PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 4 October 2005

(extract from Book 5)

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, Minister for Major Projects and Minister for WorkCover and the TAC	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	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 the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Community Services and Minister for Children	The Hon. S. M. Garbutt, MP
Minister for Manufacturing and Export, Minister for Financial Services and Minister for Small Business	The Hon. A. Haermeyer, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. T. J. Holding, MP
Attorney-General, Minister for Industrial Relations and Minister for Planning	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 Consumer Affairs and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Cabinet Secretary	Mr R. W. Wynne, MP

Legislative Assembly committees

Privileges Committee — Mr Cooper, Mr Herbert, Mr Honeywood, Ms Lindell, Mr Lupton, Mr Maughan, Mr Nardella, Mr Perton and Mr Stensholt.

Standing Orders Committee — The Speaker, Ms Campbell, Mr Dixon, Mr Helper, Mr Loney, Mr Plowman and Mrs Powell.

Joint committees

Drugs and Crime Prevention Committee — (*Assembly)*: Mr Cooper, Ms Marshall, Mr Maxfield, Dr Sykes and Mr Wells. (*Council*): The Honourable S. M. Nguyen and Mr Scheffer.

Economic Development Committee — (*Assembly*): Mr Delahunty, Mr Jenkins, Ms Morand and Mr Robinson. (*Council*): The Honourables B. N. Atkinson and R. H. Bowden, and Mr Pullen.

Education and Training Committee — (*Assembly*): Ms Eckstein, Mr Herbert, Mr Kotsiras, Ms Munt and Mr Perton. (*Council*): The Honourables H. E. Buckingham and P. R. Hall.

Environment and Natural Resources Committee — (*Assembly*): Ms Duncan, Ms Lindell and Mr Seitz. (*Council*): The Honourables Andrea Coote, D. K. Drum, J. G. Hilton and W. A. Lovell.

Family and Community Development Committee — (*Assembly*): Ms McTaggart, Ms Neville, Mrs Powell Mrs Shardey and Mr Wilson. (*Council*): The Honourable D. McL. Davis and Mr Smith.

House Committee — (*Assembly*): The Speaker (*ex officio*), Mr Cooper, Mr Leighton, Mr Lockwood, Mr Maughan, Mr Savage and Mr Smith. (*Council*): The President (*ex officio*), the Honourables B. N. Atkinson and Andrew Brideson, Ms Hadden and the Honourables J. M. McQuilten and S. M. Nguyen.

Law Reform Committee — (*Assembly*): Ms Beard, Ms Beattie, Mr Hudson, Mr Lupton and Mr Maughan. (*Council*): The Honourable Richard Dalla-Riva, Ms Hadden and the Honourables J. G. Hilton and David Koch.

Library Committee — (*Assembly*): The Speaker, Mr Carli, Mrs Powell, Mr Seitz and Mr Thompson. (*Council*): The President, Ms Argondizzo and the Honourables Richard Dalla-Riva, Kaye Darveniza and C. A. Strong.

Outer Suburban/Interface Services and Development Committee — (*Assembly*): Mr Baillieu, Ms Buchanan, Mr Dixon, Mr Nardella and Mr Smith. (*Council*): Ms Argondizzo and Mr Somyurek.

Public Accounts and Estimates Committee — (*Assembly*): Ms Campbell, Mr Clark, Ms Green and Mr Merlino. (*Council*): The Honourables W. R. Baxter, Bill Forwood and G. K. Rich-Phillips, Ms Romanes and Mr Somyurek.

Road Safety Committee — (*Assembly*): Dr Harkness, Mr Langdon, Mr Mulder and Mr Trezise. (*Council*): The Honourables B. W. Bishop, J. H. Eren and E. G. Stoney.

Rural and Regional Services and Development Committee — (*Assembly*): Mr Crutchfield, Mr Hardman, Mr Ingram, Dr Napthine and Mr Walsh. (*Council*): The Honourables J. M. McQuilten and R. G. Mitchell.

Scrutiny of Acts and Regulations Committee — (*Assembly*): Ms D'Ambrosio, Mr Jasper, Mr Leighton, Mr Lockwood, Mr McIntosh, Mr Perera and Mr Thompson. (*Council*): Ms Argondizzo and the Honourable Andrew Brideson.

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

Parliamentary Services — Secretary: Dr S. O'Kane

MEMBERS OF THE LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT — FIRST SESSION

Speaker: The Hon. JUDY MADDIGAN

Deputy Speaker: Mr P. J. LONEY

Acting Speakers: Ms Barker, Ms Campbell, Mr Cooper, Mr Delahunty, Mr Ingram, Mr Jasper, Mr Kotsiras, Mr Languiller, 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 Nationals:
Mr P. J. RYAN

Deputy Leader of The Nationals:
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	Nats
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	Nats	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, Mr 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	Nats
Hardman, Mr Benedict Paul	Seymour	ALP	Robinson, Mr Anthony Gerard	Mitcham	ALP
Harkness, Dr Alistair Ross	Frankston	ALP	Ryan, Mr Peter Julian	Gippsland South	Nats
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	Nats
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	Nats	Trezise, Mr Ian Douglas	Geelong	ALP
Jenkins, Mr Brendan James	Morwell	ALP	Walsh, Mr Peter Lindsay	Swan Hill	Nats
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, 4 OCTOBER 2005

CONTENTS

Tuesday, 4 October 2005

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.02 p.m. and read the prayer.

CONDOLENCES

Terrorism: Bali bombings

The SPEAKER — Order! I ask honourable members to stand in their places to express sincere condolences to the families of the victims and survivors of the bombings in Bali on 1 October 2005.

Honourable members stood in their places.

ABSENCE OF MINISTER

The SPEAKER — Order! Before calling questions without notice I advise the house that the Minister for Small Business is absent today. Questions for his portfolios of financial services and manufacturing and export will be taken by the Treasurer, and those relating to small business will be handled by the Minister for Gaming.

QUESTIONS WITHOUT NOTICE

Emergency services: superannuation

Mr CLARK (Box Hill) — My question without notice is to the Premier. I refer to the unprecedented industrial action by police, firefighters and ambulance officers announced today as a result of the government's ill-considered decision to merge the Emergency Services Superannuation Scheme and the Government Superannuation Office, and I ask: is the government willing to consider deferring the merger of these schemes until the concerns of affected emergency services and other personnel about their future superannuation entitlements and other aspects of the proposal have been properly considered and resolved?

Honourable members interjecting.

The SPEAKER — Order! I remind members that they should hear questions in silence.

Mr BRACKS (Premier) — I thank the member for Box Hill for his question. If the member for Box Hill was better informed, he would realise that the discussion about this matter has been going on not only with the peak union bodies involved but also with their members for some time now — for many months. Not only has that negotiation been going on, but the minister involved, the Minister for Finance, has also indicated in a letter to all members of these schemes — to every member of the ambulance workers, police officers and firefighters schemes — that benefits would be maintained and preserved in their current arrangements in the future.

This matter, in which the administration of the two schemes is proposed to be merged, is one which will come before this house for consideration. We have also indicated we will put into legislation the protection of the Emergency Services Superannuation Scheme. As the member probably knows, this is one of the most generous schemes in the country — as it should be. In fact, on average, members of the scheme get something like eight times their finishing salary as a superannuation benefit. That is as it should be. Not only are we preserving that in legislation and guaranteeing that that will be kept, but we are also saying that for the first time ever new members coming in will also get the same benefits. That is not provided for under current legislation.

I say to the member for Box Hill that the proposed industrial action is not justified. It is outside the provisions of the Workplace Relations Act. The guarantees not only have been given but will be put in legislation to come before this house and that legislation can also lie over for examination between here and the Legislative Council. That is as it should be. This is a matter which every other state has effected. This will effectively mean a saving of some $6 million which can go back into more police, more education and more services in the future. That is a sensible way of operating. Not only have the guarantees been given, but legislation will be enacted. I am very surprised that the member for Box Hill has been so ill informed.

Terrorism: Bali bombings

Mr HUDSON (Bentleigh) — My question is to the Premier, and I ask: can the Premier advise the house of the latest information about the recent terrorist attacks in Bali?

Mr BRACKS (Premier) — I thank the member for Bentleigh for his question. Obviously this house has offered its condolences to the victims and the families and friends of those people affected by the recent unwarranted terrorist attack on the people of Bali and also on the foreigners who were present.

On Saturday, 1 October, at approximately 7.40 p.m. local time, three bombs were exploded simultaneously in two cafes in Bali. At least 22 people were killed,

regrettably including at least two Australians and possibly up to four. More than 120 people were injured. All seriously injured Australians have now been evacuated from Bali through the use of Royal Australian Air Force aircraft and also through some specially commissioned charter flights. Several hundred people have returned to Victoria on Qantas flights provided after the bombings, and Department of Human Services officers were on hand to meet those Victorians as they returned from Bali to offer assistance and support — both in counselling and other services which could be provided. These services have included the establishment of a hotline number to assist and support their families and their friends as well.

Victoria has also offered assistance to the nationally coordinated response, and we have provided a Victoria Police officer initially to participate in the joint Australian Federal Police task force. Victoria will, of course, provide other assistance if required and needed, and particularly if that advice is received from the nationally coordinated task force.

All Australians have obviously been shocked and saddened at this second terrorist attack in Bali, which comes so close to the third anniversary of the 12 October 2002 bombings. I should also note that next week I will be dedicating a memorial to the Victorian and other Australian victims of the 2002 bombings, accompanied by the families of victims and survivors of the attack. On behalf of the Victorian government I would like to convey my condolences to the families and friends of the victims of the latest attack. Our sympathy also goes to the Balinese and Indonesian communities, who will bear the greatest impact of this attack on their people and their nation.

The Department of Foreign Affairs and Trade travel advisory for Bali has been reissued, with the federal government indicating that non-essential travel should be deferred. However, acts such as these only serve to strengthen our resolve to prevent any terrorist attacks in Australia and to deal effectively with those who plan and prepare to undertake such events.

The government will be seeking to implement the new counter-terrorism measures that I announced on 21 September and those which were agreed to by the Council of Australian Governments on 27 September as soon as practicable. We will also continue to work in partnership with multi-faith communities to help them address radical elements within their own communities and to take responsibility also for those elements in our society.

Of course our thoughts and condolences go out to the families and friends of those people who are affected by this dreadful act of terrorism. We unreservedly condemn this cowardly attack on innocent people going about their lives in Bali as recently as last week.

Fuel: prices

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer the Premier to his comments in answer to my recent question about the government's refusal to rebate any of its GST income from spiralling petrol prices, when he used the excuse that 'if people are spending more in one area, they are spending less in another'. I also refer to the Premier's comments on radio this morning, when he used a different excuse — namely, that there will be a $30 million shortfall in GST as a result of higher petrol prices. When will the Premier stop making excuses and actually do something to relieve the pressure of spiralling petrol prices on Victorian families and small businesses?

Mr BRACKS (Premier) — I thank the Leader of The Nationals for his question. The Nationals leader referred to the fact that under the revised estimates in May of the collection of the goods and services tax, Victoria would get $30 million less than would be the case. That is the expectation: on the total GST take for Victoria, we will in fact get, based on the May figures which are provided by the federal Treasurer, $30 million less. Why will we get less? Because the GST is on overall consumption in the Victorian economy.

The real issue here, though — the real issue that the Leader of The Nationals in this state Parliament will not take up — is effectively why the GST paid here by Victorians is $9.4 billion — that is what is paid by Victorians — but what we get back is $7.8 billion. What the Leader of The Nationals should raise is why $1.6 billion is going to other states. That is the key issue.

Honourable members interjecting.

Mr BRACKS — That is $1.6 billion with which we are subsidising other states, including Queensland and Western Australia. Of course the Leader of The Nationals here is silent on that matter, as are his own party colleagues in Canberra. It is hypocrisy of the first order for the Leader of The Nationals in this state to have some sort of courage, yet nationally their courage seems to have left them. He should speak to his own colleagues!

Mr Smith interjected.

The SPEAKER — Order! The member for Bass!

Terrorism: national summit

Mr LANGUILLER (Derrimut) — My question is to the Premier. Could the Premier detail to the house the outcomes of the recent Council of Australian Governments (COAG) meeting and what measures were agreed to by the states, territories and the — —

Mr Perton interjected.

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

Mr Perton interjected.

The SPEAKER — Order! The member for Doncaster will not yell out while the Speaker is on her feet. If he does it again, I will remove him from the chamber. The member for Derrimut, without interruption by the member for Doncaster.

Mr LANGUILLER — I will start again. I ask the Premier to detail to the house the outcomes of the recent COAG meeting and what measures were agreed to by the states, territories and the federal government that seek to protect Australians from the threat of terrorism.

Mr BRACKS (Premier) — I thank the member for Derrimut for his question. This was the second occasion on which state and territory leaders have met with the commonwealth government to examine counter-terrorism laws in this country. On the first occasion we successfully agreed on a set of laws and reforms and changes which included ceding powers from this jurisdiction to the commonwealth government to allow it to bring in counter-terrorism measures, which have been brought in successfully. On the second occasion recently, as the member said, we were again able to work together as jurisdictions and governments — federal, state and territory governments — and no matter what our political persuasion to deal with the threat of terrorism to Australia and to do so effectively with new laws to be debated and passed in this house and in every other Parliament in the country in future.

These new laws go to two major measures. The first concerns the extension of preventative detention to a 14-day period. The second is control orders which can assist in the monitoring of those people suspected of and likely to cause a terrorism incident in Australia. Importantly, the Council of Australian Governments (COAG) adopted a series of recommendations which will put some safeguards around that legislation. I am pleased to say that those safeguards embody the principles Victoria put to the other states and territories and the commonwealth. Those safeguards are in three parts. The first is to ensure legal representation for those people accused under the new laws which have been framed and that they are able to seek that legal representation. The safeguards allow a person's employer and family to be informed, and provide an appeal mechanism whereby a person can appeal against an order which has been issued.

The safeguards also provide for judicial oversight. A court order will be required in each case — that is, a judge will need to decide whether the recommendation of the Australian Federal Police or a similar agency should be upheld in relation to control orders and preventative detention. Two other safeguards will be put in place. One is a mechanism for a review to be carried out by COAG and all territory and state governments together with the commonwealth government after five years. The second is a sunset arrangement after 10 years which will require compulsory re-examination of these laws. In addition, the federal Attorney-General will report to Parliament annually on the use of these new laws.

In summary, these laws were only undertaken because they have to be undertaken. They are not a matter which any jurisdiction has pleasure in enacting. This was required and necessary. It is the advice of authorities at the federal and state levels that they need this capacity in order to detect and prevent terrorism in Australia and ensure that we are better protected from acts of terrorism in the future. There are protections in place. I am very pleased that they were forged as part of the COAG agenda. I can indicate to the house that it is expected that the commonwealth will have draft legislation available in the middle of this month for examination by each state and territory jurisdiction. Once it has been examined by the cabinet in Victoria we will present it to the house for all to consider.

I reiterate that it was an historic occasion when the federal and state governments were able to work together in the interests of national security. It is the second occasion on which this has happened. I think the goodwill shown sends a strong message to the Australian community that terrorism will not be tolerated and we will do everything we can to prevent terrorism from occurring here in Australia.

Land tax: trusts

Mr CLARK (Box Hill) — My question without notice is to the Treasurer. I refer the Treasurer to the fact that the government has still not announced the details of the proposed new land tax on trusts foreshadowed in the May budget, even though it is due to come into operation from 1 January next year. I ask: does the government still intend to introduce new land tax rules for trusts to apply from 1 January 2006? If so, when will the government announce details of the proposed changes?

Mr BRUMBY (Treasurer) — I am more interested in the badge that the member for Box Hill has on. I have not seen one of them for a while. It is a collector's item! The government has said that legislation would be introduced this session, and legislation will be introduced this session.

Terrorism: emergency services

Mr LEIGHTON (Preston) — My question without notice is to the Minister for Police and Emergency Services. I ask the minister to advise the house what steps have been taken by the government to provide Victoria's emergency services with the resources needed to deal with the threat of terrorism.

Mr HOLDING (Minister for Police and Emergency Services) — I thank the member for Preston for his question. I would like to add my thoughts to those of other members regarding the victims of the recent events in Bali.

Since coming to office this government has committed over $150 million in resources to make sure that the Victorian agencies are better placed to respond to the threat of terrorism, which is now a very real issue not only for Australians but for people in countries throughout the region and, indeed, throughout the world. From a Victoria Police perspective the government has increased resources through the establishment of the counter-terrorism coordination unit and also the security intelligence group.

We have enhanced resources and training to the special operations group, which includes the provision of additional capabilities in terms of responding to bomb threats and responding to potential hostage situations. We have enhanced security at our maritime assets through the provision in the last budget of an additional $16 million to enhance security at our five principal ports. This includes not only the provision of additional police and maritime vessels themselves but also sonar equipment, night vision equipment and additional bomb detection capabilities.

We have also put in place additional powers to make sure that Victoria Police has the capability to detect and prevent incidents from occurring in the first place, and obviously to monitor persons of interest. We have done that through, amongst other things, the Terrorism (Community Protection) Act which passed through this Parliament a couple of years ago with the support of all members, and which enhances Victoria Police's ability to conduct appropriate surveillance operations. We have increased the resources for Victoria Police to acquire the necessary surveillance equipment to undertake the necessary investigations.

For other emergency service agencies the government has also put in place additional resources. We have provided resources to both the Metropolitan Fire Brigade (MFB) and the Country Fire Authority to respond to chemical, biological and radiological incidents, as well as to respond to hazardous material incidents more generally. We have enhanced both equipment and training for those agencies. We have also put in place measures for both the State Emergency Service and the MFB to conduct urban search and rescues. Obviously, in the event of a catastrophic event occurring in an urban environment we need to ensure that our emergency service organisations have the resources and the capabilities to respond to those incidents.

Through the Department of Human Services we have put in place additional resources for the Metropolitan Ambulance Service to respond to catastrophic events, in terms of both triage facilities to cope with up to 400 patients at a potential incident site and the provision of a satellite-linked command vehicle to support MAS's activities. We have provided additional intensive care beds, stockpiled appropriate pharmaceutical products and also put in place a broad suite of emergency management plans for all our emergency service organisations.

We have also provided additional communications equipment. Obviously communications equipment is critically important for all our emergency service organisations. We have provided over $600 million not only for the mobile data network but also for the metropolitan mobile radio system and the emergency altering system, which makes sure that our emergency service organisations have modern communications capabilities so that they can respond to any incident. More generally we have provided additional resources to the coroner's office and more forensic capabilities to

make sure we can detect, respond and collect the necessary evidence should a catastrophic event occur.

Of course from a state government perspective, indeed a community perspective, there are many other things we would have preferred to expend these resources on. Nevertheless we recognise the fact that we live in a changed environment. We need to make sure the Victorian community is ready for any event should it occur. We need to have in place rigorous processes to make sure we can detect incidents and that the Victorian community is protected. We also need to make sure we have appropriate response and recovery arrangements in place. The simple message from this government to all the Victorian people is we have given a lot of thought to these issues, put a lot of resources in place and done everything possible to make sure agencies are well placed to respond to any incident should it occur.

Honourable members interjecting.

The SPEAKER — Order! The member for Monbulk! The member for Narracan will be quiet while the questions are asked.

Rural and regional Victoria: car park levy

Mr CLARK (Box Hill) — My question without notice is to the Treasurer. I refer the Treasurer to his recent announcement that he has instructed the Victorian Competition and Efficiency Commission to inquire into traffic congestion not only in Melbourne but also in Victoria's provincial cities. I ask: will the Treasurer guarantee that the government will not extend its parking tax to Geelong, Ballarat and Bendigo following the report of this inquiry?

Mr BRUMBY (Treasurer) — It is a good question. The answer is yes.

EastLink: economic benefits

Mr LOCKWOOD (Bayswater) — My question is to the Minister for Planning. I ask the minister to detail to the house the benefits of the EastLink project to planning and the regeneration of business activity and appropriate residential development in and around the eastern and south-eastern suburbs.

Mr HULLS (Minister for Planning) — I thank the honourable member for Bayswater for his question and his interest in this very important project. As he and all members of this house would know, the EastLink project is about much more than linking up roads. It is indeed about unlocking the social and economic potential of Melbourne's south-east and eastern suburbs.

The project is the planning catalyst for the creation of employment. In addition to the 6500 jobs created through construction, another 12 000 jobs will be created in downstream industries. The design benefits for our city of the EastLink project will lead to lasting job creation. Traffic studies estimate that through increased accessibility over 70 000 additional jobs will be created in the period to 2031 as a result of the EastLink project. In addition to being a key driver of employment growth, EastLink will add to the livability and investment value of the region. The project will cut drive times between the city, the ports and some of Victoria's most important industrial areas creating time savings estimated at 44 000 hours per week for vehicle users.

A number of local newspaper headlines actually tell the story — 'Tollway brings boom', 'Suburbs on the outer now in vogue'. The *Dandenong Independent* of 11 July makes it quite clear that industrial property values in Dandenong have doubled since the announcement of the EastLink project. A Macquarie Bank study says that:

> … the value of Dandenong industrial properties rose from $70 per square metre in September 2002 to $140 in March 2005.

The study goes on to say:

> … the positive impact on industrial values was likely to have a flow-on effect on Dandenong's residential market —

all as a result of the EastLink project. Anyone who has any interest at all in planning would be out there espousing how good the EastLink project is. We are still waiting for the shadow Minister for Planning, who has been very silent on the planning benefits of EastLink, because he is clearly embarrassed by the policy of the Leader of the Opposition — that is, his half-baked half-tolls policy.

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

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

Mr HULLS — From a planning perspective it is true that EastLink will be a boon for Melbourne's livability.

Mr Mulder interjected.

The SPEAKER — Order! The member for Polwarth!

Mr HULLS — This livability resulting from EastLink will receive a further boost as a result of the government's announcement last week of a $92.8 million infrastructure funding package to kick-start the urban renewal of Dandenong. This is one of the many things that could not be achieved if we were to adopt a half-baked half-tolls policy. In conclusion, that is quite clearly why the shadow Minister for Planning has gone into hiding and is not prepared to support his leader's half-baked policy.

Commonwealth Games: public transport

Mr RYAN (Leader of The Nationals) — My question is to the Premier. I refer to the government's decision to discriminate against country people who purchase Commonwealth Games tickets by excluding them from the offer of free public transport to attend events, and I ask: given the spiralling cost of fuel in Victoria, will the Premier now reconsider this mean-spirited decision and provide free transport for games-related travel on all V/Line services to help ensure all Victorians — —

Honourable members interjecting.

The SPEAKER — Order! I ask government members to be quiet and allow the Leader of The Nationals to ask his question.

Mr RYAN — My question is to the Premier. I refer to the government's decision to discriminate against country people who purchase Commonwealth Games tickets by excluding them from the offer of free public transport to attend games events, and I ask: given the spiralling cost of fuel in Victoria, will the Premier now reconsider this mean-spirited decision and provide free transport for games-related travel on all V/Line services to help ensure that all Victorians have access to the games, which they are all helping to pay for?

Mr BRACKS (Premier) — I thank the Leader of The Nationals for his question. This is a question which the Leader of The Nationals should refer to the people who are currently using the Ararat line and the Bairnsdale line. Do you know why it should be referred to them? Because they are two rail lines that you closed! That is why.

The SPEAKER — Order! The Premier, through the Chair.

Mr BRACKS — They are two lines which The Nationals participated in and voted on closing. That is the biggest discrimination we have seen in this house. The Nationals, who are supposed to stand up for country people, sold them out and sold out those rail lines.

Mr Ryan — On a point of order, Speaker, the Premier is debating the question. The issue is whether the people on those lines will have free transport to games events.

The SPEAKER — Order! The Premier, to answer the question.

Mr BRACKS — People on the Ararat and Bairnsdale lines will be able to use their rail lines, which have been reintroduced by our government after being closed by the previous government. They will be able to use them to get into the city; and as is the case with all games, whether they are Olympic or Commonwealth Games, when you are moving between venues there is a free public transport system, and that is exactly what we will have when you are moving between venues as part of the Commonwealth Games.

Mr Smith interjected.

The SPEAKER — Order! The member for Bass!

EastLink: opposition policy

Mr HARDMAN (Seymour) — My question is to the Minister for State and Regional Development. Can the minister outline to the house the effect on country Victorians of a cut to the budget of Regional Development Victoria and other government departments?

Mr BRUMBY (Minister for State and Regional Development) — I want to thank the member — —

Dr Napthine — On a point of order, Speaker, this is a hypothetical question. Questions are supposed to relate to government business, and unless the Minister for State and Regional Development is about to announce that the government is intending to provide a cut to the budget for Regional Development Victoria, then this is hypothetical. I put it to you that the question as asked is wanting an answer to a hypothetical situation.

The SPEAKER — Order! In relation to the point of order raised by the member for South-West Coast, in responding to questions the government may canvass options in relation to Victorian government business. While the Minister for State and Regional Development is tailoring his answer to this matter, he can continue — or can start.

Mr BRUMBY — I thank the honourable member for Seymour for his question. Obviously the government has a great story to tell about its programs in regional Victoria. If you look at facilitated investment in provincial Victoria since the election of the Bracks government, you see that there has been something like $4.8 billion of new facilitated investment well beyond the targets set every year by the department — new investments which have generated in excess of 10 000 new jobs across provincial Victoria. If you look at programs like our Regional Infrastructure Development Fund, you see that there is now more than $271 million approved for projects — 103 projects across the state with the total value of these projects being more than $750 000. I have been reminded by the Deputy Premier that this magnificent initiative was opposed by the opposition when we legislated for it in our first term.

There is also the Small Towns Development Fund — which we announced during the 2002 election campaign as a new fund of $5 million over four years devoted wholly to small towns in Victoria. I am pleased to advise the house that we have funded 170 projects worth something like $25 million across the state. One of those was in Kergunya, where I was on Friday with the member for Benambra opening the new community centre. That is one of the centres that we funded from the Small Towns Development Fund at a cost of $150 000. This fund is one of the great Bracks government programs which would be at risk if there were budget cuts put in place by an alternative government. It would be put at risk.

Last year I was in Koroit with the member for South-West Coast opening the new Blackwood House community centre, which again has been funded from the Department of Industry, Innovation and Regional Development — —

Mr Plowman — On a point of order, Speaker, I believe the Minister for State and Regional Development is now straying from your ruling in which you said that if he stayed within the guidelines of government business, you would accept the answer. The minister clearly said that if a reduction was made by the opposition should it come to government, this would occur. I believe you have to bring him back to the answer to the question put to him.

The SPEAKER — Order! In relation to the point of order, the Minister for State and Regional Development referred to an alternative government, but he is required to relate his answers to Victorian government business.

Mr BRUMBY — I am aware of alternative proposals, as I was asked by the member for Seymour, about budget cuts to this department, and I am particularly aware of a proposal to require a 1 per cent per annum efficiency saving in government spending on supplies and services. I had a good look at this policy today — —

Mr Doyle — I think you had a look at it before today.

Mr BRUMBY — No, I had a good look today, and it will cover all services. It will cover all services including petrol and motor vehicles. Petrol! Here we have the opposition standing up today about petrol prices. Its policy is to cut the government budget for petrol purchasing. You can imagine — —

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

Mr BRUMBY — I just want to make the obvious point that if you cut the police petrol budget by 1 per cent, they are not going to be able to go as far, are they? If you cut ambulances by 1 per cent, cut the fire brigade by 1 per cent and cut district nursing by 1 per cent — —

Mr Doyle interjected.

Mr BRUMBY — Your policy is half baked. It does not add up, and it will not work.

The SPEAKER — Order! The Leader of the Opposition! I ask members to be quiet to allow the minister to answer his question. I ask the minister to address his comments through the Chair.

Mr BRUMBY — As I said, we have a great story to tell in provincial Victoria. We have great programs out there which are generating record jobs and record building approvals.

Mr Doyle interjected.

The SPEAKER — Order! The Leader of the Opposition!

Mr BRUMBY — The opposition has a half-baked, half-thought-through plan which would put all that at risk and slash the budgets of government departments delivering services in provincial Victoria. I would have thought with petrol prices at the moment around $1.30 a litre any proposal to cut the budgets of government departments for their petrol purchases was absolutely inane.

DEPUTY ELECTORAL COMMISSIONER

The SPEAKER — Order! I wish to advise that, on 20 September 2005, I administered to Elizabeth Williams, the deputy electoral commissioner, the oath required by section 16(4) of the Electoral Act 2002.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that, under standing order 144, notices of motion 206 to 211 inclusive and 352 to 367 inclusive will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing by 6.00 p.m. today.

RAIL SAFETY BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

> That I have leave to bring in a bill to provide for safe rail operations in Victoria, to amend the Transport Act 1983, the Public Transport Competition Act 1995, the Rail Corporations Act 1996, the Electricity Industry Act 2000, the Gas Industry Act 2001, the Magistrates' Court Act 1989, the Road Management Act 2004, the Water Act 1989, the Water Industry Act 1994 and for other purposes.

Mr MULDER (Polwarth) — Could I have a brief description of the bill from the minister?

Mr BATCHELOR (Minister for Transport) — He is speaking very softly these days. He does not want to speak up at all.

Honourable members interjecting.

The SPEAKER — Order! The Minister for Transport can either give a brief explanation or sit down.

Mr BATCHELOR — The bill is here to improve the safety of rail operations, both trains and trams, in Victoria and in particular to reduce the risks of a major rail incident. It will do this by improving public transport safety and administration at an affordable cost by introducing contemporary safety regulation and governance for all rail transport in Victoria.

Motion agreed to.

Read first time.

TRANSPORT LEGISLATION (SAFETY INVESTIGATIONS) BILL

Introduction and first reading

Mr BATCHELOR (Minister for Transport) — I move:

> That I have leave to bring in a bill to amend the Transport Act 1983 to provide for the independent investigation of matters relating to public transport and marine safety matters and for other purposes.

Mr MULDER (Polwarth) — May I have a brief description of the bill from the minister?

Mr BATCHELOR (Minister for Transport) — This is a bill to give Victoria the capacity for the independent, impartial and unbiased safety investigation of public transport and marine accidents within Victoria.

Motion agreed to.

Read first time.

VETERANS BILL

Introduction and first reading

Mr BRACKS (Premier) introduced a bill to establish the Victorian Veterans Council and the Victorian Veterans Fund, to re-enact with amendments the law relating to patriotic funds, to repeal the Patriotic Funds Act 1958, the Defence Reserves Re-Employment Act 1995 and the Discharged Servicemen's Preference Act 1943 and to amend certain acts and for other purposes.

Read first time.

PRISONERS (INTERSTATE TRANSFER) (AMENDMENT) BILL

Introduction and first reading

Mr HOLDING (Minister for Corrections) introduced a bill to amend the Prisoners (Interstate Transfer) Act 1983 and the Corrections Act 1986 and for other purposes.

Read first time.

FIREARMS (FURTHER AMENDMENT) BILL

Introduction and first reading

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

> That I have leave to bring in a bill to amend the Firearms Act 1996 to make further provision in relation to firearms collectors, handguns, paintball gaming and other matters, and to amend the Control of Weapons Act 1990 and the Magistrates' Court Act 1989 and for other purposes.

Mr WELLS (Scoresby) — Could the minister give a brief outline of the bill?

Mr HOLDING (Minister for Police and Emergency Services) — The legislation will address, firstly, a range of issues that have arisen since the passage of the national handgun control agreement in 2003. It will also address some technical issues that are unrelated to that agreement. Also it will address issues relating to the regulation of paintball gaming and will implement a recent national agreement on measures to impose greater restrictions on the availability and use of rifles designed to function with high-capacity detachable magazines.

Motion agreed to.

Read first time.

CONGESTION LEVY BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to impose a levy on long stay parking spaces in the central business district and inner Melbourne to reduce traffic congestion, to amend the Taxation Administration Act 1997 and for other purposes.

Read first time.

MOTOR CAR TRADERS AND FAIR TRADING ACTS (AMENDMENT) BILL

Introduction and first reading

Mr HULLS (Attorney-General) — I move:

> That I have leave to bring in a bill to amend the Motor Car Traders Act 1986 and the Fair Trading Act 1999 and for other purposes.

Mr McINTOSH (Kew) — I seek a brief explanation from the Attorney-General.

Mr HULLS (Attorney-General) — This bill will make it a lot easier for motor car traders to comply with their record-keeping requirements under the licensing scheme. It will also amend the Fair Trading Act to clarify the orders available to a court where a breach of the Fair Trading Act has been established, and a whole lot of other things as well.

Motion agreed to.

Read first time.

MINERAL RESOURCES DEVELOPMENT (BROWN COAL ROYALTIES) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) introduced a bill to amend the Mineral Resources Development Act 1990 to make provision with respect to royalties for lignite and for other purposes.

Read first time.

MINES (ALUMINIUM AGREEMENT) (BROWN COAL ROYALTIES) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) — I move:

> That I have leave to bring in a bill to amend the Mines (Aluminium Agreement) Act 1961 to make provision with respect to royalties for lignite and for other purposes.

Mr RYAN (Leader of The Nationals) — Could we have a brief explanation from the minister as to the nature of that legislation?

Mr CAMERON (Minister for Agriculture) — This legislation complements the earlier legislation that I have just introduced, the principal difference being that this relates to Alcoa and there is a legislated agreement with Alcoa. The intention is that this does not come into existence without the consent of Alcoa.

Motion agreed to.

Read first time.

RETAIL LEASES (AMENDMENT) BILL

Introduction and first reading

Mr PANDAZOPOULOS (Minister for Gaming) — On behalf of the Minister for Small Business, I move:

That I have leave to bring in a bill to amend the Retail Leases Act 2003, the Retail Tenancies Reform Act 1998, the Retail Tenancies Act 1986 and the Property Law Act 1958 and to repeal the Small Business Victoria (Repeal) Act 1996 and for other purposes.

Mr RYAN (Leader of The Nationals) — Could we trouble the acting minister for a brief explanation in relation to this legislation, please?

Mr PANDAZOPOULOS (Minister for Gaming) — The bill amends the Retail Leases Act 2003 following a short review of its implementation over the last couple of years. It is about streamlining and improving its practical operation for retail landlords and tenants and clarifying the application of the act.

Motion agreed to.

Read first time.

MAJOR EVENTS (CROWD MANAGEMENT) AND COMMONWEALTH GAMES ARRANGEMENTS ACTS (CROWD SAFETY AMENDMENT) BILL

Introduction and first reading

Mr PANDAZOPOULOS (Minister for Gaming) introduced a bill to amend the Major Events (Crowd Management) Act 2003 to provide for increased powers for authorised officers, police and venue managers in relation to crowd safety and crowd behaviour, to broaden the application of the act to other venues and events and to provide for additional enforcement powers, to amend the powers relating to bag searches in the Commonwealth Games Arrangements Act 2001 and for other purposes.

Read first time.

PETITIONS

Following petitions presented to house:

Schools: religious instruction

To the Legislative Assembly of Victoria:

The petition of citizens of Victoria concerned to ensure the continuation of religious instruction in Victorian government schools draws out to the house that under the Bracks Labor government review of education and training legislation the future of religious instruction in Victorian schools is in question and risks becoming subject to the discretion of local school councils.

The petitioners therefore request that the Legislative Assembly of Victoria take steps to ensure that there is no change to legislation and the Victorian government schools reference guide that would diminish the status of religious instruction in Victorian government schools and, in addition, urge the government to provide additional funding for chaplaincy services in Victorian government schools.

The petition of citizens of Victoria [is] concerned to ensure the continuation of religious instruction in Victorian government schools, and to provide additional funding for school chaplains.

By Mr LOCKWOOD (Bayswater) (48 signatures)
Mr CAMERON (Bendigo West) (21 signatures)
Ms LOBATO (Gembrook) (229 signatures)
Mr RYAN (Gippsland South) (37 signatures)
Ms DUNCAN (Macedon) (420 signatures)
Mr WALSH (Swan Hill) (18 signatures)

Taxis: rural and regional

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Victoria draws to the attention of the house the crisis with country taxis and the need for recognition that country taxis are a proxy form of public transport and provide an essential service in country communities.

The petitioners therefore request that the Legislative Assembly of Victoria immediately implement commonsense changes to reduce country taxi operator costs — e.g., allow flexible hours of service — and make available to country taxi operators the same subsidies as Melbourne taxis and public transport — e.g., subsidies for the provision of wheelchair-friendly taxi services.

By Mr RYAN (Gippsland South) (82 signatures)

Loddon River: environmental flows

To the Legislative Assembly of Victoria:

The petition of Kerang citizens of the state of Victoria draws to the attention of the house that the Loddon River at Kerang township is now a virtual swamp.

Prayer

The petitioners therefore request that the Legislative Assembly of Victoria urges the government to implement the recommendations of the Loddon River environmental flows scientific panel forthwith.

By Mr WALSH (Swan Hill) (395 signatures)

Tabled.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

**Alert Digest* No. 11

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 11 of 2005 on:

Crimes (Contamination of Goods Offences) Bill
Groundwater (Border Agreement) (Amendment) Bill
Local Government (Further Amendment) Bill
Magistrates' Court (Judicial Registrars and Court Rules) Bill
Melbourne Lands (Yarra River North Bank) (Amendment) Bill
Pipelines Bill
Radiation Bill
Royal Victorian Institute for the Blind and other Agencies (Merger) Bill
Sentencing and Mental Health Acts (Amendment) Bill
Sports Anti-doping Bill
Sustainability Victoria Bill

together with appendices.

Tabled.

Ordered to be printed.

[*Alert Digest *subsequently re-presented; see page 1334*]

DOCUMENTS

Tabled by Clerk:

Forensic Leave Panel — Report for the year 2004

Freedom of Information Act 1982 — Statement of reasons for seeking leave to appeal

Parliamentary Committees Act 2003 — Response of the Treasurer on the action taken with respect to the recommendations made by the Public Accounts and Estimates Committee's Report on 2003–04 Budget Outcomes

Parliamentary Contributory Superannuation Fund — Actuarial Investigation — Report for the year 2004–05

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

Ballarat Planning Scheme — No C76

Glen Eira Planning Scheme — No C42

Greater Dandenong Planning Scheme — No C64

Greater Shepparton Planning Scheme — No C61

Hume Planning Scheme — No C62

Melbourne Planning Scheme — No C111

Moreland Planning Scheme — No C29

Nillumbik Planning Scheme — No C36

Southern Grampians Planning Scheme — Nos C8, C9

Stonnington Planning Scheme — No C12 Part 2

Surf Coast Planning Scheme — No C7 Part 2

Victoria Planning Provisions — No VC34

Wyndham Planning Scheme — No C69

Retail Leases Act 2003 — Ministerial Determination under s. 5

Rural Finance Act 1988 — Direction by the Treasurer to the Rural Finance Corporation to administer a Financial Assistance Scheme to the Central Victoria region including Whittlesea and the North East region

Statutory Rules under the following Acts:

County Court Act 1958 — SR No 107

Drugs, Poisons and Controlled Substances Act 1981 — SR No 117

Estate Agents Act 1980 — SR No 108

Health Act 1958 — SR Nos 114, 115, 116

Health Services Act 1988 — SR Nos 112, 113

Mental Health Act 1986 — SR No 111

Prevention to Cruelty to Animals Act 1986 — SR No 121

Residential Tenancies Act 1997 — SR No 109

Road Safety Act 1986 — SR Nos 119, 120

Tobacco Act 1987 — SR No 118

Victorian Institute of Teaching Act 2001 — SR No 110

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rule Nos 107, 111, 112, 113, 114, 115, 116, 117

Ministers' exemption certificates in relation to Statutory Rule Nos 93, 108, 109, 110, 118, 120, 121

Survey Co-ordination Act 1958 — Report of the Surveyor General for the year 2004–05.

The following proclamations fixing operative dates were tabled by the Clerk in accordance with an order of the house dated 26 February 2003:

Primary Industries Legislation (Further Miscellaneous Amendments) Act 2004 — Section 49 on 29 September 2005 (*Gazette G39*, 29 September 2005)

Sustainability Victoria Act 2005 — Remaining provisions on 1 October 2005 (*Gazette G39*, 29 September 2005).

ROYAL ASSENT

Message read advising royal assent on 20 September to:

Fisheries (Abalone) Bill
Land (Miscellaneous Matters) Bill
National Parks (Otways and Other Amendments) Bill
Pipelines Bill
Radiation Bill
Residential Tenancies (Further Amendment) Bill
Royal Victorian Institute for the Blind and other Agencies (Merger) Bill
Sustainability Victoria Bill.

APPROPRIATION MESSAGE

Message read recommending appropriation for Property (Co-ownership) Bill.

BUSINESS OF THE HOUSE

Standing orders

Mr BATCHELOR (Minister for Transport) — I desire to move, by leave:

> That so much of standing orders be suspended to allow the matter of public importance due to be proposed on Wednesday, 19 October 2005, by the government under standing order 39 to be proposed by the opposition and the matter of public importance due on Wednesday, 16 November 2005, be omitted from the order of business on that day.

Just by way of explanation, on the last sitting week of the Parliament we are going to Geelong. This motion will allow the government to swap its matter of public importance listed for 19 October with the opposition MPI due to be debated on 16 November. It will enable the Parliament to debate legislation in the morning of that day rather than the MPI, given that the Parliament will be adjourning earlier that evening so the staff can prepare for the sitting of the house in Geelong on the last sitting day.

Mr PLOWMAN (Benambra) — The opposition agrees with this change on the basis that before the house adjourns early on the Wednesday there will still be an adjournment debate before we go to Geelong the following day.

Motion agreed to.

ROADS: OPPOSITION POLICY

Mr CLARK (Box Hill) — I desire to move, by leave:

> That this house endorses the Liberal Party's plan for halving Labor's EastLink tolls, fixing country roads and eliminating Labor's waste and considers that plan to be fair, honest and responsible in the context of Victoria's deteriorating budgetary position.

Leave refused.

Dr NAPTHINE (South-West Coast) — I wish to move, by leave:

> That this house commends and supports the Victorian Liberal Party plan to provide a real funding boost to local councils to fix roads and bridges across rural and regional Victoria.

Leave refused.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

> That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 6 October 2005:
>
> Crimes (Contamination of Goods) Bill
>
> Defamation Bill
>
> Primary Industries Act (Further Amendment) Bill
>
> Property Co-ownership Bill
>
> Treasury Legislation (Miscellaneous Amendments) Bill
>
> Treasury Legislation (Repeal) Bill.

This motion before the house today sets out the government's intention to deal with the first six items on the notice paper as the work program for this parliamentary sitting week. The government is of the opinion that this provides a work program that will provide the opportunity for members to join the debate and still provide the traditional sitting hours of this Parliament.

Mr PLOWMAN (Benambra) — The opposition does not oppose the business program. Given that we have six bills, I imagine we will get through them with no difficulty. The only question that I would pose concerns the Treasurer giving notice of a motion in respect of the Scoresby freeway. I think it would be incumbent on the Leader of the House to advise the house as to when the debate on that issue is to come on,

especially on the basis that we have had two notices of motion wanting to bring on that debate today, both of which were refused leave by the house. I think it is incumbent on the Leader of the House to advise us of that.

The other issue that is important to consider in this circumstance is that we have had 10 bills introduced today — —

An honourable member interjected.

Mr PLOWMAN — Eleven? I stand corrected. We have had 11 bills introduced today. I understand there are another six or so to be introduced tomorrow and maybe more later in the week. That is an indication — as is so often the case — of the business of the house being condensed into the last week or two of sitting. Bearing in mind the last sitting day of this session is going to be in Geelong, where there are going to be lots of formalities that will take debating time away from the house, I suggest that it is inopportune — and certainly not to the best advantage of the Parliament — to have that number of bills introduced in the last three sitting weeks. It will cram those three weeks in such a way that we will have to sit excessive hours if we are to give due recognition and due time to the debate on those bills that have been introduced today and will be introduced later this week.

I ask the Leader of the House to advise the house when the motion that the Treasurer indicated he desired to move tomorrow will be debated by the house.

Mr RYAN (Leader of The Nationals) — The Nationals do not oppose the government business program, but I echo the sentiment expressed by the manager of opposition business, particularly given the number of bills being introduced, as to what the time frames are to be. It might be, of course, that some of those — perhaps all of those — are going to lie over to the next session. The Leader of the House will surely be in a position to give an indication of that sort, and we would appreciate hearing from him on that point.

Mr CAMERON (Minister for Agriculture) — On behalf of the government, can I just point out that, as the honourable member for Benambra has indicated there are a large number of bills this week, some of them will be laid over for two weeks and some will be laid over for longer. Contrary to the belief of the honourable member for Benambra, we are not at the end of the session; actually after this week there is another three weeks of Parliament to go. Concerning the query of the honourable member for Benambra about the motion of the Treasurer in relation to the half-baked EastLink concept, it is the government's intention that that be debated as the first item of government business tomorrow.

Mr DELAHUNTY (Lowan) — As the Leader of The Nationals said, The Nationals are not opposing the government business program this week. We are delighted to see — even though the second-reading speech said it was an urgent bill — that the Crimes (Contamination of Goods) Bill is finally being debated this week. That is a very important issue for the electorate I represent and for most of country Victoria. I support the sentiments of the member for Benambra and also the Leader of The Nationals. If the Minister for Agriculture — and it is great to see him here — had been on his feet earlier, we could have got this Crimes (Contamination of Goods) Bill brought in much earlier so that he could have looked after the people he is supposed to represent. Also, if government members are going to bring 19 bills into the Parliament, then instead of saying bills will be adjourned for a fortnight they should give appropriate notice and say these bills will be debated at the start of next year.

Motion agreed to.

MEMBERS STATEMENTS

Heathmont East Primary School: writing competition

Mr LOCKWOOD (Bayswater) — Heathmont East Primary School is a wonderful school in my electorate that provides a warm and stimulating education program where children succeed. Heathmont East is one of a number of schools that participate in a writing competition that I run every year. I run the Penguin writing competition to encourage children in grades 4, 5 and 6 to express themselves in writing. They may enter any form of writing, whether it be a short story, essay, poem, limerick or some form I have not yet thought of. I do this because I have a love of writing and I want to share this enthusiasm with schoolchildren in the hope that I can encourage them to use writing to express themselves and utilise their imaginations.

Imagination is a wonderful thing. It drives creativity and achievement. The imagination of children can be limitless. The response from the children was just great. They produced some wonderful work, although some were obviously influenced by television. Some of their stories are very moving and funny, and they are all entertaining.

The children received great support from principal Kitty Allard and her staff, especially Karen Dawson-Smith. Grade 5 students like Chloe Thomas, Naomi Sheath, Felicity Bouwmeester, Jacinta Estoppey, Lacy Cook, Alex Pezzimenti, Jake D'Angelo, Joshua Dare, Ted Batchelor and David Cooper wrote wonderful pieces. Grade 6 students like Brodie McMillan, Cristina Griffiths, Laura Nelson, Elise Dunham, Gabby Sinclair, Kyah Monaghan, Rachel Sherlock, Emily Waters, Natasha Ritchie, Billy O'Loughlin, Matt Sinclair, David Home, Jack Fullard, Simon Kepert and Michael Hertaeg also wrote great pieces. I loved reading *The Magic Portal*, which is about a magic land, *Troubled Love*, which is about teenagers finding their way through love — very imaginative for a primary school child — and *The Caves*, which is about an adventure with sharks, to name a few. Quite a few stories have a seaside flavour. There are 15 state and Catholic primary schools in my electorate, and all were included. Some schools had every child in grades 4, 5 and 6 participating.

Port Phillip Bay: dolphins

Mr HONEYWOOD (Warrandyte) — All Victorians were outraged by the recent mutilation of one of Port Phillip Bay's dolphin population. Volunteer dolphin support organisations have done a wonderful job in raising public awareness about the small number — 80 to 100 — of dolphins in the bay and the adverse effects on their health of too much exposure to people, boats and dredging, to nominate just a few environmental hazards. However, if the Bracks government moves quickly and preserves the carcass of the slaughtered female dolphin, there is a possibility that this will assist in establishing greater protection measures for the remaining dolphins in the bay.

According to a recent study by the school of biological sciences at Monash University, the genetic constitution of Port Phillip Bay dolphins may be substantially different to any other known dolphin population worldwide. Kate Charlton, Monash University researcher, said:

> The bay dolphins are much smaller and have different colouring to those typically considered offshore or oceanic bottlenose dolphins.

Ms Charlton further stated that:

> To protect and conserve this unique population, further research is needed to establish just how widespread and genetically different these dolphins are in conjunction with better public awareness of regulations surrounding the dolphins …

Apparently our endangered and potentially genetically unique dolphins have not been nominated by the Bracks government for special federal government protection. Such protection was recently provided by the federal government for a genetically distinct population of dolphins in Queensland. However, as apparently there have not been any corpses of bay dolphins preserved and researched in our museum, this protection is not yet available. If the state government preserves the dolphin carcass in question, will it ensure this research can go ahead to gain federal government protection?

Avian flu: control

Ms LOBATO (Gembrook) — The avian flu, also known as bird flu, is being talked about in terms of a pandemic, even though it has affected only approximately 120 people worldwide in 18 months. This compares to previous pandemics such as the Spanish flu of 1918–19, which killed 25 million people in six months. Some claim the death rate was even double that. The Black Death was another pandemic which in the 1300s killed 20 million people in six years. It is right and proper that in modern Australia we place proper emphasis on preventative medicine and take all steps to ensure we have a healthy population. However, when a variety of flu has affected only 120 people worldwide in 18 months, it is important not to overreact and turn it into a catastrophe or talk it up as a pandemic. In reality it is something that is happening on a small scale.

Then we discover that antiviral drugs are being stockpiled and that the drug maker Roche Pharmaceuticals doubled the manufacturing capacity of its antivirals in 2004 to deal with this yet-to-eventuate pandemic. Production doubled again in 2005 and will increase further next year. Governments across the world are stepping up orders for drugs. This is translating into rocketing share prices for big pharmaceutical companies. Drug stockpiling means that while the big pharmas get rich, precious health care dollars are diverted from producing preventable medicine for existing conditions. While the West gets more fearful about bird flu, people in the Third World are dying of malnutrition and other totally preventable diseases. The bird flu is also affecting the livelihood of the poorest citizens of Asian countries.

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

Neil Trease

Mr RYAN (Leader of The Nationals) — I rise to recognise Neil Trease, a great Gippslander, a great Victorian and indeed a great Australian. Neil was recently named the Victorian Senior of the Year. That award was presented to him last Friday, 30 September, at Government House. Earlier this year he was nominated for the South Gippsland citizen of the year award, which he won on 16 January. Neil also won the award as the 2005 citizen of the year for Mirboo North, which shocked him. He thought that if he got one he would not get the other.

This remarkable man is a life member of Apex Australia. He is the chairman of the *Mirboo North Times* board, which is a group of volunteers who publish the local paper, about 650 copies of which are printed each week. He is a trustee of the Mirboo cemetery. With his wife, Isabel, he has been heavily involved in the Gippsland Carers Association, which has the prime objective of getting more respite services for hardworking and dedicated carers. Indeed their daughter Julie has attended the centre for some 33 years.

He has been a committee member on the Mirboo North–Boolara rail trail, intending to keep that trail well maintained. He is a community ambulance officer. Neil's passion at the moment is the reopening of the lyrebird walk and making sure that it is able to be maintained to an appropriate standard. His wife, Isabel, is a delightful lady. She says he is a great man and lovely to live with; I can attest to the first point but not to the second. On 28 January Neil and Isabel leave for a well-deserved 12-night cruise, which was the prize won by this wonderful man.

Glitter Charity Ball

Ms MARSHALL (Forest Hill) — It was with great pleasure that on Saturday, 1 October, I attended the 2005 Glitter Charity Ball, along with its patron, Terry Bracks, and athletes Lauren Hewitt and Lee Naylor, at the stunning Plaza Ballroom in Collins Street. The Glitter Charity Ball raises funds and awareness for Breast Cancer Network Australia through a number of events during the year. Its committee is entirely made up of volunteers whose desire is to make a difference in people's lives.

Over the past three years the Glitter Charity Ball organising committee has raised almost $250 000. This money has enabled the Breast Cancer Network to develop, test pilot and launch the My Journey kit project. The My Journey kit helps women navigate their journey with breast cancer, and through the raising of this money over 5000 women have been provided with the kit free of charge. The organising committee's aim is to raise sufficient funds to enable it to provide every Australian woman newly diagnosed with breast cancer with a kit. Each year 11 500 women are diagnosed with breast cancer, which is over 30 women a day, 365 days a year.

The evening's emcee was the always-entertaining Beverley O'Connor, broadcaster, journalist and deputy chair of the Melbourne Football Club. Other entertainment included Coco's Lunch and Funky Film Xpress. It was a wonderful night for a very worthy cause, and I would like to congratulate the organising committee and all who participated for making it such a great success. My particular thanks to Lyn Swinburne, chief executive officer of Breast Cancer Network Australia, for her tireless effort and enthusiasm.

Colac: footballers

Mr MULDER (Polwarth) — It is raining Australian Football League stars in Colac. I would like to congratulate three sons of Colac who have excelled in their AFL careers throughout the year. Firstly, Stephen Baker, a former South Colac footballer who is now continuing his career with St Kilda, won the Trevor Barker Medal, St Kilda's best and fairest award, last Tuesday night. It was Stephen's first and hopefully not his last, and I am sure his win was not a surprise to those who coached and played with Stephen while he was in the Colac and district league.

Secondly, Luke Hodge was named Hawthorn's best and fairest winner last Saturday night. Luke was drafted to the Hawks in 2001 and after struggling with injuries in his first three years polled votes in 20 of the 21 games he played in 2005. Thirdly but by no means lastly, the player who kicked the winning goal for the Swans in the grand final was Colac's Amon Buchanan. Swans coach, Paul Roos, described Amon's effort as 'crucial to the Swan's 4-point premiership win'. Amon was drafted to the Swans in 2000 and put in a terrific 2005 season culminating in the greatest prize in football, and watching were his mother, father and five brothers.

The achievements of these three young men made the 2005 AFL season a special one for the Colac community. The district's football administrators deserve a vote of thanks for the great work they do in turning out such great sportsmen. A strong country football league is vital in order to give young players like Stephen, Luke and Amon the opportunity to be among the best at their own clubs — and in Amon's

case, be lucky enough to take the field on that all-important Saturday in September. Watch this space because in the case of a football talent there is more to come from within the Polwarth electorate.

Kananook Creek Association

Ms LINDELL (Carrum) — I would like to congratulate the Kananook Creek Association on being the Victorian state winner in the environment and wildlife category of the 2005 National Australia Bank volunteer awards. The Kananook Creek Association started more than 30 years ago, in 1970, and a more committed group of volunteers you will never meet. The association's president, Rob Thurley, and secretary, Olwen Bawden, have long been associated with this organisation.

The organisation came about because of concern about the water quality of Kananook Creek and the protection of its bushland corridor. If people know the area, they know of the 7.5 kilometres of walking track and the magnificent 45 hectares of nature reserves. The Kananook Creek Association has over time forged some wonderful partnerships with the friends of the Seaford foreshore and friends of the Seaford-Edithvale wetlands. It is a unique area with three highly environmentally protected areas. The wetlands are Ramsar listed and the volunteers put in hours and hours.

Water: Campaspe irrigators

Dr NAPTHINE (South-West Coast) — I wish to draw to the attention of the house, and particularly the ministers for agriculture and water and the Premier, the desperate plight of farmers in the Campaspe irrigation system. Along with local upper house MP Wendy Lovell, a member for North Eastern Province in the other place, I recently met with a number of irrigators at Rochester and was shocked by their plight and the way they have been neglected and ignored by the Bracks Labor government. These proud and productive farmers have been crippled by the lack of access to water and there is genuine hardship in the area. There is a risk of family and community breakdown, farmers are being forced off their land, local businesses are going to the wall and there is a genuine risk of mental health problems and even suicide.

The Campaspe irrigation district consists of about 130 farmers, the majority of whom are involved in dairying. They get their water from Lake Eppalock and the Campaspe weir. Traditionally they have had smaller farms but they have been productive due to a good irrigation water supply, highly skilled management and good irrigation practices. However, last year they only got 39 per cent of their water allocation. This year they were initially allocated 2 per cent; I believe that has now risen to 6 per cent. This is in contrast to a 10-year average of about 193 per cent of allocation. This year's allocation is not enough for stock and domestic supply let alone irrigation supply for feeding dairy cattle.

The action I seek is for the Minister for Agriculture and the Minister for Water to meet with the Campaspe irrigators at Rochester to discuss their plight.

Frankston East Primary School: achievements

Mr HARKNESS (Frankston) — Frankston East Primary School, a small community-based school in my electorate, is getting it right! In a recent independent review the school compared extremely favourably with state averages and was well above other schools on every performance indicator. This strong performance is largely due to the committed and excellent staff from principal, Philip Farrar, to each of the teachers and support staff, and the supportive parents' group led by school council president, Lisa Hill. Sound leadership at this school has led to it being ranked among the highest in the state.

Frankston East provides a comprehensive and broad curriculum and in every way lives up to its motto, 'An established school with modern ideas based on traditional values'. The spacious grounds and facilities support the many and varied programs, including sporting activities and an engagement/connectedness program which teaches students social skills and attitudes. Programs encompassing transition, welfare and curriculum are all well addressed and presented, resulting in very high curriculum and standards frameworks being achieved, a very positive learning environment and student motivation.

Positive perceptions, as reflected in staff, student and parent opinion surveys, provide further evidence of teamwork equalling sound gains being achieved. The independent reviewer stated that he strongly recommended that Frankston East Primary School be considered as an accredited high-performance school. As Lisa Hill says, 'Our committee has benefited from a highly effective state school system'. Well done to the leadership team, students and the families at Frankston East for their dedication and commitment to education. Frankston truly is a great place to live and raise a family, and I am proud to stand up for the Frankston East Primary School. I was recently very excited to attend a performance of *Circus Splendida* presented by the entire school community down at the George Jenkins Theatre. It was a very enjoyable evening.

Murray River: environmental flows

Mr WALSH (Swan Hill) — I give vent to the despair and outrage of northern Victorians at the Minister for Water's support of the 30 September ministerial council communiqué to purchase water from farmers. He has sold out northern Victorians to South Australia and broken yet another promise. The Premier has frequently given undertakings that achieving environmental flows will not damage irrigators. In October 2002 the then Minister for Environment and Conservation said unequivocally:

> The Victorian government is not planning to buy irrigation water to improve environmental flows to send down the Murray and Snowy rivers. Full stop.

The Bracks government is caving into extravagant demands from South Australia at the expense of our own people and our own economy. We have no socioeconomic studies on the impact of government entering the water market. South Australia is making few sacrifices for the Living Murray process. When South Australia purchased water from Lower Murray dairy farms, it went to Adelaide and the Barossa Valley — that water left the Murray forever. Huge losses in the transmission of water, especially into storage at Lake Victoria, mean that South Australian irrigation is much less efficient than irrigation in Victoria. There is evidence that South Australia's overuse of ground water in the south-east is a major factor depleting the Coorong of recharge and turning it hyper-saline. The Bracks government is surrendering to South Australia's ambit claim and this will cause immeasurable economic and social harm to the people of northern Victoria.

Country Fire Authority: blessing of the fleet

Ms GREEN (Yan Yean) — On Saturday I was privileged to attend the annual blessing of the fleet for local emergency services serving the city of Whittlesea. This is a very special and symbolic event for communities in my electorate, particularly those served by Country Fire Authority brigades such as Wollert, South Morang, Doreen, Whittlesea, Kalkallo, Craigieburn, Arthurs Creek, Epping and Mernda.

These brigades, along with the Metropolitan Fire and Emergency Services Board, had appliances blessed for the year ahead. The blessing of the fleet acknowledges the risks that our local emergency service personnel are subjected to, both volunteer and paid. They risk their lives all year round to protect and serve in our communities and on strike teams in other areas of the state and, indeed, interstate. The blessing of the fleet is an open air, multidenominational service performed by church representatives from across the region and across the spectrum of denominations to thank and wish well the vehicle fleet's emergency service staff and volunteers. Although many would say the blessing is only symbolic, as a Country Fire Authority volunteer myself I understand that it is a public acknowledgment and show of best wishes for the dangerous bushfire season approaching.

The service remembered with sadness Arthur Popple of the Wollert CFA, who lost his life while fighting a local fire in 1967. For those with faith and without, the blessing of the fleet is an emotional and special time as we enter the summer months, and we pray that our fleet will be safe as they protect the people and property within our communities. I want to thank the many clergy, led by Reverend Laurence Dean, who performed this wonderful ceremony, and I look forward next year to hearing a firefighter recite the beautiful Firefighter's Prayer.

Employment: Parents Returning to Work program

Ms ASHER (Brighton) — I wish to draw the house's attention to the regular underfunding of the government's Parents Returning to Work program. The government's web site at the moment reads:

> The maximum number of grants for the first half of the financial year 2005–06 have been issued.

It then goes on to say that more grants will be available from 16 January 2006. This is now a syndrome, because the web site on 5 February 2004 said something similar:

> The maximum number of grants available for the financial year 2003–04 has now been reached.

It went on to advise people that grants would not be issued until 1 July 2004. This government program is a good program. Rather than the Minister for Employment and Youth Affairs issuing press releases, she needs to address the funding issues for this program by reallocating from other areas in her portfolio. I for one am most aware of areas in employment where she could direct funding towards this valuable program. I would also like to commend the member for Mordialloc for raising this issue in the house on 8 September 2005. I think it shows particular courage as a government backbencher to indicate that ministers ought to do better. In quoting an email from a constituent, the member for Mordialloc said:

> Also the new funding for stay-at-home mums to obtain training to return to the work force has been exceeded and is no longer available. It is only August.

I, too, echo the sentiments of the member for Mordialloc and think the minister should address some extra funding for this valuable project.

Courtenay Gardens Primary School: literacy and numeracy award

Mr WILSON (Narre Warren South) — I am pleased to inform the house of the recent success in my electorate of the Courtenay Gardens Primary School in taking out a major literacy and numeracy award and receiving a $5000 prize. Courtenay Gardens Primary School was one of nine schools to receive a highly commended award at the Minister for Education Services's ceremony at the Melbourne zoo. While all government schools are committed to delivering better literacy and numeracy, these annual awards enable schools to be rewarded for demonstrating creative and effective literacy and numeracy programs. The award recognises Courtenay Gardens Primary School as a fine example of high-quality literacy and numeracy teaching throughout Victorian schools.

The state government has employed thousands of extra teachers and staff to reduce average class sizes and to allow focus on education basics, particularly in the early years. Literacy and Numeracy Week is now a major event in the school calendar, and this year there was a significant increase in the number of primary and secondary schools applying for the awards. I congratulate the school community of Courtenay Gardens Primary School, including Loretta Hamilton, the principal, Sue Cox, the literacy coordinator, its dedicated staff, the students, and, of course, the parents who have supported and encouraged the students in this program. Well done to the other nine schools that have won awards in this category and the 13 schools that won achievement awards.

Corrections Victoria: prisoner release

Mr PERTON (Doncaster) — I rise to raise the concerns of a Doncaster constituent, Chris Guiver, whose three-year-old son was killed by his ex-wife's boyfriend. Mark Mietto was sentenced in December 2002 to six years jail, with a minimum of four years, for the manslaughter of Mr Guiver's son, Jonathon. In May this year Mark Mietto had his first parole board hearing. It was decided not to grant him parole at this time. Instead Mr Guiver was told by the Department of Justice that a further review would be carried out in late September. As a victim of crime and the father of the dead child, he was given the opportunity to lodge a submission before the parole board hearing.

In good faith Mr Guiver began preparing a submission, an emotional and difficult experience for him. It was due to be lodged in late August before the parole board hearing scheduled in late September, but before the submission was completed, Mr Guiver was told in late June that Mr Mietto was already being released on parole. Mr Guiver is upset that he was not told of the change of plans for Mr Mietto's release. He also feels hurt at the actions of Corrections Victoria and believes it has shown him little regard. He considers that he had the right to be heard, yet the changes of dates and a lack of notification has robbed him of the opportunity to be heard.

In a letter to me he said:

> Justice does not seem to apply to the Department of Justice (Corrections Victoria) anyway. It also appears as if one section (Corrections Victoria) does not have to speak to other sections (Department of Justice victims of crime) or to interested parties (myself) when they change their plans or dates or schedules.
>
> Justice is about being fair —

Mr Guiver says.

> Being a victim I should have the right to be heard as promised and this right should not be taken away by the very department that should ensure my promised submission is heard (by the Adult Parole Board before prisoner release!).

Celtic Nations dinner and gala

Ms BEARD (Kilsyth) — I was recently delighted to attend the annual Celtic Nations Inc. dinner and gala at Moonee Valley racecourse. When referring to the Celts, most people think of the Cornish, Irish, Scots and Welsh peoples. Yet the Celts were the first masters of Europe — between 900 BC and 600 BC — and there is still much evidence of their presence there. Celtic Nations includes communities such as the Asturians from Spain, Bretons from Brittany, Friulani from Italy and Manx from the Isle of Man as well as the groups I have already mentioned. The aim of the annual dinner is to display and enjoy the diversity of the cultures and promote greater understanding between the Celtic nations in multicultural Australia. Celtic Nations received a grant from the multicultural commission to assist with the event and was acknowledged on the night. I would like to congratulate presenters Bill Schrank, Cr Brian Shanahan from Melbourne City Council and Marion O'Hagan, who is well known for her work in the Irish Australian Welfare Bureau, the Irish community and on Radio 3ZZZ.

The program included moving renditions by the Combined Celtic Choir as well as separate items from the Cornish, Friulani and Welsh choirs; the wonderful

Williamstown RSL highland pipe band; and Asturian, Cornish, Irish and highland traditional dancers gave highly professional performances resplendent in their magnificent costumes. Patrons were encouraged to join dancers on the floor and show their style in the Kingston Flyer, a Scottish country dance, the well-known Siege of Ennis, an Irish set dance, and the Cornish Furry Dance. Pat McKernan's Irish band provided background and dance music and a wonderful time was had by all.

Belmont Business Association

Mr CRUTCHFIELD (South Barwon) — I would like to take this opportunity to congratulate one of my most successful trader associations on the almost-completed upgrade of High Street and in particular acknowledge Doug Hille, who has just tendered his resignation from the executive committee of the Belmont Business Association. Doug has been a member of the association for 19 years and has been on the committee for 15 years, including eight as either secretary or president.

It was during my time as a councillor with the City of Greater Geelong that I first met Doug. He was the secretary under the then president, Ken Huxley. It was under Doug's leadership that the reputation and professionalism of the association began to expand. It was always a vibrant organisation, but Doug and his committee ensured that the membership expanded considerably and they began to speak with one strong, united voice to government bodies. Doug's reign culminated in the successful allocation of state government and council dollars to fully fund this much-needed upgrade to High Street. Doug's lobbying ensured that there was no cost to Belmont businesses, despite it costing well over $1 million. Doug can leave the committee comfortable with the knowledge that he has left it in a very healthy state.

Finally, I would like to acknowledge the recently re-elected or new members of the executive committee — Vince Albanese, the president; Neville Preston, the vice-president; Claire Barnes, the secretary and treasurer; Janice Calaby and Susan Whetton, committee members; Allan Reeve, a new member to the committee; and Kellie Barnes, assistant to the executive committee. Well done to the people who put their hands up again, and I urge other Belmont business people to please consider joining the committee and assisting this hardworking group.

Tertiary education and training: voluntary union fees

Ms MUNT (Mordialloc) — I was cleaning out my cupboards recently and I came across a letter from the Australian Union of Students (AUS) from 1975. On reading where all the student services were detailed, I recalled an incident in the union building of Monash University when I was a student. I was sitting having a quick sandwich for lunch when I was approached by two eager young men seeking my vote for the AUS elections. They said they were running on a platform of improving services for students at the AUS, so I voted for them.

They were elected and duly set about not improving services but disbanding the union and abolishing services. Who were they? Their names were Michael Kroger and Peter Costello. Can Costello be trusted this time with his assurances about student services in universities? Rising higher education contribution scheme and living expenses will make education increasingly unavailable to many students in our society, particularly those with less resources or single mums. The services they need like childminding will become almost impossible to access. Do not trust them.

Argos and District Australian Greek Senior Citizens Association of Kastoria

Mr HUDSON (Bentleigh) — Last Friday I attended an event put on by the Argos and District Australian Greek Senior Citizens Association of Kastoria at the Moorleigh community centre in my electorate. The group is an important local senior citizens association which has been running for eight years and has over 140 members. Each Friday they meet at the Moorleigh centre to have a traditional Greek lunch and enjoy activities such as bingo, cards, backgammon and billiards afterwards. They also organise day trips for their members.

Every year for the past five years the group has invited young people from local disability organisations to enjoy a special Greek lunch with the club members along with traditional Greek music and dancing. This year the club invited children from the Agapi respite care centres in Oakleigh and Preston. The Argos association spent a significant amount of club funds on the special lunch and collected personal contributions from club members on the day totalling $500, which they donated to the Agapi centres. This is a fantastic effort for a group made up of pensioners who are on limited means themselves.

We often talk about how we should promote tolerance, diversity and inclusion in our community. Watching these young people have such a wonderful time, enjoying Greek food and music and interacting with club members, spoke volumes for how this is done in a practical way in the community. You could see that the club members' own life experiences gave them the capacity to reach out to these young people and welcome them into their club with open arms. I would like to congratulate the Argos and District Australian Greek Senior Citizens Association of Kastoria for organising this wonderful event. Particular acknowledgment should be given to the club's president, Jim Zissiadis — —

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

Eltham electorate: student leaders forums

Mr HERBERT (Eltham) — Recently I hosted a series of successful student leaders forums to give local secondary students a voice in the political process and to have their say directly to their local member of Parliament. At these forums our leaders of tomorrow were able to learn more about the way the political process works, the way the office of a member of Parliament operates and to raise important issues they believed government should address. It was clear from their contributions that our local secondary schools are producing extremely bright and articulate young leaders.

They are people who want to make a difference to the world around them and shape the decisions which affect their lives. These forums were very well attended with every one of them illuminated by an engaged and passionate group of young people. I was fascinated by the sheer diversity of issues brought forward by these students and their well-thought-out, positive ideas to improve our community services. Issues raised by students ranged from old-growth logging to improvements for local public transport services. There was a clear thirst amongst these active young people for more information on how to engage in projects relevant to them.

Students also completed a survey on issues of concern to them which I will forward to the Minister for Employment and Youth Affairs as part of the government's ongoing consultation on future policy directions. I would like to congratulate the students and attending staff from Eltham High School, St Helena Secondary College, Montmorency Secondary College and Catholic Ladies College for making these forums such a great success. I would also like to thank Lindsay Round from Nillumbik Youth Services for lending his support to these important forums.

Commonwealth Games: community participation

Mr STENSHOLT (Burwood) — Last week I joined the mayor of Boroondara, Cr Jack Wegman, in warming up for the Melbourne 2006 Commonwealth Games. I was delighted to officially hand over the flag of the Kingdom of Tonga to the City of Boroondara as part of the Adopt a Second Commonwealth Nation for the Games program. I also joined with the mayor in launching the Boroondara Getting Involved program activities, which are supported by a $40 000 grant from the Bracks government. On the day we had a welcome dance by Tongan dancers accompanied by a Tongan band, and I would like to put on the record the house's appreciation of the Tongan community's involvement in this ceremony. Then we had the presentation of the flag and the Getting Involved launch. It was a great exercise in getting together. There were then 169 days, now 162, to the Commonwealth Games.

As part of its Warming Up for the Games Day the Boroondara council will be holding a Boroondara Be in It day on 20 November. It will be centred on Ferndale Park, which is on the edge of my electorate. Members may well recall that it is in the geographical centre of Melbourne, so warming up for the games will be officially — —

Mr Cameron — What event are you going to be in?

Mr STENSHOLT — I will be there to enjoy the mid-morning festivities. A family fun walk will be followed by lots of come-and-try activities in the park that will be run by local clubs and associations. It will be a feast of sporting events, food and entertainment for the Warming Up for the Games day in Boroondara, and I urge people to come and join in.

DEFAMATION BILL

Second reading

Debate resumed from 7 September; motion of Mr HULLS (Attorney-General).

Mr CAMERON (Minister for Agriculture) — I move:

> That the honourable member for Kew and the Leader of The Nationals be allowed an additional 15 minutes for their speeches than would otherwise be provided under standing order 131.

Motion agreed to.

Mr McINTOSH (Kew) — The Defamation Bill has a very laudable purpose, which is to provide uniformity in the law right around this country in every state and territory. That uniformity in the law will overcome jurisdictional difficulties. Someone in this state who brings an action for defamation against a national media outlet, a publisher of a national newspaper or the producer of a national TV or radio program would have to demonstrate in the proceedings a contravention of the law not only in Victoria but elsewhere, where allegations of defamation are made in accordance with those jurisdictions. Uniform legislation would overcome that. It is made perfectly clear in the bill that that is one of the mechanisms that have been adopted in relation to jurisdictional difficulties.

Defamation law seeks to provide the opportunity for freedom of expression by allowing the public expression of views in the broader community and as such is a cornerstone of our system of democracy. The purpose of defamation law is also to counterbalance a total freedom of expression by putting a limit on the expression of views that would somehow infringe on or impugn a person's reputation unnecessarily or unjustifiably. It is a difficult stepping stone, and the development of the law here in Australia, let alone around the world, is built upon a complex mixture of statute law and, certainly in Victoria, common-law rulings from various superior courts. That mixture has developed in each state jurisdiction in different directions. For example, in Victoria we rely almost entirely upon common-law rulings enunciated by superior courts that date back many hundreds of years, including, most recently, by the High Court in relation to an action of defamation.

When you compare that with New South Wales you can see that, while not completely codified, a cause of action based upon defamation is essentially one that is governed by the New South Wales Defamation Act of 1974. When you compare the different states and the complexions that have been put on the common law by statute, you can see that it has developed into a dog's breakfast. The overall purpose of this legislation is to be commended. Over a long period of time it has been the Holy Grail of defamation lawyers to have some degree of uniformity. It may have been acceptable 100 years ago, when a matter that was broadcast or published in a state like Victoria was limited to the confines of the state; but as we know now, with large media organisations and newspapers and radio and television shows syndicated right round the country, both plaintiffs and defendants have faced enormous difficulties in working their way through this minefield in relation to defamation law.

A defamation case, in the way it operates, is terribly difficult to run in court. It is subject to very technical rules of pleading, and those pleadings are regularly used to narrow the confines of the issues before the court. Pleading summonses are regularly used, and unless those pleadings are technically correct they can be struck out — and they are regularly struck out — unlike other areas of the civil law. The pursuance of a claim by a plaintiff who seeks to protect a reputation that may have been impugned by a defendant is always a costly, difficult, long and even turgid process, from the date of complaint right through to a verdict in the court. As we have seen decisions in these cases are regularly appealed to higher jurisdictions, adding extra costs and perplexity to proceedings. Any person who embarks upon defamation proceedings embarks upon a very complex process.

Achieving uniformity is very much about searching for the Holy Grail. Whenever you speak to media lawyers in relation to defamation, this is on the tips of their tongues. This bill is an attempt to resolve that particular difficulty by providing for uniformity in defamation law rather than the complexity that is added to by virtue of the fact that it has different application around the country.

I note that this bill came out of the Standing Committee of Attorneys-General. It originated from the federal Attorney-General shortly after he was appointed, when he announced that he would pursue the idea of uniform defamation law around the country. At the commonwealth level he introduced a number of different exposure drafts, including a variety of critiques and some substantial criticism from a variety of sources. The solution was then achieved by all state and territory attorneys-general announcing that each state and territory would pursue its own model legislation rather than using the auspices of the commonwealth. This bill is part of that process. As I understand it, model legislation has now been introduced into the parliaments of South Australia, Western Australia, New South Wales and Victoria. It is expected that within a very short compass the other states and territories — with the exception of Tasmania — will have similar model legislation introduced and passed, hopefully to come into operation on 1 January 2006.

The work of the state attorneys-general and the federal Attorney-General is to be commended in getting us to this point. Regrettably it is at this point that members of the opposition must diverge from supporting a model

bill at all costs, because we have grave concerns about the way this bill has been drafted, particularly the way it implements novel notions that even go beyond some of the statutory defences that may be imported from, for example, New South Wales.

I will expand on the concerns we have in due course, but I can list them at the outset. We are concerned about and note the move towards the abolition of the distinction between libel and slander. Certainly the prohibition on corporations suing for defamation is regrettable. That applies unless it is an exempt corporation, which is a not-for-profit corporation or a corporation with less than 10 full-time employees. The bill also introduces a statutory cap of $250 000 on general damages. The media lawyers that I have spoken to tell me that while $250 000 may be considered a reasonable compensatory amount, in many cases it is certainly not unknown for awards well and truly above $250 000 to be granted.

There is also provision for a settlement process under the guise of alternative dispute resolution. Again that is a laudable motive. The government purports to adopt the UK model of making amends, but it differs from the way it operates in the United Kingdom in a number of ways. The most substantive way is that if in the United Kingdom you offer to make amends, then the defendant has the choice of either pursuing that as a defence to any defamatory comments or alternatively pursuing some other form of defence that may be available. It is one or the other, whereas with this particular making of amends the defendant would have the opportunity of relying on both forms of defence — that is, making amends as well as any other defence that would be available.

Going back to the issue of damages, there is now the abolition of exemplary and punitive damages, which limits a court in imposing damages that demonstrate the court's abhorrence of particular contumelious behaviour that exacerbates the defamatory comment. The bill introduces a number of defences. For example, the truth defence, which is well-known here in Victoria as an absolute defence, is legislated for, presumably on the basis that its model legislation will have an impact in, for example, New South Wales.

There is another defence which is a contextual truth which causes some concern because litigants or plaintiffs will now run the risk that that contextual truth could broaden the ambit of proceedings away from the alleged defamatory complaint, the complaint about a defamatory comment, into the context of how it was said and other matters that may be raised in the course of that remark. So the plaintiff could have the ambit of the complaint expanded by this contextual truth.

Also, it certainly broadens the idea of a defence that is attributable to republication of documents. As we know, proceedings in this place are subject to fair comment on matters which in our hands are absolutely privileged, but in the hands of the media are qualified by that particular defence of fair comment. It is certainly expanded well beyond the reporting of proceedings of Parliament, parliamentary inquiries, court and tribunal proceedings to a curious level — that is, to something that is contained in public documents, and the drafting of that clause causes the opposition grave concern to the point where any document which might be issued by a government here or in another country's legislation could be published with that defence available to the media.

It introduces into Victoria a statutory qualified privilege. While qualified privilege is well known to the common law, it adopts very much the New South Wales idea of statutory qualified privilege and the idea would be that it is extended well beyond what has been stated over and over again in relation to what general or common law would be applied here in Victoria.

I note that in the explanatory memorandum to clause 30 of the bill there is a substantial error in that particular defence which has caused the opposition concern. That error manifests in a way which grossly misrepresents the common law, or general law as it says in the bill, as it would be applied in Victoria. It purports to say that the case of Reynolds has been adopted by the Court of Appeal here in Victoria or represents the general law, but Reynolds's case, which is a House of Lords decision in England, is certainly not common law in Victoria. That representation is regrettable, but it justifies the extension of statutory qualified privilege in the bill to something that is quite beyond what the common or general law position is here in Victoria. It also extends innocent dissemination to radio and TV broadcasts, and that represents a substantial change.

In relation to the summary, the opposition is very concerned about the limitation period being set at one year rather than the normal period of six years. I note that there are special circumstances, although what they may be precisely is ill defined. Those special circumstances may lead a court to extend the limitation period to three years.

Finally, in relation to the determination of guilt or innocence of defamation, that will remain with a jury, if a jury is selected by one or both parties. A jury will no longer have any ability to participate in the setting of

damages. That will be confined entirely to a judge. All in all, the opposition has a number of concerns about this Defamation Bill. It expands the number of statutory offences that are now available to a defendant, and the cap on damages to corporations causes the opposition great concern. I will talk about that in a moment.

I also say it is a matter of profound regret that this bill was adjourned for the usual two weeks. Notwithstanding the fact that this bill has been on the agenda for 12 months as far as the states and territories have been concerned, a number of organisations including the Victorian bar were still unable to look at the bill until I, and I understand The Nationals, made a copy available to the Victorian Bar Council shortly after it was read a second time in this place. The council has provided me with a submission in relation to the Defamation Bill and has made the valid point that while accepting the worthwhile purpose of this bill, which is to provide uniformity — and for that aspect the government is to be commended — it is a matter of concern that it was a very short time in which to deal with a very complex area of the law.

I turn to the issue of corporations. I have had the opportunity of speaking to a number of people involved with employer groups that represent large corporations, and they were completely ignorant of this particular bill, notwithstanding the fact that it may impact adversely on a number of their corporate members that would be corporations with more than 10 people.

Looking at the matters in detail, the idea of libel and slander has been a part of the common law for many centuries. While libel and slander may have been abolished in other jurisdictions around Australia it still has a place in Victorian law. It is regrettable that the distinction between libel and slander has been blithely removed so that now matters will be only about defamatory comments. That distinction is blithely put away as anachronistic and as perhaps attributable to something applying many hundreds of years ago. That is simply not the case. The reality is that the difference between libel and slander is that slander is communication of a transitory nature — something said at a meeting or otherwise — whereas libel is more permanent.

With slander a plaintiff is required to establish the existence of a special damage — that is, some form of financial loss — in order to bring a proceeding. That distinction, of course, means that a number of alleged slanders would be stopped at the first hurdle or run the risk of being struck out at the first hurdle if they could not demonstrate special damages as a result of the slander. So there is a weeding-out process in those matters. In any event the government has seen fit through this model legislation to abolish the distinction, which perhaps reflects the influence of other jurisdictions rather than being something introduced purely from a Victorian point of view.

In relation to the statutory damages cap, while as I indicated $250 000 may be considered a good award in a defamation case, it is certainly not beyond the realms of possibility that in such a matter the award could go well and truly above $250 000. It is also accompanied by the blithe statement in the second-reading speech that it is in accordance with the government's policy in relation to capping damages. As you would be aware, Acting Speaker, a few years ago following the events of 11 September 2001 this house went through the trauma of dealing with a downturn in the number of people participating in public liability insurance and the problems caused by the cost of re-insurance at both the domestic and the international level — all of which led to a number of insurers withdrawing from public liability.

That meant there was a crisis, in which, to their credit, the Victorian and commonwealth governments intervened in a number of ways to address the concerns that arose. At the bottom end there was concern that unmeritorious proceedings were being brought — essentially these are my words — over what you could say were things considered trivial, while at the top end the so-called headline cases relating to personal injuries were causing concern because of the large payouts of money that resulted. All in all, following the commonwealth government's intervention and the Ipp report, legislation was introduced in a variety of states — certainly here in Victoria — to introduce both thresholds for and caps on damages.

While the thresholds are still a bone of contention — I have no doubt that the Leader of The Nationals has been lobbied by a number of solicitors and barristers about both the caps and the thresholds — we are not dealing with thresholds here. However, the issue of statutory caps on personal injury claims came about because of a particular circumstance relating to an insurance crisis. It meant that not only large corporations and institutions but also small community groups — from pony clubs right through to sporting clubs, including football and netball clubs — were prevented from providing appropriate levels of insurance to ensure that people who were injured would be compensated. Without that insurance a number of very worthwhile social groups — from charities right through to sporting associations — were being prevented from carrying out their activities, and

legislatures around this country were forced to act to introduce caps.

Unlike then, statutory caps are now being introduced that are not consistent with the general policy direction of the government. If the government has changed its direction, then it should make that announcement, come clean about its purposes and perhaps extend it beyond torts for defamation and personal injuries. It seems to me that the Attorney-General's blithe statement in his second-reading speech that it is consistent with the government's policy is unfortunate, because it certainly does not seem to have any justification whatsoever. I will be asking the Attorney-General to provide some detail as to why there is a cap of $250 000, given the fact that we do not have the same crisis that occurred with public liability insurance.

As I said, I am concerned about the prohibition on corporations suing for defamation. A corporation with more than 10 full-time employees will no longer have a cause of action in defamation. Likewise I note that section 65A of the commonwealth Trade Practices Act would prevent a corporation relying on provisions such as section 52, which relates to misleading or deceptive conduct, to recover any form of damages in relation to these matters. So corporations will be locked out completely in relation to defamation proceedings. Yet time and again over a long period we have seen corporations being involved in defamation litigation to vindicate if not their reputation, because corporations cannot have a reputation, then certainly their goodwill, and certainly they have succeeded in the most scandalous forms of breach.

A submission from the bar council highlights the case of Abbey Bridal, where reporters from one of those television programs which try to create a degree of sensation in what is being broadcast turned up on the doorstep of one of Abbey Bridal's premises with a number of customers who were complaining about the company's behaviour. I do not propose to go into detail about the matter, but that television company was aware, certainly by the time the case came on for trial, that the issues that were being raised by those customers were false and perhaps even a fabrication.

As a result of that national broadcast by the media outlet, Abbey Bridal brought defamation proceedings which demonstrated that, bearing in mind that Abbey Bridal had shops in a number of states, it had suffered a downturn in its financial turnover to the tune of $1.25 million. The plaintiff was ultimately awarded $644 000 by way of compensation, together with an additional sum of $50 000 for punitive damages — of course punitive damages will be going as a direct consequence of the passage of this legislation — because the court felt that the actions of the defendant in not checking the facts and then not dealing with the matter by way of an apology or otherwise was so reprehensible as to demonstrate contumelious behaviour.

In relation to Abbey Bridal I say that this should not be pitched at large corporations like BHP or Rio Tinto or one of the large petrochemical companies. It is about corporations which are still small and medium-sized businesses and which employ real people and have real people as their shareholders or owner/managers. On the weekend I had dinner with a friend who is involved with a corporation that has some 25 employees. It has only one outlet here in Victoria and certainly depends to a large degree on the goodwill it has built up over a period of time. It is lamentable that a corporation like Abbey Bridal or the business my friend is the manager of could be defamed in a most offensive way because of contumelious behaviour — as a result of which a court would have been prepared to award punitive damages above and beyond compensatory damages — but will now no longer be able to sustain a defamation action in relation to these matters.

Also in relation to corporations, by the passage of this legislation a not-for-profit corporation will somehow be treated differently, whether it has a much more ennobling purpose or otherwise. Again, it is about the government picking winners and losers according to its own view of the world.

Most importantly, trade unions, which are corporations under the Workplace Relations Act, certainly would not be caught by the ambit of this legislation. It is interesting that this particular proposition is propounded by Labor attorneys-general around this country. It is certainly something that is unfair in the extreme. It is based upon a stereotype of large corporations which the government keeps propounding, notwithstanding the fact that there are many small and medium-sized businesses that are operating on the smell of an oily rag. Any wrongful infringement of their goodwill or reputation could have a severe impact on their ability to trade and as a consequence on their own employees, who may very well lose their jobs as a result of any severe defamation — which apparently can be done now with impunity. As I said, those small corporations do not have the ability to invoke the provisions of the Trade Practices Act.

In relation to making amends, the opposition has concerns in the sense that it differs from the operation of making amends under the United Kingdom model. The offer to make amends differs in that,

notwithstanding the fact that the offer can be made, unlike in England any other defence that has been available to the defendant can also be relied upon at the trial of the proceedings. Normally an offer is made without prejudice — if it is an offer of settlement it is automatically without prejudice — which means the detail of that offer cannot necessarily be pleaded or run in an open court and it becomes irrelevant to the proceeding. A plaintiff may well have not only other defences like truth, contextual truth, public document and statutory qualified privilege, but also one of these making of amends offers that can appear in the context of the trial where 'You said', 'I said' and all those irrelevant matters that would otherwise not be part of a trial of the proceedings can now be brought in, and that is a matter of profound concern. In picking up what may be considered to be an appropriate defence in the UK the bill certainly has not picked it up in its totality.

Another consequence of making amends is that it clouds the issue in relation to any civil proceedings where an offer of compromise can be made at any time during the course of the proceeding which has cost implications — that is, if a plaintiff does not accept that offer of compromise and does not succeed in excess of that offer of compromise, then there are well-known and well-understood cost implications for making such an offer of compromise. The offer of compromise certainly is not ruled out in the operation of defamation proceedings, but added to that is this idea that you can achieve a defence by the offer of making amends. Given the fact that you are now able to rely upon an offer of compromise and other general law defences, it can substantially make the whole process a very complex one and may lead to inappropriate offers of amends, because the pressure that can be placed on a plaintiff in pursuing it to trial could be immense and may actually sanction defendants putting in an offer of making amends that would be less than adequate. The pressure placed on an individual plaintiff may be substantial.

As I said, the truth defence is included in the bill. Given that this legislation is like an overlay over the common law, which still exists in Victoria and which is only varied in accordance with the bill, the truth defence is set out, and there is this new defence called contextual truth. It is a matter of real concern that this idea of contextual truth can bring to bear a whole range of what is now considered to be extraneous material in a trial in relation to defamation. What it means is that, for example, you could have a list of concerns. You might say the plaintiff does not like politicians, does not like bureaucrats, does not like the government, does not like this and does not like that.

But you also may have a case like the case that has been referred to me by the bar council, where there was an allegation of a long list of concerns about what a particular plaintiff did not like. He was labelled anti-Semitic in the sense that he did not like Jews. The plaintiff sued in defamation over the allegation about his hatred of Jews. In this particular time and environment such an allegation no doubt would be treated severely by any right-minded person who was concerned that this allegation had been made that he was anti-Semitic and did not like Jews.

In this case what a defendant is then able to do is say that that has to be taken in context with all the other dislikes and hatreds of the plaintiff, including politicians and bureaucrats and all of those matters, to provide a defence that may enable the defendant to argue that there is really nothing wrong with the defamatory comments and that taken in context they are not a substantial diminution of the reputation of the defendant. As I said, the plaintiff will therefore have their case — that is, their complaint about a particular matter they were concerned about — expanded into something much larger than what they originally complained of or considered, and accordingly the plaintiff's case, in the words of one media lawyer, could in fact be hijacked by a defendant and substantially prolonged.

The public documents defence is based upon something that we accept as being part of our body of the common law in Victoria: that the reporting of proceedings in Parliament, relying upon *Hansard* or otherwise, and indeed in relation to courts and tribunals, is accepted to be privileged and that fair comment applies there. What does concern me, though, is that the ambit of the 'public document' definition under clause 28 of the bill will include not only parliamentary proceedings, parliamentary inquiry proceedings, courts and tribunals but:

> … any document issued by the government (including a local government) of a country, or by an officer, employee or agency of the government, for the information of the public.
>
> … any record or other document open to inspection by the public that is kept —
>
> > … by an Australian jurisdiction, or
> >
> > … by a statutory authority of an Australian jurisdiction; or
> >
> > … by an Australian court; or
> >
> > … under legislation of an Australian jurisdiction; or
>
> … any other document issued, kept or published by a person, body or organisation of another Australian jurisdiction that is treated in that jurisdiction as a public document under a

> provision of a law of the jurisdiction corresponding to this section …

We already know that is likely to be the case because all of them will be introducing this model legislation. My concern is that it is going well outside the ambit of attracting the privilege that may be associated with a Parliament or a court or a formal government or public document to include any document issued by the government or agency for the information of the public, which could represent anything. On top of that there is a provision in the bill that provides for any document in accordance with regulation to be included in schedule 2. If you look up schedule 2, you find it is absolutely blank at this stage. There is a note that states that will be worked out between the different states and territories, but I will be asking the Attorney-General to provide some indication as to what schedule 2 would contain.

In the few minutes remaining to me in this debate I will deal with the issue of statutory qualified privilege. Of course we have a defence at common law in Victoria that relates to the idea of qualified privilege that has been pronounced by a number of Victorian courts and the High Court — and indeed in some cases the House of Lords in a previous guise — and restates and has restated the idea of qualified privilege.

Only recently the High Court again pronounced the common law in relation to qualified privilege, which is that there has to be a commonality of interest and a reciprocity of duty between those people who are involved in the communication. The classic example of that is Lange's case, where politicians commenting on government or political matters have a qualified privilege in the way they communicate, but that particular qualified privilege has been repeatedly enunciated by courts of high authority. The Court of Appeal and particularly the High Court have consistently said that commonality of interest and reciprocity of duty does not exist between the press and the broader community. Yes, they may very well have an interest in a particular matter, but that does not necessarily mean they have licence under qualified privilege to produce defamatory comments. The statutory qualified privilege that has been set out in the New South Wales Defamation Act is being imported into Victorian law through this model legislation. Likewise, it also imports the idea of a mental element into this notion of qualified privilege, which is something that has been unknown to the defamation law here in Victoria.

Of course we understand that defamation is essentially strict liability in the sense that the core of the complaint comes about by something that falsely impugns the reputation of an individual, a body or a corporation, but that infringement certainly is not qualified by the defendant in any way demonstrating that they acted reasonably. There are a number of defences that they may avail themselves of. They can say it is true. They can say it is contained in a document that is a record of Parliament or a court. But likewise the conduct and behaviour of a defendant has never been part of the law — what was going through the defendant's mind — and even if you are going to introduce such a mental element now to the tort of defamation, I would have thought it would have been axiomatic that one of the considerations would have been that the defendant thought reasonably in all the circumstances that the allegation was true.

This particular bill, as I said, has a worthwhile purpose, which is providing uniformity around this country. It is regrettable, however, that that particularly noble purpose has been reduced in its utility by the introduction of a number of concerns, particularly in relation to the elimination of corporations for no better reason than that the government is stereotyping all corporations above 10 employees or more. You are not even talking about the big end of town; you are talking in some cases about very small operations that may employ more than 10 people. The consequence of that may well be that the end people who have to bear the costs of that removal are the employees themselves.

Secondly, the statutory cap is something that stands out by itself. It is said to be part of the government's policy. It ain't part of the government's policy. All it has done is unilaterally fix the line and say, 'That is it'. It is certainly not consistent with anything that may have come out of public liability insurance.

In relation to the defences, including making amends, the contextual truth, public documents and the statutory qualified privilege, it is a matter of profound concern that the weight of all those matters is essentially tipping the balance in favour of defendants, particularly large media organisations, without any countervailing increase to the rights of plaintiffs. While the opposition accepts that the bill's purpose is good, in all of the circumstances this bill is unfortunate in the way that it will be applied and the defences that it imports. Accordingly, the opposition is opposing this legislation.

Mr RYAN (Leader of The Nationals) — I record my gratitude to the government for the extension of time that has been granted to me to speak upon this legislation. I sought that extension because it is very important legislation.

The Nationals are opposed to the bill, and I will outline why that is so. Before moving to that point, though, I want to make some general comments. One's own good name and reputation are probably the most prized of assets. They take a lifetime to develop and they can be lost in such a short time and through any number of circumstances. You cannot help but think over some of the examples of just exactly that that have been visited upon us here in Victoria in the past few weeks and months. One wonders, for example, if Steve Vizard were to have his time over again whether the same sequence of events which we have seen played out historically would in fact have occurred. I do not wish to be unfair by taking Steve Vizard's position as a sole example. I simply raise it as being an instance where reputation and one's good name can so easily be irreparably damaged.

The capacity to defend your name and reputation has given rise to a vast body of law in Australia. That is necessarily so because, given the importance of reputation and name, it is only appropriate that there are mechanisms at law to defend those important assets should they be under assault. That law in part is codified by statute but in large part it exists as a result of the common law in particular and to a lesser degree in equity. In many instances it is a combination of both. In Queensland and Tasmania the law has been codified into statute. In the other jurisdictions around Australia it is a mix of common-law equity plus statutory codification.

The actual definition of defamation appears at page 3 of the explanatory notes of the bill. That definition is recited as:

> At general law, a plaintiff has a cause of action for defamation against a defendant if the defendant publishes defamatory accusations or charges (referred to conventionally as imputations) about the plaintiff to at least one other person (other than the defendant or his or her spouse).

It goes on to say:

> The courts have formulated the test for determining what is defamatory in various ways.

The explanatory notes give examples of these formulations. Indeed, by way of a general outline which members following this debate may find useful, it is an area of the legislation to which I would refer them. What is intended is to bring to Victoria and to other jurisdictions around Australia uniform laws governing defamation. This has been a long-sought-after outcome for something of the order of 25-plus years. There has been discussion about the prospect of achieving what this bill seeks to achieve. As the shadow Attorney-General has recited, that aim is laudable, but unfortunately the mechanisms by which it has been sought to be achieved do not match with the original aim. It is why the bill, regrettably from The Nationals perspective, is unacceptable.

The provisions of clause 6 of the bill do not affect the operation of the general law — that is to say, the common law in equity — regarding defamation, except to the extent that this bill otherwise provides. It does not seek to define the circumstances of cause of action. It is rather that elements of general law will continue to apply. It means, therefore, that if a plaintiff does not have an action at general law, this bill will not help them; it will not assist that individual. If that action does not lie at general law — and that is defined in the bill as being at common law and equity — then it is no good looking to this legislation to found the basis of an action because it simply is not here. That is not its purpose.

There are many problems with this legislation. Amongst them is the fact that this bill — on my reading of it anyway — shifts the balance between the parties. I say without any apology to the house that I am a plaintiff's man. In the years I practised law, I acted for the plaintiff — for the party who had been wronged. I put it on the record that all my plaintiffs were deserving plaintiffs, too! The notion of having legislation before the house which shifts the balance in the way that I believe this bill does is therefore something which I cannot support.

The private individual's capacity to sue has been placed in a position of being overpowered by the capacity of those who publish to be able to defend themselves. Being involved in litigation of this nature is an expensive task anyway; this bill is going to make it even worse. The second-reading speech asserts that the bill will simplify the substantive law of defamation and that it will also repeal obsolete provisions in the Wrongs Act. I do not agree with either of those contentions.

I also have available to me, as has the shadow Attorney-General, the representations that have been made by the Victorian bar. The Victorian bar expresses the view very positively that this bill is not going to achieve the outcomes which the Attorney-General so fondly has in mind for it and which are reflected in the second-reading speech. In fact what it does is introduce a series of vague, untested defences that judges are now going to have to interpret. There is now going to be developed another vast body of law in Victoria around the nature of these defences. It is going to involve more cost, more confusion and less clarity than we presently have.

The additionally troublesome feature of all of this is that the major beneficiaries are likely to be the mass media: publishers and broadcasters. This is not going to be a benefit which comes to the individual. There is nothing in this for individuals. Indeed, individual rights are going to be lost to differing degrees.

We have in Victoria one of the least complex systems in Australia — a feature we share with South Australia. It is a common-law-based system. There are statutory defences set out in the Wrongs Act, but they are largely an extension of the common law anyway. It is easily understood, and if this bill passes — and presumably it will — we are going to lose the benefit of that system as we know it. This bill needlessly amends the common law in a variety of respects. It is fiddling with an established system and it is going to cause problems, not solve them. Individual rights are going to suffer as a result.

The report by the Scrutiny of Acts and Regulations Committee reflects that general concern. The committee report concludes with a series of comments upon the modifications which are going to be effected to the laws. I invite members to have regard to the content of that document.

At the core of all of this is uncertainty. A state of uncertainty in life is a most unfortunate state of affairs generally; to have it in the law is only going to cause great difficulty for all concerned. We are going to see that well-resourced defendants will be able to create uncertainty; they will be able to protract litigation; and they will therefore be able to make it difficult for people to protect their names and reputations. All of this, taken holistically, is why The Nationals oppose the legislation before the house.

Part 2 of the legislation deals with the general principles. In clause 7 there is the abolition of the libel and slander distinction. We do not think that to be a good idea. There is no need to do it. I know that it is done in other jurisdictions in Australia, but there is no need to do it here. One of the distinction's great benefits is that it does filter out the frivolous claims. Because slander is the spoken word and must, with a couple of exceptions, be based around special damages, that necessity for demonstrating some sort of special damage puts a threshold requirement into the way in which the legislation operates. If you abolish the distinction, that threshold requirement is not going to be there any more. We do not think that is a good idea.

Clause 8 of the legislation deals with the notion of one cause of action. On the face of it that seems attractive. This is to be contrasted with the New South Wales system. In this system each defamatory imputation founds a separate cause of action. What may happen here though as an unintended consequence perhaps — the government may be able to tell us otherwise — is that this will rule out the common-law action which is based on true innuendo. This is intended to reflect a meaning which is not apparent on the face of a particular set of words, but is plain to those who have a special knowledge of the facts. There have been cases in relation to precisely this issue. This amendment may bring about that outcome.

In clause 9 there is a major change which I believe is of grave significance to corporate Victoria. From the passing of this bill corporations with exemptions will not be able to sue. It is a major change to Victorian law. As things now stand, corporations can sue if they believe there are defamatory matters which have injured the corporations' trading reputation. What is going to happen is that the capacity to sue will be removed, with only a couple of exceptions. One of them is that a not-for-profit organisation will be able to sue. But that is less likely to happen because of the logic of things. It is less likely that a not-for-profit organisation is going to suffer a financial loss. Accordingly, it is far less likely to be troubled by any defamatory commentary.

The other exception is that a corporation with fewer than 10 employees — which is not related to another company — will still be able to sue. I pose this question: what is the logic of the circumstance of this particular provision? There is no logic in saying that corporations cannot sue on the one hand yet having these two exemptions on the other. If the government is intent upon its course, it should apply one or the other. It seems to me that the inability of corporations to sue is going to be a cause of gross injustice in time to come for a variety of reasons which readily come to mind. To have a company not having the capacity to defend itself against defamation is unnecessary, unfair and unjust.

Part 3 of the bill deals with the resolution of civil disputes without litigation. In clauses 12 to 20 there is reference to the proposal to introduce a new concept to Victoria: offers to make amends. This is intended as a general course which will be a pre-litigation application. It will encourage the parties to try and do something about the resolution of a proceeding before the actual instigation of a writ. At the moment Victoria has an offer of compromise system or a payment into court system. Both of those usually apply during the course of litigation. Those are mechanisms whereby parties can make offers to each other on without prejudice bases in a manner intended to bring about an acceptance of those offers and the conclusion of

proceedings. As I have said, they are usually part of the fabric of a case as it proceeds whereas what is intended by offers to make amends is that they happen in a pre-litigious circumstance.

The bill tries to bring together two completely unrelated concepts. As I have said, the notion of offer of compromise and payment into court are usually dealt with in the course of proceedings, whereas it is being attempted in this bill to bring the offers to make amends to bear in a way which mixes these two concepts. That is so because in division 1, particularly in clause 12, there is reference to the fact that offers of compromise or payments into court can be used within the ambit of this general chapter dealing with offers to make amends. There has been criticism of trying to bring together two basic concepts which essentially have no relationship to each other. They are conceptually different. Clause 13(4) says:

> An offer to make amends is taken to have been made without prejudice, unless the offer provides otherwise.

However, in clause 18 an unaccepted offer may operate as a defence. A query has been raised through the Victorian Bar Council about how this apparent contradiction in terms is going to operate.

Will it be possible somehow for the offer to make amends to be pleaded by a defendant? If so, how will that sit with the notion of an offer being without prejudice? One of the views that has been put to me is that in clause 19 the plaintiff's response to an offer may not be admissible. In the concerns notice, which is referred to in clause 14(2), there is said to be a deficiency in the way it is set out. It has been suggested to me that there should be an amendment to that to make specific reference to its application under division 1 of this part to make clear its basis of application. However, in any event, as in the United Kingdom, the offer to make amends should be exclusive of other defences.

What is going to happen here is that defendants will have the best of all worlds. They will be able to make a miserable offer to make amends and then pursue a raft of other defences, as opposed to what I believe should happen — that is, if they choose to go down the path of making an offer to make amends it should be a genuine offer which is appropriately constructed and should be the one which represents their only defence. They should not have the best of both worlds in being able to go to other matters that they say might assist their defence of the proceeding.

In part 4 the bill deals with litigation of these civil disputes. Clause 21 deals with the issue of juries. As well as being a plaintiffs man I am also a juries man; I think they are a great part of our legal system in both the criminal and civil jurisdictions. I had a lot to do with them over the years, and I can tell the house that they were fine people. I lost six out of the hundreds of jury cases that I ran. As my wife has sometimes said to me, when they eventually bury me I will be buried with parts of those six as opposed to parts of the hundreds of others. Be that as it may, I am a juries man. Clause 21 is simply unnecessary — we do not need it in the legislation. It is likely to complicate existing systems with regard to whether juries are or are not used at trial. There are already provisions within the rules of the County and Supreme courts that deal with this issue and this clause is only likely to introduce confusion. It is not needed and it should be deleted.

Clause 21(3) talks about an interesting provision. It empowers the court when making a judgment as to whether it should make an order for a judge alone to hear the case to have regard to certain matters such as whether the trial requires a prolonged examination of records or whether the trial involves any technical, scientific or other issues that cannot be conveniently considered and resolved by a jury. These are matters juries deal with every day of the week. They do it in the criminal jurisdiction and they do it in the civil jurisdiction. It seems to me that the inclusion of this provision is simply unnecessary in the context of this bill.

In clause 22 juries will be removed from the role of the fixing of damages if they find guilt on the part of the defendant. They will be entrusted with determining guilt or innocence and whether the case has been made out on behalf of the plaintiff in the first instance but they will not be trusted with the apportionment of damages. This seems to me to be an unacceptable removal of the responsibility of the jury. Juries do this every day of the week in civil proceedings so why should they not do it in these proceedings? I think juries should be trusted on this issue, just as they are on the primary issue of whether the plaintiff has made a case or not. I do not see any reason for juries to be cut out of this. In any event, we always have the appeals court available to remedy any problems which may arise if it is felt that a jury verdict may have been inappropriate.

In division 2 of this part of the bill there are nine defences. Remembering the commentary by the Attorney-General in the second-reading speech that this legislation will simplify things and make it much easier for everybody to understand, this part of the bill proceeds to roll through the nine defences established by the legislation. Some of them are those which we know and some of them are not. Among them is

clause 25 which deals with the fact of truth being a defence. That is the common law in the state of Victoria and that provision in this bill is unnecessary. All it does is restate the law as we know it.

Clause 26 is particularly contentious. It deals with introducing the principle of contextual truth into the law in Victoria. It is a major change to the common law and it is one which I do not believe will benefit this state. As things presently stand, a plaintiff is able to choose on which of a series of defamatory imputations he may wish to rely. The leading case in this issue, the facts of which were referred to by the shadow Attorney-General, is the matter of Templeton and Jones. It was a 1984 New Zealand case. In that proceeding the media organisation involved published an article about the plaintiff and asserted that the plaintiff despised 'bureaucrats, civil servants, politicians, women, Jews and professionals'.

The action by the plaintiff was ultimately based on the assertion with regard to the purported fact of the plaintiff despising Jews. The plaintiff chose to base his action on the assertion that he was anti-Semitic and the case proceeded accordingly. The defendants tried to bring into the proceeding all the other assertions which had been made. The court ruled that the case should properly proceed on the basis of the way it had been pleaded — that is, it should be based around the single assertion which the plaintiff chose to base his case upon. That is the law in the state of Victoria.

Defendants will now have the capacity to examine all other allegations as part of the defence they bring to the proceeding. One can easily imagine how it is going to complicate matters. Take the publication of a book — for example, Mr Latham's book. Then take, for example, the numerous defamatory allegations and imputations made against members of the Labor Party. Some of its great historical figures and all and sundry within the Labor Party have been slathered and whacked. I think it is a most unfortunate state of affairs when we see a former leader of the alternative government, the man who until about 12 months ago was the alternative Prime Minister of this nation, writing a book which contains all these appalling and defamatory imputations. As the law as we have always known it stands in Victoria any one of those Labor identities who chose to institute a proceeding would be able to select one of that raft of defamatory imputations and rely upon it to run his or her case.

As things are intended under this legislation, if Mr Latham were to be sued he would be able to go through his book chapter and verse — and no doubt he would be just the man to do it — and gather up all the imputations and allegations made against any particular individual and cloud the proceeding by bringing all of them into play. This will mean long, drawn-out, complex, highly expensive proceedings will be run here in Victoria. The interlocutory aspects of these cases will be enormous, and all of this will happen in circumstances where there is simply no need to make this sort of change. This makes a major change to the law in this state by bringing in the notion of contextual truth. I am sure it will have huge ramifications for us.

Clause 27 deals with the issue of absolute privilege. It really is no more than a restatement of the common law. Again, it is not really needed in this legislation. It deals with the capacity for commentary upon Parliament and court proceedings. There is nothing new in it and it really adds nothing.

Clause 28 deals with the publication of public documents. At common law qualified privilege applies to the publication of extracts from public registers. This will be very significantly expanded. This is another major change to the law in Victoria. I refer particularly to the provisions of clause 28(4)(e) which deals with court documents. At the moment rule 2805 of the rules of court empowers the prothonotary of the Supreme Court to treat a court file as confidential. Alternatively a judge can make such an order, but otherwise the media get access to court files. The usual means of doing this is simply to provide to the media the number of the court file or to just hand things out holus-bolus, as happened in the case of Ian Smith, a former minister and member of this place, in the action of Smith and Harris.

In that instance at a press conference the solicitors involved simply handed out copies of the writ, thinking that they would have available to them the defence that is usually afforded to reasonable comment upon court proceedings. They found out subsequently to their horror that the defence did not apply at all because the law as it stands in Victoria is that the court proceedings themselves are protected by privilege, but you cannot, outside the proceedings, simply go handing out willy-nilly these sorts of documents that contain these sorts of allegations.

Of course what will happen in time is that the media will get access to court files. You will find that affidavits that have been sworn by parties, which might make the most outrageous and appalling defamatory commentary, will be able to be published. You will have the media getting into the files and combing their way through, not only into the statement of claims and the pleadings which comprise the file itself but into the really juicy bits to do with affidavit material. Indeed, on

the most serious of notes, having dealt with many cases in the family law jurisdiction, some of the assertions that are made as to conduct between parties are regrettable and very fundamental. To think that this sort of material will be able to be published with impunity is something that ought to worry all of us in Victoria.

I do not agree with the provisions of clause 28. Rather, the privilege should be confined, as it is at the moment, to what happens at the actual court proceedings, where these sorts of allegations are tested; there is a judge present to oversee the way these matters are dealt with and the allegations themselves are able to be refuted. It is only in that circumstance, doing a reasonable job and reporting fairly and reasonably, that the media is able to give coverage to those sorts of things. Contrasted with what is now proposed under clause 29, it is a sad state of affairs that we are going to see that happen in Victoria. It is a mistake.

Clause 30 deals with the issue of statutory qualified privilege. This is again a major and a radical change to the common law. There are factors listed in the explanatory memorandum that are simply wrong, and they do need to be amended between houses in the course of this debate. The High Court has taken a different perspective on these matters than has the House of Lords, and these issues have been explored in some depths by the shadow Attorney-General. The fact is that the mistakes that appear within the commentary to clause 30 in this legislation should be deleted — amended, as you like — to make them accurate, because at the moment they are wrong.

The reference to the proceeding of Herald & Weekly Times and Popovic is simply wrong. That should also be changed. There are elements here that are of great concern. Apart from the matters I have mentioned is the notion of introducing reasonableness as a factor in the examination of the conduct of whoever may have published the material. This, of course, will be an enormous variation from the current strict liability provisions that apply, and again I say that this is a mistake.

Clause 31 deals with the defence of honest opinion. With time on the wing I will perhaps go to clause 32. This is the clause that I have called the ‘red button provision’. This is the issue of a defence being available for what is termed ‘innocent dissemination’. It is going to apply in the case of radio talkback or of a television panel show — for example, if someone gets on the radio and blurts out some sort of defamatory comment, the notion behind this clause is that the entity responsible for publishing this, for allowing it to happen, is going to be exempted under the provisions of this clause from being subject to an action because of the notion of innocent dissemination.

I say that is simply wrong. If you are going to run live talkback and have people ringing in on whatever might be the topic closest to their hearts, and if you are dealing with emotive issues on which people want to put passionate points of view, it is my opinion that you as a broadcaster have a direct responsibility to control it. That is why we have the red button and the 7-second delay — or longer in some instances. In looking around this chamber I suspect that everyone except our very learned Clerk has gone on live radio and answered questions from all-comers. Why should it be that an entity which allows someone to go on the radio and say something which is appallingly defamatory is exempted from being the subject of proceedings? Rather, it should have the responsibility which it now has of making sure it controls this sort of thing, because it can. That is where the responsibility should lie.

There is the issue in clauses 34 to 39 of damages. There is no need for a cap to be introduced in this legislation. For the Attorney-General to try to create a nexus between the initiatives that have been taken to cap general damages in personal injuries claims and doing likewise in this legislation is utterly ridiculous. The need for the cap, inasmuch as there was a need, on personal injuries claims was driven because of issues that we in this chamber all know so well. I am not going to go through them here, given that time is on the wing. But that is not what applies in relation to this area of the law. There is simply no need for it. There are appeal courts to look after these things: there is no need for the imposition of a cap.

Also there is no need for the abolition of exemplary damages. There is a distinction between punishment, which is what exemplary damages are about, and the allowance in section 35(2) for the application of aggravated damages, which can be awarded in exceptional circumstances. I do not believe there is any case to be made for the abolition of exemplary damages.

Finally in terms of my commentary on the legislation I refer to the provisions in clause 40 in regard to costs. This loads the dice against the private individual who wants to take appropriate action to protect their name and ensure their reputation is able to be maintained.

I close with reference to the report of the Scrutiny of Acts and Regulations Committee. *Alert Digest* No. 11 says at page 9:

> The committee notes that the bill will modify the laws currently applicable to proceedings in civil defamation in the following principal ways —
>
> 1. Clause 7 abolishes the distinction in common law between libel and slander.
>
> 2. Clause 9 prohibits certain corporations from commencing proceedings in defamation.
>
> 3. Clause 22 removes from the jury the function to assess damages where defamatory matter is published and no defence is established.
>
> 4. Clause 35 provides a statutory limit to the award of damages for non-economic loss.
>
> 5. Clause 37 bars a remedy for the award of punitive or exemplary damages.
>
> 6. Clauses 4 and 48 abridge the time —

which I had forgotten to mention —

> in which a proceedings in defamation may be commenced (limitation of actions).

Having chaired this committee I can tell the house that often the real news is about what is not written in these reports as opposed to what is written. What is written is a very good pointer to what is not. This is a good summary of the sorts of things which we should have concerns about.

I conclude therefore where I began: the protection of one's name and reputation is fundamental to all of us. What will happen with the passage of this legislation is that one's right to do so will suffer a severe setback in the state of Victoria. I for one think that is a very sad state of affairs.

Mr MILDENHALL (Footscray) — It is a pleasure to join the debate on the landmark legislation that is before the house. We have had a bit of a debate about available defences and approaches to parties in proceedings. It is quite unusual to hear the opposition parties saying that they agree with the aim, and they would probably agree with the process, I would imagine, given its duration. However, they just do not agree with the content. If they had been in government, this would be a process they would no doubt have been part of.

There has been a gestation period of some 25 years. How long was Rip van Winkle asleep? For how long have opposition members and their mates on the Victorian Bar Council been tuned out of this debate? How long have they not been participants in the extraordinarily drawn-out process that has come to this point? It started in 1979 with the Australian Law Reform Commission's report entitled *Unfair Publication — Defamation and Privacy*. In the period during which the current opposition was represented on the Standing Committee of Attorneys-General it agreed in 1994 to set up a national working party on the state of defamation law in all jurisdictions. There were working parties on and off right throughout the period, resulting in the production of detailed reports in the early 2000s. The important part of the process that led to the introduction of this bill is that the propositions captured in the legislation today have been widely disseminated, having been available on the Internet since July last year.

The Victorian bar's views on the propositions were invited in August last year, but unfortunately its response was received at something like 10 minutes to 1 o'clock today. I note the reliance placed on the views of the Victorian bar in the criticisms of the bill offered by the members for Kew and South Gippsland. There are compromises in this legislation. In order to find a national model to go forward characteristics of the New South Wales approach have been incorporated into a national model, and sometimes to find the answer to the long-sought-after goal of uniform national defamation law compromises are needed and they have been incorporated here. I suspect we part company on whether the compromises and the adoption of the characteristics of other jurisdictions have weakened the legislation to the extent that a national approach no longer has the qualities the opposition would support. That would appear to be the case from what has been said today.

We have the federal Attorney-General insisting that new uniform laws be passed before the end of this year in order to come into place by 1 January 2006; otherwise he will legislate from Canberra a set of defamation provisions that would create all sorts of difficulties around the state because of jurisdictional coverage issues. On the one hand we have the opposition arguing for different provisions and for delay, and the Victorian bar arguing for delay, and on the other hand we have the federal Attorney-General demanding progress and implementation of these uniform provisions. It might be news to opposition members, but they cannot have it both ways.

I will now speak to a couple of matters that have been raised. There have been claims made by opposition spokespersons, some of which relate to issues like the abolition of the distinction between slander and defamation. The traditional definition of slander implies a more transitory incident, something that causes a sort of transitory impact as against the nature of defamation. The argument has already been the subject of legislation in other jurisdictions and that distinction has

been eliminated. The Standing Committee of Attorneys-General found as a result of the extensive consultation that the distinction is outdated, because courts have had difficulties defining precisely when a defamatory statement is slander and when it is libel. Many of these difficulties have stemmed from the advent of new technologies whereby transmissions may be spoken or have visual characteristics. Although traditionally they would be characterised as slanderous, they are now capable of being permanently recorded. Internet broadcasting and live streaming are examples where difficulties have arisen as to whether the alleged defamatory content constituted a slander or a libel. That seems to make sense to me, and there seemed to be an argument based on tradition offered to the house today.

The cap on damages does not relate to the issue of actual economic loss but to damages for non-economic loss. It is a fairly difficult proposition to defend publicly that while we have capped damages for lifetime debilitating injury to a figure around what is being offered here, hurt to a reputation ought to exceed that sort of figure. The comparisons are valid in terms of determining public policy, and I would have thought that was a reasonably simple proposition.

Another matter that I think can be reasonably simply clarified is that of privilege for public documents and court proceedings. A more detailed reading of clause 28(3) of the bill indicates a defence can only be established if:

> … the plaintiff proves that the defamatory matter was not published honestly for the information of the public or the advancement of education.

So the court is able to hear argument about those matters if — —

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

Mr WYNNE (Richmond) — I rise to support the Defamation Bill 2005. As mentioned by my colleague the member for Footscray in his contribution to the debate, the Standing Committee of Attorneys-General (SCAG) has been wrestling with reform of the defamation laws now for in excess of 20 years through successive governments. This is quite landmark legislation because for the first time we have a cross-jurisdictional agreement and consistency through the states and territories as to how defamation laws will be dealt with.

In passing it is worth acknowledging a comment made by my colleague the member for Footscray that the federal Attorney-General indicated, although he is a member of SCAG, that if these laws were not passed he would seek to intervene federally to force change. That really flies in the face of my experience on the occasions I have supported our Attorney-General at SCAG meetings, where there was a genuine sense of cooperation and an attempt by the states to wrestle with a range of often quite complex legal issues, and a very genuine sense in which states were prepared to cooperate on matters of national interest. As we have seen over the years, we have had a national approach to terrorism, and it is really quite disappointing to see this unnecessary form of intervention by the federal Attorney-General in this matter.

Since Federation defamation laws in each state have diverged quite markedly. Over that time media organisations, newspapers, television, radio and now the Internet have increasingly operated across and beyond state and territory borders. This has led to our system of defamation being quite inconsistent from state to state.

Over the years we have had many famous cases of defamation being brought. There was none more striking than a matter brought in the early 1970s by the then Prime Minister of Australia, John Gorton, when he sought to sue the ABC because of a story by Max Walsh. In that case the then leader of our national government sued the ABC not only in one but in six jurisdictions — in each of the five states and the Australian Capital Territory. The wash-up of that case was that the decisions were split down the middle: he won in three jurisdictions and lost in three others.

More recently litigants have refined the approach to what some at the bar would argue is forum shopping — suing in the jurisdiction that is most likely to give them, in their view, a reasonable chance of victory and subsequently the highest award of damages. Inconsistency across jurisdictions means that organisations often play to the most restrictive laws in a state, thus restraining the outcome.

Some significant policy advances through the national provisions are proposed here, including the abolition of the right of large businesses to sue individuals for defamation in some circumstances. Some opportunistic corporations have used the law of defamation in an attempt to silence their critics. There have been many notable examples of that over the years. An individual can be put in quite an invidious position when a large, well-armed corporation seeks to take on that individual. It is often perceived to be, from the individual's point of view, an unfair fight.

Some very important aspects of the national provisions are enacted in this bill which will simplify and codify the law of defamation. The distinction between libel and slander — which has outlived its usefulness — will be abolished. Juries will remain a part of our system, but the bill makes it clear that judges will determine the quantum of damages. I listened carefully to the contribution of my colleague the Leader of The Nationals. His proud boast that in the hundreds of cases he had undertaken he had only gone down six times on trials under the jury system bears testimony to the robustness of this system, and that is recognised in this legislation.

The amount of damages will be capped at $250 000. This limit is based on current standards and will provide certainty to parties without encouraging a sense of recklessness. Exemplary and punitive damages will be abolished. Two law reform commissions have found that these need to be more akin to criminal punishment and are inappropriate in civil defamation proceedings. Moreover, courts will retain the ability to award aggravated damages for unreasonable or unjustified conduct or behaviour that is not in good faith.

Defences to defamation will also be simplified. Notably New South Wales, Queensland and Tasmania will abolish the requirement that written material must be both true and in the public interest to be published. Truth alone will now be a sufficient defence to defamation in all states and territories. The time limits on bringing an action for defamation will be standardised across the states. This is important, because in Victoria the time limit will be reduced from the current six years to one year.

Finally, one of the most important reforms is improving the prospects for alternative dispute resolution. This has been a hallmark of the leadership provided by our Attorney-General, in that he has been an advocate of people seeking alternative dispute resolution as opposed to battling matters out in court. I am strongly supportive of that way of going forward wherever possible. From an all-party point of view, if these matters can be sorted out before court it is by and large a much better result for all concerned.

Today we are debating an historic piece of legislation. It has taken an enormous number of years under successive state and federal governments for this bill to come forward to this Parliament, and in fact similar bills will be debated across all the states and territories in order to put uniform legislation into place. It comes on the heels of a significant announcement today by the Attorney-General that was also attended by the shadow Attorney-General — that is, the abolition of provocation as a defence against homicide. This is a very important reform, and it again demonstrates the willingness and capacity of this government to work in a cooperative way at a national level to achieve an outcome that provides real benefits to Victorians who seek resolution when they feel they have been unfairly defamed. I commend the bill to the house.

Mr PERTON (Doncaster) — I have pleasure in joining this debate, and like the shadow Attorney-General I accept the fact that there is a long history of attempts to introduce a uniform defamation law for Australia. However, this piece of legislation certainly does not meet the interests of the public of Victoria. If there is one way to characterise this legislation, it is that it transfers too many of the rights and entitlements of ordinary folk, increasing the power of media owners — the owners of newspapers, radio and television — at the expense of the citizen.

Beyond physical health there is little that is more important to the ordinary citizen than their reputation, particularly their reputation for honesty, or truthfulness, in their professional or family environment or the like. Reputation is paramount. The law of defamation, as it has evolved through the common law over hundreds of years, has been seen to be there to defend someone's reputation. Politicians are in a slightly different state. We enter this occupation of public service knowing that the Parliament is a place of great combat and that all sides of the house seem to take it as given that they attack the reputation of their opponents. The media takes that as its cue and also exercises its right to attack our reputations. We should set aside our interests as politicians and look at the way this legislation deals with the rights and entitlements of the ordinary citizen.

The drafting of the bill seems very strange. Mistakes have been made in the explanatory memorandum, and it is a pity that the Minister for Police and Emergency Services, with his reputation for pedantry, was not involved in its drafting. There are therefore considerable difficulties in the way the explanatory memorandum relates to the bill.

The Victorian Bar Council, in the short time available to it, has made a good examination of the bill and is deeply concerned about a number of its provisions. I quote briefly from page 2 of its submission:

> As will be seen, the Defamation Bill does nothing to simplify the substantive law of civil defamation. It introduces new and complicated defences. The application of many of the provisions of the bill will have to be worked out judicially, thus adding to the uncertainty in the law in this area and to the length and expense of litigation. The bill will add great complexity and therefore cost to defamation litigation.

Those comments alone are an indication that the balance between the rights of the ordinary citizen and the rights of media organisations, with their deep pockets and large budgets they have to defend defamation actions, will become more uneven still. The ordinary citizen who is defamed in a journal or on a television program will have less capacity to defend their reputation than they had in the past.

The Victorian Bar Council also notes:

> The following features of the bill are of particular concern —
>
> > … the introduction of a broad statutory qualified privilege hitherto unavailable to the media …

Again, given the relative financial strength of the media sector versus the ordinary citizen, I am not sure that we needed to introduce a new privilege to the media. The second area of concern to the bar council is:

> the introduction of a contextual truth defence, which will change the law by enabling defendants to enlarge the issues at trial by seeking to justify imputations in respect of which the plaintiff makes no complaint …

The shadow Attorney-General addressed that in his speech. On the capping of general damages of up to $250 000 there does not appear to be any great argument. We are not in a position of there being a great welter of defamation actions being brought and extraordinary damages being awarded to plaintiffs. The reason for the capping is beyond me, other than that it may have been at the request of media organisations. But certainly there is no public clamour for the capping of general damages in defamation. The bar council also points to:

> … the abolition of the court's ability to punish defendants for outrageous behaviour by an award of exemplary damages …

That speaks for itself. It also refers to:

> … the introduction in Victoria of a statutory privilege to publish any matter contained in a public document …

This provision was extraordinarily broad when I looked at it. Potentially you could be defamed in a document produced by the Guatemalan government, or an interstate government, or the like, and there is a defence — even if it is untrue. Were you to bring a defamation action in this state for the republication of defamatory statements made here, the defence that would be able to be made out is that they had been published in a public document. I think that has been very badly thought through, and it may have some very undesirable effects.

The bar council also points to:

> … the broadening of the categories of innocent dissemination to include live radio and television broadcasts …

It also points to something quite serious under clause 9:

> … the removal of the right of many corporations to sue …

In essence under this clause the right to sue remains only with a corporation with less than 10 employees or a non-profit organisation. I am not sure what the distinction is. Why should a corporation which has been defamed by a media outlet, where the losses to the company may have been many millions of dollars, the losses to its shareholders may have been billions of dollars, and the allegations about which may have been completely false but which employs more than 10 people be unable to sue unless it is a non-profit organisation?

For instance, assuming that Greenpeace or the Australian Conservation Foundation are non-profits, I do not see the difference in philosophy or in any matter of substance that justifies saying that a Greenpeace, an ACF or a Brotherhood of St Laurence or the like can sue for loss of reputation but a BHP, an ANZ or a Suttons Tools — any corporation that currently has a good reputation in the community but has that reputation damaged by defamatory content — is unable to sue. That seems to have no justification at all. I have to say that for Labor governments 'profit-making organisation' is a term for abuse and 'socialist enterprise' is the one that is supported. But there is no justification that I can see for the distinctions between those corporations employing 10 or more and those employing less or for a profit versus for no profit.

The last complaint the bar council makes is about:

> … the introduction of an offer to make amends defence in terms which are poorly drafted and unlikely to achieve their objective of eliciting proper, genuine offers from defendants …

I think those provisions characterise this bill. It seems to have been poorly thought through and poorly drafted. On the election of a Liberal government I hope we make the changes that are needed to restore the balance between citizen and media and to make sure that the law makes sense.

Debate adjourned on motion of Mr LANGDON (Ivanhoe).

Debate adjourned until later this day.

CRIMES (CONTAMINATION OF GOODS) BILL

Second reading

Debate resumed from 8 September; motion of Mr HULLS (Attorney-General).

Dr NAPTHINE (South-West Coast) — The Crimes (Contamination of Goods) Bill has as its purpose to amend the contamination of goods offences in the Crimes Act 1958 to add recklessness as a fault element of those offences. Currently the fault element is intention, and the bill will add recklessness as a fault element of those offences. The Liberal opposition supports that change and will support the legislation. However, we suggest to the government that it should, and could, go further and that there are very real concerns that even these changes, which have come after considerable time and considerable delay by the government, will still leave the door ajar for the sorts of activities that were perpetrated at Portland with the live sheep exports, which may give rise to further offences and to further court decisions and which are not what the Parliament or the community would desire.

To explain why this legislation has been changed and why the Liberal opposition is supporting the legislation but believes it could, and should, go further, we need to look at the history and the reasons why this legislation is before the house. I will do that by examining a series of clippings following a particular case. The case has been decided by the courts, and there are no appeals, so it is not sub judice. I will quote from a number of newspaper articles which set out the elements of the history of the case, what happened and why it is of such significance. Initially I refer to an article in the *Age* of Friday, 21 November 2003, which reports on the initial circumstances. It states:

> Animal liberationists who contaminated the feed of about 70 000 sheep bound for the Middle East have been branded economic terrorists amid fears that Australia's $1 billion live export industry is under threat.
>
> Victoria's chief veterinarian yesterday confirmed that what appeared to be shredded ham had been found in one of two feedlots holding the animals, which had been due to be loaded onto the carrier *Al Shuwaikh*.
>
> The sheep, destined for Kuwait, Bahrain and the United Arab Emirates, will remain at Portland while authorities investigate claims by Animal Liberation that it added pork meal and ham to food and water supplies to render the sheep unacceptable to the Islamic nations.
>
> Last night Ralph Hahnheuser, 40, of Adelaide, was charged with contaminating goods to cause economic loss and trespassing.

To give some idea of what the reaction was locally at that time, the article goes on further to say:

> Federal Liberal MP David Hawker, whose Wannon electorate includes Portland, described the contamination as economic terrorism. 'These animal liberationists are deliberately trying to sabotage a vital Australian industry and to me this is just terrorism without the guns', he said.

The editorial of the *Age* of 25 November 2003 examined this issue further, and I quote:

> The activism of animal liberation appears to have reached a crude low point in the tainting of sheep feed at Portland. Quarantine officials last week found bits of shredded ham in a feedlot, backing up claims by members of the animal liberation organisation that feed for 70 000 sheep due to be exported had been contaminated.

It further says:

> The act of tainting sheep feed with ham is on one level a criminal act, on another a potentially serious animal health threat and on yet another culturally patronising, if not overtly hostile towards Muslims.

Further it says:

> … the irony of animal liberationists using dead animal flesh to taint live animals poses questions about what it is they stand for and whether or not feeding meat to herbivores is not of itself cruelty.

The *Herald Sun* of 4 May this year — and this gets closer to when the court case was being heard — says:

> An animal rights activist has admitted contaminating the feed of export sheep …
>
> …
>
> Two shipments of almost 50 000 sheep were delayed for weeks.

Further it says:

> Feedlot manager David John Peddie said he was denied an export licence for almost 50 000 sheep because of the incident.
>
> Mr Peddie believed his feedlot missed out on another shipment of sheep weeks later.

I shall follow the court case itself through articles published in the *Geelong Advertiser*, the first of which is from 4 May 2005. That article states:

> Ralph Hahnheuser, 42, of Dudley Street, Semaphore, South Australia, pleaded not guilty in Geelong County Court yesterday to one count of contaminating feed to cause economic loss.

The remarks of Crown prosecutor Mark Gamble were quoted. The article states:

> Mr Gamble said that on November 19, 2003, Mr Hahnheuser, a leading member of the animal liberation movement in South Australia, released a multimedia press release detailing a secret operation carried out by he and his group during the night.
>
> Mr Gamble said this involved adding rendered pig meat to the Portland feedlots of sheep destined next day for live export to Kuwait.
>
> …
>
> Mr Gamble said Mr Hahnheuser also told the media that video footage of the operation was available.
>
> A video played to the court showed Mr Hahnheuser mixing shredded ham in water in his motel room, then under the cover of darkness adding it to feed troughs at Petty's feedlots.

The article says 'Petty's', when it is really 'Peddie's'. The article continues:

> Mr Gamble said Mr Hahnheuser's phone number was also on the press release and he was subsequently contacted by various print and television journalists.
>
> 'He conducted television interviews during which he told journalists any problems arising from the group's actions were "a small price to pay for stopping the brutal trade"', Mr Gamble said.
>
> 'He also said he would do it again'.
>
> Mr Gamble told the court when the Department of Primary Industries investigators checked feed troughs at Petty's feedlot later that day, they found particles of shredded ham among feed pellets.
>
> As a result an export licence could not be issued and about 70 000 sheep had to remain at Portland feedlots for a further two weeks.
>
> Defence counsel David Edwardson, QC, warned jurors there was very little in dispute.

He is reported as saying, and I quote:

> 'There is no dispute whether my client put the ham in the food and no dispute that he called a press conference to publicise the fact …

On 5 May the *Geelong Advertiser* reported on the costs and the economic loss that this incident caused to the industry. The article says:

> Contaminated feed which affected Australia's live sheep export to the Middle East cost two companies almost $1.3 million, a court was told.
>
> Wallard Rural Exports incurred costs of $507 000 and Rural Export and Trading WA Inc. costs of $790 356.
>
> …
>
> Wallard Rural Exports general manager, Steven Meerwald, said the delays cost his company a total $507 000.
>
> Mr Meerwald said the vessel, *MV Becrux*, was supposed to load 6650 sheep and 20 dairy cattle at Portland on November 20, then sail to Fremantle to load a further 41 438 sheep and 4000 cattle before going to Kuwait.
>
> He said when he first heard of the contamination he contacted the vessel which was 20 kilometres off the Portland coast.
>
> Mr Meerwald said the ship remained off the coast for 144 hours before being able to berth and then only stock which had been away from the contaminated feedlots could be loaded. He said further costs were incurred at Fremantle because of the delay.
>
> Rural Export and Trading WA Inc. general manager Michael Kiely said the vessel *Al Shuwaikh* was due to arrive in Portland on November 20 for loading.
>
> Because of the delay the *Al Shuwaikh* was not able to dock until December 3, a delay of two weeks.
>
> Mr Kiely said total costs incurred by the company and people of Kuwait (part owners of the company) totalled $790 356.

The *Geelong Advertiser* of 10 May continued the reporting of this trial, under the heading 'Acquittal puts live exports in jeopardy'. Again I quote from the article:

> An animal rights activist who used six packets of ham to cause millions of dollars of damage to Australia's live sheep export industry has been acquitted.

It says further that this cost the industry in excess of $1.3 million. It also says:

> Throughout the five-day trial Mr Hahnheuser admitted contaminating the feed to prevent the sheep being loaded.
>
> …
>
> He denied any intention to cause economic loss but admitted there would have been some losses incurred.

This is where the issue lies: while Mr Hahnheuser admitted contaminating the feed, admitted deliberately doing so and admitted publicising the fact to cause maximum impact, he was acquitted because he argued that he did not intend to cause economic damage as his primary concern. He said he intended to raise concerns about his issues with the live export trade and that it was not his intention, or his primary intention, to cause economic loss, and the jury therefore acquitted him of the charge. Hence the argument was made subsequently on the need to amend the Crimes Act to make sure this sort of circumstance did not happen again.

The reason we need to amend the Crimes Act is explained in further articles on this issue. I refer to the *Sunday Mail*, an Adelaide newspaper, of 8 May 2005, where an article says:

> Mr Hahnheuser said he would not rule out committing a similar act as part of his protests.

Further it says:

> Mr Hahnheuser said the prosecution failed to prove that the intention of his protest was to cause the state of Victoria or farmers economic damage.

Again we come back to the issue of the intention. I think that is the issue that is the nub of the amendments in the bill before the house.

An article in the *Weekly Times* of 11 May this year says under the heading 'Farmers vow to fight for change':

> The Victorian Farmers Federation will fight for legislative change after an animal rights protester escaped punishment for contaminating a live sheep shipment at Portland.

It says further:

> During the five-day trial Mr Hahnheuser, a member of Animal Liberation SA, admitted to carrying out the highly planned operation as a way of preventing the sheep being loaded, but denied intending to cause economic loss.
>
> VFF livestock president Simon Ramsay said outside the court that the decision could be seen as an invitation to other animal rights activists to disrupt legitimate farming practices.
>
> 'We won't allow this to happen; we'll fight tooth and nail to change the legislation', he said.

And hence we have the legislative change in front of us. The *Weekly Times* of 11 May also carried an opinion piece under the title 'Legal system fails farmers'. This is a good summary of the issue before us, and I quote:

> The acquittal of an animal rights activist who caused more than $1 million damage by contaminating the feed of sheep destined for live export has left farmers alarmed and dismayed.
>
> How can a man who admits to an act that is ultimately aimed at abolishing an entire industry be allowed to walk out of court without penalty?
>
> Mr Hahnheuser admitted to adding shredded ham to the feed of sheep at the Portland feedlot in November 2003. It made the animals unsuitable for consumption in the Muslim countries they were bound for.
>
> He said his objective was to stop the suffering of these animals and raise public awareness of the issue.
>
> The result for the industry was a two-week delay in the shipment of 70 000 sheep, at a cost of more than $1 million.
>
> It's no wonder frustrated producers, already feeling vulnerable in the face of prolonged drought and an influx of cheap, overseas produce flooding supermarket shelves, are despairing over this decision.
>
> The verdict was delivered by a jury of nine women and three men, who found him not guilty of contaminating goods with the intent to cause economic loss.
>
> The fear that is now spreading through the entire live sheep trade is palpable. As a result of this verdict, how is it possible for the industry to protect itself against this type of action?

It says further that the industry is determined to fight for changes to the legislation to ensure this never happens again. The call in the opinion piece in the *Weekly Times* was backed up by calls from both The Nationals and the Liberal Party. Indeed in the *Weekly Times* of 18 May, headed 'Libs join call for law change', it says:

> The Victorian opposition has backed calls for new laws to protect the livestock industry from animal rights activists.

The article refers to Mr Philip Davis, the shadow Minister for Agriculture in the other place, as saying:

> This acquittal is the result of a loophole in the way the law is interpreted.

It continues:

> Mr Davis said agriculture minister Bob Cameron should immediately introduce amendments to the law.

Mr Davis is then reported as having said:

> There is an apparent risk that this acquittal may encourage other animal liberation extremists in campaigns against livestock industries …

We have a campaign by the Victorian Farmers Federation, the Liberal Party and The Nationals to make changes to this legislation, and the government has in this bill responded in part to that call.

There are some concerns that the bill has been a long time coming. I would certainly echo the concerns that there has been a need for this change for some time. It is a relatively minor change, but it has taken a long time to get before the Parliament. Unfortunately that reflects the fact that issues to do with primary industry, agriculture and country Victoria seem to be given a low priority by the city-centric Bracks Labor government, which has fundamentally turned its back on country Victoria. It has promised a great deal for country Victoria, but has delivered very little. It simply does not deliver. Again, members of the government were slow to respond to this concern, and when they have responded the legislation does not go far enough. The only reason they have responded to this situation, even at this late stage, is due to the very good work of The Nationals.

I give credit to The Nationals for the good work they have undertaken in this area. The Nationals, through the honourable member for Gippsland South and through The Nationals member in the other place, the Honourable Peter Hall, introduced a private members bill to amend the Crimes Act to protect farmers from this deliberate contamination of livestock feed. The government would have been well advised to take on board The Nationals' legislation in its entirety because

it was certainly much better drafted and solved the problem in a much more comprehensive way than the bill before the house at the moment. I give credit to members of The Nationals for the work they have done. I also recognise the work that has been done by my Liberal colleague Philip Davis, who has pursued this issue from its inception when the contamination first occurred.

I think it is very important that we pursue this. It is interesting that when this legislation was first introduced to the house the *Weekly Times* ran an article on 7 September this year which referred to this issue. It says:

> In May, South Australian animal activist Ralph Hahnheuser was found not guilty in the County Court of contaminating goods with the intent to cause economic loss.
>
> …
>
> Mr Hulls said the new laws were prompted by the acquittal, where prosecutors failed to prove Mr Hahnheuser intended to cause economic harm.
>
> …
>
> Mr Hulls said under the changes, the contamination offence would be expanded from 'intentionally' to 'intentionally and recklessly causing economic loss or public harm'.

But it is interesting in that same article that it says:

> But animal liberation New South Wales executive director Mark Pearson claimed the changes would not make much difference.

He is quoted as saying:

> I do not think this new provision is going to prevent further actions by protesters.

I think it gives real concern to livestock industries and to the farming industry, particularly the live sheep trade, when animal liberation organisations are already perceiving that the current legislation before the Parliament is not comprehensive enough and are saying they do not think that will solve the problem and that it will not stop them from undertaking further actions. I think it is quite evident in their comments that they believe there are still loopholes, that there is still an area where this legislation is not comprehensive enough and has left the door ajar for continued actions that are going to jeopardise this trade.

Let me briefly talk about how important the live sheep trade is to Victoria and Australia. The live sheep trade is a multimillion dollar trade. It has been going now for nearly 30 years and it has been a highly successful trade for exporting sheep to the Middle East, initially to Iran and then more recently, over the last 20 years, to Kuwait, the United Arab Emirates, Bahrain, and at times Saudi Arabia, and sheep are on ships to Iraq and Jordan and many other parts of the Middle East. There have even been exports to Egypt and to North Africa — the Horn of Africa countries — so it is a very comprehensive trade. The trade has varied from about 1 million to 2 million sheep per year to up to 6 million to 7 million sheep per year.

The trade has been very important economically for the farming industry because for many years it has put what is described as a floor in the price for livestock, particularly sheep. Many of these sheep that are exported are older wethers. These are sheep that are past their use-by date, to use colloquial language, with respect to wool production, and the traditional markets that existed 100 years ago for old mutton do not exist these days. Many older cast-for-age sheep, whether they be ewes or wethers, find it very difficult to attract a reasonable price in the marketplace, which has a significant impact on the bottom line for farmers. For 25 to 30 years the live sheep trade has provided a very lucrative outlet for older wethers that have finished their life on the farm as wool producers; they have been a very valuable source of income for those farmers.

At the same time the industry has provided an enormous number of jobs in the shipping business, the stevedoring business, particularly at Portland, Fremantle and Adelaide, and has provided job opportunities with regard to feed supplies. In Heywood in my own electorate there is a pallet factory which is wholly and solely supplying the live sheep industry. There are two feedlots at Portland which are significant employers, and there is an enormous amount of money benefiting the community through stevedoring and provedoring for the ships that are involved in the live sheep trade. There are a number of dedicated export industries — people who purchase sheep, people who shear the sheep, people who prepare the sheep. There are dedicated shipping vessels for the export of live sheep.

The industry is worth hundreds of millions of dollars to Australia. It is worth many thousands of jobs. It is certainly worth an enormous amount of income to the farmers, particularly, may I say with some regret, in the current environment where wool prices are quite depressed. The wool industry is suffering a tough time at the moment, and many wool producers would be in dire financial straits if it were not for the opportunity to be involved in the live sheep export trade. It is a vital trade, it is an important trade, it is a valuable trade, and it is a trade that is run well and efficiently.

I can say from my personal experience as a veterinarian that I was involved in supervising the live sheep export

trade during my time with the then Department of Agriculture at Hamilton. I went to the Middle East on the vessels in the company of a senior inspector from the Royal Society for the Prevention of Cruelty to Animals (RSPCA) in South Australia. We jointly went on a vessel and had a look at the conditions on the feedlots, in the vessels, and in the Middle East. I must say the RSPCA inspector, Colonel Mike Harries, came back with a completely different view to what he went with. He went perhaps having some concern about the welfare aspects of the trade and came back overwhelmingly impressed with the way the sheep were handled in the feedlots, the way they were looked after on board and particularly the way they were handled in the Middle East.

This is a trade that has had a lot of misconceptions, misperceptions and misinformation surrounding it. It is also a trade that over the years has improved the quality of its management performance. It has worked hard in terms of research to improve the health and welfare of sheep. In particular it has worked hard in terms of investment in feedlots in Australia and abattoir facilities in the Middle East.

I think it is an important trade that should be continued and encouraged. It is disappointing that it does not get the support it deserves from the Minister for Agriculture and the Bracks Labor government, which has washed its hands of this trade despite its importance to Victorian agriculture. When there have been challenges to the trade, the Minister for Agriculture has gone missing in action and has left it to the federal government to deal with the issues. Twenty years ago, even 10 years ago, the Victorian agriculture department and Victorian government were leaders in research on live sheep export issues. They were also leaders in terms of animal welfare and the live sheep export industry and their involvement on the ground in supervising those industries. That has been missing under the city-centric Bracks Labor government, which has turned its back on this important industry and on the farmers of Victoria.

Before I turn to some of the issues with the legislation itself, I will quote the views of the Victorian Farmers Federation. In a letter to me of 14 September the VFF talks about its livestock priorities for 2005–06. It makes reference to this legislation, saying:

> … we are pleased with the government's amendment to the Crimes Act to address a loophole that allowed an activist opposed to live exports to escape criminal charges after contaminating feed and water of sheep destined for live export to the Middle East. We also acknowledge the broad support for this amendment by all political parties.

The issue comes down to this: what is the wording in the legislation itself? Under the heading 'Contaminating goods with intent to cause public alarm or economic loss' section 249 of the Crimes Act says:

> A person must not contaminate goods with the intention of —
>
> (a) causing public alarm or anxiety; or
>
> (b) causing economic loss through public awareness of the contamination.

The proposed legislation makes changes to that section. It also makes changes to section 250, which is about threatening to contaminate goods, and to the sections regarding the making of false statements about contamination. In all cases the bill inserts, after the words 'intention of', the words 'causing or being reckless as to whether or not the contamination would cause'. The issue is about the word 'reckless'.

When you look up 'reckless' in the *Concise Oxford Dictionary* it says it means 'disregarding the consequences or danger etc.; lacking caution; rash'. If you look up 'recklessness' in the *Oxford English Dictionary*, it says it means 'the quality of being reckless' or the 'neglect or disregard of something'. That in itself would seem to reasonably cover it. However, when you look at recklessness in the context of the *Butterworths Australian Criminal Law Dictionary* — I am not a lawyer, and I am sure the Leader of The Nationals will respond to this — you find that that dictionary has a slightly concerning interpretation. It refers to:

> Heedless or careless conduct where the person can foresee some probable or possible harmful consequence but nevertheless decides to continue with those actions with an indifference to, or disregard of, the consequences …

The dictionary also says:

> Recklessness implies something less than intent but more than mere negligence. However, reckless conduct may be sufficient to satisfy the requirement of intentional conduct in trespass; for example, a reckless act has been treated as an intentional act to commit assault.

I further refer to a related definition. The same dictionary talks about 'reckless indifference to human life', which is not directly what we are talking about here but which perhaps provides some context in terms of how recklessness might be interpreted by the courts. In its definition of 'reckless indifference to human life' the dictionary refers to:

> Proceeding with an act of omission where death is foreseen as a probable consequence of that act or emission … As the mental test regarding reckless indifference to human life is subjective and not objective, it must be shown that the accused had actual foresight that death would probably result

> from his or her action … In this context, 'probably' means a real and not remote chance …

I am concerned that because of those broad definitions of 'reckless' in that context we might have a situation where a person commits an act to contaminate feed stuff — as in the case of Mr Hahnheuser — but who may argue they were not guilty of recklessness and that any economic loss was absolutely inadvertent and accidental, rather than having any understanding that they may have caused economic loss.

I would suggest the government actually consider the words while the bill is between here and another place. Perhaps it should be looking at what The Nationals propose. Rather than using the word 'intentionally', which we know has proven to be inadequate, or 'reckless', which I am concerned may be inadequate, it should use the words 'intentionally', 'recklessly' or 'ought to have known'. If you use the words 'ought to have known', the test can be much stronger and more effective. I would suggest the current legislation does not go far enough.

In summation, a live sheep trade is very important to Victoria, to Victorian farmers, to Western Victoria and to the port of Portland in my electorate. The trade must be protected, encouraged and supported. These sorts of actions should not be allowed to continue. We support this legislative change. However, it has been slow in coming and does not go far enough. We suggest the government look to extend it further and make sure it is absolutely watertight.

Mr RYAN (Leader of The Nationals) — The performance of the Attorney-General and Minister for Agriculture has been absolutely lamentable. The sequence of events which has unfolded involving the idiot, and I use the term advisedly, Mr Hahnheuser — the events that gave rise to what he did, what he was charged with, the subsequent trial and its consequences, and more particularly the consequences arising from not being convicted as a result of the jury verdict — have all escaped the attention of both of the ministers who have primary responsibility for dealing with the consequences of the activities undertaken by him.

It is an unfortunate state of affairs. The live sheep export trade is worth about a billion dollars to Australia and about 10 000 jobs are directly dependent upon it. Much of that money and many of those jobs are generated out of Victoria, particularly the part of the electorate represented by the member for South-West Coast who has just concluded speaking on the bill. One would have thought that given the transparency of the terrible problem that is the subject of the bill, the Minister for Agriculture should have been on the case immediately and should have beaten down the door of the Attorney-General to deal with it. For his part, the Attorney-General should have had this bill in the house months ago.

I will summarise the events. On 19 November 2003 Mr Hahnheuser undertook his stupid actions. He fed pig meat to sheep who were awaiting transportation to the Middle East at the Portland feed lot. The sabotage cost the two companies which were involved and responsible for the export trade about $1.3 million. On the same day Animal Liberation South Australia's call for a press conference was heard loud and clear. All the pack turned up to hear members of Animal Liberation talk about the virtues of the activity they had undertaken and to have Animal Liberation distribute a video displaying footage of the incident in which Mr Hahnheuser had been engaged.

It took two weeks for the sheep to be cleared for transportation. As I said, about $1.3 million was lost. Mr Hahnheuser was subsequently charged by the police. On 7 January 2004 this gentleman announced the formation of the Ban Live Exports Party — he made an unsuccessful attempt at gaining a South Australian Senate seat in the federal election. On 16 March 2004 he appeared in the Warrnambool Magistrates Court to face charges of causing economic harm and loss and trespass. The court proceedings were adjourned because cases were still under preparation. On 17 March Mr Hahnheuser revealed to journalists that his legal aid application had been rejected, that he had no legal assistance and said he would probably be representing himself.

It went on until a point where on 6 May this year a Geelong County Court jury eventually discharged Mr Hahnheuser and he was able to escape conviction. The point of all of this is he escaped conviction because he asserted to the jury that he did not have the requisite intention in accordance with section 249(b) of the Crimes Act but rather all he was trying to do was save the sheep — that was the plea by Mr Hahnheuser. The members of the jury, God bless them, apparently accepted that and Mr Hahnheuser was able to go free. I make the observation that not for one moment am I being critical of the jury or the jury system — I said in the debate immediately prior to this one that I am a great believer in the jury system — that is not the issue. However, the fact is Mr Hahnheuser escaped per favour of the proverbial loophole.

The pity of this, in the sense of the trial, is that it all happened on 6 May. I issued a press release the next day calling on the government to amend the law to provide the appropriate protections. On 18 May in this

place — 12 days after that verdict — I asked the Attorney-General what proposals the government had developed to protect the industry from these animal welfare extremists. On that day the Attorney-General acknowledged that he had done nothing except have conversations with the Minister for Agriculture. On 19 July I issued a press release indicating The Nationals' intention to introduce amendments to the act. On 21 July I wrote to the Attorney-General to advise him of the proposition I had developed to enable the appropriate amendments to be achieved.

In the course of that I quoted the material included in the legislation introduced by The Nationals to the upper house on 6 September this year. That legislation was introduced on 21 July and on 6 September the Attorney-General introduced the legislation which is now before the house — it took four months. It took these two ministers four months to dream up some legislation that comprises seven clauses and covers three pages and really amounts to no more than a cosmetic fix of the relevant sections of the Crimes Act. Basically all they have done is change the headings to the respective sections — that is, sections 249, 250, 251 and 252 — and put in a transitional provision. They have made some cosmetic changes to the sections themselves by, in effect, adding the word 'reckless' to the respective provisions.

I say again, it has been a lamentable performance. One would have thought that if they truly had respect for country Victoria, if they truly had regard to the importance of this industry and what it means to country Victorians and if they were serious about this oft-repeated notion of governing for all Victorians and the sort of nonsense they carry on with, this would have been something that utterly jumped off the page. The two of them should have had this fixed in a blink. I appreciate and acknowledge the comments by the member for South-West Coast and acknowledge that the Liberal Party was issuing press releases about this. The fact is the government had to be dragged kicking and screaming to provide a series of what are simple amendments to this legislation to achieve a result which unfortunately I think risks not doing what ultimately needs to be done here.

I will return to that in a moment, but it is the process which I think justifiably appals country Victorians and most particularly those who are directly associated with the trade. I am sure all members are conscious of the fact that these extremists will stop at nothing to do what they want to do to achieve their stated aims. They are industrial terrorists and they are prepared to undertake this sort of stupid action in pursuit of their cause. Therefore, it behoves the government to take appropriate action to protect the people who are legitimately going about their business and to do so in the appropriate manner. To think that between the two of them the Minister for Agriculture and the Attorney-General of the state took four months and eventually had to be shamed into bringing in this legislation. It is an appalling state of affairs. To top it off, in the course of the second-reading speech, in his own inimitable fashion, the Attorney-General had the hide to state that the legislation has been introduced:

> … as a matter of urgency, to protect the livestock and export industry from further threats —

a lamentable, dreadful performance.

Dr Napthine — Compared to fast rail.

Mr RYAN — I suppose when one has regard to the government's equally lamentable performances on various other initiatives there is not much distinction to be made. Suffice it to say, at long last, with the government kicking and screaming, we have these provisions here and we have a bill.

Let us have a look at the bill itself. The bill amends sections 249, 250, 251 and 252 of the Crimes Act. It does so in a way which causes me to have serious doubts about whether it will achieve the desired result. In essence, the proposed sections reflect the same principles. They carry on the notion of an intent on the part of the individual who is charged to bring about the activity which is complained of in the respective sections. That is the nub of the problem. With its amendments the government wants to introduce the notion of recklessness. It wants to achieve a position where one aspect of examination of the conduct of the person charged will be that person's actual intent. It will be an issue of the subjective purpose of that person — that is, what that person intended.

However, then the government is introducing this notion of recklessness. I pause to say that the legal definition of the expression reckless has been defined by the Victorian courts. That definition appears in the proceeding of *R. v. Nuri*, a 1990 decision which is reported at page 641 of the Victorian reports. It is a decision by Justices Young, Crockett and Nathan. The definition of reckless is:

> There is foresight on the part of an accused of the probable consequences of his actions and he displays indifference as to whether or not those consequences occur.

The problem with this is in many senses this is still a subjective test. In many senses this will still turn on what a court, or a jury more particularly, regards as being the subjective frame of mind of the individual

who is charged with the offence. That ultimately is where the weakness lies in the amendments the government has brought before the house. That is to be contrasted with the position The Nationals advanced in the legislation we introduced into the Legislative Council. We wanted to add to or extend the meaning of the word 'intention'. For example, in our proposals we wanted to add a new section 253 to the Crimes Act. It would read:

> For the purposes of this Division —

That is, the division which contains these four provisions that I have already referred to —

> a person who engages in conduct referred to in section 249, 250 or 251 also has the intention of —
>
> (a) causing public alarm of anxiety; or
>
> (b) causing economic loss through public awareness of the contamination of goods —
>
> if the person knows —

and these are the very important words —

> or in all of the particular circumstances the person ought to have understood, that engaging in the conduct would be likely to cause public alarm or anxiety or cause economic loss through public awareness of the contamination of goods'.

What the application of that test would do is take the examination of the conduct of the accused away from simply that of a consideration of the person's activities from a subjective perspective. It would introduce into the assessment of those activities the assessment from the perspective of the proverbial 'reasonable man' — what a person in all the prevailing circumstances would have thought to have been the outcome of the conduct of the person concerned. I believe that to be the much more appropriate test.

I appreciate that the criminal law, as a matter of course, is concerned about the notion of mens rea. The criminal law, as a matter of course, does not like to deem a frame of mind to persons who are charged with offences. I understand that. But I believe that the amendment we proposed in the Legislative Council represents a very good half way between the concerns of the criminal law and the way that statutes historically have been drawn to respect the notion of mens rea on the one hand and the patent deficiency which exists in the Crimes Act in the form that is now being sought to be amended on the other. They are the two extremes. If our proposition had been adopted, I think we would have had a good, comfortable middle ground which would have dealt with this in the best way possible. The government, by pursuing this in the way it has chosen, has left open the very real prospect that Mr Hahnheuser and his ilk will be able to wriggle out of the charges in the event that there is a repeat of such conduct and charges are laid under those respective offences in relation to that conduct.

That is the real nub of the issue. We have a situation now where this industry has escaped once. It escaped because Mr Hahnheuser chose to do something which had an impact on the sheep in that feedlot for a couple of weeks — then the sheep were able to be exported. But remember that this is only one class of conduct that we are speaking about. This industrial terrorism, as I would term it for these purposes, could of course occur in other areas too. It does not have to be confined to the sort of activity in which Mr Hahnheuser engaged. Across the whole ambit of activities of our various agricultural pursuits there is enormous scope for this sort of conduct to occur.

No-one here needs any reminding — at least none of the members of Parliament who are based in the country regions — about the campaigns that are being run by extremist groups in different forms. I know my colleague the member for Swan Hill is going to spend some time discussing the virtues, or the lack of them, in relation to some of those organisations. But the fact is that there are organisations aplenty that are dedicating themselves loudly and specifically to the destruction of some of our historical, agricultural pursuits. They make no apology for it. Not only do they not make any apology for it, they have a stated aim of achieving it. It is in these circumstances that it is all the more imperative that the government acts appropriately to ensure that the legislative protections are there to look after our agricultural communities and make sure that these great productive enterprises are able to continue to contribute to the welfare of this state and this nation.

I say again you cannot help but think that what the government has done here falls short of what is required and what these farming communities are entitled to. Bear in mind also that people may have concerns, justified or otherwise, about the live sheep export trade and the industry built around it. It is very important to remember that for so many of these industries — of course there are manufacturing enterprises which are based around them — it is not only on the industry per se that we should focus but on the fact that there is an enormous reliance upon these industries well beyond the farm gate. That is why it is incumbent upon the government to give it the best protection possible.

I asked the parliamentary counsel to prepare an amendment for me on the basis that when there was an amendment to the Crimes Act introduced into the

chamber, I could move an amendment as part of that legislative initiative, whatever that might be. As time went by and there was no move to bring in any amendments to the Crimes Act, I had that amendment converted to what became the private members bill of The Nationals. The point I make is that it was parliamentary counsel that had the expertise to draft the legislation that The Nationals introduced into the Legislative Council. If it was good enough then, it is my belief it should have been good enough now for the purposes of the government. The government should have adopted that legislative amendment in the way The Nationals proposed it. By failing to do so, it has fallen short of what is going to be required to ensure that idiots like Ralph Hahnheuser and his like are able to be stopped in the event that they go about doing this sort of thing again. This fellow and his type should be punished with the full force of the law. I fear the full force of the law is not being brought to bear.

Mr HOWARD (Ballarat East) — I am pleased to speak on the Crimes (Contamination of Goods) Bill on behalf of the Bracks government. This bill shows the Bracks government is willing to listen and act in regard to issues we see occurring around the state. In bringing forward this bill, the government clearly aims to protect Victoria's economic wellbeing.

Mr Walsh — Do you really believe that?

Mr HOWARD — Of course I do and there are lots of ways I could explain that in more detail if I had the time. As we have heard from the previous two speakers, the bill tightens the Crimes Act to help prevent the deliberate contamination of goods. It will protect the livestock and export industry by making it clear that contamination of livestock will not be tolerated and that anything that threatens the economics of our agricultural industries in this state will not be tolerated.

This bill brings about changes in the fault element of the contamination offences whereby in the previous bill the term 'intentionally' was the only term that related to the fault element of contamination of foods. This bill introduces as well as 'intentionally' the second term of 'recklessly' causing economic loss or public alarm. I will as time permits make comment about what the Leader of The Nationals had to say about his party's proposals and why they are not as acceptable from a legal point of view as this one of introducing the term 'recklessly', which is far easier to prove and far more objective than the term associated with intention.

Why is this bill being brought forward? People around this state, people around country Victoria, learnt in 2003 that acts can be carried out which can seriously harm our economic opportunities for import and export industries and the export of livestock in this state. We are aware in the case of Mr Hahnheuser that with the intention to raise an issue he recklessly — and he admitted to the acts — fed ham to sheep that were waiting to be exported to the Middle East. As a result of the follow-up to the Hahnheuser case, it was clearly identified in the courts that this man had knowingly added ham to the feed of the 70 000 sheep bound for export. It caused significant economic harm in the short term and to the potential of the industry. He was found not guilty because of the issue of intent and the way the law operates at the moment.

This government has been very pleased to recognise concerns out there as a result of this court case. We do not cast any aspersions against the jury which had to judge this case, but we have recognised there clearly is a loophole in the law in terms of the way we would want to see it operate in this state. We have listened to people involved in the livestock industry and also to the Victorian Farmers Federation. We have worked well with the VFF. I see the member for the Swan Hill laughing over this issue. Let me read from a recent media release of 6 September from Simon Ramsay, the president of the VFF. The media release, which is clearly printed on VFF letterhead, states:

> VFF president, Simon Ramsay, said the VFF has been working with government on this issue for the past few months and has communicated our concerns that activists can use wilful indifference and reckless disregard to the consequences of their actions as a defence.
>
> 'Not only will this amendment protect the billion dollar live export trade but it will ensure that activists are accountable, by law, for the economic consequences of their actions', Mr Ramsay said.
>
> 'The amendment will also ensure legitimate businesses are protected from premeditated, disruptive and destructive acts by individuals in the pursuit of publicity for their own agendas'.
>
> …
>
> 'We have a duty to protect what is a safe and lawful trade and the VFF commends the state government on its quick and decisive action', Mr Ramsay said.
>
> The Attorney-General, Rob Hulls, and the agriculture minister, Bob Cameron, have both been very supportive of our position in the need for the changes to the act and we appreciate their quick response to our request.

Little more needs to be said in terms of the criticism that has been levelled against us by the previous two speakers. Clearly Mr Ramsay, the president of the VFF, commends this government for its response in recognising the concerns that have been raised. We

have responded to the concerns raised by livestock producers and the VFF to bring about changes that we believe, on the legal advice provided to us, are the most appropriate way to go. If we had acted upon the suggestions from the Leader of The Nationals, we would not have as clear an outcome as is desired.

This state government clearly has strong intentions in this regard, and if I had longer to speak in this house as Parliamentary Secretary for Agriculture I would outline the broad range of ways in which this government has worked since 1999 to support agriculture and primary industries across this state to ensure that we increase export opportunities. Where there have been areas of concern in regard to drought we have supported our farmers. In a whole range of ways this government has been working to support primary industries to improve their economic outcomes. As the member for Ballarat East I could outline, if I had the time, where this government, through the Regional Infrastructure Development Fund and in so many other cases, has been supporting the rural industries of this state. Unfortunately time does not permit me to do so.

Sitting suspended 6.29 p.m. until 8.01 p.m.

Mr HOWARD — As I was saying before the dinner break, as the member for Ballarat East and Parliamentary Secretary for Agriculture I could speak at some length about the great range of benefits the Bracks government has provided to regional Victoria. When I look at my electorate I see such examples as the government's move of 40 per cent of the State Revenue Office to Ballarat from Melbourne in a great devolution decision which has created over 200 jobs in the Ballarat area. I look around the precinct at Ballarat University and see not only the State Revenue Office but also the base for Rural Ambulance Victoria, which employs a great many people, and the incubator groups, which have been supported by this government and which employ hundreds of people on the site.

When I look around my electorate I note the support that has come from the Bracks government in infrastructure funded by the Regional Infrastructure Development Fund as well as the money allocated for recreation and many other benefits. I am very confident that during the next election campaign we will be able to explain to the people of rural Victoria how they have benefited enormously from the Bracks government. As Parliamentary Secretary for Agriculture I know that the government has worked hard to promote and increase exports in agriculture. Victoria is now the foremost state in exporting agricultural produce, outstripping even New South Wales in that regard. Regional Victoria is doing very well under this government. This legislation is one example of the government listening to the issues and acting to support the economy of regional Victoria. We know that there is an enormous amount of produce coming out of country Victoria, and we need to support and sustain that and ensure we can build on export as well as provide for our domestic markets. This legislation has been a great response from our government in delivering that.

Mr McINTOSH (Kew) — As the member for South-West Coast said, the opposition supports the general thrust of this legislation. It comes about as a result of the Hahnheuser case, in which a man who, for whatever reasons and to raise whatever cause he wanted, contaminated goods, leading to massive economic loss for not only shipping companies and other large companies but a number of farmers.

Thousands of people were affected by this act of contaminating the food of live sheep that were being exported. The consequence to our reputation overseas is quite profound, and perhaps we have not yet even felt the full impact of that action. However, the current law was put to the jury and, although Mr Hahnheuser admitted that he had in fact contaminated the goods, the jury acquitted on the basis of the law. It was certainly not any perverse decision, because a reading of the provisions of section 249 of the Crimes Act and onwards clearly indicates that the prosecution is required to prove that a defendant actually has the intention, by contaminating goods, to cause economic loss or public alarm. Mr Hahnheuser gave evidence that it was his intention to raise the matter publicly but said he had no intention to cause economic loss or otherwise. The jury acquitted on that basis.

Over a number of months I have noted with interest the Leader of The Nationals and the member for South-West Coast adumbrating the pressure that has been brought to bear by both The Nationals and the Liberal Party to get the government to amend the legislation as expeditiously as possible to reflect the community's condemnation of this type of activity. What concerned them was the requirement that the prosecution must prove that the defendant actually intended to cause economic loss as a result of the contamination of the foodstuffs. The government's solution to this has been to introduce the notion of recklessness into the provisions relating to the intention to cause economic loss. Recklessness has now been introduced into the appropriate sections.

The opposition supports the thrust of the bill, which is to lower the high-jump bar that the prosecution would be required to overcome to prove the offence in a court, but I adopt the concerns expressed by the member for

South-West Coast that even though introducing recklessness is lowering the standard of proof, it is still a subjective test — that is, the prosecution must look at the subjective intention of the defendant rather than looking at an objective standard. Indeed, the opposition takes the view that perhaps the government should consider taking the next step, which is to lower it to an objective standard. This is not being critical of the bill. The bill advances the position to some extent, but the high-jump bar needs to be lowered to meet the expectations of the community. Suitable words other than 'reckless' that could be added include the words 'knowingly' or 'ought to have known', which would be a completely objective test.

Nothing in that is inconsistent with many other provisions in the Crimes Act, because the principal offence is the intention to contaminate goods; and the flow-on effect, which is the economic loss or the public alarm, is a consequence of the principal offensive act, which, as I said, is the contaminating of goods. As long as the prosecution could prove a direct intention to contaminate goods — and in the Hahnheuser case the accused admitted he had contaminated the food for the live sheep being exported but disagreed and said he had no intention to cause economic loss — the charge could be proved. Certainly a simple amendment would change 'reckless' to the lower objective standard of something the community itself would condemn — that is, that the defendant knew or ought to have known that the intentional act to contaminate the goods would have the consequence of causing economic loss.

That is a much more appropriate level, given that causing economic loss was really a secondary consideration relating to the contamination of goods, which was the direct intention of the defendant. Accordingly, while I welcome the change in relation to recklessness, I support the Liberal Party and the member for South-West Coast, as well as the Leader of The Nationals, who all suggested the adoption of a much more objective standard for the proof of economic loss commensurate with what the community expects.

Ms DUNCAN (Macedon) — I am pleased to speak on the Crimes (Contamination of Goods) Bill 2005. As we have heard from other speakers, this is a fairly simple bill that is a direct response to a loophole that was discovered in the case of Mr Hahnheuser, a member of Animal Liberation South Australia, who believed that by contaminating their feedlots with ham he would prevent the export of live sheep. It was his view that he was acting to protect the animals. During the hearing of that case the prosecution was not able to prove that Mr Hahnheuser knew his actions were likely to cause economic loss. It was able to prove — I do not think there was any dispute — that he had contaminated the feedlot, but the case highlighted a loophole that involved showing that the person knew his actions were likely to cause economic loss, and he was acquitted of those charges. This is a timely piece of legislation. It has been introduced by this government in response to calls from the Victorian Farmers Federation and other stakeholders to ensure that this does not happen again and that the loophole cannot be exploited. The primary concern here is to safeguard the viability of the livestock shipping industry, which is a multimillion dollar industry that is hugely important to Victoria and Australia. We are showing by this bill that the contamination of livestock will not be tolerated, regardless of what the reason may be for doing that.

In a media release in September the Victorian Farmers Federation congratulated the government, in particular the Attorney-General and the Minister for Agriculture, on supporting its calls for these changes and on their timely response to ensuring that this loophole would be fixed — and this bill will do that. We as a government pride ourselves on being able to listen to the concerns of the community, respond to issues as they arise and legislate in an appropriate way — not as a knee-jerk reaction — and I believe a private member's bill was introduced in the Legislative Council some time ago in response to this case which would have made substantial changes to some fundamental principles of law.

This offence carries a 10-year jail sentence and/or a fine of up to $120 000. It is not treated lightly, because a person found guilty of this offence faces quite harsh penalties. It is important that the test which applies to proving this is appropriate and that the wording in this bill is consistent with the wording in other parts of the Crimes Act so that we achieve what we have set out to achieve — to stop this loophole from being exploited in the future, to protect the shipping industry, to protect the farming industry in Victoria and to again send out a clear message that this contamination will not be tolerated. We simply cannot afford to have this sort of thing continue. However, we need to rely on a certain amount of goodwill.

Sheep lots and farming enterprises generally are not well protected; in the past we have not needed the level of security required to ensure that something like this did not happen. Our farming industry is quite vulnerable to the extent that it is not conducted behind locked gates, and it is often quite easy for people to access livestock and perpetrate these sorts of crimes. It

is important that this bill sends a clear message. I believe it does, and I commend the bill to the house.

Mr WALSH (Swan Hill) — I was listening with interest to the member for Ballarat East filibustering with his time before and immediately after the dinner break. He said that had he been allowed more time he would have talked about all the great things the Bracks government has done for country Victoria and for agriculture. Lo and behold, the great things he said the government had done for agriculture included shifting the State Revenue Office to Ballarat — I am not quite sure what that has done for agriculture — and establishing a regional office for Rural Ambulance Victoria in Ballarat.

I wonder whether the house should grant an extension of time so the member for Ballarat East can talk for another 10 minutes about all the great things the Bracks government has done for agriculture and country Victoria. I am not sure what he might come up with, because although I can see how shifting the State Revenue Office is a good thing for Ballarat, I cannot see how it is a good thing for agriculture.

The Crimes (Contamination of Goods) Bill has been a long time coming, as several speakers from this side of the house said. The fact that the Leader of The Nationals drafted and had the Leader of The Nationals in the other place, the Honourable Peter Hall, introduce a private member's bill in that house brought the government to the table to do something about this issue.

We have heard a lot of filibustering about what the Victorian Farmers Federation (VFF) said. It was interesting that the Minister for Agriculture went missing on this whole issue. He is supposed to stick up for the industries covered by his portfolio, but as usual he was missing in action when it came to this issue; we did not hear one word from him. He did not stick up for agriculture — for the live sheep industry in this case. We did not see him getting out there and lobbying the Attorney-General to do something about this issue.

It is interesting that the member for Ballarat East quoted the VFF. The Minister for Agriculture seems to think it is sport to argue with the VFF and the press and be very childish in the way he does things. He does not seem to want to work with industry or with the VFF. I intend to raise an issue during the adjournment debate about machinery. I also have a number of letters from the VFF, but they say that the Minister for Transport has not done anything. VicRoads will not respond to the VFF at all, so I think there are two sides to the story and the member for Ballarat East was being very selective when quoting during his contribution to the debate.

In his second-reading speech the minister went to great lengths to say that he did not want to mention any particular legal cases when speaking about this bill, but everyone knows the bill is in response to Ralph Hahnheuser putting ham in the feed lot of sheep that were destined for export. This act put at risk the live animal export industry, which is a billion dollar industry for Australia. As other members have said, the industry creates a hell of a lot of employment, particularly in regional and rural Australia. What is more important is that this industry is legal; the people involved in it are working within the law. They are carrying on private enterprises and they have a right to do so without the risks that people such as Ralph Hahnheuser put them through.

The livestock export industry in Australia is based on sheep, cattle and goats in particular. There is a very good reason why we have a live animal export industry. In quite a few countries that we export animals to they would much prefer to buy live animals and slaughter them according to their own religious beliefs and habits in their own countries. More importantly, many of those countries do not have the infrastructure for frozen meat or for the distribution of chilled meat. It is because of those personal preferences and the lack of infrastructure in quite a few of those countries that we have a live export trade.

While we are talking about live export it is not just live export for slaughter. We have a substantial export industry in dairy heifers to China and Mexico. That has been extremely valuable for the dairy industry, particularly a couple of years ago when we had a downturn in dairy prices. For those people who bred dairy cows and raised heifers it was a very good industry for them to be in.

As has been said on this side of the house, we do not believe this legislation goes far enough. We in agriculture are at great risk from animal rights lobby groups. People for the Ethical Treatment of Animals, known as PETA, is a group of industrial terrorists. That is all you can say: they are industrial terrorists. It is almost another religion for these people. They are so fanatical that they actually want to do damage to people and they will stop at nothing to destroy someone's business or livelihood and put them under duress. Quite often this government is focusing more on the rights of the perpetrators than the rights of those who have been damaged by them.

The people who sold sheep to be exported on that boat where the feedlot was contaminated with additional food were people going about their normal business. The feedlot operator, the exporter and the people who run the boats were all going about their normal business, but they were the victims. They were put under stress and they had their livelihoods put at risk. As was mentioned by one of the previous speakers, it cost the industry something like $1.3 million just because some stupid fool, for some stupid reason, put ham in the feed. A civil case has been started on this issue by the Victorian Farmers Federation and some of its supporters. The issue here is that a civil case costs a lot of money and the only ones who usually win in a civil case like this are the lawyers because of the fees that are charged. You will find, as one of the previous speakers said, that the perpetrator in this case will be looking to legal aid to defend him. What happens? The victims have to pay again. They have to pay lawyers and come up against a perpetrator who is using legal aid and will no doubt declare himself bankrupt when it comes to paying fees.

The real issue here is that this legislation does not go far enough. We are talking here about groups of people who are absolute zealots in what they are trying to achieve. They want to drag down organised society and organised business as we know it. They are well-financed groups that have a real passion to achieve these things. For them it is either zealotry or a sport. It is their hobby. On a weekend they want to get out with their mates in the groups and destroy the viable industries we have in Australia based on some silly ideology that we should not be exporting or slaughtering animals or doing all the sorts of things we have done for literally thousands of years. To my mind, unless these people want to become vegans I do not think they have a place on the earth.

Mr HUDSON (Bentleigh) — It is a great pleasure to speak in support of the Crimes (Contamination of Goods) Bill. Most members of the house know that this bill has been introduced to deal with a gap in the Crimes Act. Earlier in the year a Mr Hahnheuser, who had introduced ham into a feedlot for sheep, was acquitted of a charge of contaminating the feedlot. Essentially he was acquitted because he successfully argued that he had not intended any economic loss or harm to the farmers but had merely intended to protect the sheep, and the jury accepted that argument.

The whole point is that the government has introduced this legislation to plug that loophole, but we have had the Leader of The Nationals in here today suggesting that somehow the government has been slow to respond to this court decision. The court decision was in May 2005, Mr Hahnheuser was acquitted in May 2005 and we have had a consultation process with the community and the affected farmers — and here we are! It has gone through a process with government and with the cabinet, the legislation has been out there for two weeks of consultation, and here we are in the Parliament at the beginning of October passing legislation that deals with the loophole, yet The Nationals say we have been too slow.

This is absolute and arrant nonsense. The government identified the problem, responded quickly and effectively and acted appropriately. To its credit, the Victorian Farmers Federation — whose members are not often in the cheer squad for the government — has recognised that we have acted. It has commended the Minister for Agriculture and the Attorney-General for their quick response, yet The Nationals come in here and say that the government has been slow to respond.

The other complaint from the Leader of The Nationals is that being required to prove someone was reckless as to whether the contamination would cause economic loss or public harm is somehow just too hard. That is what he is saying; that it is too high a jump bar and that we should not have it. Basically he is saying that all you have to do is know or ought to have understood that your action would cause economic loss or harm in order to secure a conviction. What the Leader of The Nationals is proposing is that we just turn over all the fundamental principles that underlie and underpin common law and criminal law.

In order to be found guilty of a criminal offence we all know that you must have had the appropriate mens rea, or criminal intent, to commit the offence, and the definition of ‘recklessness’ requires some degree of knowledge or belief on behalf of the defendant of being at least aware of substantial risk of economic loss or public harm arising from their actions. But The Nationals are saying, ‘You do not have to have that criminal intent or the appropriate mens rea’. They have said that you should have known you would cause public harm or economic loss and that that is sufficient to face a criminal charge that attracts a penalty of 10 years.

To me this sets a very serious precedent, because contamination offences are offences against property and they incur significant penalties under the criminal code. It seems extraordinary to me that the Leader of The Nationals, who is a lawyer, can come in here and claim to be a defender of the traditions of the common law and of our criminal code and claim to be one of those conservatives who is cautious about law reform, but in order to prove that he is hairy chested about

dealing with the Mr Hahnheusers of the world he just wants to rip up the rule book and say, 'Even if you did not know you were going to cause economic harm or loss, you should have known and you should face 10 years jail'. That is a ridiculous proposition and an overreaction.

Mr Walsh — You are going to let him off then, are you?

Mr HUDSON — No. We are going to deal with him appropriately under this legislation and under the criminal law. An appropriate balance has been struck by the government in this bill that will ensure that the loophole is closed and that in future the Mr Hahnheusers will be charged but they will not be subject to the kangaroo court that The Nationals want to bring in. I commend the bill to house.

Mr DELAHUNTY (Lowan) — I rise on behalf of the electorate of Lowan, where agriculture has an enormous impact on our economic and employment fortunes, but I just cannot help but take up the points raised by the honourable member for Bentleigh.

He does not know the history behind this bill, and it is a pity he did not do a little bit of homework before he came in here. It was not until four months after the court case and only after the Leader of The Nationals had put in a lot of work, without government resources, with the industry, the Law Institute of Victoria, the Victorian Farmers Federation and others — and had the Honourable Peter Hall introduce a private members bill in the other house — did we get any action from the Attorney-General. Where was the Minister for Agriculture, the so-called ambassador for the agricultural industry in Victoria — the most important industry in Victoria? Not once has he been heard mentioning the concerns raised by many farmers, the VFF and others within the community about how a person got away with an offence, which led to this bill.

As we know, the purpose of the bill is to amend the Crimes Act 1958 so that it specifies 'recklessness' as a fault element of offences involving the contamination of foods and goods. We have spoken widely about this, because if it were not for The Nationals doing some work on this, this bill would not be in Parliament today.

Back in 2003 an environmental activist admitted that he did the wrong thing and deliberately contaminated a food system by contaminating feedlots in Portland with shredded ham. He did that because he wanted to stop the industry. He knew that that would have an economic impact on country Victoria, and I will come back to that a little later. The cost impact of his action was at least $1.25 million and a two-week delay in the export of the animals. He was charged under section 249 of the Crimes Act 1958, and as we know from the debate here tonight, the fellow got off because it was not his intention to cause economic harm. That might be right, and we have to accept the jury's decision, but there needed to be some legislative change.

Mr Nardella interjected.

Mr DELAHUNTY — It is. The member for Melton is right; that is what it is all about. I refer to the *Weekly Times* of 11 May 2005, where it says:

> The acquittal of an animal rights activist who caused more than $1 million damage by contaminating the feed of sheep destined for live export has left farmers alarmed and dismayed.
>
> How can a man who admits to an act that is ultimately aimed at abolishing an entire industry be allowed to walk out of court without penalty?

Further on it says:

> Is it any wonder farmers are feeling anxious?

It also highlights the fact that the export of 70 000 sheep was held up — and I have figures I can quote. The industry, which has been going for 30 years, is worth up to $6 billion to the community right across Australia. As it pointed out, the VFF wanted to make sure there was legislative change. If there were not, the ports would have to beef up security and the transporters would have to be more vigilant, and from the government's point of view more police resources would need to be allocated to protect these vital exports. The article also states:

> It is a cost that a legal, economically important industry should not have to take to protect itself from reckless actions by activists.

That is what the VFF has been saying to a lot of other farmers. As I said, back in May the VFF was calling for legislative change, and it took The Nationals to bring forward a private members bill before we got any action.

I refer to the annual report of the Department of Primary Industries, called *Growing Victoria's Future*. It talks about biosecurity and market access. Page 12 of the report refers to the strategy to ensure:

> … consumer confidence in food and agriculture products and protecting and increasing the value of Victoria's food and agricultural exports …

If that is the case and that is what the Department of Primary Industries wants to do, and the lead minister is

supposed to be the Minister for Agriculture, why was he not doing something to protect those industries? The annual report goes on to talk about biosecurity. Under 'Key performance' it says:

> Expanding trade opportunities, increasingly demanding markets, a mobile population and the threat of terrorism are all increasing the risk of exotic pests and diseases being introduced to plants and animals in Victoria.
>
> Biosecurity Victoria was established to improve our rapid response to natural, accidental or intentional 'bio' emergencies. Working in conjunction with primary producers and the agribusiness sector, Biosecurity Victoria will drive the initiatives that will monitor, detect and respond to threats posed by pests —

I not sure what types of pests that refers to —

> and diseases that affect our plants and animals.

So even the department's annual report that is put out by the government refers to what the government will do. What did government members do? Nothing. With all the resources of government, they sat on their hands. It was not until The Nationals introduced legislation in a private member's bill that something was done about it. The member for Bentleigh, who has just walked out of the chamber, is absolutely hypocritical. He does not know the facts. He should get back in here and show that he is ashamed of what he has talked about.

I asked the library staff to do some research on this, so I highlight some of the figures that I have. Live sheep exports from Victoria from 2000 to 2005 have ranged from as low as 247 000 sheep up to a maximum of 1 185 014 sheep per annum. Even higher numbers of up to 3 million have been exported. I represent the biggest electorate in here, followed by the member for Swan Hill, and there are a lot of sheep producers in my electorate. They rely heavily on not only the meat but also the wool industry. Unfortunately the wool industry is not at a very good level at the moment, so they really do rely on the meat trade. The live sheep industry puts a very good floor on the market. It has an enormous impact on the farming community in my electorate. If the farming community is doing well, the whole community is doing well.

Australian Bureau of Statistics figures on commodity measure numbers for June 2003 show that in Victoria there were more than 20 million sheep and lambs, with more than 6 million in the Western District and more than 3 million in the Wimmera, so it is an important industry in the electorate that I represent.

I indicate that I am not opposed to the legislation, because it is a step forward, although unfortunately the Attorney-General was dragged screaming and kicking to introduce what he called an emergency bill into this house. As I said, that did not happen until The Nationals really put him to the jump. In his second-reading speech he said:

> These offences are in place to protect the community from the harmful hype and potentially damaging economic loss which may result from the contamination of goods or the threat of such contamination.

Not only that, but we are talking about food products for humans. It is important for our export industries. I believe that the government is still trying to achieve exports of $13 billion from Victoria each year. It will not achieve that unless it protects the important agricultural industries that we have in Victoria. As I said, the loss from just the case to which I have referred was more than $1.3 million. People who do what was done in that case are often called industrial terrorists. We need some legislation to protect the industries and protect Victoria. As I said, we need to support the exporters, whether they be the shipping people or the transporters, the farmers and even the community to save them having to spend more resources on legal fees, police and everything else needed to protect this very important industry.

It is interesting to note a letter dated 14 September that I received from the Victorian Farmers Federation (VFF). It talks about the fact that there are about:

> … 3500 farm business units and over 7000 individual members involved in the sheep meat, beef, goat and wool industries.

It is a very important sector in the farming community of Victoria. The letter goes on:

> … we are very pleased with the government's amendment to the Crimes Act to address a loophole that allowed an activist, opposed to live exports, to escape criminal charges after contaminating feed and water of sheep destined for live export to the Middle East. We also acknowledge the broad support for this amendment by all political parties.

It does not say so, but the reality is that it was not until The Nationals brought in a private member's bill that that happened. The letter goes on further to say:

> The overarching priority for VFF livestock is to ensure access to domestic and export markets for Victorian red meat products is maintained through the implementation of systems that guarantee safety and quality. These systems must be practical, effective and, above all, market driven.

At the end of the day, we must have legislation to protect these industries. That is why it is important that we have this type of amendment to the Crimes Act — to be able to protect those very important industries in Victoria.

Just to finish, I think the VFF is on the right track in relation to supporting the livestock production assurance program. At the end of the day we need that livestock identification system to protect this industry, which is important for Victoria. With those few words I indicate we are not opposing this legislation.

Ms BEATTIE (Yuroke) — It gives me great pleasure to speak on the Crimes (Contamination of Goods) Bill. As other speakers have said, the bill will amend the fault element of the contamination offence contained in the Crimes Act to address the loophole highlighted in the recent case. Of course we all know that that case involved a Mr Hahnheuser, who is a member of a group called Animal Liberation South Australia and who was alleged to have placed pig meat in feedlots of some 70 000 sheep bound for export to the Middle East in November 2003.

What we see here is the Liberal Party and The Nationals actually agreeing with the bill. That is a really good thing, but what they seem to be bleating about is the fact that they introduced a private members bill which was not dealt with because we had already introduced this legislation. They also seem to be saying that the legislation took too long. I saw one of the opposition members waving his hands at me indicating that it took four months. I would just like to remind the opposition that it took it over 300 days to announce its tolls policy, so let us compare the time it took to bring legislation into the house with the more than 300 days that it took to announce a nonsense tolls policy. What a joke!

Certainly the Deputy Leader of The Nationals was dismissive of the letter from the Victorian Farmers Federation. He said he gets letters from the VFF all the time. I am here to defend the VFF: I do not think it sends letters willy-nilly that it does not mean. It really meant what it said in the letter, and it is quite offensive for the Deputy Leader of The Nationals, himself a former VFF president, to be saying that it writes frivolously all the time. That needs to be corrected.

I want to read into the record the correspondence from the VFF. It says:

> The Victorian Farmers Federation has congratulated the state government on its recent announcement that it will amend the Crimes Act 1958 to close a loophole that currently allows extreme activists to cause significant damage to an industry without penalty.
>
> VFF president, Simon Ramsay, said the VFF has been working with government on this issue for the past few months and has communicated our concerns that activists can use wilful indifference and reckless disregard to the consequences of their actions as a defence.
>
> 'Not only will this amendment protect the billion-dollar live export trade, but it will ensure that activists are accountable, by law, for the economic consequences of their actions', Mr Ramsay said.
>
> 'The amendment will also ensure legitimate businesses are protected from premeditated, disruptive and destructive acts by individuals in the pursuit of publicity for their own agendas'.
>
> Mr Ramsay said the VFF won't stand by and watch farmers' livelihoods threatened by animal liberation protesters.
>
> 'We have a duty to protect what is a safe and lawful trade and the VFF commend the state government —

it commends the state government —

> on their quick and decisive action …
>
> The Attorney-General, Rob Hulls, and the agriculture minister, Bob Cameron, have both been very supportive of our position in the need for changes to the act and we appreciate their quick response …

It says, 'We appreciate their quick response'. So there it is from the Victorian Farmers Federation. I must say that the live sheep trade is a very important trade to Victoria, and indeed to Australia. Mr Hahnheuser should feel the full force of the law, but there was a loophole and that is what we are correcting here. He was acquitted, as we all know, on 6 May. We have closed the loophole to ensure that in the future if somebody feeds ham to sheep or contaminates any other food, this will not occur.

As members opposite have said, it has taken four months, but I think that is not an unreasonable time in which to bring legislation into the house. It is not unreasonable and I will only in closing point again to the fact that the opposition took over 300 days to bring in a policy for tolls that will not work and we have bought full legislation into the house within four months. It is typical of the Bracks government which is quick to act, quick to consult and quick to bring the legislation into the house. I commend the bill to the house.

Mr MAUGHAN (Rodney) — I take exception to the comments that the previous member has just made about the government being quick to act and all the rubbish that she went on with. It is two years since this incident occurred, and one does not have to wait until a court case is finished before introducing legislation. Clearly there was a deficiency; clearly if this government had been the slightest bit interested in helping the farming industries it would have acted much sooner than it did. It would have had the Minister for Agriculture go down to Portland and at least show a bit of sympathy for the farmers and for the live sheep export that had been so badly affected by this incident.

Did the Minister for Agriculture go down and show any sympathy? No, he did not! Did the government show any sympathy for the farming community? No, it did not!

At long last the government has introduced this legislation, and I would have to say it is one of the best examples of plagiarism that I have seen. If it was in the school system, the student would be failed for pinching somebody else's ideas. We in The Nationals do not mind that at all. If we can achieve an outcome by coming up with the idea and the government, to its credit, sees fit to pick that up and to introduce it, then so be it. We have achieved the outcome and therefore we are certainly not opposing this legislation because it is important legislation. It should have been before the house long before this and for the government to claim that it acted properly on this — —

Ms Beattie — The Victorian Farmers Federation said that!

Mr MAUGHAN — The VFF has made some comments, but if one asked the VFF it would have been very much happier if something had been done 12 months before. It is two years since this incident — —

Mr Hulls — Twelve months before!

Mr MAUGHAN — I do say 12 months before because it is two years since this incident happened and it did not require the court case to be completed before introducing legislation to address this loophole.

Mr Plowman — Two years! What was the member for Yuroke doing for two years?

Mr MAUGHAN — The member was sitting on her hands! The cost to the industry has been $1.25 million. The member for Yuroke does not seem to think that that is important because farmers really have suffered and the industry has suffered. It is a legitimate industry, I remind the house, that was approved by successive governments, by the state government and by both sides of politics. It is a legitimate industry and there is no way that a person, no matter how strongly held their views, should be able to take this sort of guerrilla action to cause so much harm to an industry. This action was caused by a zealot, a member of Animal Liberation. It is an organisation of extremists. It is not an organisation that is unknown to me. I have had quite a lot to do with Animal Liberation over the years.

I have read Professor Peter Singer's book. I have met with Professor Singer on numerous occasions and sat on various organisations with him. I have to say that Professor Singer has got philosophical views and is not persuaded by the truth. I just happened to have been running an intensive piggery where there were 5000 pigs and I challenged Peter Singer on numerous occasions. I invited him to come up and visit our organisation, to have a look around and to wander around by himself to find out whatever he wanted to know. Professor Singer consistently found excuses for not wanting to come up and see our particular organisation where, I would argue, those 5000 pigs were better fed, better housed and had a higher health status than hundreds of millions of people around the world. The reason, in my view, that Peter Singer did not want to come up and see it was that it would have proved false some of the ideas that he was peddling.

It is important to look at some of Professor Singer's disciples — some of the zealots like Mr Hahnheuser. Many like him have been breaking into various intensive industries — the pig industry, the egg industry, the broiler industry and now the live sheep industry — and causing great risk to those industries, let alone compromising their health status as people cause all sorts of damage to industries where appropriate precautions have not been taken.

If people have a legitimate view, let them argue it out in the proper forums. I say in passing that here in Victoria and in Australia we are relatively well off in terms of the way we deal with animal welfare issues. Generally speaking for 20 years now we have been able to get all the major players together — the farming industries, on the one hand, both intensive and extensive, the Department of Primary Industries, the Royal Society for the Prevention of Cruelty to Animals, Animal Liberation and the various other animal welfare organisations — to talk logically about the issues. In that sense we have done very well in Australia with codes of practices and sensible animal welfare legislation.

That is not the case in other parts of the world such as the United States, the United Kingdom and to a lesser degree Canada. I have studied the industries in those countries. A number of years ago I got a Churchill fellowship to look at animal welfare in other parts of the world, so I am well aware of the campaign that Animal Liberation fights. Its members have a philosophical view and they are not persuaded by the evidence; they are persuaded by emotion. They have this anthropomorphic point of view that an animal feels exactly the same as a human feels. That is patently wrong. The fact that you keep animals in one sort of situation and we as humans would not feel comfortable in that situation does not mean that the animals are suffering. I think that is a simplistic notion. People in Animal Liberation do not believe we have any right to

use animals in any way at all, either for food or for fibre or for our pleasure — companion animals — or for sport. They are entitled to that view; of course they are.

An honourable member interjected.

Mr MAUGHAN — I disagree with my colleague, I think they are entitled to it. They are entitled to express that view as long as they do it in a sensible way and can argue the point. They are certainly not entitled to take radical action, to take the sort of action that Mr Hahnheuser took into his own hands, causing enormous stress and damage to people that were engaged in a legitimate industry.

To sum up, this piece of legislation is welcome. It has been well drafted because it was drafted by The Nationals as a private members bill, and the government to its credit has picked up that idea. I remember the night when the Attorney-General read the second-reading speech. The Leader of The Nationals could not believe his ears when he listened to exactly what the Attorney-General was saying as he introduced the second reading. Nonetheless, it is a good piece of legislation. I argue again that the government did sit on its hands: it did nothing for that first 18 months. It could have done something much sooner than it did. This bill has a remarkable similarity to the one that was introduced into the upper house on behalf of The Nationals.

I conclude by saying that the live sheep trade is a legitimate trade. It is very important to the farming industries. This sort of guerrilla action should not be tolerated, and I am delighted to see the government at least doing something about it now. The Nationals will not be opposing the legislation.

Mr SEITZ (Keilor) — I rise to congratulate the Attorney-General on the swiftness with which he has brought the bill into the house. He has done it in the usual effective way he has demonstrated since he has held that position. The bill will amend the fault of the contamination offences by adding after the word 'intentionally' — which was purely a subjective test — the words 'or recklessly', which will make the offences easier to prove in a court of law. That is what it is all about.

I sat here and listened to The Nationals whingeing and complaining about the farmers, particularly the sheep farmers. Where were The Nationals when they were part of the Kennett government — the coalition — that slaughtered all the sheep with ovine Johne's disease at Christmas time? Where were they then when it came to protecting the sheep farmers and their loss of profits? Where were they when the farmers lost their breeding stock? We did not hear a peep out of them. It is once again the Bracks government that is rescuing the sheep farmers, as we did when we came into government. We took off the levy. The coalition government had a stock levy on the sheep farmers to pay for the cost of the slaughter that took place at that time, and there was destruction and loss of sheep farms.

They lost their farms, and some committed suicide. Where were The Nationals then? I did not hear a thing at that time. Again it is up to the Bracks government to do the job of The Nationals. It is time The Nationals looked to its constituents and what they are saying. The Bracks government is serving rural and regional Victoria. Who put the underpasses under the highways so that stock can cross from one side to the other? The Bracks government, not The Nationals, looks after the country areas.

Honourable members interjecting.

Mr SEITZ — Opposition members are trying to score cheap points in asking me who introduced the bill first. They score points, but they are not based on reality, which is that the Bracks government has supported the sheep farmers and the sheep industry, and this legislation is part of that.

The government supports the growth and development of Victoria. I hope members take the debate more seriously than the point scoring we have heard here, because it is a serious issue. We have had serious problems in the past, and the contamination of food — whether it be the contamination of feed for bloodstock and the throwing of pork blood, or whether goods are contaminated in supermarkets — is not condoned by any rational person.

This legislation sends a message to people who are trying to contaminate food which then has to be withdrawn from supermarket shelves. It will close the loophole and send a message. The bill is not about a single issue: it covers situations in which people may want to engage in copycat acts in the future in areas that we have not even thought of.

One person has been able to stop an industry, and it resulted in us having to bring this legislation into the house. How many other loopholes are there in our legislation? Nobody should say this is a trivial matter. It is a serious matter for our society. It is not about who came up with the legislation first or who introduced it into the upper house. It is about protecting our society and not having copycat acts in the future, whether it is in the sheep export industry, in our supermarkets or in

any other industry. Contamination might occur in our farm industry or in pesticides that can be polluted so that vegetables are unable to be sold. There are many sick people out there in zealous pursuit of their own ideology. As parliamentarians it is beholden on us all to send a clear message that those sorts of activities will not be tolerated in the future. I wish the bill a speedy passage through the house.

Mr DONNELLAN (Narre Warren North) — This is a very important bill for the industry, which, since the 1970s, has been fighting the perception that it does not treat animals well and so forth. At that time there were Senate inquiries and the government was fighting the animal liberationists. This bill will provide some protection to the industry. In 2004, because of electoral sensitivities and as a result of a Senate inquiry, the Howard government considered shutting the industry in Portland down for six months, which was absolutely scandalous to put it mildly, especially when you consider that the actions of a live sheep exporter out of Western Australia created the situation.

Memories are short in the house, but this is an important bill. It will provide protection to the industry, and I commend it to the house.

Mr HULLS (Attorney-General) — I thank all members who contributed to this very important debate, including the Acting Speaker before he took the chair, whose contribution was very welcome. As many members have said, this bill is further evidence that this government listens and acts. Some of the attempts at cheap political point scoring are totally inappropriate. It is not the sort of thing we on this side of the house do.

The only point that people seem to be complaining about is the time it has taken to get the legislation into the house. Opposition members with long memories who remember what it was like being in government — as I look around I see there are not too many left — will know there are certain processes that need to be gone through. The time — I think it was 6 May — from a person appearing in court, being dealt with and being acquitted to the time the legislation was brought into the house was about four months.

Let us not kid ourselves. The Victorian Farmers Federation is dead right. We have acted very quickly. You would expect me to say that, but the VFF, as many speakers have already said, is also saying that. The VFF has actually thanked the Minister for Agriculture and me as Attorney-General by saying that we have been very supportive of its position and making it clear that it appreciates our quick response to its request. The reality is that four months is quick. For members on the opposite side to be saying that this legislation should have been brought in years ago is absolute nonsense.

Indeed there is real confusion on the other side of the house. When I was down in my room I listened to the contribution of the Leader of The Nationals. He seemed to be saying that while he was not going to oppose the legislation, the way it had been drafted meant that it did not go far enough and he wanted it to go further. Yet the member for Rodney in his contribution said — and I think I am quoting him correctly — that the bill had been well drafted.

Mr Maughan — I did.

Mr HULLS — Indeed he confirms that that is what he said. On the one hand his leader said it was a hopeless bit of legislation that did not go far enough, and on the other the member for Rodney said it was a good piece of legislation that had been well drafted. The Nationals as usual are all over the shop when it comes to country Victoria.

We believe this is a good and appropriate piece of legislation. Obviously from time to time — this is the reality — loopholes in legislation are picked up either through a review by a parliamentary committee or through a court case which gives an interpretation of a piece of legislation that is different from what was intended when it was introduced. Alternatively a verdict may bring the attention of the Parliament to a bit of legislation that needs to be changed. That is what has occurred here; it is as simple as that. It occurred as a result of a court case some four months before this legislation was brought into this house. I believe that, after consultation and after going through the appropriate processes, legislation has been pretty expeditiously brought into this house to rectify the situation.

Instead of members on the other side of this house being mealy-mouthed, saying, 'Whilst we do not oppose the legislation, the government has not acted quickly enough' or 'It has not done this properly' or 'It has not drafted the legislation appropriately', why do they not just work together with us in the interests of country Victorians and give credit where credit is due? Credit is due to this government for taking the concerns of regional Victoria seriously, listening to organisations that are relevant, such as the VFF, and working in collaboration with stakeholders — including the VFF — to bring legislation into this place. We should all be supporting the legislation, rather than the opposition being mealy-mouthed in its praise. The fact is this is good, appropriate legislation that hopefully will address the loophole that has come to our attention.

Mr Walsh — Hopefully?

Mr HULLS — We believe it will. The fact is that from time to time there will be jury verdicts — and that is the beauty of our justice system. We have an independent judiciary, despite those who call for mandatory sentencing. We also have trial by jury, and juries will hand down verdicts based on the evidence presented and the law that exists at the time. The loophole that was brought to the Parliament's attention as a result of the case that occurred in May has been closed. I wish this legislation a very speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

PROPERTY (CO-OWNERSHIP) BILL

Second reading

Debate resumed from 14 September; motion of Mr HULLS (Attorney-General).

Mr McINTOSH (Kew) — The amendments to the Property Law Act by this bill were recommended by the Victorian Law Reform Commission in a report to this place in February 2002 — another demonstration of how expeditiously the government can act upon the recommendations of the commission. This is a long and detailed bill, but the effect of the amendments is relatively simple. Leadership disputes in relation to property — which include land, fixtures on the land and chattels — will now be referred to the Victorian Civil and Administrative Tribunal. Through this bill VCAT will have exclusive jurisdiction over co-ownership disputes, whereas previously these matters would have been dealt with in the Supreme Court, or in the County Court if the property was worth less than $200 000.

The commission's recommendations were on the basis that VCAT would be the appropriate venue to reduce the cost and time involved in litigating these disputes. While I have some residual concerns about VCAT's expertise, my experience is that it has a number of very good judges and members. What comes out in the report is the recommendation that the people appointed to hear these matters should have the appropriate qualifications, expertise or experience in dealing with property matters. That does not form part of the legislation, but I presume that the president of VCAT will ensure this.

VCAT will have the power to make the traditional orders regarding the division of land, or the sale of the land and apportionment of the proceeds of the sale to the co-owners, the preferred option as set out in the legislation, and over a variety of other matters. The bill makes it perfectly clear that matters between a husband and wife will be dealt with by the Family Court. Disputes in domestic partnerships in relation to co-owned property will still be dealt with by the Supreme Court. Disputes arising under the partnership or testators family maintenance legislation will still be dealt with in the Supreme Court.

One particular matter that was raised at the briefing — perhaps the Attorney-General can address this — is that unlike the Victorian Law Reform Commission's recommendations, there are no real guidelines as to what would be a complex matter which should be referred to the Supreme Court or would be able to be issued in the Supreme Court. Who the owner of the land is and whether the land is co-owned would have to be determined when addressing an adverse possession claim, which in essence is a dispute between potentially two co-owners and is certainly a threshold question. These sorts of matters should probably still reside in the Supreme Court. Hopefully they would be referred to the Supreme Court rather than being dealt with in Victorian Civil and Administrative Tribunal. With those brief remarks the opposition supports this bill.

Mrs POWELL (Shepparton) — I am pleased to speak about the Property (Co-ownership) Bill on behalf of The Nationals. We will not be opposing the bill. The bill has a limited purpose. The purpose is to amend the Property Law Act 1958 to provide for the transfer of jurisdiction of disputes relating to the co-ownership of land and goods from the Supreme Court and County Court to the Victorian Civil and Administrative Tribunal (VCAT). The bill also provides remedies for determining those disputes. The bill also deals with consequential amendments to the Victorian Civil and Administrative Tribunal Act 1998 and the Transfer of Land Act 1958. This bill implements a number of recommendations which were contained in a Victorian Law Reform Commission's report about disputes between co-owners. I am not sure when the Attorney-General received this report, but it was printed in March 2002, about three years ago.

This bill has had a long history. On 27 April 2001 the Attorney-General gave the Victorian Law Reform Commission the reference to review part 4 of the Property Law Act 1958 to find a simpler and cheaper process to resolve disputes between co-owners. The commission was also asked to review the sale or physical division of co-owned land and to consider

whether similar processes should be introduced to deal with the co-ownership of property and other chattels. In June 2001 the commission published a discussion paper on disputes between co-owners. It called for submissions to that paper which were to be given to the commission by 1 August 2001. I understand the commission received about 16 submissions. The commission then convened an advisory committee to assist in the formulation of the recommendations, although in the report it states that the recommendations expressed in the report are those of the commission not the advisory committee.

The commission sought assistance from the Office of Chief Parliamentary Counsel Victoria to produce a draft bill. The draft bill was prepared on 14 February 2002 and is also in the report. We again wonder why it took so long to be debated in this place. The reference was given on 27 April. It was ordered to be printed in February 2002. We are debating this bill over three years later. The report is fairly substantial. It is 142 pages long and there are 59 recommendations. The second-reading speech says that some of the recommendations were dealt with and some were not. I am hoping some of the recommendations in the report are going to be dealt with in another bill, because when I read through the report I found a couple of recommendations which were not in this bill, including recommendation 1, which is:

> That a provision be inserted into the Transfer of Land Act 1958 that requires any instrument submitted for registration (including any electronic instruments) to specify whether co-owners are intended to be joint tenants or tenants in common. The Land Registry must refuse to register any instrument which does not state the nature of the co-ownership.

I looked through the bill and could not see any reference to that recommendation. Recommendation 9 is that the Land Registry produce a publication on co-ownership, and I do not believe that is dealt with in the bill either. The report looks at the existing laws and how disputes regarding co-ownership and other properties are dealt with. It looks at the mechanisms for converting joint tenancy into tenancy in common. It examines the laws covering the sale or division of co-owned property and also explains co-ownership.

Co-ownership exists when two or more people have an interest in a property, which can be land or chattels, that entitles them to possess the property at the same time. The two co-owner issues are joint tenancy and tenancies in common. Joint tenancies is where two or more people have a single interest in a property and if one person dies, the surviving person is entitled to the whole property. An example of that is a husband and wife with the same mortgage, which would be classed as a joint tenancy. A tenancy in common is where there are separate interests in the same property. Each can leave their own share to someone by will or sell by agreement.

Examples of people who have tenancies in common would include people who have an investment property or people who own and share a flat together — and they may have an interest in the property or have two or three mortgages, depending on the number of people who live in the flat. It also deals with properties that are inherited. It could be about properties that are divided among children.

Some of the comments in the report are out of date, because the inquiry started in 2001. It talks about the Torrens system and the land titles register. It forecasts that the land titles register will be electronic and people will go online and search online to find out who has an interest in certain property. That is now available. I believe last year we dealt with legislation that provided for the land titles register to be online. Presently the people involved in disputes between co-owners of land, excluding spousal disputes, have to apply to the Supreme or County courts to resolve those disputes.

Many of the submissions to the inquiry talked about the issue of access to courts and how costly it is to get a barrister or solicitor to defend a case. It talks about it being very formal and a lot of people who had disputes with property or the ownership of chattels would be much better in a less formal atmosphere. It talks about the lack of accessibility because of the waiting list for people to go to the Supreme or County courts. The bill transfers jurisdiction from those courts to the Victorian Civil and Administrative Tribunal, which is seen as a less formal, more accessible and less costly avenue than the Supreme or County courts.

The Family Court will still deal with property disputes between spouses, and domestic partner disputes will be dealt with in the Supreme Court under the Property Law Act. The Supreme and County courts will hear co-ownership issues in special circumstances. Those circumstances are set out in the bill. For example, if a person is not an adult or if the issues are very complex, that needs to be dealt with. There is a variation of section 85 of the Constitution Act to remove the jurisdiction of the Supreme Court to hear co-ownership issues unless those special circumstances exist.

The discussion about VCAT being the tribunal where those disputes can be resolved will mean that VCAT will have wide-ranging powers and discretions. I hope the additional panel members will have the required

knowledge. The bill provides that the tribunal is to be constituted by or will include a member who in the opinion of the tribunal's president has knowledge of or experience in property law matters. This will be an important issue because with all these other areas being dealt with under VCAT we need to make sure panel members will be able to deal with these sort of actions going through that tribunal.

New section 228 to be substituted by the bill talks about the powers of VCAT. It provides that VCAT may make any order it thinks fit to ensure that a just and fair sale or division of land or goods occurs. It goes on to say that VCAT may order the sale of land or goods and the division of the proceeds of the sale among the co-owners, the physical division of the land or goods among the co-owners or a combination of both. It must also take a number of issues into account. One of those issues is any particular link or attachment to the land or goods, including whether the land or goods are unique or have a special value to one or more of the co-owners, so VCAT will be looking at fairly special issues.

VCAT may also consider the physical division of land or goods into parcels or shares that differ from the entitlements of each of the co-owners. It also deals with compensation being paid to specific owners for the differences in the value of parcels or shares when the land or goods are divided. VCAT may order the appointment of trustees or the removal of trustees. It may direct the trustees as to the terms or conditions on which any sale is to be carried out and direct the distribution of any proceeds of the sale in a manner specified by it.

VCAT has wide-ranging powers, and we need to ensure that people with expertise are dealing with these sorts of issues. VCAT may also order that the land or goods be sold by private sale or auction and that the co-owners may purchase the land or goods at the sale or auction. In the case of a private sale it may say that the sale must be at a fair market price as determined by an independent valuer. VCAT may be the body that determines the reserve price for an auction. It can also ask that an independent valuation be taken on the land or goods and that the sale be completed at a certain time. VCAT will have very wide and diverse powers and we need to ensure that the people involved with the panel system have the necessary expertise and knowledge.

Section 187 of the Property Law Act 1958 deals with chattels. VCAT can now deal with disputes in this area. It no longer has to work out whether the chattels are affixed to the land or not affixed. Examples of goods that are not affixed include cars, whitegoods, jewellery, boats and caravans. VCAT now does not have to differentiate between chattels and goods that are fixed to the land — it can deal with both.

As I said earlier, VCAT deals with many issues which are referred to it including issues from local government and from the community. We need to ensure there are sufficient people with expertise so access is not prohibited. We need to make sure that within appropriate time frames help is available to people referring things to VCAT. I hope the fact that more matters will be referred to VCAT does not mean the system becomes bogged down. The Nationals look forward to a system of property and goods dispute resolution which is more efficient than at present. We wish the bill a speedy passage.

Mr LUPTON (Prahran) — The Property (Co-ownership) Bill is another example of the Bracks government acting to improve access to justice and to provide faster, cheaper and simpler dispute resolution processes. In this bill we are simplifying the dispute resolution process for people who are co-owners of property, in particular land or goods. We are providing an increased range of remedies for the resolution of those disputes between co-owners.

Co-ownership exists when two or more people have an interest in property, either land or goods, that entitles them to possess the property at the same time. A number of different types of co-ownership disputes have come before the courts and they are often expensive and time consuming. This legislation will act to remedy a number of deficiencies that currently exist in the law.

The main beneficiaries of this legislation, and I use the term 'beneficiaries' advisedly, will be found among family members left property in a will and where property is purchased by co-owners for the purposes of investment. People in those groups will be the main beneficiaries of this legislation. It will enable them to have access to dispute resolution processes through the Victorian Civil and Administrative Tribunal (VCAT) rather than the Supreme Court or the County Court, and it will provide them with a cheaper, faster and simpler way to resolve their co-ownership disputes.

The bill comes before the house as a result of a reference given to the Victorian Law Reform Commission by the Attorney-General. The commission made a number of recommendations in its report on property ownership matters, and this bill picks up some of the recommendations in that report, in particular the recommendations concerning the transfer of jurisdiction

over certain disputes to VCAT and providing a wider range of remedies to parties.

Property that is co-owned can be sold or divided by agreement among the co-owners. Problems can sometimes arise where people co-own property. There can be disagreement about whether to sell the property or not, there can be disagreement about the division of the property and issues can arise where one or more of the co-owners is not an adult or where one or more of the co-owners lacks legal capacity to make decisions, take legal action or sell or dispose of the property in some way. There may also be disputes about the costs of improving or maintaining the property while it is in the hands of co-owners. The bill provides simpler types of remedies that will be available to the parties to resolve those sorts of disputes.

It is important to make clear which types of disputes the bill will provide alternative remedies for and which types of disputes will remain outside its ambit and still be subject to the jurisdiction of the Supreme Court and the County Court. Of course the Family Law Act will still apply to family law disputes — they come under the federal jurisdiction — but it is important to make it clear that we are not dealing with co-ownership of matrimonial property in this bill. Where domestic partners are concerned, that is also outside the scope of this bill and will remain under the jurisdiction of the Supreme Court or County Court subject to the value of the property. Provisions relating to a testator's family maintenance under the Administration and Probate Act will also remain with the Supreme and County courts, as will matters arising under the Partnership Act.

The reason the disposition of property of domestic partners, the testator's family maintenance provisions or the Partnership Act provisions are outside the scope of this legislation is that those disputes are regarded as too complex to be decided by VCAT under the scheme proposed in the bill. What we are doing here is sending the simpler, easier-to-resolve disputes to VCAT, which is an appropriate forum that allows people to get their dispute heard quickly and cheaply and in a simpler fashion rather than the more costly and rather time-consuming processes involved in the Supreme and County courts. But while allowing for those disputes to go to VCAT and be handled in a simpler and more straightforward way, it is also important to realise that only the more simple and straightforward types of disputes ought to be referred to VCAT to be resolved in that fashion. The bill makes important distinctions between those types of cases and allows VCAT to remit certain cases where there are special circumstances and complexities back to the courts for decision. That is another important safeguard in this legislation.

It is important that we make sure as best we can that the right court or tribunal is used as the dispute resolution process in appropriate cases. Sending the simpler and more straightforward cases to the Victorian Civil and Administrative Tribunal for resolution is a sensible and appropriate step. The law reform commission made some sensible recommendations in that regard, and that is why the government has been happy to adopt those types of recommendations in this legislation.

It is also important to refer to the fact that the remedies that are going to be made available to parties under this legislation have been broadened and new remedies have been brought in, particularly in relation to the sale of land or the disposition of land upon the resolution of the dispute. Historically, the courts developed limited remedies for the disposition of land as a result of a dispute, particularly the disputes about agricultural land that have arisen over the last few hundred years among families. The way in which the courts developed those remedies meant that division of the land was the principal remedy that was available.

As society has become more complicated and industrialised we have far fewer of those types of disputes in relative terms, and it is important that the remedies that are available to the courts or tribunals in the modern world reflect the types of ownership — the types of goods, the types of family or other business relationships — that exist in modern society, and that the courts are able to apply effective and sensible remedies that reflect the needs of the parties in today's world.

In addition to allowing in appropriate circumstances for the division of land as a primary remedy, this legislation allows for the division and apportionment of the proceeds of the goods by sale. This enables people to gain the financial benefit of their share of the land or the goods in an appropriate fashion and to use it for whatever purpose they see fit. It is a far more appropriate type of remedy than the traditional division of land, and more fitting for today's environment. That will no doubt be welcomed by people who see the need to have their disputes resolved by VCAT — those simpler, more straightforward property ownership disputes that do arise from time to time between co-owners.

Principally in this context, the main beneficiaries of this legislation will be family members who have inherited property under a will or co-owners who have purchased property for investment purposes. It is good, positive legislation and I commend it to the house.

Mr WILSON (Narre Warren South) — The Property (Co-ownership) Bill will very much simplify the process by which some co-ownership disputes regarding land and property are resolved. This legislation will repeal an outdated section of the Property Law Act 1958 that had it origins in 16th century English law. The bill adds to the significant list of legislative modernisation achieved by the Bracks government in its attempts to simplify the legislation of this great state.

Co-ownership exists when two or more people have an interest in property, either land or some other form of property such as chattels, which entitles them to possess the same piece of property at the same time. The proposal to transfer jurisdiction of many co-ownership disputes to the Victorian Civil and Administrative Tribunal (VCAT) emanates from a recommendation that came out of the Victorian Law Reform Commission's report on disputes between co-owners. I note that this was the first report published by the Victorian Law Reform Commission since it was re-established by the Bracks government in 2001. I am very pleased to be a part of a government that restored the Victorian Law Reform Commission, meeting a significant commitment made during 1999 state election. The report was commissioned by the government in April 2001. The law reform commission's brief was to review the Property Law Act 1958 to ascertain a simpler and cheaper way of resolving disputes between co-owners.

The transferring of jurisdiction over many co-ownership disputes from the Supreme Court and County Court to the Victorian Civil and Administrative Tribunal will certainly achieve one of the main recommendations in the Victorian Law Reform Commission's report. The commission originally published a discussion paper which outlined the current laws, suggested a number of possible reforms and then called for submissions. These submissions formed the basis of many of the commission's 59 recommendations. They are very practical and create a more equitable system than does the current law. The changes create a simplified system and address problems that have existed for some time in relation to co-ownership.

Co-owned property can be sold or divided with the consent of all the co-owners. However, if co-owners disagree or are unable to agree because one of them is not an adult or lacks legal capacity, a process is required to authorise sale or division. The bill sets out the remedies available to determine disputes and to amend the Transfer of Land Act 1958 and the Victorian Civil and Administrative Tribunal Act 1998.

The transfer of jurisdiction will be of benefit to several groups. Two groups particularly mentioned are family members who have been left property in a will or those who have purchased investment properties as co-owners. VCAT provides Victorians with access to a civil justice system that is accessible, efficient and cost effective. VCAT is less formal than the Supreme Court and County Court systems and allows disputes to be settled in an informal and non-adversarial environment. This will definitely be a bonus to those people unfamiliar with the judicial system, which can be intimidating and daunting, and is a prospect that many do not face with joy.

There are several new sections under part IV of the bill that deal with the division and sale of land or goods. These new sections include new section 221 that provides that the new part will apply to all land in Victoria whether or not the land is registered under the Transfer of Land Act 1958. New section 225 provides that a co-owner may apply to VCAT for an order for the sale of land or goods and the division of the proceeds between co-owners, the physical division of the land or goods or a combination of those two options. This section is useful where co-owners cannot agree on the proportions of land or goods that are jointly co-owned.

VCAT will have the option of directing the proportion of the co-owned asset that will be directed to each co-owner. New section 228 provides remedies available to VCAT in making an order under this division, which should ensure that a just and fair sale or division of land or goods occurs in a less formal setting and at much less cost to the co-owners than is usual in the more formal court settings.

While this bill does not affect all cases of property disputes such as following the dissolution of a marriage or domestic partners, which will remain with the Family Court and the Supreme Court respectively, this bill will provide significantly simpler processes for many co-owners of property. These are just a few of the new sections of the bill which I have no hesitation in recommending to the house.

Ms D'AMBROSIO (Mill Park) — I, too, support the bill and in so doing I wish to make particular reference to the appropriateness and timeliness of the Victorian Law Reform Commission's recommendations on changes to the act. In making the recommendations, the commission certainly highlighted the fact that much of the Property Law Act remained based on 16th century English laws. In fact the partition dates from 1539.

There were some limited changes made to those laws during the 19th century but in essence it is very much the case that the Property Law Act remained based on very old and archaic thinking. Indeed, part IV is not the only section of the Property Law Act which has been identified by experts as needing to be overhauled.

To exemplify the worthiness of the Victorian Law Reform Commission's recommendations culminating in the bill before us, the Scrutiny of Acts and Regulations Committee received evidence from Professor Marcia Neave on parts V and VI of the Property Law Act during the period of the committee's inquiry into discriminatory provisions as part of its discrimination in the law inquiry. I look forward to the government's reply to the report on that inquiry in due course with respect to the committee's recommendations on part V at least.

Professor Marcia Neave is one of very few academic experts in the area of property law, which in itself speaks volumes for the denseness of the act and for the very necessary reform that is before the house. I wish to acknowledge the very steady and determined course the Attorney-General has taken in reforming justice and improving access to justice for Victorians. This bill is another step towards improving access to the law and to affordable law. The repeal of part IV referring to co-owners who are neither spouses nor domestic partners and the reference of the jurisdiction of that scope to the Victorian Civil and Administrative Tribunal certainly provide a modern response to modern circumstances of co-ownership of land. I recommend the bill to the house.

Mr TREZISE (Geelong) — I am very pleased to speak in support of the Property (Co-ownership) Bill 2005 because it highlights the commitment of the Bracks government and the Attorney-General to ensuring that all Victorians have access to a modern and accessible legal system. As has been noted by previous speakers, this bill is a result of recommendations made by the Victorian Law Reform Commission, a body that history shows was the victim of a Kennett government hatchet job back in the early 1990s. Importantly, the commission was re-established by the Bracks government in 2001, and I once again commend the Attorney-General for this initiative.

The bill implements a number of recommendations of the law reform commission's report on disputes between co-owners. The key recommendation of this report, as we have heard, takes the dispute resolution procedure out of the hands of the Supreme Court, and the County Court in some instances, and puts it into what I would describe as a more affordable and accessible body, being the Victorian Civil and Administrative Tribunal (VCAT).

Looking at this bill it surprised me that where co-owners of a piece of land or of goods were in dispute the remedy was to go to the Supreme Court or County Court. Knowing the cost of going down that legal track and the delays that can occur, I fully support this bill in replacing the Supreme Court and County Court with the more accessible VCAT. The people who really will benefit from this legislation will be the co-owners, especially those without mega dollars, who will no longer have to spend many thousands of dollars in proceeding down the Supreme Court or County Court road.

Given the short time available to speak on this bill and knowing that other speakers are keen to take part in the debate, I will leave my comments at that, except to say that this is important legislation which reflects the Bracks government's commitment to a fair and accessible legal system in Victoria. Therefore I support the bill and wish it a speedy passage.

Ms NEVILLE (Bellarine) — The Property (Co-ownership) Bill is certainly a welcome change, and it continues, as other members have said, this government's commitment to ensuring that we have got an accessible and affordable justice system and also a justice system that reflects the needs of a modern society. A lot of the issues that were raised by the Victorian Law Reform Commission in its report reflect the need to modernise and simplify the provisions that cover property law. As a former law student, along with, I am sure, lots of current law students, I welcome any opportunities to simplify the law in this area.

As other members have pointed out, this bill is a result of recommendations made by the Victorian Law Reform Commission. I think it is worth pointing out again, while not wanting to be repetitive, that the Victorian Law Reform Commission is a very important independent advisory body that this government really values. Unfortunately it was abolished for a period of years, which set Victoria back in terms of improvements to the justice system, but we are now moving forward in supporting the commission, and it does a fantastic job.

The provisions in this bill are a result of the work the commission has put in on this issue. The bill is about the way we deal under the law with co-ownership disputes — that is, disputes that relate to property in which two or more people have an interest and where there is a disagreement between the co-owners in relation to selling it. Currently non-spousal disputes

have to be resolved by the Supreme Court or by the County Court where the property is valued at under $200 000. The law reform commission pointed out major concerns about the cost, the delay and the formal procedures involved in going through that process. The bill addresses this issue by transferring these disputes to the Victorian Civil and Administrative Tribunal, except that those involved in more complex matters will still have access to the court system. Obviously the Family Court will still have jurisdiction over spousal property disputes.

There are some big winners in this: family members who inherit properties in wills, and people — and there is a lot more of this going on all the time — who purchase property together for investment purposes. As a result we will see more flexible remedies become available, as well as more affordable access for people who find themselves in these disputes. I commend the bill to the house.

Ms BEARD (Kilsyth) — It is my great pleasure to join the debate on the Property (Co-ownership) Bill, which is supported by all members of the house. The bill makes the resolution of disputes between co-owners of land or goods simpler and cheaper to achieve. Co-owners are two or more people who have an interest in a property, be it land or goods, that entitles them to possess the property at the same time. Family members who have inherited property and people who purchase property as co-owners for investment purposes will be the great beneficiaries of the changes that the bill introduces.

When co-owners disagree the Victorian Civil and Administrative Tribunal will provide remedies to address any issues that arise. VCAT will also be able to make orders relating to accounting and the payment of compensation between co-owners, allowing disputes over land and goods to be dealt with at the same time. Traditionally land was agricultural and could therefore be divided as a remedy for co-owners wanting to end their co-ownership. But today the division of land is more likely to result in co-owners wanting to sell a property and divide the proceeds. This bill makes this cheaper and easier.

I congratulate the Attorney-General on the Property (Co-ownership) Bill, which is yet a further measure to ensure that Victoria is great place in which to live, raise a family and be a co-owner of property. I wish the bill a speedy passage.

Mr ROBINSON (Mitcham) — I am pleased to make a few comments in support of the Property (Co-ownership) Bill. It is a significant bill because the beneficiaries will ultimately be people who find themselves in positions of great distress. As previous speakers have outlined, typically they are people who find themselves in disputes over property, often with family members. My experience as a member of Parliament has been — I am sure I am not alone in this — that sometimes the most bitter relationship issues can emerge between family members. I suppose they do not present themselves as often in property disputes as they do in guardianship disputes.

I think all members have probably had constituents come to them and lay out the circumstances surrounding the very grievous wrongs that they believe are being committed against loved members of their family, but after further questioning and examination it is revealed that in fact there are estranged members of the same family who take very much the opposite position. We are, as well as judges, being asked to try to take sides in a family dispute which cannot be resolved. Where families in one form or another manage to break the conditions, the law does strive to achieve some form of settlement so people can get on with their lives — although often it does a less than perfect job.

As the minister pointed out in the second-reading speech, we are in an era where more and more family members are being left a property share as a result of inheritance and more people are purchasing investment properties. These are the simple facts we have to deal with. It follows that human nature being what it is we should anticipate that over time there will be more and more disputes involving family members over property. Anything we can do which attempts to 'de-wig' that process — if I can use that expression — to make the resolution of those impasses less expensive and less time consuming is a step in the right direction. Ultimately we cannot pretend that this legislation is going to resolve these very difficult situations in which Victorians find themselves, but through this bill we can try to ensure that the path towards a resolution is less time consuming, less intimidatory and less costly.

The recommendations that underpin the bill come from the Victorian Law Reform Commission and follow on from the very good work over many years by the commission. It is a considered piece of work that was put forward some time ago proposing practical solutions to a very pressing problem that too many Victorians are confronted with. As such it deserves the support of all members of this place.

Mr SEITZ (Keilor) — I rise to support the Property (Co-ownership) Bill, which is an eminently sensible bill that the Attorney-General has brought before the house. It recognises our changing society and how we now

live, particularly where parents go guarantors for their children in setting up businesses or purchasing property and assets. They therefore become co-owners of the property. Eventually there are disputes, not only when the property is paid off but when it comes to selling — the young ones want to hang on; the old ones want to cash in and have the money. This bill simplifies the process. Now the disputes go to the Victorian Civil and Administrative Tribunal which will make the process cheaper than having to go to the Supreme Court to settle. In the old days large holdings of land were handed down by the grandparents to the parents and then to the children — until someone wanted to sell off or divide the land. This bill makes it simple, clear and easy in our modern urban society to deal with those issues taking into account the values we possess today.

The bill is not opposed by any of the players. It does not play down the court option for those people who choose to go down that road. However, it gives them an affordable option to do it because the value and assets being argued about would not meet the costs of going to the Supreme Court. For those reasons outlined in my brief comments I support the bill and recommend it a speedy passage through the house.

Mr HULLS (Attorney-General) — I thank everybody for their fulsome support of this important piece of legislation. As members have said, it arises out of recommendations from the Victorian Law Reform Commission. I have to say that since its re-establishment the law reform commission has done a great job of being at the forefront of law reform and with recommendations for law reform right across Australia. Many of its recommendations are being looked at by other jurisdictions. I know that another report of the law reform commission will be tabled in this place tomorrow in relation to laws of privacy in the workplace. This is a reference I gave the law reform commission some time ago. I expect that the recommendations will be taken to the Standing Committee of Attorneys-General for discussion in relation to a national response.

This was one of the first references the Victorian Law Reform Commission had — in fact I think it was a no-motion reference. As a result of the legislation that is before the house disputes between co-owners of land and goods will now be resolved more simply and cheaply. The jurisdiction for many co-ownership disputes will now be transferred to the Victorian Civil and Administrative Tribunal. This will address concerns about the formality, expense and delay in having many of these matters heard in either the Supreme or County courts.

As a number of speakers on the bill have mentioned, family members who have inherited property and people who have bought property as co-owners for investment purposes obviously stand to benefit from the changes being introduced in this legislation. Co-owned property can be sold or divided with the agreement of all co-owners, but sometimes co-owners disagree or a co-owner is not able to agree to sell because he or she is not an adult or lacks the appropriate legal capacity. Other disputes can arise from time to time, such as a co-owner wanting to recover the costs of improving or maintaining a property from other co-owners. These changes to the legislation provide a much more accessible dispute resolution process and broaden the remedies available to co-owners when co-ownership comes to an end.

I conclude by thanking all those who contributed to the debate. In particular I thank the Victorian Law Reform Commission for the work its members have done to update an outdated section of the Property Law Act that really had its origins in 16th century law. I am very pleased to be able to present to this house yet another raft of recommendations by the law reform commission, to put those recommendations into legislation and to wish this legislation a speedy passage.

Motion agreed to.

Read second time; by leave, proceeded to third reading.

Third reading

The ACTING SPEAKER (Ms Lindell) — Order! As there is not an absolute majority of the members of the house present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Business interrupted pursuant to standing orders.

ADJOURNMENT

The ACTING SPEAKER (Ms Lindell) — Order! The question is:

That the house do now adjourn.

Timber industry: sustainability charter

Mr HONEYWOOD (Warrandyte) — The matter I wish to raise is for the attention of the Minister for Environment. I request that the minister take action to clarify a number of commitments he made when the Sustainable Forests (Timber) Act, which is now being further redefined through the Treasury Legislation (Miscellaneous Amendments) Bill at present before the house, passed through this Parliament. When the Sustainable Forests (Timber) Act was passed by this place the minister made a vast number of commitments in the interests of both the forest industry and the environmental groups involved in the issue of logging old-growth forests. One of those commitments which I would like to bring to the attention of the house and on which I request the minister's action relates to the Montreal protocol. The minister gave a commitment for a sustainability charter and framework which would include the publication of criterion indicators.

I note that the minister is in the chamber tonight. It would be a first for this chamber to hear a response from the Minister for Environment in the adjournment debate, and I look forward to his response. As he is now walking out of the chamber he is obviously not prepared to give a response to this important adjournment debate issue.

The minister explained in a briefing on the Sustainable Forests (Timber) Act that he would be implementing posthaste criterion indicators that would ensure a reporting framework for forest management based on international environmental protocols. Of course these have yet to be fleshed out. Some time has transpired since the minister gave that commitment, and we would like to know where those criterion indicators are at according to the much-vaunted Montreal protocol before the house is required to accede to the government's majority in both houses and support the Treasury Legislation (Miscellaneous Amendments) Bill.

Equally we would like the minister to explain what research he has done on certification of Australian forestry standards to ensure that Victoria is not importing native forest timber from Indonesia, other Asian countries and elsewhere in the world that has not been certified. I request that the minister ensure that whilst we are trying to do the right thing in Victoria by moving towards certification he has satisfied himself that Victoria is not glibly importing forest timber products from countries that do not have any certification process.

The chains of responsibility and command in terms of where this forest timber is coming from need to be investigated if this minister is to support his much-vaunted environmental credentials. I call on the minister to give us an update prior to the passage of the Treasury Legislation (Miscellaneous Amendments) Bill through this house.

Wallan: community facility

Mr HARDMAN (Seymour) — I have a matter I wish to raise with the Minister for Victorian Communities. The action I request is that the minister look favourably on the proposal by the Shire of Mitchell, which has applied for funding through the Community Facilities Fund to build a community facility in Wallan.

This is a great project, and I seek the government's support on behalf of the community of Wallan and the surrounding district, who require more meeting spaces and community facilities to meet the needs of the rapidly growing community. The Minister for Education Services is here at present, and she knows what a great job the Bracks government is doing in Wallan. She has recently provided a Community Facilities Fund grant for further leisure and arts facilities in the Wallan area connected to the Wallan Secondary College, which the Bracks government is also funding.

Over the last few years I have been working with members of the community who have developed their wonderful proposal for a multipurpose facility. In 2004 I had the pleasure of working with a parliamentary intern, Anna Crabb, who spoke with many different community groups, organisations and individuals about their needs and what they see as important for a facility in Wallan.

The Wallan multipurpose community centre will provide facilities for the neighbourhood and senior citizens and will incorporate the existing Killara Children's Centre. Currently they have received some funding from the federal government. The Labor candidate, Jenny Beales, promised some funding at the last federal election, as did Fran Bailey, the federal member who is also the Minister for Small Business and Tourism. The federal government has come up with $2 million and the local council has come up with $500 000, and they are asking the state government to

make this a really great facility by putting in $1 million so the facility will meet the needs of the Wallan community.

This community facility will provide people with meeting rooms for visiting health and welfare agencies as well as much-needed areas for general community meetings, functions and celebrations. Currently there is strong growth in the Wallan area, and that is expected to continue over the next few years. There is also a very high proportion of young families with a demand for increased services. Lack of amenities is greatly restricting the services available to the community, especially services provided by people who have to travel to Wallan to provide their services, and that is forcing residents to travel outside the area.

I see the Wallan multipurpose community centre as being a facility of great value to the community. It is supported by many groups, including the senior citizens, the neighbourhood house and the child care centre. Mitchell Community Health Services also supports the project, as do the Mitchell Shire Council, Goulburn Valley Family Care and Berry Street Victoria. They have all collaborated throughout the various stages of planning this centre, and I hope that the minister will look favourably upon this application.

VicRoads: agricultural machinery

Mr WALSH (Swan Hill) — My adjournment issue is for the attention of the Minister for Transport. The action I require is that the minister immediately review the guidelines relating to the movement of oversize agricultural machinery.

On 24 May the Victorian Farmers Federation sent a submission pertaining to changes to the current allowances for oversize agricultural machinery to VicRoads. To date the federation has not received any indication from VicRoads on any progress made. Tonight we have heard a lot about the VFF praising the government, but in a recent letter to me the president of the VFF, Simon Ramsay, said that the federation is extremely disappointed with the lack of progress on these matters and urged that they be addressed as quickly as possible. Harvest time is rapidly approaching and the VFF needs its recommendations acted upon to allow its members to operate legally and efficiently in shifting oversize machinery on roads.

The Minister for Agriculture has praised Victorian farmers for having the highest value of agricultural production. Our farmers have achieved that by adopting the best technology that is out there and by using the latest advances in machinery. Quite a lot of that machinery is a lot larger than machinery previously used in agriculture. As farms have expanded to achieve economies of scale and the sorts of things the minister has praised, machinery has also got bigger and wider. As farms have expanded, farmers have purchased more land or are leasing and sharefarming land that is often quite a distance away from home, so they need to travel further down roads with their wide machinery.

The issue about pilot vehicles is critical. Pilot vehicles are now required at the front and rear of some machinery, and it is costly and sometimes impossible for families to be able to achieve that. Often there are not enough licensed drivers in families to do so, and if the wife of a farmer has young children, then driving a pilot vehicle with young children inside is not necessarily the wisest thing to do from an occupational health and safety point of view.

There is also a proposal that farmers who in future are going to drive the pilot vehicles attend a half-day training course before they can do so. This again is an imposition that I believe is not needed. The one thing that has been lacking in this whole issue for quite a while is commonsense. We are going to see harvest headers with quite substantial length trailers behind that are not going to meet the current regulations. I ask the minister to get involved and to move this issue along so that our farmers can shift their harvest machinery legally.

Shell refinery, Geelong: environmental record

Mr TREZISE (Geelong) — I raise an issue for action by the Minister for Environment. The issue relates to the Shell refinery in Geelong and concerns its environmental prosecution record in recent months and years. I do not think it is any secret in this house that in recent years the Shell refinery in Geelong has been the subject of a number of environmental law breaches, and as such it has been the subject of a number of Environment Protection Authority prosecutions. In the middle of this year — I think it was in April or May — the Shell refinery again received a number of $5000 spot fines from the EPA, one being for air emissions at a level contrary to its operating licence and another being for a spillage into Corio Bay. These are just two of the numerous breaches of the law, regulations and licences that have occurred over recent years.

Therefore the action I seek is for the minister to ensure that local EPA officers in Geelong work closely with the Shell refinery and community organisations to ensure that the refinery more stringently meets its

regulatory obligations and responsibilities into the future.

I fully appreciate, as does this house, that the Shell refinery is an important member of the Geelong community. It provides hundreds of direct jobs and no doubt thousands of indirect jobs to the community of Geelong and the wider region. But even given its importance, it is unacceptable that Shell continues to create environmental concerns within the community of Geelong. It is not good enough that Shell is regularly charged and prosecuted by the EPA and other government authorities for breaches of our environmental laws and its own operating licences.

I have met with Shell representatives on numerous occasions and accept that it is doing what it can to update an approximately 50-year-old refinery. On the other hand I also appreciate the genuine concerns of the community as they are articulated by organisations like Geelong Community for Good Life and the Geelong Environment Council. Shell's record in complying with EPA regulations is not up to scratch. It is not good enough, and I think Shell would accept that. I ask that the minister take action to work with the local EPA office, the Shell refinery and the local community to ensure that that record improves in the very near future.

Buses: Mont Albert and Surrey Hills

Mr CLARK (Box Hill) — I raise with the Minister for Transport the deterioration in the bus service experienced by residents of Mont Albert and Surrey Hills as a result of the implementation of the government's SmartBus policy. I ask the minister to take action to remedy the problems with the service and to provide an assurance to local residents that it will not be discontinued in future. Until earlier this year the residents of Mont Albert and Surrey Hills were served by bus route 700, which ran from Box Hill via Mont Albert Road, Leopold Crescent, Windsor Crescent, Union Road, Through Road and Thomas Street to Warrigal Road, and from there southwards to Mordialloc.

As a result of the designation of route 700 as a SmartBus service, the northern part of the route was altered to run via Station Street and Riversdale Road to join Warrigal Road. In its place a new route 766 has been introduced for Mont Albert and Surrey Hills which runs over the same route as the former northern part of route 700, before looping back to Union Road via Riversdale Road.

Many local residents have raised with me a wide range of problems with these changed arrangements. The weekday service on route 766 now runs generally every 30 minutes, compared with every 20 minutes previously. There is a 1-hour gap in the weekday service between 9.00 a.m. and 10.00 a.m. and another gap between 2.00 p.m. and 3.00 p.m. This makes it very difficult for residents to schedule their travel so that they avoid having to wait up to an hour for a bus. The weekday service ends at 7.00 p.m., compared with 11.00 p.m. previously. There is a limited Saturday service, and there is no service on Sundays. The absence of a service on Sundays makes it difficult for elderly residents to visit people in hospital, attend church or go on other outings.

It can also be dangerous for people, particularly the elderly, to cross Warrigal Road to change from bus route 766 to bus route 700, and there are often long waiting times for connections. Among those affected are the many residents who take the bus to shop at the Chadstone shopping centre. Several residents have also told me that they are fearful that the poor level of service on route 766 is part of a deliberate attempt to reduce patronage in order to justify discontinuing the route. I wrote to the minister on 8 August and again on 22 August about the problems with route 766, but to date I have not received a reply. The introduction of SmartBus routes was intended to provide a better service to commuters rather than a worse service. For all of the government's talk about the importance of frequency and reliability in attracting people to use public transport, the residents of Mont Albert and Surrey Hills have been treated very shabbily indeed by these changes.

The burden of this deterioration in service is falling particularly on the elderly, schoolchildren and other young people, and others who do not have access to cars. Many of them or their families have made decisions on where they will live based on the availability of public transport, and now, in some instances, they may have to consider moving home in order to regain better access to public transport. I therefore again ask the minister to take action to improve the bus service in Mont Albert and Surrey Hills so that my constituents can again have access to a service that is at least no worse and preferably better than the bus service previously available to them, and also to provide an assurance that in the future the service will not be axed altogether.

Environment: household chemicals

Mr ROBINSON (Mitcham) — The issue I raise this evening is for the attention of the Minister for Environment. It deals with the longstanding and, it would appear, growing problem of household chemical

storage in Melbourne and in particular the eastern suburbs. It is a very serious issue. Whitehorse City Council, which is the area in which the electorate of Mitcham falls, has many older residents — in fact it has an ageing population. Over the years many of the residents have managed to accumulate a virtual arsenal of chemicals in their garages, and currently they lack advice as to what to do with them. I acknowledge that it is a problem all over Melbourne, but I want to relate the problem as I understand it in the Mitcham electorate.

The action I seek is that the minister have discussions with EcoRecycle, the statutory authority, to develop an increased capacity for the collection of such chemicals from households. EcoRecycle runs a very good and well-supported program, but the problem is that it is probably too well supported. I am familiar with efforts that EcoRecycle has made in conjunction with the City of Whitehorse. It tends to undertake such exercises in Whitehorse every 12 to 18 months, as it does in other councils across Victoria.

The Whitehorse City Council collection point is its Box Hill South council depot, which is right next to the Nunawading State Emergency Service unit depot. I raise that as a slight digression. Last night I was pleased to be at the SES depot, along with the Minister for Police and Emergency Services and the member for Burwood, because a launch of the new 132 500 flood and storm number was hosted by the Nunawading SES unit. I know all members are very keen to promote that.

Mr Walsh interjected.

Mr ROBINSON — It is a digression, but physically they are located right next to each other and I thought I would just give it a plug.

The last time Whitehorse offered the service in conjunction with EcoRecycle there was a very strong response — in fact, there were very long queues. In part that was through the work of people like Gary Cooper from the Simpson Park/Somers Trail in Mitcham, who had been very helpful in promoting the service. It was evident from that experience that there is an increasing need to improve the capacity to receive household chemicals. We obviously need collection days more frequently or a permanent facility to handle some of the bulk products, in particular paint. Paint is one of the things stored in great quantities in households across Melbourne. It seems that painting houses is one of the great occupations of Victorians. I urge the minister to help develop this capacity.

Melbourne convention centre: progress

Ms ASHER (Brighton) — The issue I have is for the Minister for Major Projects in the other place. I seek of him an assurance that the government has taken into account the potential disadvantages of the private-public partnership (PPP) financing method for the convention centre and expanded exhibition centre. This is especially important given the disastrous ways in which PPPs have been operating at Spencer Street, for example.

Cabinet was warned in 2002 that the delay of that particular project was damaging. I refer to a feasibility report issued under freedom of information which, referring to the Melbourne Exhibition and Convention Centre (MECC) and the Sydney Convention and Exhibition Centre, says:

> The total number of international and national/local conventions and associated delegates attracted to the MECC has shown a gradual decline from 1999–2000, with a further decline anticipated in 2002–03. Declines in attendance may be attributed in part to the opening of additional facilities at the SCEC in 1998, and the opening or expansion of convention facilities in Brisbane, Cairns and Adelaide in recent years.

The government has been warned by its own feasibility reports, and there have been many of them. It has certainly been warned by the opposition about the dangers in delaying this project, and it has also been warned by the Melbourne Convention and Exhibition Centre Trust. Already we have seen a two-year delay to this project. According to the cabinet documents — of course these so-called cabinet documents were released under freedom of information — this project was meant to be completed in June 2007. It is now due for completion, according to the minister, in 2009. I note the taxpayer contribution is still set at $367 million.

Specifically what I would like the minister to address are the concerns spelt out by KPMG, again in the so-called cabinet-in-confidence documents released to me which are in the Melbourne Convention and Exhibition Centre feasibility study business case assessment. KPMG points to a range of concerns with the public-private partnership process as it applies to the convention centre. They are: it is relatively complicated; it is potentially expensive with an extended project delivery process; and also it reduces the state's ability to dictate the form and function of the centre. KPMG has also flagged a reduction of state control over the business of the centre; possible limitations to the ability of the state to modify the operations of the centre; and lack of clear precedents for documents and processes.

KPMG goes on to identify disadvantages under the PPP model: contractual accuracy, inaccurate or inappropriate key performance indicators, and increased cost due to the requirement to fund private sector equity. What I am asking the minister to do, because I have no faith in him and Leightons has no faith in him as a result of experience of PPPs, is to make sure that these issues are properly addressed by government.

Quang Minh temple, Braybrook: funding

Mr MILDENHALL (Footscray) — I raise a matter for the attention of the Minister for Victorian Communities. I request that he allocate money from the Community Support Fund to the Quang Minh community for its community service centre as part of its massive temple development in Braybrook.

The Quang Minh temple is more than a place of worship. It is arguably the largest centre for the delivery and administration of community services in the Braybrook and Maidstone area, a community identified by Jesuit Social Services as the most impoverished urban neighbourhood in Australia.

Led by the inspirational Venerable Thich Phuc Tan, the monks, the nuns, the community workers and volunteers run an amazing array of community supports to the local geographic community and the broader members of the Buddhist and non-Buddhist community. Family counselling services, drug counselling services, Internet training for elderly citizens, employment training schemes, meal services — especially to local schools — and a host of other services are run from this centre. It is also in touch with a large number of people in the community. Police estimate that up to 15 000 people annually are present at midnight, usually on a weekday, on the occasion of the Tet lunar new year. With that standing in the community it is an ideal organisation to reach thousands of people who are often difficult to contact from mainstream community service centres.

The temple is located atop the Braybrook escarpment above the Maribyrnong River near Solomons Ford, where the fresh water and the salt water meet. The temple has recently conducted an impressive dialogue with the indigenous community as part of an effort to design an appropriate structure to mark the significance of the site to the Koori community. The community will build a $6.5 million temple complex. But I am calling on the minister to assist with the community service component of the project. It will certainly be good value for money to build on the success of this extraordinary voluntary community agency. This centre is already a visual landmark in the area, and it is certainly an organisational landmark.

It is a place that most people in the community know and are drawn to, not only because of its spiritual significance but because it is an epicentre for an extraordinary range of community activities. I commend the project to the minister.

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

Springvale Road, Donvale: upgrade

Mr PERTON (Doncaster) — I raise for the attention of the Minister for Transport the need for an upgrade to Springvale Road, Donvale. I recently met with members of the Springvale Road residents reference panel and, together with the panel members and about 25 other residents, walked along Springvale Road on a very busy Friday afternoon. The action I ask of the minister is to provide the necessary funds for a major upgrade to Springvale Road and in the interim to undertake the work necessary to make the road safe. I ask the minister to ask David Anderson, the chief executive of VicRoads, to join me and the residents at a busy traffic time — Friday afternoon would probably be ideal — to look at the horrendous traffic conditions.

Springvale Road between Doncaster, Mitcham and Reynolds roads cannot carry today's traffic volumes safely. The road has topped the accident list in the Royal Automobile Club of Victoria insurance study for the second year running. It has been described as dangerous because it is frequently congested with traffic. It has bus stops that are inadequate and the local council, the City of Manningham, has now made the road its top priority for state government funding. Typically motorists travel at higher than the posted speeds and an absence of any pedestrian crossings makes crossing the road unsafe and at times almost impossible. Many elderly citizens from two large retirement villages and smaller facilities, and schoolchildren catching buses to and from school, represent a significant proportion of the pedestrians who use Springvale Road. The gutters are almost Third World quality. They have not been developed at all, and I suspect that in some cases septic run-off actually ends up in them.

In response to a recent survey sent out, an older constituent wrote:

> Many of the residents here are elderly and many of them are too feeble to cross the road safely to catch a bus. They have to walk to the intersection and then back to the bus stop, a distance of perhaps 0.7 of a kilometre, just to catch a bus.

The Springvale Road residents reference panel has made a number of recommendations to deal with the urgent problems along the road. These include a 60 kilometre-an-hour speed limit, roundabouts or other traffic-slowing devices, double lines to prevent overtaking, proper kerb and guttering, properly installed and located bus stops, pedestrian crossings with lights, moving the power pole south of retirement village to provide a clear view to vehicles leaving the village, building safe areas for U-turns and right turns, improving the signage along the length of the road, setting a load limit to divert heavy trucks to safer roads, regular policing of the speed limit and reducing traffic by constructing on and off ramps at Park Road from the Eastern Freeway extension. The Minister for Transport must act to alleviate the concerns of Springvale Road residents. It is time the Bracks government took responsibility for the decaying condition of our roads.

Yan Yean–Ironbark roads, Yarrambat: traffic signals

Ms GREEN (Yan Yean) — I raise a matter for the attention of the Minister for Transport. The action I seek is the commissioning of the long-awaited traffic signals outside Yarrambat Primary School at the intersection of Yan Yean and Ironbark roads. This intersection has been a source of anxiety for the Yarrambat school community for a number of years now, and I wish to put on the record my commendation of the school for the collaborative way it has worked with all three levels of government and various agencies, including the Department of Education and Training, VicRoads and Victoria Police. The school has taken its own steps to protect students and improve safety in the area by introducing new car parking areas, pick-up and drop-off zones, an internal traffic management plan and a parent-assisted walking bus from the nearby car park at Yarrambat Park.

Nillumbik shire has also reintroduced a school crossing, with a supervisor funded by the state government, for which I thank the minister. I have been pleased to play my part with the project to improve safety at the school. When the proper design and scoping for the project, which included safety, was undertaken by VicRoads late last year, it was found that the initial funding allocation was insufficient. I am grateful that in January the minister came to the rescue and agreed to make up the funding shortfall. The next completion date given to the school community was that the works would be undertaken during the break between terms 1 and 2 to cause minimal disruption to students.

I travel through the intersection on most days. As recently as yesterday I was disturbed to note that the signals have now been installed for some 8 to 10 weeks but are not operational. The lights should not simply be static sculptures, they should be fully functioning traffic signals protecting the community. The heavy traffic flows which are routinely present at this intersection mean that these lights are needed now to protect the children attending Yarrambat Primary School. Community members are quite correctly annoyed that the installation of the large signs trumpeting the achievement of the installation of these lights seems to have been given priority over the actual operation of the lights.

I am proud to be part of a government that has invested strongly in our road network, including $17.2 million for duplicating the Greensborough bypass bridge over the Plenty River, to be completed later this year, and school safety zones, including timed lights at Yarrambat primary. However, the new traffic lights need to become operational now. I urge the minister as a matter of priority to ensure that these lights become operational posthaste.

Mr Honeywood — On a point of order, Acting Speaker, whilst it is unusual for ministers of the government to actually be in the chamber, I would point out to you that the Minister for Environment was in the chamber for the entire duration of the matter I raised — —

The ACTING SPEAKER (Mr Nardella) — Order! What is the member's point of order?

Mr Honeywood — He has now fled the chamber, because he does not want to answer the question.

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

Mr Honeywood — And two other government members have raised issues with the minister. It is outrageous.

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

Responses

Mr CAMERON (Minister for Agriculture) — Ten honourable members have raised matters for ministers, and I will refer those matters to them.

The ACTING SPEAKER (Mr Nardella) — Order! The house now stands adjourned.

House adjourned 10.31 p.m.