, in an effort to improve pedestrian safety.

Clayton Road is not only a busy shopping street but is also home to three hospitals, numerous medical practices and suites, and Clayton South Primary School; plus there are numerous other schools in the vicinity. The section with the new signs had a record of 22 casualty crashes involving pedestrians in the last five years — a totally unacceptable figure. Clayton Road was among the highest pedestrian casualty sites in Melbourne.

The Bracks government's Arrive Alive strategy has already saved a great number of lives on our roads, and I am confident that the new speed limits will lead to further lives being saved. This strategy is going a long way to meeting the Bracks government's target of reducing the road toll by 20 per cent by 2007.

Freedom of information: government performance

Mr KOTSIRAS (Bulleen) — I stand to condemn this secretive and arrogant government for destroying the freedom of information system in this state. Despite the Attorney-General's rhetoric, FOI has gone backwards in Victoria. Under this government there have been more secret deals, more jobs for Labor hacks, more taxpayers money wasted, more projects delayed or cancelled and more ministers incapable of properly managing their respective areas. Despite that, this inept Bracks government continues to hide the truth from the public.

The open and accountable rhetoric is nothing but a sham and deception. This charade is now being played out by all departments: it is now almost impossible to receive any documents under FOI. The most recent example was when the FOI officer in the Department of Premier and Cabinet requested that I explain and define for her the words 'review' and 'investigation'. I am mystified and alarmed that this government has employed a person who is unable to use a dictionary or thesaurus. This officer might be doing what the government wants her to do — that is, prolong the request and frustrate the opposition — but she is also destroying FOI in this state.

In another example this government refused me access to certain documents, claiming that they were internal working documents. However, when questioned the government released some of these documents to the media. A document is either exempt or it is not. If it is not exempt, it should be given to the person who made the initial FOI request. This government is condemned for the destruction of FOI in this state. The government has failed to properly manage the FOI process — —

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

Bellfield Primary School: achievements

Mr LANGDON (Ivanhoe) — I wish to congratulate Bellfield Primary School, which is in the heart of my electorate, and in particular its principal, John Fleming. An article in the *Good Weekend* magazine of 4 October headed 'War of words' talked about the school and its great achievements. I would like to quote part of the article. Mr Fleming started as principal of the school in 1996. The article states that he has:

> … overseen an extraordinary transformation at Bellfield Primary in Melbourne's inner-north —

in the heart of my electorate —

> since he turned against the trend and introduced a reading program that includes rigorous phonics instruction. In 1996, the year he became principal, more than four-fifths of his pupils were reading at a lower than the minimum acceptable standard for their age group, he says. Seven years later, there has been a spectacular reversal. Statewide literacy tests now put Bellfield in the top 10 per cent of schools in Victoria.

This is an exceptionally remarkable achievement brought about by a great deal of work by the school, and indeed by the school principal. More than half the school's 220 students live in single-parent households and a fifth come from non-English-speaking families. This highlights what an exceptional achievement this has been. I congratulate the school, the school community, the school council, the students, and particularly the principal.

Christ Church, Dingley

Ms MUNT (Mordialloc) — I would like to say a special thankyou to my friends at the Anglican parish of Christ Church, Dingley, for inviting me to celebrate with them their 130th anniversary on Sunday, 21 September. It was a beautiful service and a wonderful sermon was delivered by the Reverend Rob Issachsen. This was followed by a spit roast luncheon and various other activities.

To me a real highlight of the day was to appreciate the wonderful display which I guess comes with 130 years of history. The church was originally built by Mary Attenborough back in 1873 as a centre of worship for the people of Dingley, and it still thrives today. It has recently been wonderfully restored. The most touching part of the church is the various windows, particularly the one dedicated to Mary Attenborough herself. I was also touched by the war memorial window.

Having said that, despite all this wonderful history — whether it be the windows, the old bibles and prayer books, or even the building itself — the church is ultimately its people. What makes Christ Church, Dingley, so important to the community is the work and dedication of its parishioners. That is what we really came to celebrate. Looking at the large number of people at the service I was happy to see that this church still plays an important role in the Dingley community, and I have no doubt that it will last another 130 years and beyond. Congratulations to the Reverend John Northfield and the Christ Church, Dingley, congregation. I thank them for letting me celebrate this occasion with them.

Tamil community: cultural celebration

Mr LANGUILLER (Derrimut) — I wish to place on record my congratulations to the Victorian Tamil

Cultural Association (VTCA) and the Victorian Tamil Cultural School for their outstanding work in the fields of social cultural education, refugees and the migrant needs of the Tamil community.

Together with many colleagues I recently attended the Navarathiri cultural night held at Dandenong High School, where the Tamil community showcased its cultural tradition with an impressive display of musicians and dancers. I commend the VTCA, including its president, Sankara Subramanian; its general secretary, N. R. Wickiramasingham; its school coordinator, Nadaraja Sivapalan; and its cultural committee vice-president, Y. C. Nanthakumar; the parents; the volunteers; and most importantly, the children.

I was privileged to be invited as a special guest to the 10th anniversary of the Victorian Tamil Cultural Association. The association was formed in 1993 to promote the Tamil language and culture among Tamil-speaking people from countries such as Sri Lanka, India, Malaysia, Singapore, Fiji, Mauritius and South Africa. I again place on the record my congratulations to the Tamil community.

I attended with the member for Narre Warren South, a member for Eumemmerring Province in the other place, the member for Clayton, the member for Narre Warren North and the federal member for Holt. We had an extraordinary night. We all shared our cultural traditions and the multicultural nature of the event. I again commend the Tamil community.

Inner Western Region Migrant Resource Centre

Mr MILDENHALL (Footscray) — Congratulations to the Maribyrnong City Council on convening a meeting of ethnic community representatives and local residents to begin the long haul back to restoring a migrant resource centre in the inner west. Many groups have said that with the demise of the centre they have lost their voice and that they have a strong desire to find it again. The meeting included representatives from the Sikh, Amharic, Ethiopian, Egyptian, Polish, Filipino, Spanish and Southern Sudanese communities, and a number of churches and other community groups.

Despite the centre being described this year by the federal Minister for Citizenship and Multicultural Affairs, Mr Hardgrave, as 'impeccable', its demise was subject to outrageous mudslinging by the member for Warrandyte. We all know his former statements in favour of multiculturalism were not only transient but cynical and opportunistic. His glee at the demise of the centre, expressed in his statements in the house earlier this year, have brought shame on him and the traditions of his party.

I would like to support this group of residents and ethnic community representatives who are working very hard and determinedly, in the face of the cynicism of and opposition by the Liberal Party, to find their voice again.

Kyneton Hospital: dialysis unit

Mr HOWARD (Ballarat East) — Recently I was pleased to attend the new Kyneton Hospital to formally open a new dialysis unit. The opening of this unit will enable people from the Kyneton region who need dialysis treatment to receive it in Kyneton rather than having to travel to Bendigo or Melbourne. As this is very time-consuming treatment over many hours a day, several times a week, this will make a very significant difference to the lives of the people who have to undergo it.

This new unit, established in conjunction with the North West Dialysis Service, can treat three patients at one time. It is a great addition to the new Kyneton Hospital. Kyneton residents know that only a little over four years ago, under the former Kennett government, their hospital was likely to be closed. Instead they have seen that with the Bracks government they have a brand-new, modern hospital and nursing home co-located with a new ambulance station. With the new dialysis unit the people of Kyneton and surrounds now have an even better hospital service.

I commend the chief executive officer of the Kyneton Hospital, Brendan Lowry, his staff and the hospital board of management for their great work in supporting the vision of the new hospital. I know they are thankful to the Bracks government for providing them with enhanced facilities which are certainly going to serve the people of Kyneton and the surrounding community for many years to come.

Bridgewater News

Ms BEATTIE (Yuroke) — I congratulate all those involved with the inception of a new local paper, the *Bridgewater News*, which will be circulated throughout Roxburgh Park and Craigieburn, suburbs that play a big part in my electorate. It is always an honour and privilege to witness the fostering of community spirit; and a new, independent and local newspaper will go a long way towards providing that strong feeling. On Sunday, at a community fun day attended by

representatives from sporting groups, community groups and young families, the paper was officially launched. Its potential is clear for all to see.

I congratulate Penny Reiners and the team at the Brotherhood of St Laurence. I would also like to congratulate the local Safeway supermarket and Delfin Craigieburn on sponsoring this new local newspaper. With this newspaper we will be able to inform the community that work has started on the electrification of the Craigieburn line and that planning is under way for the Craigieburn super clinic. It augurs well for the northern suburbs, which were neglected under the previous government. The Bracks government is doing a great job in getting infrastructure and community services out to those suburbs. I congratulate all concerned with the newspaper.

INSTRUMENTS (ENDURING POWERS OF ATTORNEY) BILL

Second reading

Debate resumed from 28 August; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — I think it is fair to say that this is not the most riveting or exciting of bills. But it is a significant bill, because it deals with the capacity of another person having a fiduciary duty or a fiduciary obligation to act in the best interests of somebody else — namely, the donor under a power of attorney.

From the outset, let me identify the two types of powers of attorney. There is the general, well-known power of attorney, whereby the donor asks another person to act on their behalf. That power of attorney can be limited or extended by the way the instrument is drawn up, as long as the donor retains legal capacity. Immediately upon the donor losing that legal capacity the power of attorney is essentially voided. There is of course an increasing use of the second type of power of attorney, which is the enduring power of attorney. That is designed to overcome the problems of legal capacity. In the event that a donor lacks any form of legal capacity through sickness, illness or otherwise, that power of attorney will continue even after the problem in relation to legal capacity. Therefore it endures beyond the problem associated with the lack of capacity.

We have been briefed by the department, and I am grateful for that briefing. Essentially we are told that there are three types of enduring power of attorney — as opposed to a power of an Attorney-General. This is about an enduring power of attorney. There is the medical enduring power of attorney under the Medical Treatment Act, under which in the event of a person having a medical condition that means they lack capacity a person acting on their behalf in a fiduciary obligation can authorise certain medical treatments in relation to that which endures beyond the lack of capacity. Provisions in the Guardianship and Administration Act cover an enduring power of attorney under that act relating to the guardianship of the donor, if I can call them that. Then there is what is referred to as a 'financial enduring power of attorney' under the Instruments Act. Essentially it covers everything that is not caught by the medical enduring power of attorney or the guardianship enduring power of attorney, but it is limited essentially to the property of the donor, and most importantly it is based on the premise that it is a power of attorney that endures beyond the lapse of legal capacity.

From the outset can I just say that although the opposition has sought to consult widely on this bill, it is certainly true to say that with the possible exception of one matter, which I will raise in due course, no overwhelming concern has been raised about it. Apart from the one matter I wish to put on the record, the most important point is that it has essentially been met with general disinterest from the profession and the broader community. One legal commentator on the radio congratulated the government on drawing all the threads in relation to enduring powers of attorney into this one common bill. That is not to say that there are not concerns about the operation of the bill, but I will go on to those in a moment.

The bill deals with a number of matters. It deals with the execution of an enduring power of attorney, the capacity of the donor, the role and responsibilities of the attorney and the revocation of an enduring power of attorney, and it expands the jurisdiction of the Victorian Civil and Administrative Tribunal. It gives VCAT a concurrent jurisdiction with the Supreme Court to deal with these types of enduring powers of attorney. The current arrangement is that VCAT does not have the jurisdiction, except in one limited area, and the Supreme Court has the jurisdiction to deal with enduring powers of attorney. A concurrent power will now be vested in VCAT so that where a dispute arises under an enduring power of attorney it can be dealt with either by way of an application in the Supreme Court or alternatively in VCAT. There is also provision in this bill for the recognition of interstate enduring powers of attorney.

I will deal with the matter relating to the execution of the enduring power of attorney. We were told that the aim of this bill is to try to create a degree of certainty, to overcome any form of fraud that may be perpetrated on

an unsuspecting donor and to limit the opportunity of attorneys to move outside their fiduciary duty and perhaps act to their own advantage by creating more formal requirements in relation to the execution of enduring powers of attorney. It is felt that it would be a step in the right direction to at least prescribe a mechanism that will reduce any opportunity for fraudulent behaviour on the part of the attorney or otherwise.

The most important thing is that an enduring power of attorney must now contain a certificate signed by two adult witnesses to certify there was a capacity in the donor when they actually made the document. It is certainly a novel step, but it seems, as I said, to be accepted that this is probably a good thing — certifying that the donor at the time they made the enduring power of attorney had the capacity to make it — because essentially that power will extend beyond the normal reign of a power of attorney to endure beyond the lapse of legal capacity.

It is felt that this certificate will be a belt-and-braces approach to ensure that at the time of execution the two adult witnesses believed the donor had the capacity to make the enduring power of attorney. The two witnesses must sign and date the certificate in the presence of the donor and vice versa, so all three people have to be present at the time of the execution.

The witness cannot be the donor and cannot be the appointed attorney, and only one witness can be a relative of the donor or the attorney. Most importantly, one of the witnesses — again this is perhaps a belt-and-braces approach — must also be authorised in law to witness the signing of statutory declarations. I emphasise there that the witness must be a person authorised in law to take statutory declarations. I will get on to another provision in a moment that deals with a witness having the capacity under the law to administer an oath. I just raise the issue of why there is a difference between the provisions relating to the execution of the enduring power of attorney and those relating to the witnessing of a document certifying that document to be a copy of the enduring power of attorney, which requires not somebody lawfully entitled to administer a statutory declaration but somebody who can actually administer an oath. There seems to be a dichotomy between the two classes of persons who would be witnesses, given the fact that they are arising out of the same sort of fundamental notion relating to enduring powers of attorney under this matter.

The attorney is required to sign and date the statement of acceptance of the enduring power of attorney, again a belt-and-braces approach at the time of the execution, with the attorney actually certifying that they are prepared to accept the power and accordingly are prepared to act, so there cannot be any doubt that they are prepared to act in the event of a lapse of authority. This has importance because a person who lacks capacity cannot do something in the future. As I said, it is a belt-and-braces approach.

The other thing is that an undertaking is given by the attorney to exercise the power and protect the donor's interests and avoid acting where there is a conflict of interest. Again this is principally stating the obvious: that an attorney who is acting in a fiduciary capacity is certainly not going to minimise the opportunity of an attorney to act in a way that would amount to a potential fraud.

We have been advised that one of the reasons, not the sole reason, for this bill was that the government has apparently received advice that if in a power of attorney a donor sought to express some sort of wish as to how the property would be maintained, not only could that provision be void but it could actually void the whole document. The government has sought to clarify that, if there are any special conditions in the enduring power of attorney, then the donor has to act within the parameters of those express special conditions and that they certainly do not avoid either those conditions themselves or the entire document. As I said, that came out of a briefing from the government, which indicated that this concern had been expressed to it and it had received advice along that line. Accordingly, this is a step in the right direction.

The donor can clearly nominate a time when the power of attorney kicks in, either before or after the loss of capacity, but unless there is some expression to the contrary the enduring power of attorney will come into operation immediately and become effective from the moment of signature.

As I said, legal capacity is an issue, because the witnesses have to certify that in their opinion the donor had the legal capacity to enter into the enduring power of attorney. There is a simple definition under clause 118, which says:

> A donor may make an enduring power of attorney only if the donor understands the nature and effect of the enduring power of attorney.

That is commensurate with the current body of the law and puts beyond doubt the meaning of 'capacity'. There is some indication in subclause (2) as to how that may operate in practice, but it is a fairly simple definition, and I think it is appropriate.

The attorney is given a number of obligations. Certainly the opposition would say that they essentially amount to what is a motherhood statement, particularly in relation to the obligation of the attorney to keep proper accounts and records. Of course one would expect that an attorney would be able to justify any particular transaction. There is an obligation in this bill to keep accurate records and accounts of all dealings and transactions made under the power. However, the most important thing is that while one would expect in appropriate circumstances that an attorney would do just that — it would certainly be wise advice to give an attorney acting in that capacity — and while the bald statement is made about keeping those accounts and records, it is a matter of concern that there does not seem to be any specificity as to what accounts and records or what level of detail they have to provide in relation to each and every one of those transactions.

I will move on to the provisions in the bill relating to revoking or withdrawing a power of attorney. Essentially it can be done at any time: it can be done in writing, and it can be done orally in certain circumstances.

As I said, the bill also provides for a concurrent jurisdiction involving the Victorian Civil and Administrative Tribunal and the Supreme Court — and most importantly, that is a new jurisdiction of VCAT. While anyone may be a bit concerned about something that would involve a substantial amount of property, a substantially large estate or essentially any property that could be involved under a power of attorney, that jurisdiction of VCAT will be subject to the normal appeals to the Supreme Court, so the Supreme Court effectively has a supervisory role in that regard.

There are two matters I want to raise in relation to the jurisdiction of VCAT. Firstly VCAT is being given the power to rehear an application where an interested person — a family member or somebody who has a special interest — has an interest in the outcome of a determination relating to an enduring power of attorney, and that is set out in the bill. But essentially it causes me some concern that this could go on ad infinitum. While a person is entitled to a rehearing in relation to their particular concerns, there does not appear to be any prohibition on that occurring generally if there are other interested persons who wish to come back and challenge particular aspects of the enduring power of attorney. I imagine it would be an appropriate step for VCAT if directions were to be given at an early stage as to who should be notified of the particular application to at least try to exhaust those matters. It seems to me to be of concern that there could be open-ended rehearings, and perhaps the government could clarify that matter.

There is also under the powers being given to VCAT to make orders, give directions, make recommendations and make declarations — that is, statements of rights between individuals — the ability to also provide advisory opinions. When the opposition was briefed by the government I was told that that is very similar to what exists under the current guardianship and administration powers of VCAT in relation to enduring powers of attorney, but I must express some concern about advisory opinions. There is no clear definition of what an advisory opinion would be. My understanding is that an advisory opinion is where you have a hypothetical situation, not a real situation between parties. It is a situation where you seek a declaration as to rights, compensation or some sort of equitable relief such as an injunction to prevent somebody from doing something. An advisory opinion in its true meaning is hypothetical — that is, 'What happens if this occurred?', or 'If this attorney did this, this and this, what would our position be?'.

Of course the courts in this country have been loath to ever allow advisory opinions, because the opportunity to clog up the courts and the profound impact of that on the administration of justice are matters of concern. They could also be used as a mechanism of or instrument for oppression. However, we are instructed by the government that advisory opinions in relation to guardianship and administration issues have certainly not been a profound concern; so accordingly, and given that nobody else has raised this directly with me, I just flag the matter that advisory opinions are certainly not something the opposition will necessarily pursue, as they form part of the law and are probably operating appropriately.

I will deal with the recognition of enduring powers of attorney that are validly made under other jurisdictions. While there is not complete reciprocity, certainly on the recommendation of the Australian Guardianship and Administration Committee there is an attempt to try and create some degree of reciprocity and recognition of interstate enduring powers of attorney. Essentially it means that if an enduring power of attorney is made in another jurisdiction, insofar as it is significant and touches on and concerns Victoria — that is, if it concerns property, whether or not the donor resides in Victoria, and those sorts of matters — then it will have recognition as long as it is not inconsistent with the laws of Victoria. One would have thought that this might be just a temporary measure, but certainly one would have expected it to be taken up by the Standing Committee of Attorneys-General in dealing with a

more uniform approach right around the country. That step may be taken in the near future.

I will deal with a matter that relates to the administration of an oath. A member of the Institute of Legal Executives contacted my office expressing some concern about the bill and seeking clarification from the government. The Institute of Legal Executives wrote to the Attorney-General on 8 September in relation to this bill. The person under whose hand the letter is written is Elizabeth Clark, the president of the institute. Her letter relates to this bill and states:

> As you will be aware, fellows of this institute are authorised to administer oaths and take declarations pursuant to the Evidence Act 1958.
>
> Section 125ZH(1) of the bill provides a list of persons who may certify a copy of an enduring power of attorney. In the event that a fellow of this institute does not fall within subsection (1)(d) or (1)(g), we respectfully submit that fellows of the institute should be included in section 125ZH(1) as a class for the following reasons.

I will not read out all the precise reasons, but they can be effectively summarised by saying that in a small legal practice where the supervising legal practitioner, or the lawyer, may be absent for whatever reason — in court, or otherwise — it is probably going to cause a great amount of inconvenience if a member of the Institute of Legal Executives is not permitted to authorise a copy.

Secondly, the dual authorisation of fellows under the Evidence Act reflects the seniority and competence of people. Essentially the institute has been at pains to prescribe a method of training and seniority dependent on the number of years of practice of these people. They are saying, 'We are highly skilled'. Certainly the opposition takes the view that these people are very highly skilled professionals. Although they are not practicing as lawyers, in my own experience these people are very skilled and capable of taking these sorts of oaths.

The third point is that the Land Registry has allowed the institute to certify copies of the grants of probate and letters of administration for land registry purposes. The institute makes the point that it is able to certify in relation to probate and letters of administration arising out of land registry matters, so why should it not be able to do it in relation to enduring powers of attorney. The majority of the fellows have the day-to-day management of their own files and are given a large amount of independence based upon their professionalism and capacity. The institute makes the point that in this particular regard the fellows of the institute should be given the power to certify a copy of an enduring power of attorney.

As I understand it — my office has been contacted — the institute has sought assurances from the government that its fellows are covered by the bill, and the government has indicated that, yes, the bill does cover them — that is, because it permits people who are able to administer an oath under the Evidence Act to certify, and because legal executives are permitted under the act to take oaths and statutory declarations, they are covered.

However, I seek an assurance from the government as to the institute's belief as represented to the government that its fellows do have a power to certify a copy. It would seem that the use of the term 'statutory declarations' in relation to the making or the witnessing of the original power of attorney and the use of the expression 'to administer an oath under a copy' would cover fellows of the Institute of Legal Executives. I certainly seek an assurance from the government that in both cases — firstly, when witnessing a power of attorney, and secondly, in relation to the copying of that power of attorney — fellows of the institute are covered by the bill. I seek that assurance from the government as a result of this debate and in this house. I do not believe at this stage there is anything substantial I can add.

Mr RYAN (Leader of the National Party) — It is my pleasure to join the debate on this important legislation. It is truly critical legislation, I believe, because this is one of the few instances where, through the agency of a document such as that which is the focus of this bill, there is a power delivered into the hands of another to deal generally with the affairs of a person who hands that power over.

In insurance law, for example, there are well-documented instances where there have been problems over the years because people have been under misapprehensions over this very principle. It is insurance law, for example, which establishes a right of subrogation that empowers an insurer to stand in the place of the insured for the purpose of taking certain legal remedies against a wrongdoer. That is one of the rare instances where there is a capacity in law for the rights of one individual to be handed across to another. This bill deals with one of those few instances.

I think this is very important legislation, and that is why it is supported by the National Party. It is good that the many elements that have created a degree of uncertainty in this important area are being brought

together and resolved in this legislation, and I commend the government for bringing it before the house.

The bill relates to enduring powers of attorney, which are created under the Instruments Act. Under that act as it now stands there is capacity within the provisions of part XI for the creation of powers of attorney. One form of instrument might be the appointment of a power of attorney per se, and that is to be distinguished from the appointment of an enduring power of attorney. It is to this latter category that this amending legislation relates. Schedule 12 of the Instruments Act sets out the form of a general power of attorney, whereas schedule 13 refers to an enduring power of attorney. As I say, it is that latter category of enduring power of attorney that this legislation is specifically directed at.

The general thrust of this legislation is very important and is to be commended. I say that because it is in the interests of all the parties — the donors of enduring powers of attorney as well as those appointed as attorneys by the instrument of appointment — that the respective roles and obligations are set out as clearly as possible. While it is true to say that the very notion of specifying those obligations adds more to the burden that rests upon a person who is appointed as an attorney under this legislation, nevertheless I strongly believe it is in the best interests of those who are fulfilling this crucial role that these obligations are spelt out. Indeed, I go so far as to say that the better the guidance that is delivered in the form of a legislative prescription of the obligations of people who have this role, the better it will be for all concerned.

In the days when I was practising law in an extensive litigation practice some of the most bitter disputes I encountered occurred in environments where there were disagreements, particularly among family members, about entitlements from estates. This legislation touches upon an area which is not the same as disputes about estates, but it is certainly within the broad gamut of areas that leave themselves open to dispute. That is the case because people who are given a power of attorney, particularly an enduring power of attorney, are handed a capacity to deal with someone else's affairs in a manner which is wide reaching. It is important, therefore, that the way that is done is as transparent as possible.

One of the deficiencies in this area of the law has been the measure of uncertainty about the way those obligations ought to be demonstrated as having been fulfilled. I think the passage of this legislation will add much more by way of guidance to people who are appointed and, equally, people who are wanting to appoint someone to this important role. That is something which is to be commended and around which the broad interests of the community generally are at stake.

The bill has two broad categories. Firstly, it provides an improved standard of execution of documents; and secondly, it defines some of the jurisdictional issues and powers that are conveyed in relation to these instruments once they have been executed. Insofar as the first is concerned, there are limited areas of guidance, and the legislation gives a much better definition in that regard. Those areas are being tightened, and that is being achieved by specifying the issues set out in the legislation — and as I say, that is a good thing. Among the issues touched upon are the fact that a document will specify how and when the functions of the attorney come into play. If there is no actual mention within the document as to the timing of the application of the enduring power of attorney, that application will be immediate upon the execution of the document.

The witnessing provisions are set out in new section 125A. In essence they specify that there must be a certificate completed by the witnesses to the making of a power of attorney. Those witnesses must indicate that the donor has signed freely and voluntarily, and the certificate must have been signed in their presence. The signature must be applied in circumstances where there is an accepted legal capacity by the donor to sign, and the certificate must be signed and dated by the witnesses. All of those requirements are soundly based, and I am pleased that they are incorporated in the legislation.

The witnesses cannot be either the donor or the appointee; and again, for patently obvious reasons, that is a sensible thing to do. In addition, only one of the witnesses can be a relative of the donor or a relative of the attorney; again, that is a sensible provision. In many instances the legislation is simply putting down in writing the sorts of things that most of us would regard as eminently sensible. Nevertheless, it is astounding how the passage of history says that many cases have been the subject of dispute because people have obviously avoided what on their face have been sensible approaches to the way these things are done. Those matters I have just mentioned represent instances where we will do away with the uncertainty surrounding some of the obvious issues and spell them out in the legislation.

The bill goes on to deal with the role of the attorney. The person appointed as the attorney has to do several things. They have to sign their acceptance of the role; and again, that is important. It will mean that the person

who is appointed as the attorney advisedly takes on what is accorded to them by signing their acceptance of the obligations that go with this important task. That acceptance must be endorsed or attached to the enduring power of attorney. There must be an acceptance by the attorney of the diligent exercise of the powers now being accorded to them. The attorney has to certify that there is no conflict of interest in the function of their role as attorney; and furthermore, the attorney has to indicate by signing the acceptance that the powers to be exercised will incorporate the amendments now in the bill before the house.

The role of the attorney is spelt out in some detail. There is a necessity for the accurate keeping of records. One might say that everybody accepts that that is a fundamental aspect of a role such as this. I cannot help but reflect upon cases in which I was involved over the years where disputes of all sorts broke out over the fact that the person appointed to this important task had simply not kept records which would have been appropriate evidence that their obligations had been discharged in the proper way.

I reiterate that this element of the provision goes to emphasise how it is in the interests of everybody to keep these records in a manner which will stand scrutiny. It will avoid so many disputes if the records are maintained properly and can be produced if and when required by the terms of this legislation. The role of the attorney will also incorporate the fact that they can execute a document on behalf of the donor, but in those instances the document must on its face spell out the fact that the attorney is signing for the donor. I do not know if there is any format that is detailed in that regard; nevertheless, the legislation requires that that actually occur.

Importantly, the role of the attorney does not extend to authority in relation to medical treatment. That is an area that will be dealt with on an ongoing basis, apart from the powers that are conveyed under the terms of this legislation.

It is also important to reflect that there will be nothing within this legislation that can in any way conflict with the provisions of the Guardianship and Administration Act. In the event that there is some semblance of conflict between that legislation and what is able to be done under the terms of this legislation, then the matter as determined under the Guardianship and Administration Act shall prevail. That is an important provision having regard to the nature of that legislation and the way in which it deals with matters very personal to the persons who are subject to orders under the terms of the Guardianship and Administration Act.

An enduring power of attorney is able to be revoked in a manner determined by this legislation. That can be done either by telling the appointee of the fact or by destroying the document itself and the copies of it, or in writing. The legislation provides that an appointee cannot be a person who is a bankrupt. For obvious reasons that is a sound provision to have in the legislation.

Those matters accommodate the first category that I referred to of components of the legislation that relate to the standards of execution and various matters associated with that first element.

The second element relates to questions of jurisdiction. Essentially the bill conveys on the Victorian Civil and Administrative Tribunal the powers which presently rest with the Supreme Court. The powers that are now conveyed to VCAT will be able to be exercised concurrently with those powers presently resting with the Supreme Court. Importantly, enabling these things to be dealt with before VCAT probably represents a readier means of access to a solution for the parties who might be involved in disputes regarding these powers of attorney in circumstances where the cost factors might not be as considerable as they might otherwise be if the matter were before the Supreme Court.

The other element of the jurisdictional issues is that there is now recognition of enduring powers of attorney that are executed interstate or in other jurisdictions generally. That recognition occurs to the extent of the Victorian law, and again that is a matter that follows from the nature of this general legislation.

I want to refer to a matter that has been raised with my colleague the Honourable Bill Baxter, a member for North Eastern Province in another place. Mr Baxter received submissions from Mr Hilary Hayes of Long Swamp at Yackandandah. Mr Hayes is a member of the Institute of Legal Executives. Essentially he was putting to my colleague Mr Baxter those matters which the member for Kew has already read into *Hansard* as reflective of the correspondence from Ms Elizabeth Clark on behalf of the institute in the course of a letter dated 9 September 2003, which was directed in the first instance to the Attorney-General. I do not intend to go through the process of reading that letter into *Hansard*; apart from anything else, time is against me in that sense.

Mr Hayes simply reflects the concern that there does not appear on the face of the legislation, as he has read it, to be consistency between the role of the Institute of Legal Executors, as it now exists under the terms of the Evidence Act 1958, and that which now appears in the

bill. The particular area of concern referred to by Mr Hayes is proposed section 125ZH, which is inserted by clause 4 of the bill, which provides a list of persons who may certify a copy of an enduring power of attorney. The concern raised by Mr Hayes is that those members of the Institute of Legal Executors are not, as Mr Hayes reads the bill, able to undertake that certification.

I heard what the member for Kew said, and I understand from the government that assurances will be given in that regard. I look forward to hearing those assurances so that Mr Hayes may be assured that the problem he has taken before Mr Baxter is able to be resolved.

I conclude by saying that the National Party supports the legislation now before the house. It is a very sensible bill which will resolve a lot of the sorts of disputes that have otherwise gone before the courts and VCAT up until this time. It will add much clarity to what I regard as being an important area of the law.

Mr MILDENHALL (Footscray) — I am pleased to join the debate on the Instruments (Enduring Powers of Attorney) Bill. The government notes the support of the opposition parties for the legislation, which seeks to improve the standards of execution of the enduring powers of attorney instruments. As the Leader of the National Party said, the second major component is to refine jurisdictional issues and powers in relation to the monitoring and use of enduring powers of attorney.

In laymen's terms the bill seeks to clarify, strengthen and tighten powers relating to enduring powers of attorney. There is a opportunity, as befits the first speaker on the government side, to clarify issues and answer some queries to the extent that we are able, given that the debate continues. In doing so I refer to one of the issues raised by the member for Kew, which related to the powers of the Victorian Civil and Administrative Tribunal to undertake rehearings or to consider applications for rehearings. The question was raised as to whether there was any limit on the number of rehearings that could be sought by a number of potentially different parties before VCAT.

I refer the member to subdivision 2 of division 6 of proposed part XIA concerning rehearings. Proposed section 125ZC(6) states:

> A person cannot apply for a rehearing of an application if —
>
> …
>
> (b) the application was for a rehearing or for leave to apply for a rehearing.

It is quite clear from that that there cannot be successive applications for rehearings.

As to the other and more substantive point raised by both the representatives of the Liberal and National parties — and that was seeking clarification as to whether a member of the Institute of Legal Executives was able to certify a copy of an enduring power of attorney — that matter has been raised by way of correspondence with the Attorney-General. To put the matter beyond any doubt, some specific advice is being sought on that matter in order to provide clear assurances that that will be the case.

At this point I am obviously not able to provide such an assurance, particularly to Mr Hilary Hayes of Long Swamp via Yackandandah, one of the more interesting addresses to come before the chamber. And as the Acting Speaker might have noted by way of passing, it is a wonderful part of the state.

The specific powers, content and detail of the bill have been gone through by the members for Kew and South Gippsland in their contributions, but I might just refer to some of the background to the bill that alerted the government to the potential for exploitation and misuse and, as the member for South Gippsland said, opportunities and openings for disputes. A number of papers have talked about this area of disputation or potential abuse, going back as far as the United States Federal Bureau of Investigation noting in its enforcement bulletin of 1994 that:

> … powers of attorney may be the most abused legal document in the American judicial system.

In more recent times a New Zealand Law Commission report of 2000 notes that a case study revealed that 40 per cent of the 140 cases examined were attributable to the misuse of an enduring power of attorney. The Australian Institute of Criminology, which has a very active research function, noted in one of those ubiquitous papers that members of Parliament receive from that organisation — its bulletin of 2000 entitled *Preventing Crime against Older Australians* — that this was a particularly significant and serious form of abuse. Material was also presented to the government by the Western Australian Public Advocate and the Alzheimer's Association of Victoria, which conducted a study in conjunction with Latrobe University. Another comment came from the March 2001 newsletter of the Victorian Legal Practitioners Liability Committee, which notes that:

> Powers of attorney have been at the centre of almost $1 million in negligence claims against practitioners in recent years.

So there were a number of indicators that this was becoming an issue for the government. Finally, serious research was conducted by the Victorian Office of the Public Advocate via an analysis of telephone inquiries in 1999 and 2000 which identified a number of issues. That culminated in a substantive submission to the Attorney-General in May 2001 in which a series of proposed amendments to the legal framework were suggested to create a more robust instrument to protect the more vulnerable and disadvantaged from abuse and exploitation and enhance the ways in which an enduring power of attorney could be monitored.

The broad objectives of the bill, set by the government and based on that research and the submission presented to it, are to improve the standard of the execution of the enduring power of attorney instrument and the take-up rate of enduring powers of attorney in the context of an ageing population. As other speakers have noted, these will become more common legal instruments as the population ages. It also seeks to reinforce the policy of enabling people to make their own arrangements while they have the capacity to do so and to remove government as a decision-maker in the arrangements of personal affairs. You could also bracket the courts in these matters, given the heartbreak and expense that can be involved in that process.

This legislation is sensible. As other speakers have noted, there is separate legislation dealing with powers of attorney relating to medical treatment and powers under the guardianship and administration legislation. This bill ought not be confused with those. In fact it sits alongside those powers, and once passed it will provide a much more predictable, flexible to some extent, certain and stronger set of measures which will protect some of the more honourable and potentially exploitable members of our community. I commend it to the house.

Debate adjourned on motion of Mr DIXON (Nepean).

Debate adjourned until later this day.

HEALTH LEGISLATION (AMENDMENT) BILL

Second reading

Ms PIKE (Minister for Health) — I move:

That this bill be now read a second time.

This bill amends six acts within the health portfolio:

the Drugs, Poisons and Controlled Substances Act 1981;

the Nurses Act 1993;

the Lord Mayor's Charitable Fund Act 1996;

the Mental Health Act 1986;

the Health Services Act 1988; and

the Human Tissue Act 1982.

The Drugs, Poisons and Controlled Substances Act

In 2000, the Nurses Act and the Drugs, Poisons and Controlled Substances Act were amended to establish the role of the 'nurse practitioner' and to allow suitably qualified nurse practitioners to prescribe some scheduled drugs and poisons. Those amendments to the Nurses Act empower the Nurses Board of Victoria to recognise nurses qualified for advanced practice. The Drugs, Poisons and Controlled Substances Act was amended to authorise those nurse practitioners whom the board endorsed and deemed properly trained, to prescribe drugs and poisons.

The new subsection 14(3) of the Drugs, Poisons and Controlled Substances Act, to be inserted by this bill, is designed to protect the public by ensuring that if the Nurses Board imposes a condition, limitation or restriction on the practice of a nurse practitioner, with an intention to restrict the nurse practitioner's right to prescribe drugs and poisons, then the nurse practitioner's authorisation under the Drugs, Poisons and Controlled Substances Act is automatically restricted to the same extent.

This amendment is designed to bring the regulation of nurse practitioners into line with similar provisions that regulate the prescribing rights of medical practitioners and Chinese medicine practitioners.

The Health Services Act and the Mental Health Act

The Health Services Act and the Mental Health Act are the principal pieces of legislation governing the operation of Victoria's public and private hospitals, day procedure centres, community health centres and mental health services. As such, they make provision for ensuring the confidentiality of patient and client information.

Section 141 of the Health Services Act and section 120A of the Mental Health Act provide that information must generally be kept confidential if a patient or client could be identified from that information. These provisions operate alongside the broader information privacy and health records laws.

The proposed amendments are designed to clarify the operation of both provisions, which allow information to be given to others where this enables hospitals or services to carry out statutory functions and exercise statutory powers. The provisions also list a number of specific circumstances when information may be given to others. For example:

they allow for appropriate discussions to take place with a patient or client's family and other health service providers;

they allow identifying information to be provided to the Red Cross for the purpose of tracing the recipients of infected blood;

a patient or client may consent to staff giving information about them to somebody else.

The first amendment to these two acts will deal with circumstances where hospitals or mental health services disclose patient or client information for the purposes of initiating or defending legal proceedings, of obtaining legal advice, or of notifying the organisation's insurers about an incident or adverse event involving a patient or client, in order to fulfil their duties under insurance or indemnity arrangements.

Neither provision currently includes these circumstances in its list of specific authorised disclosures. Such communications are obviously in the public interest, as they enable hospitals and mental health services to assess negligence claims, comply with their duties to insurers, and defend litigation. Such communications form part of responsible health service management, and are consistent with, and permitted under, the Health Records Act 2001.

Given the increased emphasis on privacy, it is timely to explicitly provide that hospitals and mental health services have specific power to engage in such communications, rather than have them continue to rely on the power to give information to fulfil their statutory powers and functions.

The second amendment clarifies the meaning of 'consent' in both provisions. Sections 141 and 120A allow staff to give information about a patient or client to somebody else, if they have the consent of the patient or client. At law, consent can be either express — that is, clearly and specifically articulated by the person — or it can be implied — that is, inferred from the person's conduct or words. The amendment is designed to remove any doubt that consent includes both express and implied consent, and is thus consistent with the Health Records Act.

The third amendment is made only to section 141 of the Health Services Act and is a technical clarification of its operation. It is understood that hospitals have generally applied the provision as if it governed only the giving of information to a person outside the hospital, a third party. The internal use of patient information by hospital staff is better governed by health privacy principle 2 of the Health Records Act, and this was the basis on which that act was drafted. The third amendment makes explicit that section 141 does not apply to the exchange of information between staff of the same hospital made in accordance with health privacy principle 2. This will assist those who are governed by both the Health Services Act and the Health Records Act, and ensure that the two acts continue to operate in a complementary fashion.

A further provision of the bill will amend schedule 1 to the Health Services Act to retrospectively correct an error in the name of the public hospital, Numurkah District Health Service, on and from 2 October 1997.

The Lord Mayor's Charitable Fund Act

The Lord Mayor's Charitable Fund has been a Melbourne institution for almost 80 years. Each year the fund distributes public donations to over 150 hospitals and other organisations involved in community health and welfare across Melbourne, under the banner 'Sharing your caring'.

The governance arrangements for such a longstanding part of Melbourne's charitable sector are obviously important, and these will inevitably need occasional updating to better reflect current approaches to management in the not-for-profit sector and the board has requested these amendments to improve its operation.

The bill amends the Lord Mayor's Charitable Fund Act in relation to the period of office of members of the board that governs the fund and the retirement of board members.

Board members currently hold office for 12 months, and are eligible for reappointment. The general period of appointment for board members will be increased from 12 months to two years and a process will enable half the board to retire annually. This will allow board appointments to be staggered.

Such amendments will provide for greater efficiency and continuity in the operation of the fund, and enable there to be a desirable mix of new and experienced board members at any one time.

The Mental Health Act

Section 10 of the Mental Health Act allows police to apprehend a person who appears mentally ill, if the police believe that person has recently attempted to cause serious bodily harm to himself or herself or another person or is likely to do so. Currently the police must arrange for a person apprehended under this section to be examined by a registered medical practitioner as soon as practicable.

The purpose of the examination is to determine whether or not involuntary treatment can be given if the criteria under the Mental Health Act are met. A recommendation, along with a 'request' (that may be made by any person), results in admission and detention as an involuntary patient. Registered medical practitioners can also determine whether a person who appears mentally ill is in fact suffering from another condition.

In practice, a crisis assessment and treatment (CAT) team often attends when police apprehend a person under this provision. Usually, a CAT team attending in such a situation would not include a registered medical practitioner, but would include a mental health practitioner, such as a psychologist or psychiatric nurse.

Mental health practitioners in CAT teams are familiar with the necessary criteria for determining whether a person should be admitted for treatment as an involuntary patient. They are also usually able to assess whether or not a person is actually exhibiting symptoms of a mental illness.

The bill amends section 10 to enable the police to release a person apprehended under that section if a mental health practitioner assesses the person as not requiring involuntary admission. Alternatively, the mental health practitioner may advise the police that they need to arrange for the person to be examined by a registered medical practitioner. In some cases the mental health practitioner will be able to authorise the transport of the person to an approved mental health service to be examined by a medical practitioner.

The proposed amendments will make better use of the expertise of mental health practitioners by allowing them to make an initial assessment as to whether a person apprehended by the police should be released, or whether a registered medical practitioner should examine the person. In some instances this will enable a person apprehended by police under section 10 to be released more quickly than is currently the case. The amendments will also ensure that police resources are not directed to arranging unnecessary medical examinations.

The Nurses Act

This amendment is designed to allow the Nurses Board of Victoria to register those nursing students who have completed part of a bachelor of nursing degree that will eventually qualify them as fully trained division 1 nurses as division 2 nurses while they are training. These students will be required to complete a number of units of study specified by the board and to satisfy the board they have achieved the level of skill and knowledge required to demonstrate competence as a division 2 nurse, before being registered as division 2 nurses.

This will allow division 1 nursing students to work in nursing services as division 2 nurses while still studying. It is expected to increase the division 2 nursing work force while providing valuable opportunities for nursing students to gain on-the-job experience prior to graduation.

The Human Tissue Act

The Human Tissue Act prohibits the unauthorised selling of tissue. This prohibition was intended to prevent the exploitation of individuals by those proposing to trade in tissue for profit.

Advances in technology are occurring in the area of tissue engineering, which enable donated human tissue to be used in more efficacious ways. However, an organisation such as a donor tissue bank incurs costs in assisting in medical or scientific endeavours.

Equivalent legislation in all other states and territories provides a form of exemption to enable the sale and supply of human tissue when it is used for therapeutic, medical or scientific purposes.

The proposed amendment to the Human Tissue Act will create new provisions that will allow tissue banks to be prescribed and will allow them to recover their costs in relation to removing, evaluating, processing, storing and distributing donated tissue.

One example of this is a product that is a mixture of demineralised bone and calcium sulphate. This product provides a framework for the growth of new bone and may actually promote and induce new bone growth. It is used to fill bone defects that commonly occur, for example, in bone cysts and in longstanding hip replacements.

Some of these technologies are not yet available to patients and their medical practitioners in Australia.

The proposed amendment will enable the development of such products. It is sensible to amend the act to allow prescribed tissue banks to use human tissue in more efficacious ways, for the benefit of the community.

Existing consent requirements are not affected by this amendment and there is no impact on the rights of next of kin.

The development of the bill has involved a process of consultation and discussion with a range of stakeholders across the health sector, who have provided valuable input into the development of these amendments.

I commend this bill to the house.

Debate adjourned on motion of Mrs SHARDEY (Caulfield).

Ms PIKE (Minister for Health) — I move:

That the debate be adjourned until tomorrow.

Dr NAPTHINE (South-West Coast) — I am concerned about the trend under this government to deny the Legislative Assembly reasonable access to legislation and reasonable participation in debates. Under this government there is an increasing tendency to introduce bills that have been debated in the Legislative Council and rush them through the lower house, treating the members of the lower house with contempt. This situation is a retrograde step for democracy, for the Parliament and for this assembly. This Legislative Assembly is the house of the people. This is the grassroots of democracy, this is where people are elected to represent their electorates and this is where government is formed when there is a majority of members of a particular party.

It is the right of every member representing their electorate to have time in this house to do justice to this debate and to do justice to their representation of their communities by having time to deal with legislation that is being introduced here for the first time, irrespective of its passage in the Council. This is the first time this legislation has been introduced to this house, and I think it is incumbent upon the government to allow time for members representing their electorates to take that legislation and circulate it to appropriate groups, individuals and bodies within their electorates. In this case that could be hospitals, bush nursing centres, nurses, mental health services, doctors and all the other people concerned. It is the right of individual members of this house to do that, and I think it is a travesty that it is not allowed.

If we are to have a two-tiered parliamentary system that works effectively, both houses must be able to look at legislation in their own right, with the legislation being tabled, circulated, considered and consulted on.

Honourable members interjecting.

Dr NAPTHINE — I hear the interjections from members opposite. I understand this.

Mr Holding interjected.

Dr NAPTHINE — Perhaps the Minister for Doing Nothing does not understand that we are talking about parliamentary democracy. Irrespective of party politics this is about how the Parliament operates; and how this Parliament operates should be paramount above party politics. What this house stands for is the grassroots of democracy and the house of the people, so every representative in this house is elected by their electorate to represent the views of their electorate on this legislation.

Having this sort of legislation come into this house and the government wanting to debate it tomorrow or this afternoon or the next day is totally inadequate in terms of members having the opportunity to hear the views of their electorates and represent them here in this situation. The Minister for Doing Nothing — —

Mr Holding interjected.

The ACTING SPEAKER (Mr Smith) — Order! The Minister for Manufacturing and Export!

Dr NAPTHINE — The minister does not understand the democratic process; he only understands branch stacking and party politics. What we should be more concerned about is what is in the interests of parliamentary democracy here in Victoria. I think it is in the interests of parliamentary democracy in this house, the house of the people, that any legislation that comes before this house for the first time be adjourned for a reasonable period so that members can effectively consult with their electorates, with the community and with appropriate interest groups, and bring those considerations back to this Parliament.

Mr Holding interjected.

Dr NAPTHINE — I suggest to the Minister for Manufacturing and Export, who is at the table and interjecting, that he go out to the vestibule and read the statement on the floor. It states that when you listen to

the counsel of a large number of people you are more likely to get it right — you are more likely to consider the issues carefully and get the right outcome. I think that this reflects what is happening in this case — the government is trying to rush this through; it is ignoring the rights of individual members of this house. Irrespective of party politics, this is about parliamentary democracy.

Mr Andrews interjected.

Dr NAPTHINE — I am speaking as an individual member of Parliament because I respect the Parliament, even if the honourable member for Mulgrave and the minister do not respect the parliamentary process. I think it is important that we do respect the parliamentary process. Every time legislation comes here there ought to be an appropriate adjournment so that members can consult with their electorates and bring the wisdom of their electorates back to this Parliament for consideration.

Ms PIKE (Minister for Health) — I remind the house that this bill was introduced into the Legislative Council in the autumn session. It lay upon the table for the whole of the winter recess, which the government believes provided adequate time for the opposition as a party to consult with the community, to ensure that relevant members had access to the bill, to talk about it with people and to reflect on its implications. It has been in the hands of the opposition for many months. It has now been passed, with the full agreement of the shadow health minister, I might say, so I am a little bemused that one of his fellow party members now wants potentially to vote against it.

Dr Napthine interjected.

Ms PIKE — It would be a very interesting scenario, wouldn't it? The shadow Minister for Health has agreed with the bill and passed it in the upper house. He has given his consent to it and it has the consent of his colleagues and his party in the Legislative Council, yet now we have the scenario of an opposition member crossing the floor in the Legislative Assembly because he somehow thinks that by consulting with his community — which he should have been doing over the winter recess — he will come to some different conclusion from that of the shadow Minister for Health in the other place. I think the member for South-West Coast has raised a spurious range of issues. The government wishes to introduce this legislation into the house tomorrow.

An Honourable Member — You have already done that!

Ms PIKE — Yes.

The ACTING SPEAKER (Mr Smith) — Order! The Minister for Health may continue.

Ms PIKE — I have completed my contribution.

Mr MAUGHAN (Rodney) — I want to support the remarks of the member for South-West Coast. I understand that the minister is not very happy with this, but I also appreciate very much the forms of this house. What we are protesting about is the fact that this legislation has been introduced and there is no opportunity to go back to our constituents and consult as we normally do. The government really does need to get its act together and do what has been the tradition for a long time — that is, introduce legislation — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Smith) — Order! The Minister for Manufacturing and Export! The member for Doncaster!

Mr MAUGHAN — The tradition has been to introduce legislation, to deal with it in the Assembly and then to go through it in the Council. Now, for a whole range of reasons that does not always suit the government, and we are doing things now to suit the government rather than to suit the Parliament. I have heard the interjections from the member for Springvale, the Minister for Manufacturing and Export, who has not been in this house all that long and who I think does not appreciate some of the democratic traditions that have been honoured, not just in this house but in parliaments throughout the commonwealth for a long time. I think some of those traditions are in danger of being compromised by this sort of behaviour.

We have had it today with the introduction of a bill by the Attorney-General. He wants to get it through this week. For heaven's sake, we have not even seen what the bill is about, and it is going to go through the house this week! I understand why it needs to happen, but it just indicates — —

Mr Andrews interjected.

Mr MAUGHAN — Yes, a joint briefing, but — —

Mr Andrews interjected.

Mr MAUGHAN — We have not been briefed on it at this point.

The ACTING SPEAKER (Mr Smith) — Order! The member for Rodney, to continue!

Mr MAUGHAN — For the advice of the member for Mulgrave, I was speaking about the taking of this house for granted, and I mentioned that today we have had an example of taking the house for granted again with the introduction of legislation by the Attorney-General, who wants to get it through this house this week. That is the very principle I am talking about. It is happening here in a slightly different way, but it is taking this house for granted.

As the member for South-West Coast has raised the issue I think it is an appropriate time to say that we are not all that happy with the taking of the forms of this house for granted — with the taking of Parliament for granted and with the taking for granted of traditions that have been built up over many years. Yes, the legislation will be dealt with; yes, the government will get its way — there is no doubt about that. We are not really debating the rights and wrongs of the legislation; we are debating the way in which it has been done — —

Mr Delahunty interjected.

Mr MAUGHAN — We are debating the process, as the member for Lowan said. I think this is an appropriate time to say that we as the opposition parties do not have the numbers and cannot force the issue. I accept that, and it is not a problem, but I do want to voice my support for the comments of the member for South-West Coast on upholding the traditions of democracy in this house of the Victorian Parliament.

Motion agreed to and debate adjourned until next day.

GRAIN HANDLING AND STORAGE (AMENDMENT) BILL

Second reading

Debate resumed from 28 August; motion of Mr CAMERON (Minister for Agriculture).

Dr NAPTHINE (South-West Coast) — The Grain Handling and Storage (Amendment) Bill is important, as it is another step in the ongoing deregulation of the grain industry in Victoria and Australia. The origin of this is the Grain Handling and Storage Act 1995, which provided a legislative framework for the privatisation of the Grain Elevators Board. It also put in place a regulatory regime overseen by the then Office of the Regulator-General to protect the ongoing interests of grain producers, handlers and exporters in a deregulated and more competitive privatised environment. This bill moves another step down the deregulatory pathway and does a number of things.

Firstly, it provides that the regulation of prices for prescribed grain-handling and storage services at the ports of Portland and Geelong will be discontinued prior to the 2003–04 harvest. Secondly, it provides that price regulation is to be recommenced in the future only with the approval of the Minister for Agriculture following an inquiry by the Essential Services Commission. Thirdly, it provides that the regulated right of access to grain-handling and storage services at the ports of Portland and Geelong will be retained by this new bill.

The role of the commission regarding the arbitration of disputes over access to grain-handling and storage services will be clarified and strengthened. The access regime will be extended to all grain-handling and storage facilities that are integral to the export of grain at the ports of Portland and Geelong, but it will not be extended — and I will come back to this in a minute — to include facilities at the Melbourne port terminal. The bill provides that there will be another review of or inquiry into this matter by 30 June 2006.

The Liberal opposition will not oppose this legislation, because it is a deregulatory bill and a step forward for competition in the grain-handling industry. It is important to recognise that this legislation is based on the report of the Essential Services Commission dated October 2002, which I will be quoting from extensively. Some of the parameters of that report are as follows.

> The Grain Handling and Storage Act 1995 … defines the export handling of grain as a 'regulated industry'.
>
> …
>
> As the regulatory regime is applied at present, the prices that the terminal owner wishes to charge for 'prescribed services' must comply with a set of pricing principles established by the Office of the Regulator-General (the predecessor of the ESC) following a previous review in 2000. If the ESC is not persuaded that the proposed prices meet these principles, it has the power to set 'default prices' which the terminal owner is then required to observe. The prices now in force are the default prices set by the ESC when Graincorp was unable to satisfy it that the pricing proposal put forward by Graincorp complied with the pricing principles.
>
> The GHSA also requires the owners of the 'significant infrastructure facilities' to provide access in accordance with specified requirements. In the event that the person seeking access and the owner of the facility are unable to agree on the terms and conditions of access, the person seeking access can seek determination from the commission.

They are the current rules that apply under the Grain Handling and Storage Act. There is a regulatory regime with respect to pricing, and there is an access regime. The Essential Services Commission reviewed that, and

among its key recommendations is the following, on page 12:

> The commission has concluded that competition in the Victorian market for export grain handling and storage has advanced to the extent that the level of regulatory intervention should be reduced.
>
> However, the commission is not persuaded that competition has as yet advanced to the stage that it would be prudent to remove all regulatory oversight from the industry.

On page 13 the report states:

> The commission recommends that the regulation of prices for prescribed services should be discontinued.
>
> …
>
> The commission recommends the deregulation of prescribed prices should take effect from the 2003–04 harvest season.

With regard to access regulation, the commission says:

> … the commission considers there is a need to maintain a minimum regulated right of access at the regulated terminals for a further period.

Fundamentally this legislation implements the significant recommendations of that report. In setting the scene for this legislation I need to make a few comments about the grain industry in Victoria. I understand my learned colleague from Swan Hill, who knows much more about the grain industry than I do, coming as I do from the south-west, will make further comments on these sorts of issues. But I am advised that Victoria produces about 5.5 million tonnes of grain annually, subject obviously to seasonal influences. The drought last year had a devastating effect on production, and this year from what I understand in the Wimmera–Mallee, which is the main grain-growing area, the season looks very promising. We trust that the farmers up there, who have had some difficult years, will get a bumper harvest this year.

It is interesting to note that over the last decade or so Victorian grain industries have traditionally produced about 4 million tonnes, although in recent years, in reasonable seasons, it has been 5 million tonnes plus. I think that reflects a change in farming throughout Victoria, particularly where a number of people have reduced their involvement and production within the wool and sheep grazing industries and have moved to cropping.

Eighty percent of that grain comes from the Wimmera–Mallee. Increasingly we are seeing amounts of grain coming from other areas where people are shifting from wool production into grain production. The main grains produced are wheat, barley, oats and triticale. There is an increase in the growing of oil seeds, particularly canola. If you drive through western Victoria at the moment you see magnificent crops of yellow flowering canola throughout the length and breadth of that area. We trust they will turn out to be excellent crops. There is also an increase in the growing of legumes, whether they be peas, fava beans or lupins.

Approximately 60 per cent of the grain produced in Victoria is exported. If you go back to the 2000–01 financial or production year, you see that exports from the port of Geelong were 2.4 million tonnes and from the port of Portland 1.2 million tonnes. In that year there was a bit more than 800 000 tonnes through the new export terminal at Melbourne; but that was in its initial year, and we are now looking at probably 1.2 to 1.4 million tonnes being exported out of Melbourne.

In 1995 the Grain Elevators Board, which was previously a state-owned enterprise or statutory authority, was sold as part of a privatisation process. At the same time the ports of Geelong and Portland were privatised, and in more recent times there has been the development of a privately owned and operated grain-export facility at the port of Melbourne. It is interesting to look at what the commission said about these changes on page 12 of its report:

> The commission's assessment suggests that competition is developing, and while it has not currently developed to a level that would ensure that services are provided efficiently and that prices are commensurate with costs, the further development of competition is likely to be impeded rather than promoted by continued price regulation. Removal of price regulation, on the other hand, is likely to strengthen the incentives for entry investment and vigorous competition.

So the Essential Services Commission is saying, 'Let's get on with competition and deregulation'.

It is interesting to look back at the *Hansard* of 1995 to read what members of the then Labor Party opposition said about the sale of the Grain Elevators Board as part of the introduction of privatisation and deregulation. It is interesting to read what they said about the sale of the ports of Geelong and Portland — and it is also interesting to see what they are doing when in government. One only has to read what was said by Keith Hamilton, then the member for Morwell and later the Minister for Agriculture. He made one of his classic speeches railing against privatisation and calling the legislation a tragedy. He was totally against the sale of the Grain Elevators Board, and he evoked visions of Christopher Skase and Alan Bond, saying that the whole thing would come crashing down around the government's ears and that the grain producers would rue the day any of this happened. He was totally against privatisation and competition.

Now Keith Hamilton, a former member for Morwell, would be interested to come back here today and see that his Labor colleagues not only have turned a complete somersault on this issue but have totally embraced the philosophies of competition and privatisation as they affect this industry. They can see that the port of Geelong and particularly the port of Portland in my own electorate have boomed since privatisation. There have been record throughputs, diversification of exports and greater use of the port facilities. Privatisation has been a great benefit. Similarly the Essential Services Commission has highlighted in its report that introducing more competition in the grain handling and storage industry has benefited grain growers and grain handling efficiencies in Victoria.

The Labor Party of the 1990s was preaching doom and gloom with respect to privatisation and competition, and now in 2003 it is introducing legislation that advances the spirit of competition and deregulation in this very same industry. That is a revolutionary step forward for the Labor Party, and it needs to stand up in this house. I look forward to the speaker from the Labor Party saying, 'We got it wrong in the 1990s. Privatisation and competition in the port and grain handling industry have been a great success. The Liberal-National government was right and we in the Labor Party in the 1990s were wrong'.

This bill continues a degree of regulation with respect to right of access and has fall-back provisions as serious problems arise. That is an appropriate approach — the belt-and-braces approach — which protects the interests of all concerned.

I have a comment to make about the fact that the legislation applies only to the ports of Portland and Geelong and not to the Melbourne port terminal (MPT). Ian Hunter of the Victorian Farmers Federation grains group says in an email:

> VFF grains group have reviewed the Grain Handling and Storage (Amendment) Bill and, whilst it does not deliver everything in our submission, we are satisfied that many Victorian grain grower concerns have been addressed.
>
> VFF grains group position has always been that regulation should not only remain but should be extended to include the Melbourne port terminal.

In conclusion he states:

> In summary, the VFF grains group would have preferred to see MPT included, but in general support the Grain Handling and Storage (Amendment) Bill, as we believe grower interests have not been compromised. That said, we will be monitoring the process closely to ensure that the intent of the bill translates into reality.

When we asked during the briefings why the Melbourne port terminal was not included we were told it was because it was not in competition directly with the ports of Portland and Geelong. That is not true; it is very much not true. When the government's advisers sent us a briefing note answering some of the questions we asked, it was shown not to be true. I will quote from the document:

> Regulation of the Portland and Geelong facilities is now being reduced in recognition of increased competition arising from MPT and other sources …
>
> MPT is a new, privately financed facility which specialises in wheat, which has increased options for growers and provided competition for the Graincorp facility at Geelong.

The MPT is clearly in competition with the ports of Geelong and Portland. In talking about the Melbourne port terminal the Essential Services Commission report states:

> The new grain handling facility at the port of Melbourne was completed in August 2000 …
>
> This new terminal draws grain from an expanded catchment area in southern New South Wales as well as from north-eastern Victoria and central Victoria. It therefore competes most directly with Port Kembla and Geelong. However, some of the grain is being drawn from AWB's Dimboola receival facility, and it is therefore drawing grain away from Portland.

So the MPT is competing against Portland and Geelong. Page 51 of the report cites the submission of the port of Portland to the review:

> We estimate that between 15 and 20 per cent of grain delivered within this catchment and which typically would have flowed to Portland has been directed to the Globex facility during 2001–02.

So you have a clear situation where the MPT is competing with the ports of Geelong and Portland; they are included in the legislation with continuing regulation, but the MPT is exempt. One could be cynical enough to ask why the Melbourne port terminal's grain, irrespective of the terminal's being a private enterprise facility, goes through the port of Melbourne. What is the difference between the port of Melbourne and the ports of Geelong and Portland? The difference is that the port of Melbourne is still owned by the government. Yes, it is corporatised, but the shareholder is still the government of Victoria. The ports of Geelong and Portland are privately owned. Who is advantaged by this legislation and is not included in the regulatory regime? The Melbourne port terminal and the port of Melbourne. The government has introduced legislation that ties the hands of the ports of Geelong and Portland with this regulatory regime but does not cover the MPT or the port of Melbourne. It

advantages its own against the private operators in Portland and Geelong.

I agree with the VFF; it should be one in, all in. If the MPT is competing for grain that would otherwise go through Geelong and Portland in addition to the grain it gets from New South Wales, the north-east and the north central area of Victoria, it is competing for grain which normally would go through the port of Portland. It should either be included in the regulatory regime or there should be complete deregulation of the industry so the ports of Portland and Geelong can compete effectively and efficiently against the port of Melbourne. It makes me wonder whether this government, with its socialist tendencies still in the background, cannot help wanting to advantage its port of Melbourne against the privately owned ports of Geelong and Portland. I may be cynical and suspicious, but I think that is an issue that needs to be addressed.

Mr Holding interjected.

Dr NAPTHINE — The minister invites me to talk about communism. We know where communism lies; it lies on the government side of the house. Even though in this legislation there are moves that are slightly in favour of deregulation and privatisation and the government has seemingly embraced them, the government cannot help trying to make sure it hampers private enterprise in Geelong and Portland, where the ports have done extremely well under private ownership.

I now turn to an important issue in this legislation. I refer to the report of the Essential Services Commission on which the legislation is based. Page 11 refers to an issue I want to address. I quote:

> This report identifies several other developments that are impacting on the competitive dynamics of the industry and are expected to enhance competition over the next few years.

As members will be aware, what the report is saying is that if there is increased competition there is less need for a regulatory framework. If we have a more positive competitive environment, there is less need for regulation. The report anticipates with its recommendations that some of the things it addressed will stimulate competitive dynamics. The first two points are:

> Rail access, which is likely to enhance the scope of competition between grain handlers.
>
> Rail gauge standardisation, which will largely integrate the catchment areas of competing port terminals.

The Essential Services Commission is saying that it anticipates that rail standardisation in Victoria will increase competition between ports and increase the opportunity for Portland to seek grains from the northern Mallee to come to Portland or Geelong to effectively compete for traditional areas of production in western Victoria. That is part of the basis for the legislation. When we look at rail standardisation we should ask ourselves when or if it will ever happen. This is a never, never project — another case where the Bracks Labor government has completely mucked up a major project and has hurt rural and regional Victoria.

Let us look at what the government has said about rail standardisation in the past. In *Hansard* of 30 May 2001 the Minister for State and Regional Development, John Brumby, is reported as saying:

> … a key initiative in the budget brought down in this house two weeks ago was the provision of $96 million over the next few years for the regional freight links program to provide standardisation of rail freight right across Victoria, particularly linking Mildura with Portland …

The minister is reported further as saying:

> Those on the other side could never find the funding and could never get the budget decision to support it, but the Bracks government did it in its second budget.

Further he said:

> So this is a great initiative never achieved in seven years under the Kennett government. It took just two budgets under the Bracks government.

So in 2001 the Minister for State and Regional Development said that in two years the government had delivered rail standardisation. It is in the budget.

Then we get the famous press release of 18 June 2002 from the Minister for Transport, which states:

> 'Standardisation is a vital project for regional economies that will drive jobs and investment for decades', Mr Bachelor said.
>
> 'The Liberal and National parties in the Kennett government failed to deliver any progress on this project during seven years …

Mr Batchelor is further reported as saying:

> … the first stage of track conversion on the Mildura line will occur early next year …
>
> …
>
> Gauge conversion of the rail network is a key component of the government's regional freight links program, designed to provide seamless and efficient freight systems throughout Victoria.

The Minister for Transport said in his press release that he had bought 300 tonnes of steel, with a further 2000 tonnes on the way, and that $3 million of steel had been ordered. That was in June 2002. Here we are in October 2003, when the Mildura–Portland line should have been completed, and not one spike has been driven and not one sleeper has been laid. The rail standardisation project is dead and buried under the Bracks Labor government.

The member for Brunswick went to Mildura and said the project was dead and buried, because the government was going to return passenger rail to Mildura on broad gauge. It is impossible to have a broad gauge passenger rail service on 200 kilometres of track and at the same time have standard gauge rail on the same track delivering freight to Portland! The government is all over the place on this issue.

In September 2003 the all-party parliamentary Economic Development Committee released its report entitled *Inquiry into Export Opportunities for Victorian Rural Industries*. The majority of the committee membership is from the Labor Party, and it is chaired by a Labor member. The report states:

> Efficient freight infrastructure is critical to the success of a rural export industry. As world competition increases, business in rural and regional Victoria will rely on supply chain networks to transport their goods by the fastest and most cost-effective and efficient means possible.

The report further states:

> In its first term, the Bracks government announced that over 2000 kilometres of track covering 13 lines throughout the state would be converted from broad gauge to standard gauge under the rail lines project, which was then estimated to cost $96 million over five years.

One of the primary recommendations of the committee was:

> The committee recommends that the government expedite the announced rail infrastructure projects in rural and regional Victoria including … standardisation of rail gauge systems, with priority to be given to regions with high volumes of rural industry freight.

Virtually at the same time the *2003–04 Public Sector Asset Investment Program* was released by the Treasurer, who is also the Minister for State and Regional Development. He is the minister who said that in just its second budget the Bracks government would deliver on the standardisation of rail gauges — but that was some years ago. At page 41 of that document, under the heading 'Standardisation of regional freight lines (non-metro various)', the total estimated investment is shown. Members will recall it being said a number of times that this was a $96 million program. In this document, released only a week or so ago, the estimated total investment is $67.5 million, so we seem to have lost $30 million of the program somewhere. Expenditure to date is $13.35 million. That must have been spent on all that steel the Minister for Transport announced he had purchased, none of which has actually gone onto tracks, because not 1 kilometre, let alone 1 metre, of track standardisation on the Mildura–Portland line has been started under this government.

Mr Plowman — Where is the steel?

Dr NAPTHINE — We do not know where it is. That is the estimated expenditure on this vital program, which the government said it would deliver because the previous government could not deliver it. It said it was vital for the revitalisation of country Victoria and for the rail freight network. It said this was a badge it would wear to show how much it cared about country Victoria. How much will it spend on this program in the next financial year? From its own documents it will spend $1 million, and that is probably on consultancies, because for $1 million not a lot of track will be laid, and $1 million will not deliver the standardisation of the rail freight system from Mildura to Portland, which the Bracks government promised to deliver by 2003.

This government promised to standardise Victoria's rail freight system in country areas. It said it would be symbolic of how it cared about country Victoria. It is symbolic, because this government is about telling country Victoria one thing and then failing to deliver. This government simply cannot deliver major projects.

Mr Howard — On a point of order, Acting Speaker, you have allowed the member to range widely on this grain handling bill. As you would be aware, for the last 10 minutes he has not been specifically on the bill. I ask that you draw his attention back to the bill.

Dr NAPTHINE — On the point of order, Acting Speaker, if the member for Ballarat East understood the legislation he would know it is based on the Essential Services Commission's *Review of Export Grain Handling Regulation Final Report* and the fact that there is an increase in competition in the grain industry. If the member looks he will see in the report numerous references to the importance of standardisation to that very process.

The ACTING SPEAKER (Mr Ingram) — Order! I am aware that the Grain Handling and Storage (Amendment) Bill concerns competition in the port systems, particularly regarding grain storage. Most of the grain is transported by rail freight, so I think the member can touch on that issue. I remind the member

that he has been given some latitude in the debate, and I ask him to stay on the bill.

Dr NAPTHINE — I now refer to page 63 of the report on which we all agree the bill is based. In paragraph 6.4.4 it talks about rail gauge standardisation and the importance of the standardisation program. It states:

> The Department of Infrastructure has informed the commission that the first stage of the track conversion, on the Mildura line, has been scheduled for early 2003.

So the commission has been misled by this government on the progress of standardisation. That is important to its conclusions, on which this legislation has been based. Irrespective of that, what this says with respect to rail standardisation is that this government simply cannot deliver on major projects. It is good at making announcements and launches, but when it comes to delivering for country Victoria it falls well short of the mark. Rail standardisation is a classic example.

The bill says two important things. Firstly, the privatisation and competition program introduced by the previous Liberal-National government has delivered for the ports of Geelong and Portland. It has delivered for the grain handling and storage industry, and it has delivered for the grain growers of Victoria and Australia. It has delivered despite the fact that the Labor Party protested loud and long against the introduction of privatisation and competition in those areas of activity. The government needs to admit it got it wrong when it was in opposition. This bill shows that privatisation and competition has worked.

Mr Howard interjected.

The ACTING SPEAKER (Mr Ingram) — Order! The member for Ballarat East will get his turn. He should cease interjecting.

Dr NAPTHINE — It confirms that this government agrees that privatisation and competition has worked in this industry, because it further progresses that same policy. The bill also confirms that the Labor Party in government simply cannot deliver on important projects for rural and regional Victoria, such as rail standardisation, which is vital to the further improvement of the grain handling industry. It is also vital for the further improvement of competition in this area. It is a project that is important; it was promised by the Labor Party, and it simply has not delivered.

Mr WALSH (Swan Hill) — This bill has the potential to significantly disadvantage the ports of Geelong and Portland compared to the port of Melbourne, as has been articulated by the previous speaker. We have a government in Victoria that promised to govern for all of Victoria, and here we have a bill that can be an impediment to Geelong and Portland and an advantage to Melbourne. Again we have an example of where this government is saying one thing and doing another.

The Grain Handling and Storage (Amendment) Bill implements the recommendations of the Essential Services Commission inquiry to review the regulatory arrangements for the handling and storage of grain for export at Victorian ports. It amends the Grain Handling and Storage Act 1995 and makes some consequential changes to the Essential Services Commission Act 2001 and a correction to the Rail Corporations Act 1996. It removes the regulatory pricing regime from Graincorp's export and storage facilities at Geelong and Portland but leaves those pricing powers in reserve so that they could be reinstated following a decision by the Minister for Agriculture and a review by the Essential Services Commission, and it significantly increases the services covered by regulation at the ports of Geelong and Portland.

The review was brought forward two years, and I give credit to the Honourable Barry Bishop, a member for North Western Province in the other place, and the Honourable Roger Hallam, a former member of the other place in the previous Parliament. They negotiated for the Essential Services Commission to do its review in 2002 instead of 2004.

We have seen a significant rate of change in the grains industry. The export grain sector in Victoria has seen immense change and is seeing change as we stand here. We want to make sure that we do not have regulations in place that are an impediment to that sector. It is a vital link between our very efficient grower sector and our world markets, and as public policy regulators we should not be putting things in place that will be an impediment to that industry; it is of vital importance to Victoria. We should always work to reduce costs and bureaucracy in the supply chain. As we go through this bill and look at all the new services that are included in the regulation we see that there is the potential to significantly increase the bureaucracy in the supply chain.

If we look at the changes in the grains industry since this report was handed down we see that there has been a merger between Graincorp — the Victorian and New South Wales bulk handler — and Grainco, which is principally the Queensland bulk handler. But what is important in the merger and to this debate and this legislation is that Grainco is a partner with the

Australian Wheat Board (AWB) in the Globex export facility at the port of Melbourne. It is my understanding that Grainco will now divest itself of that shareholding, and we will end up with AWB being the sole owner of the Globex facility, which is not going to be regulated in any way under this bill.

The Grain Handling and Storage Act 1995 was introduced to handle the transition of government-owned assets to the then privatised Vicgrain, the grower-owned bulk handler in Victoria, which then went on to merge with the New South Wales grain handler, Graincorp. The access and pricing regulations were originally put in place to make sure that Vicgrain, the grain handler at the time, did not extract monopoly power rents out of any other grain users — a very worthy intention at the time. But the grains industry has moved on significantly since that time.

The National Party consulted widely on this bill and its amendments. As members of this house would appreciate, the responses varied quite significantly depending on where the parties concerned sat in the export supply chain. In everything we do here and in our responsibilities as legislators we need to make sure that we pass legislation that has equity, actually delivers a public good and does not impose undue costs or regulation on people's lives or businesses. National Party members have some significant concerns about this legislation when it talks about equity. There is a real issue with equity in the amendments to the Grain Handling and Storage Act.

As I said earlier, the act was originally put in place to handle the transition of government-owned grain export facilities to a grower-owned private group, but since they were handed over to Vicgrain, Graincorp has spent $22 million upgrading and building a new ship loader and wharf at the port of Geelong. That investment of its private capital was then free of regulation. The investment was made to improve the efficiency of the supply chain for the export of grain out of Victoria and also to provide an economic return to Graincorp. That investment now has the potential to come under the control of this bill. I would like to quote a sentence from Graincorp's submission to the Essential Services Commission review. It says:

> To retrospectively regulate these services may contravene the basis on which these assets were purchased and built.

So there is a serious issue of equity here. Graincorp made a significant investment of $22 million in its new ship loader and wharf at Geelong, which was free of regulation but which is now going to be regulated under this bill, but its competitor is not. During that same time AWB and Grainco invested $40 million at the Globex export facility at the port of Melbourne, again an investment that was made with private capital to improve the export grain supply chain and to provide a return on investment to AWB and to Globex. But that new, $40 million facility will not be regulated under these new amendments as the ship loader at Geelong will. There is a real issue of equity there.

I would also like to quote from a letter the National Party received from Tom Keene, the managing director at Graincorp, when we consulted on this bill. He said:

> By extending access regulation, there is a risk the ESC will intervene to set fees, undermining this investment. Consequently, the 2003 bill will negatively influence future port investment decisions as it opens Graincorp (and presumably other investors at Geelong/Portland such as Toll) to additional regulatory burden and risk which AWB/ABA's Melbourne port terminal grain export terminal (MPT) is exempt from.

There is a real issue of equity there. If we want to see future investment going forward — not necessarily by Graincorp but by another investor — why would anyone invest at Portland or Geelong where they could potentially come under regulation when they could invest in Melbourne and not come under that regulation? If they invest in those two ports all the services they provide will come under the regulation of this bill, whereas the services they would provide at the port of Melbourne would not.

I turn now to clause 5 of the bill, the powers in relation to price regulation. Clause 5(1)(b) states:

> … the services provided, in respect of the regulated industry, in the Port of Geelong and the Port of Portland of receiving, moving, inspecting, testing, stock control (including marshalling, storing and management), weighing, elevating and loading grain are prescribed services.

None of those services were prescribed services in the old act; the only prescribed service was the export of grain. A significant number of services will potentially be brought under regulation and this may act as a disincentive to investment in those ports compared to investment at the port of Melbourne.

An issue that is left unanswered by this bill and which we have not been able to get an answer to is the issue of road access to the regulated ports. Although the majority of grain is delivered by rail quite a bit of grain is delivered direct to port by growers who wish to cart that grain and then backload with fertiliser or gypsum and take that back to their farms. The amendments are silent on how those services may or may not be delivered to growers who wish to access the port

directly for export grain. That is an issue that needs to be clarified for the future.

Another issue that is quite important is this issue of actual equity in the freight supply chain. I quote from Graincorp's submission to the Essential Services Commission review. It comes to this issue of rail freight, as was talked about by the previous speaker. In its submission to the Essential Services Commission review Graincorp stated:

> The importance of rail rates to the competitiveness of port services is evidenced by rail providing 80 per cent to 90 per cent of deliveries to ports, where freight costs average more than 200 per cent of port costs. Consequently, a 20 per cent reduction in freight rates negotiated for MPT can only be offset by a 40 per cent reduction in Graincorp's port fees. Such a situation is not sustainable, especially where Graincorp remains subject to regulation and MPT is not.
>
> The ability for ESC to effectively regulate the export services of grain are severely impeded by a lack of oversight of upstream services such as rail freight. While it is noted that the draft report attempts to recognise these factors, it does not fully incorporate them into its findings due to the lack of transparency in the data available to ESC. Irrespective, these issues remain critical to the analysis of competition in the grain supply chain.

This is not just an issue of port services but of the effectiveness of the whole supply chain and how we ensure we keep costs out of the system to help our very efficient grains industry.

While we are on the issue of rail freight, it is very interesting that we have amendments in this bill to regulate inspecting, testing, stock control, the weighing of grain for export and all these prescribed services, but we have a government which promised $96 million to fix our rail freight line three years ago and nothing has happened. We can regulate the minute services delivered at the ports of Geelong and Melbourne but we cannot fix the train tracks. It is a disgrace that again we have the government saying it is going to do one thing and then doing another.

Ms Allan — Put your heart into it! That was pretty lame.

Mr WALSH — Was it?

Ms Allan — Yes. Get in there!

The ACTING SPEAKER (Mr Ingram) — Order! The member for Swan Hill should not invite interjections across the table.

Mr WALSH — We have a government that can regulate these minute things around the whole business of export grain but cannot keep a promise to upgrade the rail lines. It is an absolute disgrace. What delivers best value for the supply chain of export grain? It is a standardised rail system that can go direct to port to drive costs out of the system, not whether you regulate testing or weighing or loading or those sorts of things.

On the issue of legislation and public good, our concern is that in the amendments to section 17 of the principal act the bill goes significantly further than the original intention of the 1995 act, which was to manage the transition of these services from government ownership to a privatised service. The prescribed services at the ports of Geelong and Portland will fall under this jurisdiction but those at the port of Melbourne will not. We have seen a significant expansion of Toll and Patrick in the freight system in Australia.

Ever since Patrick had its very successful campaign on the container wharf we have seen it invest significantly, and it is now investing back up the supply chain and we are getting quite significant efficiencies in the container freight chain. Toll has now entered New Zealand and, as I understand it, has bought the New Zealand rail system. We have two significant players which want to take a major stake in the transport industry in Australia. If either of those two businesses wanted to invest in the port of Geelong or the port of Portland to get involved in the grain industry and drive that competition we all talk about, we would find that whatever they wanted to invest in would be classed as a prescribed service. If you were Patrick or Toll why would you invest in those two ports? Why would you not come and invest in Melbourne, where there is no legislation and no prescribed services?

Talking about the issue of public good, and the fact that we as legislators should make sure that we always try to do something as a public good, by making these amendments and not deregulating the system entirely are we doing a disservice to the Victorian grains industry? Are we discouraging investment in the regional ports of Geelong and Portland?

It is interesting that in the last Parliament there was a very passionate debate about deregulating the barley industry. At that time the government and the Treasurer were very pro-deregulation and wanted to deregulate the single desk of the barley industry, yet now the government wants to keep regulation and prescribe significantly more services at the ports of Geelong and Portland. We had someone who was going to take away regulation from barley and was very passionate about it. It was a heated debate, and he actually did it after advice from the Victorian Farmers Federation that it did not want him to do it. That person was pro-deregulation, but we now have a government that is

bringing in more regulation for those two regional ports.

It will be interesting to see how the member for Mildura votes on this bill. He was also very passionate about deregulating the barley industry. It will be interesting to see if he is equally as passionate about deregulating the grains industry and making sure that we do not have an increase in prescribed services at both ports, which would be an impediment to potential investment into the future.

Ms Allan interjected.

Mr WALSH — The barley industry? We are revisiting old ghosts. It was a very passionate issue at the time, and the government cannot have principles on one issue and not have principles on another.

Dr Napthine — The Labor Party does that all the time. It does not have any principles.

The ACTING SPEAKER (Mr Ingram) — Order! Honourable members will stay on the debate and cease interjecting.

Mr WALSH — This is a very real issue that we face as public regulators. The principle on the one hand should be the same as the principle on the other. You cannot be a passionate deregulator of one part of the grains industry then say you are going to be a regulator of another part. So I hope we get a contribution from the member for Mildura.

Dr Napthine — And the member for Bendigo East.

Mr WALSH — And the member for Bendigo East, the Minister for Education Services. She can clearly articulate the government's position as to why it has not upgraded the Mildura train track and why it is not a standardised line.

Ms Allan interjected.

Dr Napthine (to Ms Allan) — You're not standardising it. You've evaded standardisation.

The ACTING SPEAKER (Mr Ingram) — Order! The honourable member for Swan Hill will stay on the bill, and honourable members will stop assisting him.

Mr WALSH — In concluding my contribution on this bill, I point out that the National Party will not oppose it. Our concerns are that it does not go far enough in the context that it should either have the same rules for the port of Melbourne as it has for the ports of Geelong or Portland or make sure that it does not cause a significant increase in prescribed services in those places. What we want to see for the future of the grains industry in Victoria is the most efficient access to ports and competition, getting costs and regulations out of the system and making sure that our growers have access to world markets through the most competitive export services.

I look forward to the contribution by the member for Bendigo East on when the train track from Mildura will be standardised. Rail freight is a significant part of the grain export system, and as I said earlier in my contribution, it constitutes a significant amount of the cost of the system. If we get a standardised rail system and have direct access to Portland, we can take significant costs out of the system. I look forward to the government's commitment to making that happen, and I wish the bill a speedy passage.

Mr HOWARD (Ballarat East) — I am certainly pleased to be able to speak on this Grain Handling and Storage Bill. As we have heard from the previous speakers, the rationale for this bill comes from a report of the Essential Services Commission. The government has had to weigh up the recommendations of that report to come out with a balanced response.

The bill reduces restrictions on pricing. We have moved a long way towards the deregulation of pricing as it relates to the ports of Portland and Geelong and the Graincorp-owned terminals there. This has been done to provide greater certainty for Graincorp so that it can invest in the future. However, we recognise that there are risks associated with going down this path and that we need to protect grain producers to ensure they continue to have appropriate access to those terminals. This bill also builds into the commission opportunities to arbitrate on and determine issues of access to the ports should problems arise.

The bill also recognises that further reports will come from the commission, and depending on the findings of those reports it allows for the minister to approve the recommencement of price regulations if it is found that deregulation is not providing appropriate access to the ports for grain producers and others who need that access. As we have heard from previous speakers, Victoria produces an average of 5.5 million tonnes a year of grains such as wheat, barley and more recently canola, as well as legumes and lentils. Clearly the ability to have access to ports is important, and ensuring that we have appropriate competition in our ports is likewise very important.

We have heard concerns that deregulation does not apply in the port of Melbourne, although some speakers have recognised the different history of the

grain-handling facilities at Melbourne. These are new and have been privately paid for, and they are smaller than the existing facilities at Portland and Geelong, which were paid for by the government. We know the history of the sale, and we know that the privatisation of those grain-handling facilities at Portland and Geelong meant that regulations were put in place as part of the conditions of the sale. We see in this bill the government showing its commitment to winding back those regulations if they continue to work.

Dr Napthine interjected.

Mr HOWARD — What, the sell-off of the rail network across the state? That is part of our problem: in trying to provide greater access to our rail network we are finding significant concerns because of the privatisation of the rail network that the Liberal government undertook. In trying to carry out works on our rail lines we find that government is no longer in control. Vic Freight is in control of the lines, because the previous Liberal government sold them off. The government is significantly hamstrung now that it no longer owns the rail network across the state. It is very hard to see how members opposite can claim that deregulation has been wonderful in all areas.

However, in regard to Graincorp, we are recognising that at the terminals we are moving to deregulate. If that deregulation works in the interests of all parties, then it can continue. But we do need to be very careful about the way this proceeds, and we will be looking for further reports from the Essential Services Commission to demonstrate that it is working effectively.

As I was saying before, the grain handling facilities at Melbourne are smaller. They are specialised facilities competing not so much against Portland or Geelong as against Port Kembla. We are happy to continue to see the new Melbourne grain facilities competing well against the facilities in Port Kembla. We do not see them as being a major competitor to the facilities at Portland and Geelong, therefore they have not been added to the regulatory regime.

It is also worth noting that in this legislation the powers provided to the Essential Services Commission to look at issues that it may need to arbitrate on in the future have been very clearly spelt out. The Essential Services Commission has put in place fifteen steps so that when issues of concern are being raised where access is not being provided at what are seen to be competitive rates the Essential Services Commission can arbitrate. In those circumstances it can try to get the parties to agree, and if they do not it will then use regulatory powers. The bill provides a careful balance. It shows that we are prepared to deregulate to some degree and to provide increasing certainty to Graincorp and that we are prepared to open up the competition within the grain handling industry while still providing the appropriate protections. The government has got the balance right in this bill. We will see in further reports how this is progressing, and the government will be able to make further responses as future reports from the Essential Services Commission come forward. I commend the bill to the house.

Debate adjourned on motion of Mr PLOWMAN (Benambra).

Debate adjourned until later this day.

CEMETERIES AND CREMATORIA BILL

Second reading

Debate resumed from 16 September; motion of Ms PIKE (Minister for Health).

Mrs SHARDEY (Caulfield) — I rise to make a contribution to the debate on the Cemeteries and Crematoria Bill. This bill was introduced earlier in this session — in fact I think it was in our first week — so there has been a fairly short period of time for consideration of such an important piece of legislation. The opposition has some great concerns about it at this time.

I will very briefly give the background: this bill is a result of a couple of reviews, one that took place back in 1997 at the instigation of the previous Liberal government. At that time a discussion paper on future directions for cemeteries legislation called *The Changing Role of Cemeteries* was put out and there was wide community consultation, but no legislation was drawn up prior to the loss of the Kennett government in 1999.

I am sure that the present government would like to make some claims in relation to what may have been thought to be planned, but I suspect that in every case it will be proved wrong. I must add that I participated in some of the consultation, and I will refer to that in a few moments.

Secondly, this government put out a discussion paper in 2001 called *Victoria's Cemeteries and Crematoria: Options for Legislative Change*, and that discussion paper went through a number of very big issues.

The Liberal Party is now concerned about a number of issues that it feels need further consultation. As a result I now move the following reasoned amendment:

> That all words after 'That' be omitted with the view of inserting in place thereof the words 'this house refuses to read this bill a second time until consultation has taken place with key stakeholders concerning heritage issues, industry structure and freedom of choice in the selection of headstones and grave monuments'.

The ACTING SPEAKER (Mr Ingram) — Order! Copies of the amendment are not at present in the chamber. They will be circulated as soon as they are. The member may continue.

Mrs SHARDEY — I suppose the deepest concern I have in relation to some of this is because as the member for Caulfield I very much represent the Jewish community in my electorate, although I would have thought that everybody in this Parliament would want to incorporate the views of the Jewish community and all ethnic communities in this important legislation.

When I attended the briefing on this bill I specifically asked whether the Jewish community had been consulted. I was informed that there had been consultation with the progressive Jewish community, and when I read the list of submissions I saw that there was a submission from that community. But I was further told that through Ephraim Finch there was consultation with the Chevra Kadisha, which is responsible for orthodox burials at Browns Road, and that there had been consultation with the Adass community, which is next door to the Chevra Kadisha, also at Browns Road. The Adass community is one of the most orthodox communities.

For those who are not aware, the Jewish community has some very particular concerns in relation to burial, in that once a person is buried the ground they occupy should be preserved in perpetuity. That has been a long-held tradition of this community for thousands of years. My deep concern after speaking to both the Chevra Kadisha and Adass is that they have not had the opportunity to respond appropriately to this legislation. I had a conversation today with Chevra Kadisha and was told that its representatives were invited to just one meeting where people sat around the table and were given a large number of documents but were not invited back to further meetings to discuss the details as they had expected they would be. This not having occurred, they have therefore felt that they have not made an appropriate contribution to this legislation.

This worries me very deeply, because I know that this community is very sensitive about matters to do with burial — very sensitive. It is somewhat of an insult to that community. The government should know what those sensitivities are and should have been well apprised of the need to ensure that there were proper consultations. For that reason alone I believe that as a result of the reasoned amendment I am putting to the house the legislation should not proceed until there is appropriate consultation with that community.

I suspect given that that community has told me, contrary to the advice that I have received from the department, that it has not had the opportunity to fully consult on this issue that there may well be others. Of course there are some issues in relation to this legislation that would cause some concern for those communities. The first of these are the concerns that have been raised in relation to two issues.

Stonemasons have told us that they are being excluded from being able to compete fairly in selling their services to people who bury their loved ones in cemeteries; that the large cemetery trusts have huge powers, which they believe to be uncompetitive; that they have apprised the government of those powers and that the government has ignored their pleas in relation to the powers held by the cemetery trusts. Stonemasons believe that they are going to be losing hundreds of jobs, and that they will not be able to compete fairly in supplying headstones and memorials.

Stonemasons have expressed concern that the bill strengthens the position of the large cemetery trusts and allows them a free hand to vertically integrate their businesses, thus reducing industry competition and consumer choice. For example, the choice of headstone may be restricted by the aggressive activities of large trusts. The shadow Treasurer will make a contribution to this debate and address the issues of competition policy in relation to this legislation and the deep concerns the Liberal Party has about this whole matter.

There is also a widely held view that the legislation does not take the opportunity to strengthen the heritage significance of cemeteries, nor make adequate provision for the preservation of important cultural history.

In relation to these two issues I have a couple of documents I would like to quote from, which I think are important for government members to recognise and understand. Perhaps they will guide the thinking of government members as to the appropriateness of their withdrawing this legislation and looking to amend it to take into account the needs and concerns of the groups we have been talking about — that is, firstly, the Jewish community; secondly, the stonemasons, who I will

come back to and talk about a little more; and thirdly, the National Trust of Australia.

I have a letter here from the trust in relation to this issue. It put out a media release on 29 September, which states:

> The national trust is dismayed that the Cemeteries and Crematoria Bill 2003 before the Victorian Parliament fails to deal adequately with the great problems affecting our cemeteries.

Of course we know that these changes taking place today are changes that will be affecting our community for decades ahead, so it is a very important piece of legislation and there are very important issues. The media release goes on to state:

> 'The cemeteries bill before Parliament virtually ignores heritage matters and does not address adequately the issue of funding for the restoration and maintenance of our precious cemeteries. Indeed the state government has ignored the advice of the two leading heritage bodies in Victoria (the national trust and Heritage Victoria) to drop the regulation that old and unused cemeteries can be converted to parkland with headstones relocated or removed.

The trust believes that would be the worst form of destruction.

Some of my colleagues, particularly those from country areas, will be speaking about this particular issue — that is, the preservation of old cemeteries which are of great historical significance, particularly in country areas. They may be cemeteries that have not been used for many years, but they may hold great historical significance for their local communities and should be preserved. The national trust is deeply concerned that this legislation does not properly provide for the preservation of these historical cemeteries.

The media release from the national trust further states:

> 'The national trust also strongly disagrees with the government's view that the maintenance of graves and memorials should remain solely the responsibility of the holder of the right of interment because they are of value to all the community … 'Unfortunately many people do not accept responsibility for maintenance. Maintenance of monuments must be able to be undertaken by the cemetery trust when necessary …

I am not sure what the mechanism for this would be, but the government should at least be putting forward some ideas and some proposals to ensure that those memorials, which we would all want to have maintained appropriately but which cannot be maintained perhaps because relatives cannot afford it or relatives do not have the interest but where the local community does have an interest, are appropriately maintained.

The National Trust of Australia has expressed very grave concern in relation to this legislation. The government should be taking account of those concerns and the fact that the trust is not happy with these proposals. The trust does not believe the legislation has been appropriately drawn up, and that reinforces the need for the reasoned amendment I have put forward today for the government to withdraw the legislation to take into account the concerns of many.

I will just go back to the stonemasons, because that was a group that approached the opposition, and I suspect also approached the government. I also suspect that the government did not move to try to address the issues the stonemasons thought were important and ignored the fact that many stonemasons have small businesses that cater for multicultural communities and are therefore very important. In this piece of legislation the government has given the cemetery trusts enormous powers under a number of provisions to really take control — to do almost anything in relation to the running of cemeteries and to advertise in a way that will disadvantage stonemasons. They can therefore exclude stonemasons fairly much from the business the stonemasons require for their continued existence.

A letter from the stonemasons states that they have the following areas of concern. One is:

> … Victoria has a competitive neutrality policy [that] requires immediate attention by Human Services to allow competition to be on an even playing field in the various cemeteries.

The areas of concern that they are talking about are, firstly:

> … Cemeteries using their own database for marketing purposes including forwarding letters to potential clients and in one case within a week of the funeral for the purpose of selling a product.

Within a week they were in touch with the family of a deceased person to try and sell a memorial!

Secondly, the stonemasons are concerned about the use of billboards at cemeteries advertising products. We are not talking here about the core services of the provision of grave sites or the provision of the service for a funeral et cetera; we are talking about ancillary things like the provision of memorials where these cemetery trusts are using advertising boards in a way that some would think is uncompetitive. Thirdly, apparently they are discounting product as well.

Fourthly, cemeteries have sales offices with pamphlets, brochures and displays on cemetery grounds. Stonemasons do not have the right to tout for business within cemeteries, but obviously cemetery trusts are

given this power, and this issue has not been addressed by this legislation. It is claimed by the stonemasons that cemeteries are putting in spec monuments for sale to the public. It seems rather gaudy to me to say, 'Come and inspect our memorial and choose from the ones that we are prepared to provide on a particular site'. Next they say that cemeteries have access to stonemasons members contracts and are selling against their members with similar products. In other words, they have access to the contracts between stonemasons and prospective clients, which means they are in a position to know the prices and are therefore able to undersell. Stonemasons are saying that these are issues that should have been addressed in this legislation but have not been addressed.

The stonemasons also put forward another document, and I will talk briefly about some of the issues they raise. A summary of their main argument is that the Victorian monument industry and local manufacturing will be seriously affected by the bill and that Victorian jobs will be lost. They point to clause 112, which allows trusts to sell and supply memorials in opposition to stonemasons, whom they regulate. They also point to clause 111, which gives trusts the power to write contracts for the maintenance of memorials. The bill contains no reference to private mausoleums.

The second point they make is that cemetery trusts are in a strong position to influence the market for monuments and enjoy significant market advantage over stonemasons, with whom they compete. Stonemasons really believe that this bill disadvantages their being able to compete fairly for business from those who are seeking memorials for their loved ones. They believe that this bill should be withdrawn and those issues should be attended to.

I would like to turn back to the bill itself. I have raised issues of grave concern and given some of the reasons why we believe this legislation should be withdrawn, and I would like to talk about some of its key aspects. Cemeteries will remain in public ownership, and so will crematoriums, and this is supported by the Liberal Party. Perpetual tenure for burials in cemeteries is also to continue, and this is strongly supported by the Liberal Party. A cemetery trust must now, however, offer perpetual tenure for interring cremated remains and continue to offer 25-year limited tenures.

As for the other aspects of this bill, there will be an option to cremate body parts, which is a new provision. There is a provision for a magistrate to order burial or cremation and a simple memorial for those with insufficient means to cover the cost. I believe this is a reasonable provision, and I think most of those in this place would agree with it. Under clause 62 cemeteries will be able to be closed to future burials if there have been no interments for 25 years and no right of interment has been issued for 25 years. Additionally cemetery records must be kept in the public domain, which I think is reasonable.

There are provisions to convert a cemetery to parkland. This is one of the areas that has raised public concern, and the National Trust is also very concerned. Under part 5 of the bill, with ministerial approval a cemetery can be closed and converted to parkland, which will mean the removal of memorials or other structures. The minister's second-reading speech states that this would happen where communities no longer exist and it is no longer possible for the cemetery trust to continue. I could not find that provision in the legislation, and I would be happy if the minister pointed it out to me. It is an issue that is of concern to many people. I believe the government should think about this more carefully and provide more details regarding the way it could happen. It should support those in the community who have raised concerns about this provision.

It is an issue of enormous concern for Jewish cemeteries, as one realises if one thinks about the number of Jewish cemeteries throughout Europe where there is no local Jewish community — where those communities no longer exist because of what occurred during the Holocaust — that have been retained in keeping with Jewish belief and tradition. They have been retained with the support of communities throughout the Diaspora. Jewish people now living in other countries who formerly came from those European countries have provided funding to ensure that those cemeteries can keep going. I have visited one of those cemeteries in Hungary in a tiny village called Pastor where no members of the Jewish community now reside, but people have provided funds to the caretakers of the cemetery for its continued existence.

Under this legislation there is some doubt about whether that would occur here. A cemetery trust, with the approval of the minister, can have memorials removed and the area grassed over. In fact under this bill cemetery trusts can do almost anything. This is of deep concern to a large number of people, including the Jewish community, along with other communities, as I mentioned earlier, particularly in country areas, where there are some very old cemeteries that I have visited and enjoyed because of their history.

Another provision in the bill says that an exhumation licence will no longer be required for the repositioning of burials within a grave. I suppose, in a sense, this is technical, but sometimes repositioning does occur. In

the past an exhumation licence was required, but this will no longer be necessary. The Secretary of the Department of Human Services is given extensive powers to direct cemetery trusts, and they are obliged to comply with those directions. I do not think the opposition has a problem with that provision.

Cemetery trust fees will be available online. The one area of some concern is that fees will be increased annually with the consumer price index. People would like some clarification of that. We would not want fees to rise if it means that people would be at a financial disadvantage and find themselves unable to afford to pay them. That is something we would want to monitor and ensure there is an appropriate review of the act over time to make sure those things are taken into account.

The bill provides that cemetery trusts will be required to maintain the infrastructure within the cemetery — in other words, the trust will be responsible for maintaining the roads and other infrastructure within the cemetery — but holders of interment rights will be responsible for the maintenance of interment sites. The National Trust of Australia (Victoria) raised the issue of some responsibility being taken by government where maintenance has not taken place and that adversely affects the look of the cemetery.

The second-reading speech claims that the classification of core activities of the cemetery trust will help address conflict within the cemetery sector regarding vertical integration and competition. I cannot quite see where this occurs in the bill, because it appears to me as if the cemetery trust has been given additional powers. In clauses 13 and 14 cemetery trusts are given sweeping powers. Clause 13 states:

> A cemetery trust may do anything necessary or convenient to enable it to carry out its functions.

That is a broad-ranging power and one which I do not think addresses vertical integration. It gives a cemetery trust more power. Clause 14 states:

> If a cemetery trust is responsible for the management of more than one public cemetery, the cemetery trust may manage all the cemeteries as if they were one cemetery.

Under clauses 111 and 112 cemetery trusts are given more powers. They will have the power to enter into agreements to maintain memorials and places of interment. I presume that is something they can do in competition with stonemasons. I am not sure whether stonemasons will be given the opportunity to provide that maintenance. Certainly a trust will be able to do that under the provisions of this bill. Under clause 112 a cemetery trust will be given the ultimate power, which stonemasons have some problem with, of selling and supplying memorials.

The Liberal Party will not oppose the bill, but it is concerned about it. It believes the bill should be withdrawn and amended, not totally rewritten, to take account of the many concerns held by a large number of people in the community. Multicultural communities believe they may not have access to the stonemasons of their choice to provide the type of memorial they are used to providing by tradition. The Jewish community is offended that its members have not been given the appropriate opportunity to respond to the legislation. That is most unfortunate. When the Liberal Party was consulting on this issue I personally brought the orthodox rabbis to meet with representatives of the department and the then parliamentary secretary to discuss their requirements. I would have thought that would have been one of the first things the government would have done, but obviously it has not seen fit to do that.

There are also issues regarding heritage matters which need to be addressed and which the National Trust raised. I hope the government carefully considers the opposition's position on this bill and accedes to its request.

Sitting suspended 6.29 p.m. until 8.02 p.m.

Mr DELAHUNTY (Lowan) — I rise to speak on behalf of the Nationals on this important bill for us all. It is one place we are all guaranteed to end up one day, so it is important to us all. The purpose of the bill is to provide for the management and operation of cemeteries and crematoriums, to repeal the Cemeteries Act 1958, to amend the Crimes Act 1958 and to make consequential amendments to other acts and for other purposes.

The National Party dug deep to make sure it consulted widely on this legislation. We sent out the bill and the second-reading speech and had input from many cemetery trusts and funeral directors, particularly within the Lowan electorate, and also monumental masons.

At the outset can I say that I am extremely disappointed with the government. It claims it is open and accountable. My staff contacted the department many times trying to get a list of all the cemetery trusts in Victoria. Those contacts included emails and telephone conversations. Eventually we got a list of all the cemetery trusts but no addresses. When I asked the parliamentary secretary, he said there were privacy issues involved and he was not sure he could give me the list of public and private cemetery trusts. It was

amazing. I eventually got a list, but I got it through a funeral director, who paid $20 to get it. It is astounding that this so-called open and accountable government would not give me a list of all the cemetery trusts in Victoria.

Mr Andrews interjected.

Mr DELAHUNTY — That was an unbelievable statement. I spoke to the parliamentary secretary, who was going to get back to me but who unfortunately did not. Be that as it may, we got on with our deliberations on this important bill.

There have been ongoing reviews of this 1958 act for more than 20 years. A lot of work has been done by many people within this place, within the community and within the industry over those 20 years, and it is pleasing to see that the bill is a culmination of all that work.

As I said, we have received many responses, most of which have been positive. There have been some concerns, as was referred to by the member for Caulfield, from the monumental masons and some funeral directors. I refer to a couple of letters I have received. One is from the Hamilton Public Cemetery Trust. Chris Dunstan is the secretary there, and his letter states:

> The Hamilton Public Cemetery Trust thanks you for the advice regarding the imminent debate on the Cemeteries and Crematoria Bill.
>
> … However, the trust had considerable input into the review of the legislation and is confident the proposed changes will enable us to provide better service to the community.

I thank the trust for that input.

The member for Shepparton's staff sent me an email from Albert Kellock, who was concerned about clause 82 at page 45 of the bill regarding the surrender to cemetery trusts of unexercised rights of interment by the sole holder. I will come back to Albert's concerns in my response tonight. People like that have given us their views of the bill. The monumental masons contacted my leader, and I have a copy of that letter. I will go through that later in my presentation.

There are 526 cemetery trusts in Victoria. Most are run by volunteers, who do an enormous amount of work for their communities. We do not say thank you enough to these volunteers, who are the backbone of our communities. We know that 14 trusts employ a chief executive officer and staff. It is mainly the metropolitan ones that have that capacity.

The bill continues the long tradition of religious and secular burial sites, but after reading through the bill and from my discussions I realise that the bill also allows for the diverse cultural and religious requirements of today's communities. We often promote the fact that we are a multicultural society, and this bill encompasses many of the issues other cultural groups have over the burial of their loved ones.

The 1958 act is unwieldy legislation. It is not only difficult for the trusts but also for the public to interpret. The member for Rodney attended the departmental briefing, and he was pleased with the introduction of this legislation. I thank the staff who briefed us on the legislation.

The National Party is happy that the perpetual tenure for burials in cemeteries will remain. Also the rights and responsibilities associated with cremated remains will be clarified under this legislation. For cremated remains a cemetery trust must now offer perpetual tenure as well as continuing the offer of 25 years limited tenure options. The National Party is pleased to support that.

During the discussions with the departmental staff a member for North Western Province in the other place, the Honourable Damien Drum, was pleased to see that people who die with insufficient means to cover their funeral, burial or cremation will now be provided for with magistrates able to order a cemetery trust to provide a simple form of memorialisation. I know that goes on in a lot of cases, but it is pleasing to see it incorporated into this act.

I am a member of the Essendon Football Club past players association. I went to the association's dinner on the Wednesday night before the grand final. We have a fundraising campaign within that group. Some of the money raised is to help past footballers of the Essendon Football Club who have insufficient means to have a burial, and we have supported such people with money. Many groups across the state do it. Many people do not have a family or friends who are able to give them an appropriate burial. I am pleased to see that in the legislation.

One concern raised in the media is that cemeteries will now be able to be closed to future burials under an order of the Governor in Council if there has been no interment for 25 years and no right of interment has been issued — in other words, no plot has been sold — in the last 25 years.

I grabbed an interesting article from the *Hamilton Spectator* of 2 October headed 'Cemeteries to parks?

There are precedents'. The chair of the Hamilton Cemetery Trust, Kevin Thomas, who is a good guy up in Hamilton, had been to a briefing held here in Melbourne in August. The paper reported that a number of cemeteries had already become sporting grounds or car parks, and even the area now occupied by the Queen Victoria Market was once an early Melbourne cemetery. According to the article other cemeteries at Seymour, Oakleigh, Coburg and Northcote have already been converted. By all accounts there are precedents in relation to this. There is a pretty extensive process to go through before that can happen, and a trust would have to write to all the holders of burial sites to get their views.

The National Party is pleased to see that the bill recognises the importance of people having access to historical and genealogical research data through cemetery trusts. There are some concerns, because a lot of the data is kept in private homes. From what I have read of the legislation and from the briefing National Party members had, there will now be a better process and some information will be put on microfiche. We need to keep that information for history's sake. In our younger days we are not as appreciative of our history as we are when we get older. We need to remember and document our past, and the bill outlines how that will be done.

Cemeteries can now be managed directly by municipal councils, and I am informed that currently 75 trusts involve local councils. In a previous life I was appointed the chairman of commissioners in Mildura. The Mildura Cemetery Trust was under the council's control at that stage, and it had been through a fairly lengthy process to identify a new cemetery site; the old one was filling up, and therefore a new site needed to be found. It was a difficult process, and we had to go through the Victorian Civil and Administrative Tribunal (VCAT). For people who are worried about planning issues, I can assure them that planning issues in relation to cemetery sites are just as difficult. Importantly there will now be an easier way for local councils to get involved. Many of them are involved, either behind the scenes or directly, as in the 75 cases I referred to.

Interestingly the bill provides for a new appeal mechanism to VCAT over specified decisions of trusts relating to permits. I have only been a member of this place for four years, but I do not believe that a week goes by without legislation coming in here which puts more work onto VCAT. I know it is being slowed down because it is getting more and more work. The government should be mindful of that, and if it is not, I am bringing that to its attention tonight. VCAT probably needs more resources in order to do the jobs that we as parliamentarians are pushing onto it. The bill provides for a new appeal mechanism, but importantly VCAT needs the resources to deal with it.

The bill provides for fees to be set by the trusts and approved by the secretary. Currently they go through the Governor in Council, but they will now be published on the web site of the Department of Human Services and will be automatically adjusted in line with the consumer price index on an annual basis. In many cases that is not a real problem, but it is not necessary for a lot of smaller cemetery sites. The reality is that the government is going a bit far in relation to fees, which will make it very expensive for some small country cemeteries as well as those in some areas of the city. National Party members have raised their concerns about the fact that fees will be automatically indexed.

The bill clarifies the maintenance obligations of cemetery trusts and the owners of private memorials. After reading through the discussion paper that was put out by the government in December 2001, we know that many of the metropolitan cemetery trusts are businesses and do not have a major problem in keeping up with the maintenance. But obviously some country cemeteries, and the smaller rural ones in particular, have difficulty in keeping up with maintenance and would not survive without the support of volunteers. There will be new guidelines in relation to how that will operate.

Some of the concerns raised by people, particularly in the funeral industry, include the clear lack of guidelines to assist the secretary. I will read from a letter I received from a funeral director, which states:

> A worrying theme throughout the whole bill is the seemingly endless power of 'the secretary'. It appears that he has unlimited power to approve anything, or order anything. So much power on the whim of one person (who will obviously change from time to time) and is very worrying. There appears to be no guidelines at all as to what the secretary may approve or not.

Another concern raised is that there is little reference to the construction of coffins or caskets. One funeral director said that he believes cardboard coffins could be allowed, which he believes are not as strong, have associated health risks and in some cases are more expensive.

Clause 26(f) covers the depth of graves, but there is a concern that there is no mention of a minimum depth. The government briefing on the bill outlined that this would be covered by regulations, but we seek an assurance from the parliamentary secretary, who I think will follow me, that there will be input into the setting

of regulations from country funeral directors, monumental masons, local government and others involved in the funeral industry.

Clause 82 (2) deals with the transfer and surrender rights of interment and states that a cemetery trust must pay the holder of a right of interment — in other words, a plot — a refund based on the current cemetery trust fee. There is concern from some funeral directors that this could allow speculation on the purchase and resale of plots. It was highlighted to me that some country cemeteries are now putting in lawns, which obviously will increase costs in the initial stages. There is concern in some areas that people could see what is going to happen and buy one — or half a dozen plots for that matter — and then when the fees come in under the new law, a cemetery trust could be obliged to buy the plot or plots back at an increased price.

There is some concern there. I know it is in the regulations that people cannot do it for a profit; I think that was part of the legislation I read. The concern is that this could bankrupt some country cemetery trusts. I bring that to the attention of the government and ask whether that can be picked up by the departmental people listening to the debate or the parliamentary secretary. I am informed that in 1989 a plot in the Horsham cemetery cost approximately $625; in 2003 — four years later — that plot costs $1270.

Mr Perton — Have you got yours yet?

Mr DELAHUNTY — No, I have not. That would be a substantial investment return. I highlight again that there is a fear that this could potentially send cemetery trusts bankrupt.

Clause 138 on page 77 of the bill relates to who may sign a certificate of a medical practitioner authorising cremation. I quote again from this letter from a funeral director. It says:

> Clause 138 … talks about who may sign a certificate of medical practitioner authorising cremation. The new system is slightly simplified but does not go nearly far enough. The current system does not work, has never worked, is abused, is dishonest and results in families paying fees that are unnecessary and unearned by the people charging them.

We think there could be more work done on that. I know it has been simplified and the death certificate can be accepted as the first certificate to allow cremation. However, I am informed by a funeral director that a doctor is supposed to view the body but that he has not seen a doctor for the past 15 years. This funeral director is adamant that it is not good enough for medical practitioners to be signing these things. A fee of between $50 and $70 is being paid but it does not happen. I bring that to the attention of the government.

Another interesting thing that was brought up by some of my colleagues is that under this bill burial can occur at a location other than a cemetery and cremation can be done at a location other than a crematorium. We were pleased to be briefed on this by the department. We were told that the bill allows for cultural cremations under strict criteria and burials in private cemeteries such as on a farm or at an Aboriginal heritage site.

I will finish by saying that monumental masons are very concerned about this bill. They believe it will seriously affect the Victorian monumental industry and local manufacturing and that Victorian jobs could be lost. They say the bill will increase the power of the cemetery trusts but contains no measure to even the playing field for stonemasons or other industry participants. They would like three amendments made to ensure that: firstly, in carrying out their functions trusts do not engage in practices that are unfair or restrict competition; secondly, any person or organisation can apply to the secretary for a review of a decision of a cemetery trust — I am not sure if that is a process of going to the Victorian Civil and Administrative Tribunal; and thirdly, cemeteries sell and supply only where they are not engaged in the regulation of the sale, supply and construction of memorials by the private sector.

Cemetery trusts can be expected to be self-funding. I know many of them are looking at ways to help in that regard. The government provides only $28 000 in maintenance grants. I know many of those grants go to small rural cemetery sites, and we thank the government for that. Metropolitan sites seem to be working okay. However, as I said, we rely heavily on volunteers in country electorates.

There are many more things I could say. I have copies of the application for cremation and a copy of a medical certificate that is signed by doctors. I hope some of these points are taken on board by the government and the departmental people, because there are concerns. Having looked at all those issues, the National Party will not be opposing this legislation, but I hope some of those things can be addressed while the bill is between the houses.

Mr ANDREWS (Mulgrave) — I am pleased to speak in support of the Cemeteries and Crematoria Bill tonight. I want to talk about the bill in broad terms and deal with some of the issues raised by the honourable members for Caulfield and Lowan.

I say at the outset that the arrangements we make for those who have come before us are very important, they are a great measure of the society we are in. The way we respect and honour the contributions and memories of our collective forebears is particularly important. I have no hesitation in supporting this bill, because I think it provides a solid and modern foundation for those important tasks as we move forward.

One of the key features of the bill is that it retains a system of cemetery and crematorium management and ownership by public trusts. The 526 cemetery trusts remain in place under the bill. The bill does not provide for private or for-profit cemeteries or crematoriums. This is an important point, given the perpetual nature of trust obligations to our community. In this bill the government has rejected the notion that these perpetual obligations can be met within a for-profit or privatised framework.

The bill also deals with issues of limited tenure. Limited tenure is not offered for burials; perpetual tenure remains the only option for burials in this state. Perpetual tenure must now be offered in relation to cremated remains. That is an important issue for the Jewish community and a range of other groups within our vibrant and diverse multicultural Victorian community. The member for Caulfield raised that issue.

On from that, rather than limited tenure being the only option for those who have been cremated, the bill sets out a process whereby perpetual tenure must be offered to those consumers. A number of large cemeteries operate in my local community, and a number of difficulties have been experienced in recent times where families have been unaware that they had signed for a 25-year tenure and have been informed by local cemetery trusts that they have to pay a second fee of the order of $1000. That is an unwelcome impost. It basically means the families must pay the second fee or disassemble the memorial. This can lead to very significant distress. I have had a number of constituents approach me in regard to this in my local area. Perpetual tenure must now be offered to all consumers, as laid out in this bill.

The bill invests the power to approve or reject applications for the establishment of new crematorium or mausoleum facilities with the Secretary of the Department of Human Services. This is an important power. I think it will facilitate better planning and coordination across the sector. Further, the secretary of the department will be given a power of direction. This will facilitate better management, compliance and consistency across the sector.

The bill also clarifies the core activities of cemetery trusts. This clarification is long overdue and will be further strengthened by regulations, the development of guidelines, cemetery trust rules and so on. Under the bill, as the member for Lowan noted, cemetery trusts may be run and operated directly by local government.

In terms of fees, the bill puts in place a new process. Rather than cemetery trusts having to seek secretarial approval for any and all fee increases, fees will be automatically adjusted in line with the consumer price index. This is important in terms of the perpetual maintenance obligations of trusts and their financial position moving forward. However, it is also important to note that fees over and above inflation will have to be approved by the Secretary of the Department of Human Services. The community needs to have confidence that fees will not skyrocket. There needs to be some brake on that. The member for Lowan made that point, and I tend to agree with him. All fees from all 526 cemetery trusts will be posted on a Department of Human Services web site. That will provide consumers with the opportunity to compare and contrast fees in their local community with others.

It is part of good competitive practice for people to be able to access that sort of information. They are some of the key issues, but the bill deals with a whole range of other issues — for instance, the establishment of appeal pathways to the Victorian Civil and Administrative Tribunal; proper recognition of trust, heritage and record-keeping obligations; clarification of the processes for granting or transferring rights of interment; whole-of-government competition principles; the importance of transparency in pricing; burial or cremation of the poor; and lastly, processes for the conversion of cemeteries to memorial parks. I will deal with the last two of those issues, and then try to come back to some of the issues the member for Caulfield raised.

There has been a fair degree of community concern following an article in the *Herald Sun* that painted the picture that countless cemeteries were going to be converted to football ovals and public parks with the stroke of a pen. Nothing could be further from the truth. This is a mechanism to provide an option where conversion to parkland is considered a more respectful treatment of places of interment than the benign neglect of cemeteries. It will mean that cemeteries will remain in the community and be economically managed rather than being subject to all sorts of vandalism, weed infestation and other issues. The member for Lowan has also addressed some of those concerns.

The bill lays down very detailed steps, and there will be a process for converting a cemetery. As I said earlier, the minister needs to approve a conversion, and on from that there will be a detailed process. The following matters will need to be looked at in some detail: the plans of the area to be converted; heritage considerations; a conservation management plan; details of the proposed conversion; details of the consultation with holders of rights of interment, relevant agencies and the general public. That is an important process to go through, and I think people can have confidence given that those powers and the power to determine whether a particular conversion will happen will under this bill move from the Secretary of the Department of Human Services to the Minister for Health. That is a very important move. There is nothing to fear from the prospect of this quite delicate conversion of cemeteries to parks, and I hope this will allay some of the concerns which have been expressed tonight and in the broader context.

The members for Caulfield and Lowan each spoke about the concerns raised by the master stonemasons' group and others who operate in that very important sector. I have met with the Master Stone Masons Association Victoria twice in the last couple of weeks and dealt with some of their concerns, although there still remain issues that have not been dealt with yet. However — and this answers the other question posed by the member for Lowan — this bill is a product of detailed consultation over a very long period of time. The next phase of that dialogue is the development of regulations, guidelines, the model trust rules provided for in the bill and a code of practice. The government is committed not only to these subordinate instruments but to proper industry and community consultation in putting those in place.

I hope that will address the concerns the member for Lowan has raised, and on from that I hope that the stonemasons, along with others involved in the industry, will play an active role. The government is 100 per cent behind the notion that the stonemasons and others will have input into the development of those regulations, that the regulatory impact statement process will be put in place, and following from that, guidelines and model rules, and also a code of practice down the track.

In conclusion, this is an important bill, and while it has been a long time coming it puts in place a very detailed and modern framework for the operation of this important sector as we move forward. I have no hesitation in supporting the bill. I trust that at least some of the concerns raised tonight have been addressed. I had a discussion during the dinner break with the honourable member for Caulfield, and I am happy to do that with other members. I wish the bill a speedy passage.

Debate adjourned on motion of Mr BAILLIEU (Hawthorn).

Debate adjourned until later this day.

PLANNING AND ENVIRONMENT (PORT OF MELBOURNE) BILL

Second reading

Debate resumed from 18 September; motion of Ms DELAHUNTY (Minister for Planning).

Mr BAILLIEU (Hawthorn) — I am delighted to contribute on behalf of the opposition to the Planning and Environment (Port of Melbourne) Bill. May I say at the start that the opposition intends to support this bill. I understand that this bill has support from a range of stakeholders, including the four councils involved, although I note that those councils were not actually consulted on the detail of the bill. The bill was foreshadowed with them last year, but they were not consulted about the detail.

The only thing we would say about this bill is: why has it taken so long to get here? Why has it taken four years for this government to finally get to this bill? It is a simple, administrative reform in its context, but an important one for the port of Melbourne. I thank the government and the department for the briefing we had on the bill. Perhaps the most remarkable thing about that briefing was the comment that this bill completes the reform undertaken by the planning minister in the Kennett government, Rob Maclellan. It completes that reform program, and in that context the opposition certainly supports this bill.

As I said, it is largely administrative. To some extent it is technical and perhaps a little confusing in its historical position, but I note the minister has made an extensive second-reading speech seeking to explain the history of the bill, and I think the house appreciates and the record is well served by that speech.

Essentially there are some technical items, but the four key purposes of the bill are, firstly, to amend the Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996 to allow the creation of a new planning scheme for the port of Melbourne. The second purpose is to prohibit local councils from preparing planning schemes in those areas, and the third purpose is to remove the need

for the port of Melbourne planning scheme to include a municipal strategic statement, as it might otherwise be required to do. Diverting slightly from these purposes, I refer to page 5 of the second-reading speech, and I quote:

> It is intended that the new scheme will include a formal strategic planning statement of planning in the port area — but not a municipal strategic statement, as the scheme will not cover any one municipal district.

In technical terms that is fine, but we do ask why the second-reading speech refers to the intention but the bill does not refer to the requirement. That is one shortcoming of the bill, because a formal planning statement will certainly be prepared, and you could only hope that at least that had some standing in the legislative provision.

The fourth purpose is to allow for adjustments to add or delete land from the port of Melbourne planning scheme area.

The background to the bill is perhaps a little more confused. The 1988 act introduced one planning scheme for each municipality in Melbourne. The port of Melbourne area at the time was statutorily excluded from adjoining municipalities — which at the time were Melbourne, Footscray, Williamstown and Port Melbourne — a separate scheme was made for the port area and that scheme was administered by the minister. So in 1988 we had a planning scheme over the port area, and it was separate from all the municipal planning schemes at the time.

In 1996 the amalgamation of councils saw land forming part of the port of Melbourne, which had previously been excluded from municipal districts, being included in the new municipalities of Melbourne, Maribyrnong, Hobsons Bay and Port Phillip. When the new planning scheme formats were prepared for these municipalities they excluded the port of Melbourne area. Although the 1996 act provided for the minister to make a new planning scheme for a part of Victoria not in a municipal district — in other words, outside a municipal district — most of the port of Melbourne area post those mid-90s reforms remained in part of a municipal district. This left the port of Melbourne area neither a municipal district nor outside a municipal district, because it was effectively a bit of both. As a consequence no-one was able to make a new Victorian planning provision format scheme for the port, and hence the planning scheme has effectively survived from 1988.

No-one has suggested that has impeded the development of the port to date, but clearly administratively it would be wise if the capacity to make a change to a new format planning scheme was in place.

I want to touch on the port itself. The port comprises essentially seven dock areas, and understanding what the port of Melbourne consists of is not always straightforward. It would be easy to think that Victoria Dock was included in the port of Melbourne area, but it certainly is not included in the planning scheme area. However, Victoria Dock does attract attention from the Port of Melbourne Corporation, the body designated as having authority over this area. Nor is Princes Pier or Station Pier included in the planning scheme for the port of Melbourne.

The seven dock areas are Webb Dock, Swanson Dock, Maribyrnong No. 1, Yarraville-Gellibrand-Holden, Victoria Dock, which as I said is a port focus but not in the planning scheme area, South Wharf and Appleton Dock. But distinguishing from the port of Melbourne area and the planning scheme area is a subtlety in itself. In this bill we are dealing with the planning scheme area.

Obviously the port of Melbourne is one of the most important economic drivers in this state. It is the heartbeat of commerce in Victoria; it is the gateway for trade both in and out, and as such nothing could have greater importance in any legislative provision this house makes. In that context there have been a lot of achievements at the port of Melbourne. It is effectively the no. 1 port in Australia. It has certainly been driven to that position over the years, and it is a position that Melbourne and Victoria should guard jealously. It has an enormous reputation, and there is enormous capacity still to go.

It is perhaps ironic that the government should be in the position of enjoying the great success of the port of Melbourne given the reforms undertaken by the previous federal minister, Peter Reith, who drove the industrial reforms which have assisted the port of Melbourne and other ports to become far more efficient and as competitive as they possibly can be. It is a tribute to Peter Reith, and no doubt we will hear from the government about how successful it has been in the contributions that we are yet to hear in this debate.

However, there are commercial pressures on the port which no-one can ignore. I refer to a paper produced by the Melbourne Port Corporation chief executive, Dr Chris Whittaker, who summarised those commercial pressures which obviously lead to change and the need to have updated planning schemes and the capacity to

implement those changes. He summarised them as follows.

The first is the simple competition between ports that we now find in Victoria, in Australia and around the world. The second is the pressure to reduce port charges. The third is the pressure of larger and larger ships, and obviously for Melbourne there is enormous pressure to increase our capacity to take larger ships, particularly those that have a deeper bottom. It is a simple proposition for the house to understand, but there are limits on the size of a ship determined by things such as the Panama Canal, and the width of a ship is limited by that capacity. The variable which is usually taken into account in determining the size of a ship is in fact the depth, and the depth of a ship is an issue for Melbourne, it is an issue for the Melbourne Port Corporation and it is certainly an issue for the channel at The Heads. The capacity of the port of Melbourne to take deeper bottomed ships is one that will no doubt come to the fore very soon.

The fourth commercial pressure which the port is facing is the concept of hub ports. That is associated with larger ships and the greater capacity of containers on those ships, and given the size of the ships and the number of containers involved hub ports are becoming increasingly important. Commercial stature obviously depends on a port having hub status. Fortunately Melbourne has that status at present, and it is important to maintain it.

The fifth commercial pressure is the concept of a port serving as part of a logistics chain, which simply means the vertical integration of transport and logistics associated with the port, with the dock, with unloading, with loading and with transport of containers to and fro. The sixth pressure is the competition for investment funds, particularly for private ports — not that the port of Melbourne is a private port, but the investment funds involved in ports are clearly a major commercial challenge. The seventh is commercial pressure for the certification of sustainability in ports, and that includes meeting international standards and everything that goes with it.

Dr Whittaker went on and talked about the pressure caused by urban encroachment on ports. Clearly the port of Melbourne is surrounded by established and very jealously guarded urban environments, in particular in the cities of Port Phillip and Hobsons Bay; and obviously the growing capacity around the Docklands means that residential development is placing itself much closer to the port operation. Finally there are the commercial pressures from industrial and workplace changes. So there is a lot of pressure on the port of Melbourne.

The port has a very high value for our economy. It is probably the most important single piece of infrastructure that this state has in terms of commercial trade. Clearly in that context, having a planning scheme which is up to date and consistent with the provisions that operate in all other planning schemes and which can be amended as needs be is important to our port and to our economy. In that context I think this bill serves the purpose very well.

The essential provisions of this bill are in clause 10, which allows the minister to make a new planning scheme for the port of Melbourne. We need to understand the context of the need to prepare that new scheme. At this stage I note that on page 10 of the second-reading speech the minister suggested that whilst there is a need to prepare a new scheme that has the provisions which are currently provided under the Planning and Environment Act in place:

> … it is probable that much of the content of the new planning scheme for the port of Melbourne area will simply reflect existing planning scheme provisions, albeit in a new structure.

So at this stage no great change is anticipated. I note that in effect the current planning scheme provides for a special-use zone across large areas of the port planning scheme and that that allows operations to continue in the most efficient way.

As I said, there is pressure to upgrade and reconfigure the port and to maintain our competitive position. Obviously there will be changes in the future which may run to the potential incorporation of the sites north of Footscray Road, the potential expansion of rail access through the Bunbury Street tunnel or around that tunnel through the Footscray area, and the possible expansion of dock facilities. I note in clause 3 of the bill that the minister can add or subtract areas but not change municipal boundaries in the process. As I said, that may provide for the excision or addition of the market sites north of Footscray Road or excisions from the Nelson Place frontage on the Williamstown foreshore or from the port of Melbourne foreshore itself.

I want to harp briefly on a couple of points. Whilst supporting the bill, there are some related issues which opposition members are a little bit cautious about. For the last couple of years there have been suggestions, which have received some coverage and some attention, for the City of Melbourne boundaries to be changed and for there to be territorial excisions from

the City of Melbourne in favour of the cities of Port Phillip and Maribyrnong.

Those proposed excisions have been very strongly and passionately resisted by the City of Melbourne, and they have been put passionately from time to time by the other cities. It is probably true to say that there is a rate base issue involved and that some of those other cities would like to get their hands on that fairly lucrative rate base. It is not a proposition which the opposition supports. We believe the municipal boundaries are appropriate as they are. I would not want the government to think that any support we might have for this bill and its capacity to allow the minister, in the creation of a new planning scheme, to change the area of the planning scheme foreshadows in any way any support for any municipal boundary changes in the future.

A longstanding interdepartmental committee has been considering these questions. I understand that that committee has not yet formally reported in any way, so these questions remain unresolved.

The existing port of Melbourne planning scheme, if this bill is not passed, will remain in place. In that sense the passage of this bill is not going to immediately change anything dramatically, nor is there any indication that the existing scheme is hindering port development at present. But as I said, we need a planning scheme which is up to date and efficient when it comes to prospective changes.

I note also that under the 1988 port of Melbourne planning scheme, which is the one currently in place, the minister has the power to prepare amendments and is the responsible authority. The new scheme will not change that, but I note that amendments to a planning scheme will under this proposal be dealt with in the same way as all other planning scheme amendments. The power in this bill is the provision allowing the minister to prepare a new planning scheme, not to amend it without the usual processes applying. So here we are separating the notions of preparation and amendment. As I said, the bill enables the minister to make a new format scheme for the port area, which at present the minister cannot do.

There are a number of things that the Port of Melbourne Corporation has been doing already in regard to its upgrade. Earlier this year the Minister for Major Projects foreshadowed a range of new legislative initiatives affecting the port in the spring session. We are now in the spring session, so presumably this is the first of those pieces of legislation. It is not of major or great significance — it is effectively technical — and if this is the strength of the legislative reform, perhaps there may be something lacking.

I note that the Port of Melbourne Corporation, which has effectively been in place since the autumn session of Parliament, is already dealing with a land use proposal which was put together last year. It also has focused on the development of Victoria Dock and the warehousing and potential fish market there. There was a story in the metropolitan media today about proposals for the Victoria Dock site. Interestingly, as I said at the start of this contribution, Victoria Dock is not included in the planning scheme. Hence while the port corporation may be interested in the proposition itself, it is not necessarily a function of this planning scheme.

However, there are a couple of things missing, and I would like to focus briefly on those. Probably the most important one stems from the contribution made by the Infrastructure Planning Council, and that is the call for a freight logistics strategy, or an integrated freight transport strategy. That comes off the back of the target of 30 per cent rail freight use by 2010 for the port area in particular. Currently it is around 20 per cent, so there is a fair way to go. I know that the stakeholders in the ports, in the freight industry, in the stevedoring and shipping industries, in the rail industry and even in the road industry are vitally interested in a freight logistics strategy. The question that has to be asked is, 'Where is it?'. It has been promised for a long time. I see the minister sitting over there, and I am sure he has it in his back pocket. It would be very nice if we could see it as soon as we possibly can, because there is intense interest in the future of the freight logistics strategy.

Mr Batchelor — It is in good hands.

Mr BAILLIEU — The minister says it is in good hands. It must be in somebody's else's hands, because it has been — —

Mr Batchelor interjected.

Mr BAILLIEU — It has been a fair while in the making. The sooner it gets an airing and can be publicly discussed, the better.

That freight and logistics strategy already has to take into account the prospect of the reintroduction of rail to the Swanson Dock area, and the potential reinstatement of rail to the Webb Dock area south of the Yarra River. Clearly it is going to have to take into account the prospect of double-stackers on the rail network. Double stacking on the rail network is one of the key unresolved pieces of infrastructure needs in this state. We are currently hampered by the lack of capacity to take double-stackers through the Flinders Street rail

network, and therefore we are limited in capacity. We certainly cannot do it under the Bunbury Street tunnel in Footscray, which is a major issue for the government to deal with, and tied up with that is the channel deepening issue itself. So there is a plea for an early release of the freight and logistics strategy.

There is also capacity for things to not go as well as we might hope in this proposal. I know that there are staff and managerial changes in the wings at the Port of Melbourne Corporation, and I hope that in making those changes the government does not seek to politicise the port. I hope the government appoints people who have merit and experience and who are capable of driving the port reforms and making the changes necessary rather than simply grabbing positions of influence on a political basis.

The opposition supports this bill. I note with a sense of irony that it includes a section 85 statement. I cannot remember how many times I have noted the irony of the government introducing section 85 statements which effectively change the constitution — and this from a government that, when it was in opposition, plagued the then government with criticism about the use of section 85. I am not begrudging the use of section 85; I am merely noting the irony of that situation.

We support this bill. We hope it will bring reform in the port. We hope it will bring a more lively port. Its boundaries are only the boundaries under the port of Melbourne planning scheme, not the boundaries of the port itself. Those boundaries have been a moving target over the years. They have changed according to the availability of land for purchase — the availability of or the potential acquisition of land which might be of an immediate benefit to the port; and the capacity of the scheme to change as the port territory has changed, with excisions and otherwise, is of great importance.

I am sure that over the years the port has kept its eye out for land acquisitions and potential excisions to benefit the port. In that regard there are potential changes along the City of Hobsons Bay waterfront and in the Docklands area. I note again that Princes Pier and Station Pier have never been in the planning scheme — and the changes around the Webb Dock area, which has been both in and out of the municipal territory but remains in the port planning scheme itself.

One final point to note is that the planning scheme area at the moment consists of two separate parts: a north-south extent, which is all integrated from Swanson Dock through to the Williamstown foreshore and through Webb Dock; and the eastern portion, which is effectively south-east of Station Pier along the City of Port Phillip frontage — some 600 metres from the low-water mark off the coast there — and which serves only a limited purpose at the moment for planning scheme purposes. That simple separation of the planning scheme application makes planning in the port area just that much more difficult. I sincerely hope that this bill assists the government in managing the port well, and that the reform that we anticipate is engendered in this new planning scheme, particularly in an early release of the freight and logistics strategy. With those comments, I note that the opposition supports the bill.

Mrs POWELL (Shepparton) — I am pleased to contribute to the debate on the Planning and Environment (Port of Melbourne) Bill on behalf of the National Party and indicate that it does not oppose the bill. The bill is mainly an administrative measure to enable the completion of the planning reform process and to bring the port of Melbourne into line with other Victorian planning provision schemes. These schemes were introduced in 1996 after the restructure of local government.

The major purposes of the bill are to amend the Planning and Environment Act 1987 to facilitate planning for the port of Melbourne and to amend the Planning and Environment (Planning Schemes) Act 1996 to provide for the preparation under that act of a new planning scheme for the port of Melbourne.

I attended a briefing with the Department of Sustainability and Environment regulatory review group manager of legislation, John Manton. It was a good briefing because all the questions I asked were answered. In fact he was early for the briefing. I appreciate Mr Manton giving me his time. I was disappointed with the minister's office, because it took five days for confirmation of the briefing. I phoned the minister's office on Monday, 22 September, as I needed to have confirmation of the briefing. I was going to Melbourne on the following Monday, and country members of Parliament do not have many opportunities to leave their electorates and go to Melbourne. When we do we want to make sure we completely fill in our day so we do not waste time. Late on Friday, after many phone calls and emails, I received notification that I would get a briefing from the department on that Monday, which was too late for me to organise any other business in Melbourne on that day. I was disappointed with that. It is not the normal procedure with the minister's office, which usually provides confirmation of meetings within one or two days. I make that observation because communications broke

down and it took five days to get a confirmation of the briefing.

During the briefing I was given a map of the port of Melbourne area showing the land covered by the existing port of Melbourne planning scheme. The scheme is administered by the minister, which will not change under this bill. I was advised that the bill does not change any of the boundaries of the port of Melbourne area.

During the restructure of local government in 1994 and 1995 the land that formed part of the port of Melbourne, which was previously excluded from the municipal districts, was included in four newly formed municipalities — the cities of Melbourne, Maribyrnong, Hobsons Bay and Port Phillip. As stated by the member for Hawthorn, after the restructure the 78 municipalities prepared new planning schemes. The four municipalities I mentioned excluded the port of Melbourne area from their planning schemes. The Planning and Environment (Planning Schemes) Act 1996 allows the minister to prepare a planning scheme for land not in the municipal district. The anomaly will now be rectified. Previously the minister was unable to prepare a planning scheme because the land was in municipal districts and then not in a municipal district.

The bill enables a new planning scheme to be made in the Victorian planning provisions format for the port of Melbourne area. It is currently inconsistent with all other schemes. I was told at the briefing that the four councils were consulted last year and did not object to the principles of the bill. They have been advised of the introduction of the bill, although they were not consulted about its details. I hope the government has secured the support of those municipalities and that there will be no objection to the way the process proceeds in future.

The new planning scheme will be developed in consultation with the Port of Melbourne Corporation and the four municipalities affected. Clause 10 provides that overall responsibility for preparing and approving the plans will reside with the minister.

The Port of Melbourne Corporation was established under the Port Services (Port of Melbourne Reform) Act, which abolished the Melbourne Port Corporation. The Port of Melbourne Corporation has wide and varied powers. I will not read through all the provisions, but it is a body corporate with perpetual succession; it may sue or be sued; and it may acquire, hold or dispose of real and personal property. The approval of the minister must be obtained before that can happen.

The objectives of the Port of Melbourne Corporation are to manage and develop the port in an economically, socially and environmentally sustainable manner and to ensure that essential port services are available and cost effective. One of the functions of the Port of Melbourne Corporation is to promote and market the port of Melbourne. The corporation has extensive powers which carry on from the Melbourne Port Corporation, which the port services act abolished.

I hope changes to boundaries or land use do not proceed without appropriate consultation with councils and the community and that appropriate objection processes are allowed. I understand if there are to be any changes in boundaries the amendments will be exhibited and councils and the community will have the opportunity to object to them. I understand normal planning processes will be allowed.

Clause 11 limits the power of the Supreme Court to review legal issues in planning schemes. That relates only to the initial making of new schemes and not ongoing amendments. I understand that is in line with Victorian planning provisions. There is a further protection in that Parliament has the power to disallow ministerial approval of schemes as well as ongoing amendments. In effect Parliament will have the power to disapprove the minister's amendments or any part of the scheme.

The port of Melbourne is Victoria's largest seaport for the handling of export products, and it is crucial to rural and regional Victoria. It is important that the port is managed effectively — which means more efficient and competitive exports, which is important for country Victoria because it relies on a competitive export market for its agricultural industries. The port of Melbourne handles approximately 50 per cent of Victoria's total overseas exports, which equates to $60 billion of trade annually, so it is vitally important not just to Victoria but to the economy of Australia.

It is also important to the electorate I represent, which is well known as the food bowl of Australia. My area generates 25 per cent of the total value of Victoria's agricultural products. Figures from the City of Greater Shepparton indicate it includes the output value of $2.5 billion. Dairy products make up the largest export out of the port of Melbourne, with 2400 tonnes per day. As I have been reminded, the member for Rodney's electorate has the largest dairy industry in the whole of Australia. The Shepparton district has one of the largest horticultural industries, with about 4.6 million fruit trees. It sends through the port of Melbourne fresh fruit and vegetables, canned fruit and vegetables, grain, meat, wool and wine, which are exported around the

world, particularly to the Asian markets. My electorate really needs the port of Melbourne to work well and to be commercially competitive.

Just recently my region was hit by one of the worst frosts on record, following on from the region having the worst drought on record. In some of my areas in the north-east it was minus 3 degrees, and in some other areas it was minus 5 degrees.

Mr Cameron interjected.

Mrs POWELL — I am pleased that the Minister for Agriculture is in the house, and I hope he is listening to these figures. There will be huge losses.

Mr Cameron interjected.

The ACTING SPEAKER (Mr Jasper) — Order! The minister will get the call if he wishes to stand in his place after the honourable member for Shepparton has finished.

Mrs POWELL — I remind the Minister for Agriculture that there will be huge losses in the Shepparton district alone, which will impact on the export production going through the port of Melbourne. Almost 100 per cent of the apricots were wiped out and destroyed in the last frost, and now we are hearing that plums, peaches and nectarines also have been affected, as well as grapes. So it is an ongoing issue, and we are just finding out how bad the frosts were. It will have a huge impact on the export production going out of the port of Melbourne.

Mr Cameron interjected.

Mrs POWELL — I will be speaking with the Minister for Agriculture later about the impact on the north-east, particularly Shepparton, and what is happening with our exports and also our agricultural region. I hope the minister will see a deputation of people from the north-east, who can let him know how bad it is.

Mr Cameron interjected.

The ACTING SPEAKER (Mr Jasper) — Order! I will not have the minister interjecting during the member for Shepparton's contribution to the debate. If the minister wishes to make a comment, he can stand in his place and be heard.

Mrs POWELL — The port of Melbourne is not just about exports, even though it is vital for our export market and particularly vital for rural and regional Victoria. One of the other issues with the port of Melbourne is that, as the member for Hawthorn said, it is a gateway into Melbourne. The port of Melbourne passenger terminal at Station Pier was the first step for many migrants arriving in Australia. In 1958 my family went through the port of Melbourne to Station Pier on the ship *Strathaird*, along with many other European migrants who came to Australia. We came on assisted passages and were classed as ten pound poms. Many people from Europe came to Victoria through the port of Melbourne, and more particularly through Station Pier.

My first impression of Melbourne was quite strange. As a young child of about nine years I saw some ants on Station Pier. We came from England, and the only ants we had there were those tiny sugar ants. The ants on Station Pier were big bull ants, and I said as a small child, along with my sister, 'Imagine what this country is like if its ants are that big!'. That was our first impression of Australia: its ants were quite big.

The port of Melbourne is important infrastructure for Victoria, and the passing of this bill will mean that it has a planning scheme that will finally be in line with current planning practices. This piece of infrastructure is like our airports: it is vitally important to the way the world sees us. We must make sure that our ports are functioning well, that they are competitive with the rest of the world and that our produce, once it gets to the ports, is able to leave in good order and get to markets right across Australia or across the world, and particularly our South-East Asian markets.

I am pleased that the bill is before the house, because it addresses an anomaly that was missed. The port of Melbourne is one of those areas that was not in the planning scheme provisions, and the bill rectifies that. Its passage will now mean that at last the port of Melbourne will be covered by current planning practices. I wish the bill a speedy passage.

Mr CARLI (Brunswick) — It gives me great pleasure to rise in support of this important amendment, which in many senses is a technical amendment. The previous two speakers have indicated their support for the legislation and pointed out that it resolves a current anomaly or anachronism whereby the port of Melbourne has an old planning scheme — and it has an old planning scheme for a number of reasons. Firstly, the 1958 Melbourne Harbour Trust Act excluded it from municipal areas. With the amalgamation of councils under the previous government it was divided up among three different councils. In 1988, when we moved towards the new planning provisions, under the Planning Environment Act it had to have its own planning scheme, its not being a council. The port of

Melbourne did not have a planning scheme like every other council; it had one which was administered by the minister. This amendment means it will continue to be a planning scheme administered by the Minister for Planning.

The port of Melbourne being excluded from municipal districts, when we moved towards the new planning format it was again excluded, because those amendments meant only municipalities had to work on the planning provisions and strategic planning. It has a planning scheme which, while functional — and there is no question that it is functional and that it works — has no strategic provisions and does not indicate strategically a whole lot of issues that relate to the port.

It is a planning scheme which largely means that most things that happen in the port happen as of right. There are probably about eight permits issued in any one year. Most of those are in the Williamstown area for things such as sheds, a pontoon for the seaplane and other facilities along the marina. For nearly everything else it is as of right.

Clearly there is a lack of any strategic statement, hence it is unlike other planning schemes. In that sense it is anachronistic. This process of not only updating it but actually engaging with stakeholders and local communities in establishing the strategic statements behind the planning scheme will be important, because in the autumn sittings of this Parliament we passed legislation which gave a new charter to the port of Melbourne, providing it with much greater powers and a greater purpose and vision. Part of that was about the sustainability of the port and about how a port that finds itself in central or inner Melbourne relates to its neighbours and stakeholders, including the companies that use it, the groups that live off it, the Victorian economy that depends on it and also the communities around it. The process of working on the planning scheme will give us the ability to engage in productive discussions about the future development of the port, and there are huge issues that relate to the port.

The previous speakers reminded this house of how important the port is. It is vitally important, because it is where most of the trade both in and out of Victoria occurs. Not only that, it is a major port for Tasmania, southern New South Wales and increasingly South Australia. It is the largest container port in Australia. Thirty-eight per cent of the containers that come into and go out of Australia come through the port of Melbourne. That is a huge amount when you consider that Victoria has about 26 per cent of the nation's people — yet 38 per cent of the container trade goes through it.

In large part that is because we are good not only at importing but also at exporting. We have almost as many containers that are exported as are imported. That is different to other container ports — for example, it is vastly different to the port of Sydney. It is essential to the prosperity of the state, and it is essential to our exporters.

The member for Shepparton was clear in her contribution about the importance of the port to areas such as Shepparton and Rodney, where there are huge agricultural businesses that are increasingly export oriented and have to get their goods to market. The single biggest export item going out of our port is dairy products. They come out of the north-east and are of huge importance to the prosperity of this state.

Given the importance of the port as part of our local economy and our community, we have to recognise the issues that befall it. One of the biggest issues, of course, is the growth in trade. We are experiencing, and have been experiencing for a number of years, increases in the container trade, for example, of 12 per cent a year.

So the number of containers going through the port of Melbourne is increasing at 12 per cent a year, and that is putting enormous stresses on it. There need to be improvements to the land side — the freight areas and particularly the rail areas. Channelling is also becoming an issue, not only because we are getting greater trade but because the ships coming to the port of Melbourne are larger and there are draught constraint issues associated with the port. Big issues confront the port, and the new port of Melbourne and its charter give it the ability to be a key agent in resolving some of these big issues that obviously involve land use planning and a strategic vision of where we are going and what we are going to do.

Developing the statutory processes and the planning scheme is part of a bigger process about the sustainability and development of the port. It is how we ensure that the port will continue to be such a vital link to the rest of the world and will develop the necessary capacity to move the growing amount of imports and exports coming through it.

The bill is small but important. It is very much an anachronism that we should need it. It just happened through a whole series of events and changes in legislation that there was no updating of the planning scheme for the port of Melbourne, so it is a dated scheme. The importance of the bill is that we are moving towards a new planning scheme that corresponds to the needs of inner Melbourne and the needs of the three councils that the port now exists in,

for example. So it becomes really important that we have an increasing relationship with the development of the planning side, both in terms of land use planning and transport planning and the general attitudes and views of the local communities. It is very difficult because those communities have to deal with a growing port and the growing congestion that has been associated with the port.

A lot of those issues have to be resolved. The spread of container parks, for example, through the inner west has been very problematic, and that has to be resolved. At the moment we have too many unnecessary trips of empty containers around the port. We have too many trucks that come in full and leave empty or come in empty and leave full. So there are unnecessary trips associated with the port.

As a government we have only recently put a rail line into Swanson Dock West, and that has been a huge success. There has been a very major increase in rail freight going out of the port, particularly to South Australia. Every day now a container train 1.5 kilometres long leaves the port heading towards South Australia and one comes the other way. That is really important, because if it was simply trucks it would be an enormous impost on local communities. As we deal with the growing port and its sustainability in the process of developing a planning scheme we have a very good vehicle for engaging stakeholders and neighbouring communities and for developing a sustainable vision for the development of the port — a vision that we can share and one that allows us to deal with the circumstances associated with the port.

It is really beyond simply devising a planning scheme that is technical in nature or is purely colours on a map; it is about doing a planning scheme that has a strategic focus to it, because the current planning scheme worked quite effectively. Most things get done in the port as a right, and occasionally there is a demand for a planning permit but there is no strategic vision. If anything is necessary in the port at the moment it is a much more strategic vision, because that is the only way the port will survive, grow and be sustainable into the future.

Mr CAMERON (Minister for Agriculture) — In summing up I thank all members for their contributions to the bill, which will enhance the state of Victoria.

Motion agreed to.

Read second time.

Third reading

The ACTING SPEAKER (Mr Jasper) — Order! I have been informed by the Clerk that the third reading of this bill requires to be passed by an absolute majority. As there is not an absolute majority present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

MENTAL HEALTH (AMENDMENT) BILL

Second reading

Debate resumed from 18 September; motion of Ms PIKE (Minister for Health).

Mrs SHARDEY (Caulfield) — I rise to make a contribution to the debate on the Mental Health (Amendment) Bill and inform the house that the Liberal Party does not oppose this piece of legislation. The purpose of this bill is to amend the Mental Health Act 1986 and the Coroners Act 1995. The bill aims to improve the operation of community treatment order provisions in the Mental Health Act, clarify confidentiality provisions in the Mental Health Act, and make miscellaneous amendments, including a broadening of the Mental Health Act Review Board.

By way of background, since the Mental Health Act was passed in 1986 the provision of many mental health services has changed a great deal. However, the legislation to establish treatment orders, for instance, and detain people with mental illness has not changed to reflect these alterations in practice. I will refer briefly to the recent case of *Wilson v. Mental Health Review Board*, which weakened the ability to manage individuals with mental health disorders in the community through community treatment orders — that is, involuntary community treatment orders. The coroner also questioned the meaning of 'detention' as it applies to community treatment orders.

These changes follow the release of a discussion paper by the Department of Human Services. I would like to refer to that discussion paper. In reference to

community treatment orders in Victoria, the discussion paper states:

> Community treatment orders (CTOs) are provided for by the Mental Health Act 1986 … They permit involuntary treatment of some people with mental illness while they live in the community.

What we mean by involuntary treatment is people who require treatment and do not necessarily agree to that treatment but who are seen as needing to receive treatment for their own health and perhaps to protect others in the community. As such, the orders offer a less restrictive option for involuntary treatment than inpatient treatment. In past times many of these people would have found themselves in a mental health services institution. However, the community's attitude to institutionalisation has changed quite dramatically over the years, and therefore such people now receive their treatment while living in the community.

As I have said, community treatment orders became part of Victorian law in 1986. In the second-reading speech for the legislation the then Minister for Health outlined changes in relation to public attitudes. I think his comments reflect very much the changes that have occurred in the community in relation to people with mental illness and the way we think about them. He talked about increased awareness of civil rights, a shift from institutional care to community-based care, and advances in psychiatric treatment.

There appears to be, and the discussion paper raises this, a need for clarity in the community treatment order provisions. The Mental Health Act regulates the detention of people with mental illness, as I have said, for the purpose of treatment and provides that treatment can be given to people without their consent. This is the group of people we are talking about. In doing so, the act should provide a very clear statement of the law and should be capable of being used with great confidence by practitioners. In other words, it should be very clear to all what a community treatment order can do and how a person is to be treated.

The discussion paper goes on to say that it has become apparent over a period of time that some sections of the provisions are not clear and need clarifying. The problems highlighted in the discussion paper are threefold. First of all it talks about a criticism by the coroner of the use of word 'detention' in the act in relation to community treatment orders as one example of the complexity of these provisions. If you are talking about someone being allowed to live within the community while being treated, the use of the word 'detention' seems to be somewhat strange, as was obviously found.

The second problem is the decision in *Wilson v. Mental Health Review Board* concerning the expiry of community treatment orders, and I will come to that a little later; and the third is the range of concerns about community treatment order provisions which have been raised by the chief psychiatrist's office.

Let us look at some of the figures in relation to people subject to community treatment orders. There are approximately 2700 people subject to community treatment orders, and approximately 1000 commencements, 470 revocations and 400 discharges per quarter. When I say 'revocations' I mean community treatment orders that have been revoked for various reasons. When a community treatment order is revoked the person must return to inpatient treatment. Approximately 400 community treatment orders are discharged — that is, ended — each quarter, resulting in freedom for the relevant person. Many people remain on community treatment orders beyond the initial order and beyond the 12 months.

Honourable members interjecting.

The ACTING SPEAKER (Mr Jasper) — Order! If the ministers wish to have a meeting, will they have it outside!

Mr Batchelor — I shall be only too happy to oblige.

Mrs SHARDEY — Thank you, Acting Speaker. As I was explaining, community treatment orders are normally for 12 months, but they can be repeated time and again. The points set out under the heading 'Implications of the data for the review of the community treatment order legislation' in this discussion paper wished the community treatment orders and the legislation to be very workable and practical. What was looked for was that they be administratively simple, because of the high volume of cases, and that they allow a simple procedure for the revocation — this has been something of a problem — of inpatient treatment and a return to a community treatment order because of the high frequency of revocation.

This refers to the fact that when a person is forced to have their community treatment order revoked because they are not complying and has to be admitted to a mental health facility, once they come out of that facility the community treatment order is taken up again. The final requirement was to reduce social disruption and stigma because of being subject to community treatment orders.

The Victorian Supreme Court examined the legislation scheme that established community treatment orders in the case I mentioned, *Wilson v. Mental Health Review Board*. The court concluded that a person's involuntary patient status ends if the community treatment order to which they are subject expires without its having been extended. The amendment to the community treatment order provisions states that involuntary status is automatically discharged when a community treatment order expires without having been extended. In other words, if a person has been put on an involuntary community treatment order — that is, a person with a mental illness who has had a community treatment order applied to them, which means that while living in a community they must receive treatment for their mental illness — and that community treatment order expires without its having been extended, then that person is no longer on a community treatment order. In order for it to be continued there has to be an application prior to the expiry of the community treatment order. This all sounds a bit complex, but it is very necessary in terms of the operation of the bill.

However, guidelines published by the Department of Human Services regarding the use of community treatment orders require that such orders be extended in a timely manner or that the person be discharged from the involuntary status if the relevant criteria no longer apply.

In relation to the Wilson decision I will quote directly from the discussion paper, because I think it explains clearly what the concerns were and then what had to happen to clarify the situation:

> In the Wilson decision, Justice O'Bryan rejected the department's submission concerning underlying detention of persons subject to community treatment order and agreed with a submission by counsel for Mr Wilson that 'the essence of a community treatment order is being at large in the community and not detained'.

This probably makes a lot of sense, because if you are on a community treatment order and you are in the community, you cannot have the term 'detention' applied to the way you are being treated.

> Justice O'Bryan interpreted the provision of the act which deems a person on a community treatment order to be an involuntary patient detained under section 12 to be the attribution of a 'fictitious' status. Hence a person subject to a community treatment order was not thereby also subject to underlying detention; the expiry of the community treatment order brought the fictitious 'detention' to an end.

While it sounds complex, it is a proper explanation of this particular case.

The recommendations of the discussion paper relate particularly to section 8 of the Mental Health Act, which sets out the criteria, which were to be amended to remove the requirement for detention and to instead focus on the necessity to provide involuntary treatment. In other words, instead of a person being initially put on a community treatment order, there has to be an assessment of whether that person needs involuntary treatment. Once a person is assessed as needing involuntary treatment there are two paths that can be taken. One is that the person be admitted to a mental health facility, and the other is that the person stay living in the community while receiving treatment as an involuntary patient. The guidelines for the criteria that were to apply to the assessment of whether a person needs involuntary treatment were as follows:

> (a) the person appears to be mentally ill; and
>
> (b) the person's mental illness requires immediate treatment and that treatment can be obtained from an approved mental health service; and
>
> (c) because of the person's mental illness, the person should receive treatment as an involuntary patient for his or her health or safety (whether to prevent a deterioration in the person's physical or mental condition or otherwise) or for the protection of members of the public —

which I think is an important element —

> ; and
>
> (d) the person has refused or is unable to consent to the necessary treatment for the mental illness; and
>
> (e) the person cannot receive adequate treatment for the mental illness in a manner less restrictive of that person's freedom of decision and action.

So these are the criteria that help assess whether a person needs to be in receipt of involuntary treatment, and then the decision can be made as to whether that person can live in the community or has to go into a facility.

Further, the current act provides that a community treatment order can be made instead of admitting a person to approved mental health services, which I have just explained. However, the current act lacks clarity as to whether a person who is to receive a community treatment order has also to satisfy both the criteria for admission and detention and the criteria for making a community treatment order (CTO), which does not require detention. As this is not the intention, the bill addresses the issue — I think this is the important element — by removing the requirement for detention and introduces a new definition of a CTO which refers to the new section 14 which recognises the new criteria in the new section 8, which I have read out, whereby a

medical practitioner focuses on the need for immediate treatment under an involuntary treatment order, which as I explained can provide for a CTO or for the person to be treated in an approved facility.

Changes to the criteria in section 8 have implications in relation to a 24-hour review by an authorised psychiatrist of the patient, and the bill clarifies what processes the authorised psychiatrist must go through to conduct this review. I will not go into the detail of that because it is quite complex.

One element of this bill which is very important is the introduction of treatment plans. The new section 19A on page 29 of the bill provides that every patient under an involuntary treatment plan order must have a treatment plan. Page 3 of the second-reading speech sets out what those treatment plans must provide. Certainly a patient who is in an approved mental health service must have a treatment plan. The treatment plans of patients under a community treatment order will give very clear guidance about the person's obligations under the order and a clear statement of the treatment they can expect to receive under that order.

A psychiatrist will have to discuss with the person their treatment, and I think this is a very important element of treatment plans. The bill requires a supervising medical practitioner to carry out regular assessments, which is another important element of this bill. In doing so, the supervising practitioner must consider whether the treatment criteria continue to apply to the person. Of course if the treatment criteria under section 8 do not continue to apply to that person, then that person can be discharged from the treatment order.

The next area I would like to discuss briefly is non-compliance with treatment which can lead to the revocation of a community treatment order, which means that a patient has to be admitted to a mental health service. Clause 12, on page 21 of the bill, introduces very specific criteria for this to occur. Basically, an authorised psychiatrist can revoke a community treatment order if he believes that treatment is still necessary but the patient is not complying with the order for treatment. In other words, if a patient under a community treatment order is not complying but still needs continued treatment, then a psychiatrist can have that person admitted to a mental institution or a mental health service.

Once the person receives the treatment, then he or she can be discharged from the mental health service and have a new community treatment order drawn up. What is interesting is that the discussion paper actually puts forward the idea that it should be possible to merely suspend a community treatment order. This of course is done in the Northern Territory, where there is not a complete revocation of the order but a mere suspension of the order while the person goes into the mental health service. It may be that they need to enter that mental health service for only half an hour or an hour in order to receive their medication before being discharged again, but the government obviously decided not to take up that recommendation because that does not appear to be in the bill.

The next provision I would like to discuss briefly is appeal and review by the Mental Health Review Board. The bill amends the act to allow the board to give a direction that a psychiatrist can make a community treatment order for someone who is currently detained in a mental health service. However, consideration would have to be given to whether that person could leave the institution or the facility and that there would be appropriate care and appropriate housing for that person. If time permits I will refer to a psychiatrist's response to that provision in the bill.

The bill also discusses restricted community treatment orders, and page 15 of the discussion paper clarifies what a restricted community treatment order is. Briefly, if a person is found guilty of an offence, the court has the option to make a hospital order under section 93, part 5, of the Sentencing Act instead of passing sentence, and this means instead of being sent to jail the person is detained in an approved mental health service as an involuntary patient. The hospital orders do not have a fixed time. In other words, if instead of going to prison you go to a hospital because of your mental status, usually there is not a time set down for you to have to stay in that mental health facility. When the person no longer satisfies the criteria under section 93 as to their mental state they are discharged. The person does not need to return to court in order for that to happen.

Restricted community treatment orders may be made in respect of patients, subject to hospital orders. These have some similarity to community treatment orders, and they enable some hospital order patients to receive involuntary treatment while they are back in the community. The bill makes it clear that such people will also be subject to treatment plans, which I think is a very important element of this bill.

The bill also refers to issues in relation to confidentiality. It clarifies the confidentiality provisions of the Health Records Act, particularly with respect to the transfer of client information with the relevant psychiatric service. The bill also regulates the sharing of information between approved mental health

services by means of electronic records and allows that to occur, which is appropriate for the treatment of patients.

It regulates the use of information held on the Department of Human Services information database, called Rapid, and it includes the clarification that the secretary and the chief psychiatrist may use that information within prescribed circumstances.

The concern in relation to our view of the powers given to the secretary in terms of his access to this information under the RAPID (redevelopment of acute and psychiatric information directions) system are that we would want a commitment from the government that access to this information be given in a way that provides appropriate controls so that information cannot in any way be used inappropriately, because the information which is in electronic format with regard to each patient is quite extensive, and we seek a commitment from the government in relation to those powers.

The other aspect of this bill which deserves some very brief discussion relates to the Mental Health Review Board, and I refer to the second-reading speech which clarifies that the government wishes to broaden the range of persons who can be appointed as legal members of the Mental Health Review Board.

Currently such a person must have been admitted to the Supreme Court of Victoria for eight years or more. This bill provides that any person admitted to practise as a barrister or a solicitor in any jurisdiction of Australia for five years or more will be eligible as a legal member. I suppose it is somewhat similar to the bill that will be introduced in this house tomorrow by the Attorney-General in relation to appointments in Victoria.

I suppose my comment would be that the Liberal Party views this with some concern, because I think it is important that people have appropriate experience, and certainly eight years experience in the Supreme Court would offer that. Five years experience is somewhat less, but I appreciate that it is possible that the pool of people available with that extensive experience may be somewhat small. However, it is of concern that such a person may come from other parts of the country. If someone were to be appointed to the Mental Health Review Board, we would like that person — and it would be advisable — to have a very clear understanding of the legal processes and the Mental Health Act here in Victoria.

Finally I would like to refer to an email received from a psychiatrist who has raised some concerns about this bill. She says that clause 23 of the bill, which substitutes a new section 36 in the bill:

> Allows the board to order the authorised psychiatrist to make a community detention order —

which I referred to earlier. She continues:

> This means that the psychiatrist is bound by the board's decision even if he disagrees. While the board is not held legally responsible for the consequences of the decision made, the psychiatrist is, i.e. the board might order the psychiatrist to release the patient into the community and the patient might then commit suicide or harm another person. The psychiatrist could then be placed in the position where he is sued for this decision, even though it was made against his opinion.

This psychiatrist also believes there are problems of professional autonomy and substantial legal issues. She has said that the psychiatrists board and the Australian Medical Association were not consulted about this legislation, and if the parliamentary secretary is paying attention and has heard that comment he might like to clarify what the process of consultation was with the psychiatrists board and the AMA. I am not sure that the situation that has been claimed here is true, but I am sure the parliamentary secretary will be able to clarify that when he speaks on the bill very shortly.

In short, the Liberal Party does not oppose this bill. I have raised a couple of concerns. I believe the bill goes to the heart of reflecting very necessary changes in relation to the very complex issue of community treatment orders being given for people with mental illness who are being given treatment in an involuntary sense. But I do think that in some sense this bill offers comfort to the community that such people are going to be treated appropriately in that they now all will have treatment plans. Those treatment plans are being explained to individual patients, which is very important. Hopefully it will give comfort to the community that such people are being assessed regularly and that if their situation changes or they are not taking their medication, they can be returned to a mental health service, as is appropriate.

There have been instances in the past where concerns have been raised by the community about involuntary patients who are not being watched, who are not being assessed appropriately and in a timely manner and who perhaps are therefore in danger of causing themselves harm or causing some harm to the community. The opposition does not oppose this bill.

Mr DELAHUNTY (Lowan) — I am pleased to rise on behalf of the Nationals to speak on the Mental

Health (Amendment) Bill. The purpose of the bill is fourfold: firstly, to amend the Mental Health Act 1986; secondly, to clarify and improve the operation of the provisions of involuntary patients and the making of community treatment orders; thirdly, to clarify and improve the operation of confidentiality provisions; and fourthly, to amend the Coroners Act 1985.

The ACTING SPEAKER (Mr Nardella) — Order! The time appointed by sessional orders for me to interrupt business has now arrived. The honourable member may continue his speech when the matter is next before the Chair.

ADJOURNMENT

Cobden District Health Service: Workcover

Mr MULDER (Polwarth) — The matter I raise is for the Minister for Workcover. I ask the minister to take action immediately and meet with the Victorian Workcover Authority (VWA) to best understand the dire circumstances faced by the Cobden District Health Service in light of a further 20 per cent increase in its Workcover premiums, which now amount to $190 000. Of the three major claims by the service in 10 years not one of the original injuries was sustained in the workplace, yet the system acknowledged the injuries. Despite this the service's premiums continue to soar, and staff hours have had to be reduced in order for it to come up with the payments. This has had the incongruous effect of putting the remaining staff at risk simply because there are less of them to cover the work required.

The chief executive officer of the Cobden District Health Service has been told by the VWA that if the service has one more claim for $100 000 its premium will jump to $400 000. The service has not had a major claim in the past five years, yet it has been forced to pay its premiums monthly, which denies the service the discount applicable if premiums are paid in one lump sum.

Cobden District Health Service was the first bush nursing agency in the state to adopt the no-lift policy. The service's accreditation processes repeatedly verify that the staff and board have combated health and safety issues, but the service continues to be hit with premiums that are not within its reach any more. This problem is not only affecting Cobden District Health Service but is happening across the board. If it is not resolved, it has the potential to mortally wound our aged care providers.

All governments are judged on outcomes, and should the outcome of these continually rising Workcover premiums be that our health and aged care services are forced to scale down or close, then let it be on the government's head that despite many requests for assistance nothing has been done to reduce this burden.

The current system is obviously flawed. I call on the minister to satisfy himself that the system and premiums applied by the VWA are fair and equitable. The current practice of penalising our aged care providers must be reviewed. When we have proven health providers having to beg for assistance it is way past the time for action. Instead of being threatened with increased premiums, representatives of health services are entitled to put their case and be assured that their individual circumstances will be taken into account when assessing the premiums to be paid. Anything else makes a mockery of fair play.

Ocean Grove: Streetlife program

Ms NEVILLE (Bellarine) — The issue I raise is for the attention of the Minister for Small Business in another place. In the last state budget the government announced an additional $2 million over four years for the very successful Streetlife program. I ask the minister to inform me of how small businesses may get access to funding through this program. I raise this matter particularly in relation to small business people in the centre of Ocean Grove, who have concerns about their future viability. Ocean Grove is a fast-growing community, and the local residents have for many years called for an additional shopping centre. Recently the City of Greater Geelong approved the development of a new shopping centre for the Ocean Grove community. This will be located in the growth area of Ocean Grove and out of the current main centre of the town.

This decision has widespread support from local residents and is one that I welcome to meet the growing population needs. However, small businesses in the centre of Ocean Grove have concerns that their viability may be affected by new shopping facilities outside the centre of the town. They are keen to pursue opportunities to secure their future and the growth of the whole town.

I have had a number of discussions with local traders and the local councillor, Rob Binnie, about possible ways to invigorate this area of Ocean Grove and to ensure that the small businesses are able to continue to grow and thrive in this popular place to live and visit. There are many opportunities and a lot of potential to further develop and revitalise this part of Ocean Grove,

but the small businesses need assistance to further develop their ideas and explore enterprising initiatives.

We believe some of the ideas will attract more people to the area, ensuring the viability of the shopping centres in Ocean Grove, both in the centre of town and in Shell Road. It will ensure positive benefits to all small businesses in the area. The Streetlife program has supported 156 organisations in more than 600 Victorian communities so far. It has been very successful in revitalising small businesses across the state. I ask the minister to advise me how small businesses in my electorate, particularly in Ocean Grove, can access this program to ensure their future development.

Buses: Mount Buller

Dr SYKES (Benalla) — I raise the continuation of the $30 000 per annum subsidy of Mount Buller Bus Lines, and I ask the Minister for Transport to respond promptly and favourably to my letter to him of 25 September on this matter. Mount Buller is one of several fantastic ski fields in my electorate. Mount Buller, Falls Creek, Mount Hotham, Mount Buffalo, Dinner Plain and Mount Stirling are the winter playgrounds for more than 1 million people each year. As a result the alpine resorts are very important to the economy of north-east Victoria.

To its credit the Victorian government has recognised the importance of the alpine resorts to the whole Victorian economy and has released a draft strategy which focuses on continuing to grow these communities. Key features of the government's alpine resorts draft strategy include the development of all-year-round activities and true communities with a heart and soul and a strong community spirit.

A factor critical to the success of the Mount Buller community is the continuation of year-round public transport. Public transport to Mount Buller provides convenient and affordable access to the community and the surrounding environment to young people who are yet to get their drivers licences and drive a car, and to older people who still love to come to the mountain but prefer not to drive. Public transport also allows resort staff and La Trobe University students to live off the mountain and to commute daily for work and studies.

At this stage in the development of the Mount Buller community, public transport fares do not cover the costs of operation, so an annual subsidy of $30 000 has been injected by the government. It therefore seems inconsistent that one government department is proposing to develop an all year-round community at Mount Buller and inject substantial funds to achieve this outcome, yet another government department proposes to withdraw its subsidy of public transport, which is a key element of a year-round community. Accordingly I ask the minister to immediately favourably consider my request for a continuation of the $30 000 per annum subsidy to Mount Buller Bus Lines for the provision of year-round public transport to the growing Mount Buller community.

Clayton: Streetlife program

Mr LIM (Clayton) — The matter I raise is for the attention of the Minister for Small Business in the other place. I draw the attention of the minister to the Streetlife program and ask her to ensure that clusters of small businesses like that in the Clayton shopping strip can access funding through the next program.

I was privileged to attend a briefing organised by the Minister for Manufacturing and Export. The briefing was provided by the Victorian business centre in conjunction with the economic development department of the Monash City Council. It was a very impressive briefing. I was pleased to see that the state government provided funding to the Monash City Council 2001–03 Streetlife program. I understand that the program has completed its first year and has started its second year.

The components of the project have been to match the small business counselling service with the Monash Enterprise Centre business incubator licensees to help them implement their business growth plans and provide business coaching to new MEC licensees. It also provides business mentoring to south-east businesses within the municipality in an initial diagnostic session. These ideas are essentially about providing direct hands-on support for small businesses with many of their key questions. This support is important because small businesses are the key to innovation and provide over 40 per cent of the private sector jobs in the state.

For this reason I am extremely pleased that the successful Streetlife program receives funding for another two years in this year's budget. I want the minister to seriously consider access by a cluster of small businesses, as I have mentioned, like the shopping strip in my electorate, to funding in the next program. I ask the minister to look favourably on that request.

World Economic Forum: protesters

Mr SMITH (Bass) — I raise with the Premier concerns regarding S11 protesters and the Victoria

Police. Honourable members are aware that on 11 September 2000 Australia hosted the World Economic Forum at the Crown Casino. We know there are peaceful protesters and that people came from throughout Australia and the world to protest peacefully. However, there were some ratbags, maniacs and bloody-minded, stupid people who wanted to take action that would ruin Victoria's chances of ever being featured as a good state to hold something like the World Economic Forum.

Some idiots at that protest spat on the police, threw ball bearings at the police, threw urine at the police and took great delight in beating the police — hitting and crushing them — and damaging people's cars, including police cars. These maniacs, ratbags and protesters — many of them Labor Party supporters — took delight in causing mayhem at Southbank because they wanted to do anything that would upset the police.

Their attacks on the police were an absolute disgrace. To spit, throw condoms filled with urine and taunt and shout obscenities at police is outrageous. One of the protesters snorted a large amount of mucus and saliva and spat at two of the officers. With problems with AIDS that can be passed from one mouth to another, to spit on police is a disgrace. There is no doubt that these protesters were socialists and communists from throughout the world who came to Victoria to attack our police and cause mayhem at Southbank. It is a disgrace that these people were allowed to do what they did. The police did a magnificent job. These police officers should be supported — —

Mr Holding — On a point of order, Acting Speaker, the member has been speaking for well over $2^1/_2$ minutes and he has not yet asked for any action; he has simply referred to the nature of the protest. It is inappropriate that the member has not sought any action.

Mr SMITH — I want the Premier to support the police financially so they can do the things that they need to do in the state of Victoria.

Small business: government assistance

Mr STENSHOLT (Burwood) — My request is through the Treasurer to the Minister for Small Business in the other place. I ask the minister to take action to protect small businesses from unfair action by big businesses and to support businesses and traders in small shopping centres.

The Bracks government is a strong supporter of small business; it listens to them and acts. The government hears the concerns of small businesses throughout Victoria. In my electorate and surrounding areas I have taken a strong personal interest in supporting small business and small traders. The government does not just talk about things, like the member for Bass, but does things. I have supported the traders in the Canterbury and Surrey Hills shopping centres in their dream of restoring banking services. This dream has become a reality. Earlier this year the Minister for Finance opened the Surrey Hills community bank and just a few months ago the Premier opened the community bank in Canterbury.

I regularly consult with the Ashburton traders, where Liz Webb, the coordinator, does such a wonderful job. They have been recently involved in a safety and crime reduction strategy, which is a successful pilot project undertaken in the shopping strips of the City of Boroondara, and we look forward to putting it forward for a community safety award this year. This is called working with local businesses and traders, as we are doing at the Burwood shops.

We have helped by providing advice and assistance to the Burwood traders and with a campaign with the councils — there are two councils there: Whitehorse and Boroondara — to fund a streetscape improvement program. We have also helped them get up a levy so they will have funding for a coordinator. We are pleased to help out and help to get the traders group together to make sure they are working to improve the business in that area. In the Ashwood strip shopping centre we have helped the traders group and got the two councils — Monash and Boroondara — to talk to it about future plans.

I ask the minister to continue to implement policies to ensure there is a fair marketplace for businesses to compete in. I welcome the recent creation of the Small Business Commissioner. I know many small businesses in my electorate will utilise this unique service.

I am worried that the federal government has not changed the Trade Practices Act. There is presently a Senate inquiry under way, and I hope the minister puts forward a good submission to the inquiry to make sure that small businesses are protected and are able to compete with the larger businesses in our state. The minister needs to ensure that programs are available to assist small businesses in shopping strips by providing them with good advice, especially if they are new businesses; and by providing them with peer support training programs or with specialised advice on how to market their wares on the Internet and how to develop their business plans. I ask the minister to support small businesses in shopping strips.

Students: truancy

Mr PERTON (Doncaster) — The matter I raise is with the Minister for Education and Training. The action I seek is that she take concrete measures to reduce truancy in Victorian state schools by at least 50 per cent by the end of 2005.

What is the extent of the truancy problem in Victoria? According to the Bracks government it seems it is not important enough to take action or even keep statistics. What do we know anyway? In Victoria in every year of this government, from 1999 to 2002, student absenteeism has increased in every year level, but the precise percentage of absentees accounted for through truancy is not recorded by the government.

Recent figures show that year 9 students in Victoria have the worst attendance record. In 2001 each student averaged more than four weeks absence from class time. In the northern region at year 9 over 22 days of school are lost by the average enrolled student — in other words, some 65 000 students who should be at state schools are not there each day. An estimated 40 per cent are ill, but truancy, parent apathy, extended holidays or even family shopping trips are keeping the rest from their studies. Truancy causes obvious damage to children in terms of lost study and opportunity. There are also huge costs for the communities.

Ms Allan interjected.

Mr PERTON — The Minister for Education Services, who is shouting at the table, should pay regard to the former British education secretary, Estelle Morris, who was brought to this country at government expense and who said that the link between truancy and crime was 'too great to ignore'. British official figures showed 40 per cent of street crime, 25 per cent of burglaries, 20 per cent of criminal damage and a third of car thefts are carried out by 10 to 16-year-olds who should have been in school.

While truancy costs children heavily in terms of their own future, it can also be measured in the cost of many millions of dollars for the whole community. In this environment the cost of recruitment of truancy officers or welfare officers dedicated to fighting truancy would be a small cost. However, the Bracks government has announced a mere $132 000 truancy reduction pilot project aimed at a mere 30 western suburbs students at five schools. This compares with the estimate of the expenditure of the Blair government of some £600 million.

There are many things which can be done. At the most severe level there is the prosecution of parents. This has occurred in Queensland and the United Kingdom, and South Australia is moving down this track. This is where we are talking about parents who condone truancy. Some schools in the United Kingdom, for instance, have taken to sending short message service messages to kids who are missing from school each day. In Washington state in the United States of America chronic absences warrant both parents or guardians and students attending attendance accountability classes as a violation sanction for truancy. Students are referred or recommended for counselling and/or mentoring on assessment of truancy with parental consent. Action is required.

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

Small business: late payments

Mr DONNELLAN (Narre Warren North) — I rise to request the Minister for Small Business in the other place to take action to address the issue of late payments of accounts to the small business sector of Victoria. It is a very serious issue for small business operators.

My concern regarding this issue was highlighted by a campaign run by the body repair division of the Victorian Automobile Chamber of Commerce, specifically run by Gerry Raleigh. He and others were experiencing substantial difficulties in collecting moneys from the largest insurance companies in this country — surprise, surprise! Some companies delay payments for 120 days, which is simply disgraceful. When one considers that 70 per cent of their work comes from the largest insurance companies in this state, these actions severely stuff the cash flow of these people. When you throw in the quarterly business activity statement it is simply a recipe for disaster.

Mr Raleigh and others collected 3500 signatures. Some 1000 of those were sent to the federal Minister for Small Business and Tourism, Mr Hockey, but he simply did not get the message. He said that getting bills paid for small business was not a priority. He is a funny man. The Sensis business index released in August showed that cash-flow issues were the no. 1 priority for Australian small business. Who is right? Not Mr Hockey.

In the United Kingdom the government has listened to the concerns of small business and has introduced legislation to address this issue. There is some hope at the federal level for small business, but it is not coming

from the Liberal Party. A private members bill has been introduced specifically to address the issue of late payments. Mr Hockey has simply refused to debate this issue on its merits, but the Senate Economics Committee is holding hearings next week specifically to look at this issue.

Further, our state Minister for Consumer Affairs is currently leading the charge at the state ministerial council by putting forward a code of conduct for the smash repair industry to be taken up at the national level. This will go some way towards addressing the industry's issues. Sadly though, we still require the federal Liberals to listen to the small business constituency. There is limited competition in the supply of spare parts, massive mark-ups on those parts, insurers squeezing repairers and unroadworthy cars being put back on the road by major insurers. The Australian Competition and Consumer Commission (ACCC) needs to review these limited outlets and massive mark-ups in the provision of genuine spare parts.

I also ask the Minister for Small Business to raise these issues in her discussions with other state ministers and the federal minister regarding competition law and the ACCC. I ask the small business minister in Victoria to address, in whichever way possible, the issue of late payments and related cash-flow issues for Victorian small business operators.

Marine parks: diver licences

Mr PLOWMAN (Benambra) — The issue I wish to raise is with the Minister for Environment. On 16 November 2002 the Victorian government created a system of 13 marine national parks and 11 marine sanctuaries. When this occurred there was absolutely no suggestion that there would be any charge applicable to divers who had been diving in these areas and wished to continue to do so. However, this has all changed. I quote from a letter sent to me by Jo Lynch of Skye, which states:

> Recently a $1.10 per diver per day fee has been charged to divers wanting to dive in a marine park using a commercial dive tour operator. This is an unfair hidden tax that divers should not have to pay.
>
> …
>
> A whole $1.10 a day does not sound a lot of money to a state politician; however, who is to say that it will not increase to $5 next year or $10 the next? This is another $1.10 hidden tax that is not properly justified.

The minister, in his response dated 11 September, said:

> These marine national parks and sanctuaries are managed under provisions of the National Parks Act. Under this legislation anyone undertaking a business in a park, either marine or terrestrial, requires a licence.

Certainly a licence, but not necessarily a fee. Jo Lynch responded on 12 September, and I quote from her letter:

> … you said in your letter that communication with marine tour operators has provided an opportunity for them to include the payment of these fees in their tour charges.
>
> All dive tour operators that we have personally contacted have opposed this charge and are unwilling to absorb any additional costs themselves, but will pass the extra cost in administration and the fee itself directly onto the divers.

It continues:

> At the community cabinet you asked me what I want you to do about it, I am asking you to drop this ridiculous and unfair fee and tour operator licence for the dive industry.

I ask the minister to consider this request; clearly it is fair. This tax is a hidden tax that was not in any way discussed when the legislation was introduced. I have discussed it with the member for Sandringham, who raised a petition on this issue which had very many signatures attached to it. I have also discussed it with the member for Nepean. Both members have a close involvement with the marine national park systems in Port Phillip Bay. They both agree with me that this is an unjust and hidden tax and should be abolished. Again I ask the minister to reconsider the fee and to abolish what is an unnecessary tax.

Small business: government assistance

Ms MARSHALL (Forest Hill) — This evening I rise to bring to the attention of the Minister for Small Business in the other place an issue that is of vital importance to the electorate of Forest Hill. The action I seek from the minister is an undertaking to ensure that all small businesses in my electorate are made aware of the services that the government offers to that sector.

Small businesses play an integral role in any community, whilst simultaneously contributing towards social cohesiveness. While small business has continuously grown, we have seen particular growth in the home-based microbusiness sector, providing an important source of employment and business activity within the electorate. These businesses contribute not only to their own economic wellbeing but to the wellbeing of the state of Victoria.

In an ever-increasingly complicated world, small business owners are conveying to me their inability to do it all. They feel they simply cannot meet the pressures and demands that are placed on them. Small

businesses are frequently run by only one or two people, sometimes from within the same family, and the incidence of this occurring increases as the size of the business increases. These one or two people are attempting to cover a myriad of roles. At other times the same jobs are undertaken by whole departments in larger companies.

Due in part to the enormous demand placed on them and their work, it is often difficult to fit in or develop long-term plans, and as the house knows too well, long-term and strategic planning enables business to develop and prosper. Businesses that grow enhance the economic prosperity of all Victorians and Victoria.

I am aware of the Streetlife program that the Whitehorse City Council is successfully running in conjunction with the Box Hill Business Enterprise Centre and the Whitehorse Business Group. This program provides for micro and home-based business training in the areas of development of business foundations, business strategies, growth strategies and business management.

While Streetlife is an excellent initiative and one which I strongly support, I would like the minister to advise of the areas of assistance from the government for small and home-based microbusinesses that are not eligible for this program and whether there are any other programs available to them.

Mr Perton — On a point of order, Acting Speaker, the last time you were in the Chair during the adjournment debate I raised the issue of members using the adjournment debate as if it were question time and I raised for you the rulings of Speakers Plowman, Edmunds and Coghill in relation to the fact that the adjournment debate must be distinguished from question time.

The issue I raise is the matter raised by the member for Bellarine. If I quote her exactly, she said, 'Will the minister tell me …'. Acting Speaker, there is no way that that request for action could be anything other than the equivalent of question time.

Contrast the words of the member for Bellarine, because she used those words twice, with the exact words from the member for Forest Hill, who was better advised by the minister subsequent to her speech in, which she asked the minister to 'advise all businesses' in her electorate. So in her case she sought an action from the minister, whether he does it by pamphlet, letter, radio advertisement or the like, to have him advise all of the businesses in the member for Forest Hill's electorate.

In the case of the member for Bellarine, she asked the minister to tell her. Now, that is obviously something that she ought to have been able to do by way of conversation on the telephone or by personal letter, but it is not an action which the adjournment debate contemplates.

Certainly you, Acting Speaker, considered at great length the rulings that I referred to you on the last occasion, and I believe you ruled very fairly. But the member for Bellarine's request for action is to be contrasted with the requests of the members for Clayton, Burwood and Forest Hill. In each case they asked for the minister to take action in informing local businesses and providing opportunities for local businesses.

Sadly, the member for Bellarine, who is a new member, obviously did not understand the rules, and I ask you to rule her matter out of order.

Mr Holding — On the point of order, Acting Speaker, I like other members, I am sure, listened carefully to the contribution by the member for Bellarine, and while it is the case that the member for Doncaster has accurately quoted one part of her contribution, I think it is clear from having listened to the body of what she said that the action she was seeking from the minister was action in relation to enabling the Ocean Grove community to access the Streetlife program.

That was clear from the body and substance of her contribution. While at different points in a member's contribution they may ask questions or elaborate on the sorts of aspects of the action that they may seek, in fact it was fairly clear that the action being sought from the minister by the member related back to the program that she was specifically interested in. On that basis, it ought to be ruled in order.

Mr Plowman — On the point of order, Acting Speaker, I also listened very intently to the member for Bellarine. Without meaning to, I think she asked for advice to herself rather than for action to occur, and I think that on that basis the intent of the adjournment debate was not carried out by way of asking for action.

At the same time might I add that I thought it was a courtesy that the member for Doncaster waited until the end of the adjournment debate in order to raise that issue so as not to interrupt the member. I was disappointed when the Minister for Manufacturing and Export, against the advice from this side of the table, interrupted the member for Bass, because the member for Bass still had plenty of time to ask for the action that

he sought. I ask you, Acting Speaker, to consider both those issues in your ruling.

The ACTING SPEAKER (Mr Nardella) — Order! The adjournment is a time when honourable members ask for action from ministers. I remind all honourable members that that is a requirement, as has been rightly pointed out by the honourable member for Doncaster. Under advisement I have been reminded that there will be a meeting of temporary chairs on Thursday. At that meeting I will raise this matter with the aim of making sure that the requirements of the adjournment debate are very clear to the temporary chairs and that they are conveyed to the members of all parties.

At this stage I will rule in the adjournment matter raised by the member for Bellarine on the basis that within her contribution she asked for action — not in a direct sense, as the member for Doncaster has referred to twice, but nevertheless within her contribution. However, I remind honourable members that they need to ask for action on the adjournment.

Mr Stensholt — On a point of order, Acting Speaker, I wish to raise the contribution made by the member for Bass. During his contribution the member failed to ask for action. Indeed the time had expired before he was able to ask for any action — so he failed to do it within the time allowed. Therefore I ask that you rule his contribution out of order.

Mr Smith — On the point of order, Acting Speaker, I can hardly resist! I was in a position where I was working my way towards asking the Premier to assist the police in the actions being taken against them by the protesters and to support them in a financial way. I appreciate the member for Burwood giving me the opportunity to put on the record the fact that I was looking for action from the Premier to assist the police in their actions against the protesters.

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

Responses

Mr HOLDING (Minister for Manufacturing and Export) — In relation to the matters raised by the member for Polwarth for the Minister for Workcover, the member for Bellarine for the Minister for Small Business, the member for Benalla for the Minister for Transport, the member for Clayton for the Minister for Small Business, the member for Bass for the Premier, the member for Burwood for the Minister for Small Business, the member for Narre Warren North for the Minister for Small Business — —

Mr Perton — On a point of order, Acting Speaker, in relation to the matter of advisement by the Clerk that there will be a meeting of temporary chairs on Thursday, I ask that you raise this total abuse of the parliamentary process. We have a minister at the table who is not even capable of dealing with the matters that have been raised by various Labor members. This minister is meant to be responsible for business matters, and for him not to be able to deal with any of the matters raised by members is a disgrace. It is an abuse of this Parliament, and it is in contempt of this Parliament.

I would have thought that in the context of an organised pattern of matters raised by Labor members in relation to the Streetlife program at least they would have had the courtesy of having the responsible minister respond to their matters. I ask you, Acting Speaker, to raise this matter at the meeting of temporary chairs. It is evident from the performance of this minister — I have seen him engage in this before — in dealing with his list of members of Parliament who have taken the trouble to come into the house — —

An honourable member interjected.

Mr Perton — I am sorry. The member is — —

The ACTING SPEAKER (Mr Nardella) — Order! The member for Doncaster, on the point of order.

Mr Perton — One of the members who ought to be standing up for the rights of his own backbench is giggling away like a drunk.

Mr Crutchfield — You are just a pregnant seal!

Mr Perton (to Mr Crutchfield) — You are just a violent oaf, and the sooner you are out of here the better!

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member will continue on his point of order or I will cease to hear him.

Mr Perton — Acting Speaker, I ask you to raise that matter, and if the meeting of temporary chairmen is not able to deal with the matter, I ask that the matter be referred to the Standing Orders Committee to be dealt with appropriately, because what this minister is about to do is a disgrace and is a contempt of the Parliament. And by the giggling of the honourable member for

Bellarine, which is his normal standard after the dinner break — —

An honourable member interjected.

Mr Perton — Sorry, the member for South Barwon — immediately after the dinner break. It is a low standard you set in the Parliament.

Mr Maughan — On a point of order, Acting Speaker, I wish to support the honourable member for Doncaster in his comments on the basis that my colleague the honourable member for Benalla forewarned the Minister for Transport. He was expecting the Minister for Transport to come in and to respond to a matter that he legitimately raised on behalf of his constituents. He was expecting a response here tonight.

I think it is appalling that not a single minister has given any of the members on either side of the house the courtesy of coming in and giving them a response. If we are going to continue in this manner, then the adjournment debate is becoming a farce. As I said earlier today, many of the forms of this house are being taken for granted, and tonight is an outstanding example. There is no reason why ministers cannot be here to respond to matters that have been legitimately raised by members on both sides of the house.

I appeal to you to raise this matter at the meeting of temporary chairs. I think the Speaker should be informed of this matter and the government should respond accordingly; otherwise the forms of the house are simply becoming a farce.

The ACTING SPEAKER (Mr Nardella) — Order! I do not uphold the points of order. In essence there are two points of order.

In regard to the point of order raised by the honourable member for Rodney about the Minister for Transport, the Chair cannot direct ministers to be present at the adjournment, other than a minister at the table, even if they have been forewarned. It is not up to the Chair to direct a minister to be in the house.

In regard to the point of order raised by the honourable member for Doncaster, again it has been the custom and practice in this Parliament, the previous Parliament and parliaments before then that it is the responsibility of the minister at the table to refer matters brought to his or her attention to the relevant minister, regardless of whether they are the minister responsible for that legislation within the house. That has been the normal practice for a long time. I therefore rule against the point of order raised by the honourable member for Doncaster.

The minister, to continue.

Mr HOLDING — In relation to the matters raised by the honourable member for Benambra to the Minister for Environment, the honourable member for Doncaster to the Minister for Education and Training, and finally, the honourable member for Forest Hill to the Minister for Small Business, I will direct those matters to the attention of those ministers and they can respond directly to the members.

The ACTING SPEAKER (Mr Nardella) — Order! The house stands adjourned until next day.

House adjourned 10.41 p.m.