PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

14 May 2002

(extract from Book 6)

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 and Minister for Health	The Hon. J. W. Thwaites, MP
Minister for Education Services and Minister for Youth Affairs	The Hon. M. M. Gould, MLC
Minister for Transport and Minister for Major Projects	The Hon. P. Batchelor, MP
Minister for Energy and Resources and Minister for Ports	The Hon. C. C. Broad, MLC
Minister for State and Regional Development, Treasurer and Minister for Innovation	The Hon. J. M. Brumby, MP
Minister for Local Government and Minister for Workcover	The Hon. R. G. Cameron, MP
Minister for Senior Victorians and Minister for Consumer Affairs	The Hon. C. M. Campbell, MP
Minister for Planning, Minister for the Arts and Minister for Women's Affairs	The Hon. M. E. Delahunty, MP
Minister for Environment and Conservation	The Hon. S. M. Garbutt, MP
Minister for Police and Emergency Services and Minister for Corrections	The Hon. A. Haermeyer, MP
Minister for Agriculture and Minister for Aboriginal Affairs	The Hon. K. G. Hamilton, MP
Attorney-General, Minister for Manufacturing Industry and Minister for Racing	The Hon. R. J. Hulls, MP
Minister for Education and Training	The Hon. L. J. Kosky, MP
Minister for Finance and Minister for Industrial Relations	The Hon. J. J. J. Lenders, MP
Minister for Sport and Recreation and Minister for Commonwealth Games	The Hon. J. M. Madden, MLC
Minister for Gaming, Minister for Tourism, Minister for Employment and Minister assisting the Premier on Multicultural Affairs	The Hon. J. Pandazopoulos, MP
Minister for Housing, Minister for Community Services and Minister assisting the Premier on Community Building	The Hon. B. J. Pike, MP
Minister for Small Business and Minister for Information and Communication Technology	The Hon. M. R. Thomson, MLC
Parliamentary Secretary of the Cabinet	The Hon. Gavin Jennings, MLC

Legislative Council Committees

Economic Development Committee — The Honourables R. A. Best, Andrea Coote G. R. Craige, Kaye Darveniza, N. B. Lucas, J. M. McQuilten and T. C. Theophanous.

Privileges Committee — The Honourables W. R. Baxter, D. McL. Davis, C. A. Furletti, M. M. Gould and Gavin Jennings.

Standing Orders Committee — The Honourables the President, G. B. Ashman, B. W. Bishop, Gavin Jennings, Jenny Mikakos, G. D. Romanes and K. M. Smith.

Joint Committees

Drugs and Crime Prevention Committee — (*Council*): The Honourables B. C. Boardman and S. M. Nguyen. (*Assembly*): Mr Cooper, Mr Jasper, Mr Lupton, Mr Mildenhall and Mr Wynne.

Environment and Natural Resources Committee — (*Council*): The Honourables R. F. Smith and E. G. Stoney. (*Assembly*): Mr Delahunty, Ms Duncan, Mrs Fyffe, Ms Lindell and Mr Seitz.

Family and Community Development Committee — (*Council*): The Honourables E. J. Powell, G. D. Romanes and J. W. G. Ross. (*Assembly*): Mr Hardman, Mr Lim, Mr Nardella and Mrs Peulich.

House Committee — (*Council*): The Honourables the President (*ex officio*), G. B. Ashman, R. A. Best, J. M. McQuilten, Jenny Mikakos and R. F. Smith. (*Assembly*): Mr Speaker (*ex officio*), Ms Beattie, Mr Kilgour, Ms McCall, Mr Rowe, Mr Savage and Mr Stensholt.

Law Reform Committee — (*Council*): The Honourables R. H. Bowden, D. G. Hadden and P. A. Katsambanis. (*Assembly*): Mr Languiller, Ms McCall, Mr Stensholt and Mr Thompson.

Library Committee — (*Council*): The Honourables the President, E. C. Carbines, M. T. Luckins, E. J. Powell and C. A. Strong. (*Assembly*): Mr Speaker, Ms Duncan, Mr Languiller, Mrs Peulich and Mr Seitz.

Printing Committee — (*Council*): The Honourables the President, Andrea Coote, Kaye Darveniza and E. J. Powell. (*Assembly*): Mr Speaker, Ms Gillett, Mr Nardella and Mr Richardson.

Public Accounts and Estimates Committee — (*Council*): The Honourables D. McL. Davis, R. M. Hallam, G. K. Rich-Phillips and T. C. Theophanous. (*Assembly*): Ms Barker, Mr Clark, Ms Davies, Mr Holding, Mr Loney and Mrs Maddigan.

Road Safety Committee — (*Council*): The Honourables Andrew Brideson and E. C. Carbines. (*Assembly*): Mr Kilgour, Mr Langdon, Mr Plowman, Mr Spry and Mr Trezise.

Scrutiny of Acts and Regulations Committee — (*Council*): The Honourables M. A. Birrell, Jenny Mikakos, O. P. Olexander and C. A. Strong. (*Assembly*): Ms Beattie, Mr Carli, Ms Gillett, Mr Maclellan and Mr Robinson.

Heads of Parliamentary Departments

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

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

Hansard — Chief Reporter: Ms C. J. Williams

Library — Librarian: Mr B. J. Davidson

Parliamentary Services — Manager: Mr M. L. Bromley

MEMBERS OF THE LEGISLATIVE COUNCIL

FIFTY-FOURTH PARLIAMENT — FIRST SESSION

President: The Hon. B. A. CHAMBERLAIN

Deputy President and Chairman of Committees: The Hon. B. W. BISHOP

Temporary Chairmen of Committees: The Honourables G. B. Ashman, R. A. Best, Kaye Darveniza, D. G. Hadden, Jenny Mikakos, R. F. Smith, E. G. Stoney and C. A. Strong

Leader of the Government:
The Hon. M. M. GOULD

Deputy Leader of the Government:
The Hon. GAVIN JENNINGS

Leader of the Opposition:
The Hon. BILL FORWOOD from 13 September 2001
The Hon. M. A. BIRRELL to 13 September 2001

Deputy Leader of the Opposition:
The Hon. C. A. FURLETTI from 13 September 2001
The Hon. BILL FORWOOD to 13 September 2001

Leader of the National Party:
The Hon. P. R. HALL from 20 March 2001
The Hon. R. M. HALLAM to 20 March 2001

Deputy Leader of the National Party:
The Hon. E. J. POWELL from 20 March 2001
The Hon. P. R. HALL to 20 March 2001

Member	Province	Party	Member	Province	Party
Ashman, Hon. Gerald Barry	Koonung	LP	Hall, Hon. Peter Ronald	Gippsland	NP
Atkinson, Hon. Bruce Norman	Koonung	LP	Hallam, Hon. Roger Murray	Western	NP
Baxter, Hon. William Robert	North Eastern	NP	Jennings, Hon. Gavin Wayne	Melbourne	ALP
Best, Hon. Ronald Alexander	North Western	NP	Katsambanis, Hon. Peter Argyris	Monash	LP
Birrell, Hon. Mark Alexander	East Yarra	LP	Lucas, Hon. Neil Bedford, PSM	Eumemmerring	LP
Bishop, Hon. Barry Wilfred	North Western	NP	Luckins, Hon. Maree Therese	Waverley	LP
Boardman, Hon. Blair Cameron	Chelsea	LP	McQuilten, Hon. John Martin	Ballarat	ALP
Bowden, Hon. Ronald Henry	South Eastern	LP	Madden, Hon. Justin Mark	Doutta Galla	ALP
Brideson, Hon. Andrew Ronald	Waverley	LP	Mikakos, Hon. Jenny	Jika Jika	ALP
Broad, Hon. Candy Celeste	Melbourne North	ALP	Nguyen, Hon. Sang Minh	Melbourne West	ALP
Carbines, Hon. Elaine Cafferty	Geelong	ALP	Olexander, Hon. Andrew Phillip	Silvan	LP
Chamberlain, Hon. Bruce Anthony	Western	LP	Powell, Hon. Elizabeth Jeanette	North Eastern	NP
Coote, Hon. Andrea	Monash	LP	Rich-Phillips, Hon. Gordon Kenneth	Eumemmerring	LP
Cover, Hon. Ian James	Geelong	LP	Romanes, Hon. Glenyys Dorothy	Melbourne	ALP
Craige, Hon. Geoffrey Ronald	Central Highlands	LP	Ross, Hon. John William Gamaliel	Higinbotham	LP
Darveniza, Hon. Kaye	Melbourne West	ALP	Smith, Hon. Kenneth Maurice	South Eastern	LP
Davis, Hon. David McLean	East Yarra	LP	Smith, Hon. Robert Fredrick	Chelsea	ALP
Davis, Hon. Philip Rivers	Gippsland	LP	Smith, Hon. Wendy Irene	Silvan	LP
Forwood, Hon. Bill	Templestowe	LP	Stoney, Hon. Eadley Graeme	Central Highlands	LP
Furletti, Hon. Carlo Angelo	Templestowe	LP	Strong, Hon. Christopher Arthur	Higinbotham	LP
Gould, Hon. Monica Mary	Doutta Galla	ALP	Theophanous, Hon. Theo Charles	Jika Jika	ALP
Hadden, Hon. Dianne Gladys	Ballarat	ALP	Thomson, Hon. Marsha Rose	Melbourne North	ALP

CONTENTS

TUESDAY, 14 MAY 2002

Tuesday, 14 May 2002

The PRESIDENT (Hon. B. A. Chamberlain) took the chair at 2.04 p.m. and read the prayer.

BUSINESS OF THE HOUSE

Photographing of proceedings

The PRESIDENT — Order! I have given permission for a *Herald Sun* photographer to take photographs of members at work in the chamber today.

ROYAL ASSENT

Message read advising royal assent to Building and Construction Industry Security of Payment Act.

THEATRES (REPEAL) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

NATIONAL CRIME AUTHORITY (STATE PROVISIONS) (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

RACING ACTS (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

FISHERIES (FURTHER AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. C. C. BROAD (Minister for Energy and Resources).

GUARDIANSHIP AND ADMINISTRATION (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

Read first time on motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

QUESTIONS WITHOUT NOTICE

Marine parks: establishment

Hon. PHILIP DAVIS (Gippsland) — I direct a question without notice to the Minister for Energy and Resources. Last year the government failed in its attempt to push through Parliament a bill which would have removed the rights of commercial fishers to compensation in relation to marine parks. The opposition required then, and now the government has conceded, that a fair compensation process is a prerequisite to the creation of marine parks. In response, the government has announced that a compensation panel and appeals tribunal will be established to deal with compensation claims of fishers and that access to the Supreme Court will not be denied. However, commercial fishers are concerned that claims may be capped at a total of $3 million. Will the minister confirm that there is no cap on compensation for commercial fishers affected by marine parks?

Hon. C. C. BROAD (Minister for Energy and Resources) — I am somewhat surprised that in the extensive negotiations between the government and the opposition this matter was not clarified. If it is not clear in the minds of opposition members, if it was not clear in those discussions, let me make it quite clear now — there is no cap.

Liquor: licences

Hon. R. F. SMITH (Chelsea) — Will the Minister for Small Business provide an update of any developments within the packaged liquor industry?

Hon. M. R. THOMSON (Minister for Small Business) — As honourable members will be aware, the government has continually stated that the 8 per cent cap on packaged liquor licences would be retained unless an industry agreement was reached and that the commencement of the phase-out would be the end of 2003 unless there was an agreement. The Bracks government has supported discussions among the industry associations to provide greater certainty and

stability to the industry. We believe that the only way we can provide a good transitional period for business in this industry is by industry agreement. I am pleased to announce that industry agreement has been reached between the Liquor Stores Association of Victoria, the Master Grocers Association, Coles Myer and Woolworths. Together these organisations represent two-thirds of the current packaged liquor licence-holders in Victoria.

The Bracks government will be introducing legislation to the Parliament to reflect the agreement and achieve a range of reforms that will ensure a competitive and fair packaged liquor industry, for both the industry and the people within it but also for consumers. We will provide a more transparent and inclusive decision-making process with relation to applications for liquor licences. There will be greater community involvement and scrutiny in the granting of packaged liquor licences to ensure that the issues of amenity and harm minimisation are properly considered. It is outrageous to have a piece of legislation one of the purposes for which is to limit the harm of alcohol abuse yet you do not allow the public to object on these grounds. We will be correcting that.

Going to some of the key initiatives in the agreement, the one of most importance to the industry itself is the orderly phase-out of the 8 per cent limit. From the assent of the bill the cap will be 10 per cent; it will be 11 per cent from 1 July 2003, 12 per cent from 1 July 2004 and it will be lifted from 1 January 2006. During the transition period the major chains will generally not be able to buy a new licence, but they will be able to purchase an existing licence only if they are under the cap at that designated time. There will be special buy-out arrangements with minimum payments, and they will be specified. There will be a strengthening of the legal effectiveness of the caps by closing loopholes.

It is also proposed to include a provision to develop a code of conduct for the industry to assist those small retailers that face unfair market practices. The agreement delivers a $3 million packaged Liquor Industry Development Trust Fund for independent liquor store owners who want to be competitive in the market. It is a good outcome for small business, and I thank particularly Peter Wilkinson of the Liquor Stores Association of Victoria and Geoff Gledhill of the Master Grocers Association of Victoria, who have worked tirelessly even while running their own businesses to ensure there is certainty for the future of small business in a competitive market.

Answer ordered to be considered next day on motion of Hon. BILL FORWOOD (Templestowe).

Melbourne Sports and Aquatic Centre

Hon. P. A. KATSAMBANIS (Monash) — My question without notice is to the Minister for Sport and Recreation. Last week in this place in answer to a dorothy dixer the minister told us about the expansions to take place at the Melbourne Sport and Aquatic Centre in Albert Park in my electorate of Monash Province. The minister said the government was committed to community consultation and suggested that the community consultation had already commenced. Would the minister care to reflect on whether he believes the community consultation up until now has been adequate?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the question from the honourable member. As mentioned last week, I understand that the process has commenced and that the Melbourne Sports and Aquatic Centre management is in the process of community consultation on the proposed developments in whatever form that might be at the centre in the lead-up to the Commonwealth Games. Extensive consultation will be required. This is the preliminary stage where the government takes on board comments from the general community on issues pertinent to the development before a finalised brief so that those matters that have arisen out of the initial community consultation stage can be resolved. There will be further consultation throughout the course of the process.

Supplementary question

Hon. P. A. KATSAMBANIS (Monash) — As a supplementary question, on 8 May, the same day the minister was making the announcement in this house, the mayor of the City of Port Phillip put out a press release which said among other things that:

> … this council remains unconvinced that the community consultation and information flow to date has been rigorous enough for the community to make informed judgments about the long-term community and recreational benefits of the expanded centre …

The mayor is clearly not happy with the consultation process, and neither are the people of Albert Park and Middle Park. The mayor went on to ask the minister to extend the closing date for submissions to his current advisory committee from 30 June to 30 July.

Based on the comments of the mayor of the City of Port Phillip, will the minister now admit that the consultation process to date has been a sham; will he admit that he misled the house last week and today; and

will he commit to extending the advisory committee process as requested by the City of Port Phillip?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I welcome the question because for those on the other side of the house to even say the word 'consultation' is hypocrisy in every sense. How can the honourable member sit there and criticise the government for lack of consultation when in seven years members of the opposition while in government did not consult once. Not once! Never! The honourable member would not know the meaning of the word. He would not know how to deliver it or how to process it. For the honourable member to make that criticism in opposition is absolute hypocrisy, and he will stand condemned well into the future when the outcomes are shown to deliver on that consultation.

Hon. Andrew Brideson — On a point of order, Mr President — although it might be too late now — I suggest the minister was not answering the question; he was debating it.

The PRESIDENT — Order! The rules applying to answering supplementary questions are the same as the rules applying to answering the questions — in other words, the answer must address the question. So far the minister has not addressed the specific question on consultation in this area. The minister has 11 seconds to deal with that.

Hon. J. M. MADDEN — As I said, the government will continue to consult. I am confident that the results of the consultation will be very successful, unlike the hypocrisy from that side of the house.

Sport and recreation: funding

Hon. KAYE DARVENIZA (Melbourne West) — I direct my question to the Minister for Sport and Recreation. Last year the federal government stopped funding to sports assemblies located in both metropolitan and regional Victoria. What action has the Bracks government taken to redress this funding crisis in grassroots sports?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As mentioned in this house on previous occasions, the federal government has cut funding substantially to the regional sports assemblies which used to be directed through the state government. However, I am pleased to announce — as was the Minister for Health, who also recently announced it — a total package of $26 million to increase participation in active sport and recreation as part of the government's commitment to a physical activity strategy. This allocation represents how much we appreciate and recognise the significant contribution — hence the significant allocation — the sports assemblies programs made to assist in the achievement of the objective of ensuring greater levels of participation in physical activity in the community. This allocation also recognises the existing sports structures of the state and their important role within the community, particularly in regional Victoria. It is unlike the callous actions of the federal government, which withdrew the funds from these rural and regional organisations. I might point out that it withdrew those funds with minimal notice.

What did the federal government put in their place? It told us that these removed funds would be directed through the national sporting organisations with the end result of increased participation at a local level. What have we seen from the federal government? We have seen virtually nothing directed to national sporting organisations. Because of this, those organisations have been unable to comply with the shoddy and ill-thought-through guidelines presented by the Howard government.

Very few sports have been able to access this funding. I understand there are only two at this point of time while a number of national sporting organisations are floundering because they appear to be unable to access federal funding. The federal government does not appreciate what sport can do in terms of the greater community. The federal government fails to recognise that it can assist the states in the development of community sporting infrastructure. This call has come from state governments of all persuasions.

Then there is the issue of insurance. What has the federal government done in relation to insurance for sport? Nothing! It has done so little so slowly that sports at a national level are now floundering. To top that all off, we can look at the Melbourne Cricket Ground redevelopment. The federal Minister for Employment and Workplace Relations — this matter is not within his portfolio area — wants to put in place a regime to make the MCG an industrial battleground. Let me point out, whether it is participants, volunteers, administrators or spectators, on every occasion the federal government uses sport as a blunt political instrument to make — —

The PRESIDENT — Time!

Schools: teacher–student ratio

Hon. E. J. POWELL (North Eastern) — I ask the Minister for Education Services to explain why the teacher–student ratios under the Bracks government are formulated excluding the principal in secondary schools

but including the principal in the case of primary schools?

Hon. M. M. GOULD (Minister for Education Services) — This government has done more for the education system than the previous government did in its seven years in office. It was about closing schools and sacking teachers. Since we have come into government, we have put over 3000 members of staff and teachers into the education system.

With respect to the allocation and counting of teachers in schools, primary school principals have always been part of the counting of teachers. Because secondary schools are larger and because of the administration associated with some roles of principals, they are excluded from the counting of teachers in schools.

To rectify the education system as a result of the cuts put in place by the previous government, the government has increased the number of teachers and staff in schools. It is building more schools, putting more teachers in the classroom and reducing class sizes. This government stands proud of its record in the education system. The education system was left to rot by the previous government and this government will continue to turn it around.

Supplementary question

Hon. E. J. POWELL (North Eastern) — I thank the minister for her answer, but she should also acknowledge that there are some large primary schools. The Bracks government talked about the importance of education during young people's formative years, yet the teacher–student ratio in primary schools does not reflect that belief. Does the minister concede that with the extra responsibilities now given to primary school teachers there is an opportunity to stop the discrimination against primary schools, and will she give a commitment to address the discrimination in future allocations?

Hon. M. M. GOULD (Minister for Education Services) — The Minister for Education and Training in another place has responsibility for the allocation of teachers. As I have indicated, this government has done more than the previous government to reduce class sizes, build more schools and improve school facilities. I am happy to pass on the issue raised by the Honourable Jeanette Powell with respect to the allocation of teachers.

Marine parks: establishment

Hon. E. C. CARBINES (Geelong) — Will the Minister for Energy and Resources inform the house of what the results of the consultations on the Bracks government's proposals for marine national parks will mean for recreational angling and commercial fishing?

Hon. C. C. BROAD (Minister for Energy and Resources) — I thank the honourable member for her question and for her strenuous representations on these matters to the government on behalf of her electorate. Yesterday the Premier announced that the legislation for the creation of a world-class system of 13 marine national parks and 11 marine sanctuaries across the Victorian coast will be introduced into Parliament this week. In developing the legislation the government released a set of proposals and an exposure draft for consultation with the community. In the time since the release of those proposals and the exposure draft the government has listened and consulted and made some small but very important changes to the draft legislation released for public comment.

The Bracks government believes in the long term the fishing industry will be able to make the adjustment to having parks, and the government will be assisting it to do that. Following dialogue and consultation with the seafood industry, recreational anglers and, of course, the opposition, a number of changes have been made to the legislation. They include an extension of the compensation period for eligible fin fish licence-holders from one to three years, fishing charter boat operators to be eligible for assistance, and a provision for interim determinations and advance payments in the case of financial hardship. These are sensible changes that do not in any way undermine the integrity of the parks system.

The new marine parks bill also includes an independent assessment panel to assess claims and pay compensation where appropriate, an independent appeals tribunal to allow appeals against that assessment, and additional financial assistance available to licence-holders to cover any increased fishing operating costs and reduced catch.

This is a sensible and financially responsible approach to determining compensation. We will work with regional communities and local government to help them access existing government programs and to make the most of the unique opportunities presented by this marine parks package.

The Bracks government is committed to building sustainability into everything it does. As the Premier stated yesterday, the government believes it has developed a package that protects the biodiversity of Victoria's marine environment while at the same time achieving fair outcomes for the commercial fishing

industry and, of course, those many Victorians who enjoy recreational angling.

The legislation is a world first. I look forward to receiving bipartisan support, at least from the opposition, when it comes before this house.

Electricity: special payment

Hon. G. B. ASHMAN (Koonung) — I refer the Minister for Energy and Resources to the Premier's answer in the other place on 8 May in relation to electricity special purpose payments, and to his statement that, 'Our wish and hope is that the competitive market works and brings down prices'. Will the minister admit that her capping of electricity prices last December flies in the face of the Premier's support for competitive market forces?

Hon. C. C. BROAD (Minister for Energy and Resources) — I think the honourable member has misinterpreted a whole series of statements. The government has always made it clear, including in legislation that it has brought before Parliament and which has passed through this place, that in the interests of protecting Victorian consumers it would put in place through legislation power for the government to intervene, particularly during the period where competition was being established.

We recognised from the outset that a change affecting some 2.2 million households and small business consumers would take some time to take effect and that it would be important that the government and the Essential Services Commission, an initiative of the government, take action, including where price increases could not be justified. That was the basis for the government's intervention after an assessment by the independent Essential Services Commission. The government stands by its intervention.

The government is very proud of the special power payment it introduced to ensure country and regional Victorians were not disadvantaged by the way in which the previous Kennett Liberal government privatised this state's electricity industry. We are committed to working to ensure that into the future country and regional Victorians are not disadvantaged by the way in which those privatisations took place.

The government absolutely stands by the pricing decisions it has taken to protect Victorians. It seems to me that the opposition has some difficulty working out whether it supports the policies of the past — open slather pricing with no protection whatsoever for Victorian consumers — or whether it supports any form of protection for Victorian consumers. This government has made it very clear where it stands on that question. It will continue to act in the interests of Victorian electricity consumers.

Supplementary question

Hon. G. B. ASHMAN (Koonung) — I have a supplementary question. Will the minister clarify whose view will prevail — hers or the Premier's — in relation to electricity pricing in this state?

Hon. C. C. BROAD (Minister for Energy and Resources) — Mr President, I can assure you that the Premier and I are as one on this question.

Schools: Internet providers

Hon. JENNY MIKAKOS (Jika Jika) — Will the Minister for Education Services advise what action the Bracks government is taking to provide more affordable Internet service options to Victorian schools?

Hon. M. M. GOULD (Minister for Education Services) — I thank the honourable member for her question. Honourable members would be aware that there has been a bit of an issue this year with the Telstra decision to massively increase prices for Internet access to Victorian schools. I know opposition members are aware of it, because they have been whingeing and whining and carping about it. That is what they are good at — whingeing and whining and carping — but are they prepared to do anything about it? I don't think so.

The opposition has ignored the fact that the issue arose out of a commercial decision by Telstra to increase costs and has ignored the fact that 51 per cent of Telstra is owned by the Howard government. I have not seen any opposition members call on their federal colleagues to ask Telstra to do something about it and look at its prices.

In contrast, the Bracks government has been working to provide affordable alternatives for schools. I have written to Senator Alston asking that he assist in improving the cost of Telstra Internet provision to Victorian schools. As a result of the price increase the government did not enter into a preferred-supplier agreement with Telstra. Instead, the Department of Education and Training opened up discussions with a number of Internet providers which has resulted in substantially lower price options than what has been offered by Telstra.

There are now five Internet service providers for schools to choose from, and more than 800 schools are using one of them. They are, Netspace, AAPT,

Brightspark and GSAT. This means that schools now have more of a choice and more affordable Internet operations.

The department will continue to work with the VicOne contract extension and seek the most cost-effective Internet service providers to give schools the best options. Schools will continue to be informed about these changes through regular emails and the web site that has been established to contain specific information for providers.

The Bracks government is delivering for Victorian schools. We have invested heavily to ensure that our school communities have access to world-class Internet and information technology provisions. We are getting on with the job of ensuring that our schools have the best possible infrastructure and facilities, which is turning around the education system in this state.

Port of Melbourne: Westgate terminal

Hon. C. A. FURLETTI (Templestowe) — I refer the Minister for Ports to the government's pre-election policy commitment to a third container terminal at Westgate. Will the minister confirm or deny that the government's bidding process has been a dismal failure and that the four short-listed tenderers have withdrawn from the process?

Hon. C. C. BROAD (Minister for Ports) — These are matters which I have recently received advice on from the Melbourne Port Corporation, which has been supervising this process. I expect to be making an announcement about this in the very near future.

Supplementary question

Hon. C. A. FURLETTI (Templestowe) — I have a supplementary question because I seek elucidation on the minister's answer. The Melbourne Port Corporation has sought non-refundable sureties of $250 000 from the tenderers. Given the length of the process and the very strong financial and commercial status of the four internationally recognised tenderers, will the minister admit that the demand for the non-refundable deposit was unnecessary, heavy handed and amateurish, putting paid to the prospect of a third terminal at Westgate?

Hon. C. C. BROAD (Minister for Ports) — As I have indicated, these are processes that have been run by the Melbourne Port Corporation and I will be making — —

Hon. C. A. Furletti — On a point of order, Mr President, the minister is well aware she is responsible. In fact, I am going to visit Melbourne Port Corporation — —

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

Hon. C. A. Furletti — The point of order is that the minister is responsible for the decisions of the Melbourne Port Corporation and should answer the question.

The PRESIDENT — Order! The point of order is that the minister is responsible for that authority, but she is also entitled to receive questions in relation to it.

Hon. C. C. BROAD — As I was in the process of saying, as the responsible minister I have received advice on these matters from the Melbourne Port Corporation, and I will be making an announcement about these matters in the very near future.

Information and communications technology: government contract

Hon. G. D. ROMANES (Melbourne) — There has been recent speculation in the media that the Victorian government has entered into a whole-of-government contract for the supply of Microsoft products. Will the Minister for Information and Communication Technology inform the house if that is true and provide details of the agreement?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for her question. I can confirm that the government has entered into a new four-year agreement with Microsoft for the supply of its products to government. There are some great developments in relation to the contract that has been entered into. Just as the Bracks government has delivered sound financial budgets and great outcomes for Victoria, so this contract contains a sound financial deal and extra outcomes for Victoria.

The Bracks government's e-government strategy provides an action plan to maintain Victoria's position as a global government leader in innovation in government information technology and service delivery. Microsoft provides the operational system and personal software that is used within government. The new Microsoft licensing contract will provide software products for between 35 000 and 40 000 personal computers that the government has responsibility for and will provide a saving of around $19 million in the new contractual arrangements we have entered into, which would not have been possible had we not entered into the contracts.

That is not all we have been able the achieve from this new contract. A commitment has been made by Microsoft to establish an e-government innovation fund worth up to $5 million over the life of the contract. The fund will be used to undertake software research with projects focused on e-government applications, which will enable departments to provide better online services to Victorians. Victoria has nearly 40 per cent of research and development in the information technology sector and the Bracks government is pleased to see a fund being established that will concentrate on the development of advanced applications for government.

The contract will help boost Victoria's standing as a leader in e-government and will secure our future as an innovative, competitive and connected community.

MOTIONS TO TAKE NOTE OF ANSWERS

Melbourne Sports and Aquatic Centre

Hon. P. A. KATSAMBANIS (Monash) — I move:

> That the Council take note of the answer given by the Minister for Sport and Recreation to a question without notice asked by the Honourable P. A. Katsambanis relating to consultation with the City of Port Phillip on the impact of development in the city.

It is clear that the Minister for Sport and Recreation comes into this place and tries to talk the talk, but when it comes to the punch, to use the colloquialisms he may be used to, he does not walk the walk.

The minister came in here talking tough today, but he was clearly completely uninformed about an issue in his portfolio that is of concern to my constituents and to everybody in Victoria. Last week the minister boldly announced that the Melbourne Sports and Aquatic Centre (MSAC) would be redeveloped in time for the Commonwealth Games and that he would undertake a community consultation process. That is all well and good, and let it be put on the record that the Liberal Party supports the expansion of the MSAC, but it does so in the knowledge that it is being built adjacent to a residential precinct and that there must be adequate consultation with the local community to ensure its needs are met.

The minister came in here and talked about being committed to community consultation. He suggested that the community consultation process had commenced with the local community through a distribution to homes in the vicinity of a community information brochure and a series of public consultation meetings. However, on the very same day that the minister was making that announcement Cr Darren Ray, the mayor of the local council, the City of Port Phillip, was condemning the minister for the lack of consultation until then. The mayor was saying the consultation process had not been good enough. Darren Ray does not usually attack this government, because he is a fellow traveller of the government, but he and all locals are concerned about the impact the development will have on the local community.

The minister could have listened to the mayor and the local community. He could have shown that his consultation process is more than just paying lip-service to consultation. However, again the minister has been shown up by his inaction and his comments in this house. He talks about public consultation but does not deliver.

Late last year the minister made the commitment in this chamber to consult with the people of Royal Park about the proposed development of the athletics village there. However, until now there has been no meaningful consultation and the people around Royal Park feel left out and on the outer. The same applies with the people of Albert Park, who simply do not accept the minister's word any more because he has shown by his actions he does not deliver on his commitments to public consultation.

The residents of the City of Port Phillip, including the people of Albert Park and Middle Park, are clearly calling for the minister to undertake real consultation, not the sham consultation process he has undertaken until now. The people of the local area want the minister to extend the time that his advisory committee will be taking submissions by one month — that is, from 30 June to 30 July. The minister was asked about that today, but he chose to avoid answering the questions. The minister is now indicating how committed he is to the whole consultation process by walking out of the chamber. He is not interested in consultation or in hearing about the real and legitimate concerns of the people. He is more interested in spinning a positive story for his government.

The local people want other issues addressed. In his press release of 8 May, Cr Ray suggests that the council wants the minister to amend the advisory committee's terms of reference. The mayor believes:

> … the advisory committee should consider issues such as equity in terms of access to the expanded centre.

Already there are difficulties for local schools and other local community groups in accessing the centre. The mayor and the City of Port Phillip want that issue addressed. The City of Port Phillip and the local people

I speak to are calling for a separate precinct-based transport study before any car parking is expanded in the area. That request is legitimate. If the minister were serious and fair dinkum about consultation he would listen to the council, but he is not. Instead, he is running away.

The other issues that the council raised, which are important, concern heritage matters relating to the former South Melbourne Technical School building. Those issues should be fully considered, but that will not happen in the sham consultation process that the minister has set up. Neither the City of Port Phillip nor its residents believes this is adequate consultation. It is time the minister did better for the people of Victoria.

The PRESIDENT — Time!

Hon. KAYE DARVENIZA (Melbourne West) — I am delighted to have an opportunity to make a contribution to this debate, because it gives me great pleasure to point out to the house how the opposition enters the debate as a sham and how it displays its hypocrisy.

The opposition criticises the government for its consultative process, but we know that when it was in government it did not understand the word 'consultation' and did not even know how to go about a consultation process. It would not matter which area one looks at. I am not only talking about sport and recreation and the development of the aquatic centre, where we know initial consultation has already taken place and an extension of the consultation process is in train regarding its preparation for the coming Commonwealth Games.

The opposition when in government never consulted, never asked the public, the stakeholders, the unions and those who had an interest in sport and recreation facilities that were being developed or redeveloped or closed. It did not consult in the area of education or health when hospitals and other health services such as community health services closed or were shut down. It never consulted when hospitals in rural and regional centres closed. Teachers and nurses were given voluntary departure packages and facilities were closed.

What consultation took place? Who did the former government speak to? Who did it consult with? Did it ask the community whether it wanted to keep the schools, hospitals or the nurses? When did it ask the questions, 'Do you want the nurses given voluntary departure packages?' and 'Do you want your schools to be closed?'. Who did it ask? When did it ever ask those questions?

Honourable members interjecting.

The PRESIDENT — Order! The Honourable Kaye Darveniza is going very well without any assistance from her leader or the Deputy Leader of the Opposition. I ask them to let the honourable member develop her case.

Hon. KAYE DARVENIZA — In the area of sport and recreation, as in public sector areas, the opposition when in government never consulted. It never went to the public and asked what its views were about redevelopment or the closure of services, such as hospitals, schools or any redevelopment which might — —

Hon. C. A. Furletti interjected.

Hon. KAYE DARVENIZA — Don't get me started, Mr Furletti, on who closed hospitals in our state, who closed our schools, who gave the voluntary departure packages to thousands of nurses and thousands of teachers. Who closed them down and left the rest of our schools to rot and left the hospitals bankrupt?

Honourable members interjecting.

The PRESIDENT — Order! When the Chair stands the honourable member should sit down and keep quiet. It is not fair for the honourable member to be harangued like she is being harangued at the moment.

Hon. M. M. Gould — By the opposition.

The PRESIDENT — Order! She is being harangued.

Hon. M. M. Gould — By the opposition.

The PRESIDENT — Order! I do not have to say that. If honourable members are in the house they know what is going on.

Hon. M. M. Gould interjected.

The PRESIDENT — Order! Just keep quiet. I am trying to help the Honourable Kaye Darveniza. She is being harangued by members of the opposition and she does not need that assistance.

Hon. KAYE DARVENIZA — The government has had extensive consultation about the redevelopment of the Melbourne Sports and Aquatic Centre to bring it up to the standard that is required for the Commonwealth Games. Extensive consultation is a key task of the government in the redevelopment project. The government wants to ensure that the project

reflects the desires and aspirations of the local community and Victoria generally. It is committed to community consultation as part of the redevelopment.

The process commenced with the distribution of information brochures which went to homes in the general vicinity. That has also been followed up with a series of public consultation meetings which, I understand, have been well attended. The public meetings have given those in the area and those who have a particular interest in that facility a voice about what they want as part of the redevelopment. We are listening, we are doing what needs to be done, we are consulting — —

The PRESIDENT — Time!

Motion agreed to.

Marine parks: establishment

Port of Melbourne: Westgate terminal

Hon. C. A. FURLETTI (Templestowe) — I move:

That the Council take note of the answers given by the Minister for Energy and Resources and Minister for Ports to questions without notice asked by the Honourables E. C. Carbines, Philip Davis and C. A. Furletti relating to marine national parks and the proposal for a third port terminal at Westgate.

At the outset I indicate how much the opposition welcomes the minister's announcement that she will shortly be making a determination and providing the people of Victoria and those in the shipping industry a resolution of the bidding for the third terminal operator, if there is to be one, at Westgate.

Over the past six to nine months there has been a period of great uncertainty, which is the trademark of this government, whether it is in the area of ports and shipping, of energy of every type, or in the overall provision of services to Victorians. The government has done very little in terms of making decisions, and the area to which I referred in my question was but one of them.

There has been over some five to six months a reduction of the tenderers listed. According to *Lloyd's List Daily Commercial News* of 19 April, among those tenderers was a shortlist of four: Gateway International Terminals Consortium; Hutchison Port Holdings, the second largest container terminal operator in the world; International Container Terminal Services, one of the largest container terminal operators in the world; and Marubeni Corporation, a large Japanese trading house — all of which have expressed interest in the next stage of bidding.

It seems to me to fly in the face of credibility that the Melbourne Port Corporation, for which the minister is responsible, should at this point and before the next phase of development be asking these corporations of good international repute to lodge a $250 000 surety to be deposited to determine whether, I presume, they are serious in their endeavours. To some that represents an insult.

The purpose of my question today was to determine whether it had insulted those international bidders to such an extent that they have shied away from any consideration of investment in this state. It is a further trademark of this government that it is doing absolutely nothing to attract investment to Victoria, and its conduct in the handling of this process does nothing to improve its reputation in that regard.

I have recently had discussions with port operators at all levels. One of the things that comes out strikingly in my discussions is the uncertainty surrounding the whole process. It is fair to say that the consideration of a third terminal is still in place simply and solely because the government went to the election on the basis of having a third operator, and it cannot afford to lose face irrespective of the economic viability or otherwise of such a further operator.

Those who are involved in the business are concerned. It seems to me to fly in the face of commercial credibility and reality that P & O and Patrick Stevedores, which are the two current operators, were specifically excluded from any consideration in the bidding for or in playing any role when considering a third terminal operator. It is a very significant aspect for Victoria: the port is the largest and most effective in Australia. It is vital for Victoria and Melbourne that the port be viable and operate in its present manner as one of the best not only in Australia but in the world. We wish to see a policy from this government which will further establish the port of Melbourne and retain its position as the most voluminous and effective port in Australia, and the government should do absolutely nothing to prejudice that position. We look forward to the minister's announcement shortly.

Hon. T. C. THEOPHANOUS (Jika Jika) — The Honourable Carlo Furletti comes into this house and tries to make some sort of point about investment in Victoria. I suggest he read the budget papers so that he will see how investment in this state has increased dramatically under the present government. Investment in Victoria is now at a level well above the Australian

average and has been for the last two or three years when in fact — —

An honourable member interjected.

Hon. T. C. THEOPHANOUS — He made a point about investment levels in Victoria and I am simply pointing out to him and pointing out for the benefit of other honourable members here that investment levels in this state, as the budget papers show, are now consistently above the national average. People are coming and investing in Victoria in droves. Not only that, Mr President, if you look at the other figures in the budget you find that Victoria has one of the lowest unemployment rates on record, certainly for the last decade and beyond. We now have a low unemployment rate in Victoria — it is lower than any other state — and very high investment levels. Mr Furletti should not come in here and try to attack the minister on the basis of investment in Victoria, given the fact that the former Minister for Roads and Ports was a complete failure in getting proper investment in ports in this state. He tried to flog the port of Portland to the former president of the Victorian Liberal Party, Michael Kroger, and that was the extent of the Liberal Party's attempts when it was in government,

That is the kind of thing you can expect from the Liberal Party — handing out things to its mates. We do not do that in the Labor Party. It has proper processes and it is succeeding where the opposition failed. It is succeeding in investment, in bringing down unemployment rates and in increasing the number of people who are migrating into this state. I am very glad to have a take-note motion about the answer of the Minister for Energy and Resources, because she also indicated by way of her answer to the house, the phenomenal achievement of this government in putting into place marine national parks in this state.

Hon. Bill Forwood — It has nothing to do with ports.

Hon. T. C. THEOPHANOUS — It does, because the motion moved by Mr Furletti was to take note of the answer given to Ms Carbines.

In relation to marine national parks, let me say how pleased we on this side of the house are for this legislation to have been brought in. I congratulate the Liberal Party on agreeing to support it. I am aware of the fact that obviously we would not have been able to get this legislation through without the support of the Liberal Party. We welcome that and the consultation that took place to make sure it came about. It is an indication that this government is prepared to consult and talk to the opposition about measures that benefit Victorians and is prepared to compromise to get through important innovations and changes. The Minister for Energy and Resources is one of those who has embarked on this kind of consultation process about marine parks and fisheries with a range of interest groups involved with this and other matters in her portfolio, including the electricity industry to try to fix up the almighty mess that was left by the previous government in that industry.

The PRESIDENT — Time!

Hon. PHILIP DAVIS (Gippsland) — I cannot wait to get to my feet after those thought-provoking comments of the Honourable Theo Theophanous. He spoke about the consultation process. I do not know what the word was but he was not telling the whole story in relation to the Minister for Energy and Resources. All the fishermen I talk to have a constant refrain: the Minister for Energy and Resources would not meet with them at all. Wherever I go I hear that constant refrain about the minister's lack of consultation. She herself has acknowledged in this house that she will not meet with anybody who is involved in the Basslink issue, for example.

This is a minister who does not meet with anybody in Victoria unless they are a member of the Australian Labor Party. This is a minister who does not understand that to develop public policy one has to consult with the people who know something about it, which obviously the minister does not. A year ago Mr Theophanous's government introduced legislation that denied the right to any compensation to commercial fishers. His government did not consult with commercial fishers. Mr Theophanous should not walk out of the house now! It was his government that restricted access to the Supreme Court and that provided no process to deliver compensation to commercial fishers!

This is the third attempt by the Labor government to bring this legislation into the Parliament. The first attempt was last year, the second was a draft earlier this year, and now a bill is to be introduced in due course, I daresay this week. The government has announced it has conceded that the Liberal Party's position was absolutely right — that was, that there needed to be a comprehensive compensation package, which as the minister has confirmed by her remarks today, is uncapped. That is critically important because we do not know the value of the loss to commercial fishers.

I put on record that while the Liberal Party has not seen the fine detail of the bill we have agreed to the proposals in principle. Of great concern to me

following the announcement last week was that commercial fishers around the state expressed concern because the government has only announced in the budget an amount of $3 million for compensation. It caused great consternation that it would be an arbitrary cap on the amounts available to individuals as they sought to go through a tedious and complex bureaucratic process. The legislation to be introduced will contain a process which includes a compensation panel, followed by a further process and a compensation appeals tribunal. That process will perhaps provide a just level of compensation, and fishers will be able to seek legal redress through the Supreme Court if the process is unsatisfactory to them.

I expect that ultimately there will be an improved compensation arrangement. The advent of a proposal to allow fishermen to make a claim before the expiration of the first year of the marine parks process will inevitably lead to dealing with the cases of hardship which might otherwise have arisen. The compensation arrangements are likely to be fair, but they are only there as a result of the fact that the Liberal Party put a stake in the ground and made it quite clear that this legislation would not be agreed to without just and fair compensation for commercial fishers. I thank all my colleagues who have supported the argument in the Parliament and in the community.

Motion agreed to.

Schools: teacher–student ratio

Hon. E. J. POWELL (North Eastern) — I move:

That the Council take note of the answer given by the Minister for Education Services to a question without notice asked by the Honourable E. J. Powell relating to primary school staffing.

In her response the minister said that this issue was not her responsibility, which is very confusing. I would have thought that staffing numbers would come under her portfolio, and I am not sure why it is not the minister's responsibility. It is about services to education. The minister acknowledged that she would be happy to pass on my question to the Minister for Education and Training in another place.

There is an opportunity for the government to look at the issue of teacher–student ratios. It is important that we have small class sizes in the formative years. At the moment the staffing ratio in primary schools is 1 teacher to 21 students, including the principal. In secondary schools it is 1 teacher to 16 students, excluding the principal. There is an opportunity to look at those ratios to see if we cannot change them to reflect an appropriate teacher–student ratio because of the additional responsibilities principals carry. I have spoken to a number of principals and some of them say that they no longer have time to work in a classroom so the ratio does not reflect an appropriate teacher ratio. The principal is not in the classroom, except perhaps in some smaller schools in rural areas where principals work part time in some classes.

We need to now look at the ratios and see what reflects the time that principals work in schools. When I speak to principals and ask them about their added responsibilities their answers are quite varied. As well as taking on leadership roles and running the school's programs they also have a management role, where they have to manage the staff and the students. They manage the budget, which is a big role with a lot of accountability. They manage the buildings and the grounds, and occupational health and safety. They also administer the staff and work with the school council and a number of committees. Many principals have told me there could be up to four or five committees that they have to work with at any given time.

The principals tell me that parents are looking for specialist teachers in all sorts of areas like music, art, and languages other than English (LOTE). They also shop around schools for the best programs, facilities and teachers. If the principal were taken out of the equation there would be an opportunity for a school to be able to employ another teacher who might have special LOTE, art or physical education skills. Parents recognise that the school which will provide the best educational opportunities for their children is the one with the most appropriate teachers.

As I said earlier, the opportunity is now there for the government to address the issue of principals being included in the formula. I ask the minister to pass on to the Minister for Education and Training the fact that that opportunity now exists. With the added responsibilities they have in primary schools principals are saying that if the government is committed to making sure young people in our primary schools are getting the best education, with better representation with teachers, the government must look at the funding ratios and work out a better formula to make sure the principals are not part of the equation if they are not teaching classes.

Motion agreed to.

QUESTIONS ON NOTICE

Answers

Hon. J. M. MADDEN (Minister for Sport and Recreation) — On behalf of the Minister for Education Services, I have answers to the following questions on notice: 2195, 2451, 2685, 2732, 2738, 2762–4, 2769, 2770, 2772–8, 2780–6, 2790–2, 2795, 2796, 2799–2803, 2810, 2824, 2881.

ADVENTURE ACTIVITIES PROTECTION BILL

Introduction and first reading

Hon. BILL FORWOOD (Templestowe) introduced, by leave, a bill to provide for the approval of operators of certain adventure activities, to restrict the circumstances in which damages may be recovered in respect of the injury or death of a participant in certain adventure activities and for other purposes.

Read first time.

PAPERS

Laid on table by Clerk:

Budget Sector — Quarterly Financial Report for the period ended 31 March 2002.

National Crime Authority — Report, 2000–01.

Planning and Environment Act 1987 — Notices of Approval of the following amendments to planning schemes:

Baw Baw Planning Scheme — Amendment C15.

Casey Planning Scheme — Amendment C43.

Gannawarra Planning Scheme — Amendment C2.

Queenscliffe Planning Scheme — Amendment C11.

South Gippsland Planning Scheme — Amendment C4.

Yarra Planning Scheme — Amendment C29.

Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan — Amendment No. 114.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 20.

RIGHT OF REPLY

Ian Urquhart

The PRESIDENT — Order! Pursuant to the sessional orders of the Legislative Council I present a right of reply from Mr Ian Urquhart to statements made in the Council by the Honourable T. C. Theophanous, MLC, on 17 April 2002.

During my consideration of the application for the right of reply I gave notice of the submission in writing to Mr Theophanous and also consulted with him prior to the right of reply being presented to the Council. I have omitted some expressions which I deemed not to be in accordance with the spirit of the sessional order.

Having considered the application and determined that the right of reply should be incorporated into the parliamentary record, I remind the house that the sessional order requires me when considering a submission under the order not to consider or judge the truth of any statement made in the Council or the submission.

In accordance with the sessional orders the right of reply is hereby ordered to be printed and incorporated in *Hansard*.

Reply as follows:

On Wednesday, 17 April, 2002 during a debate in the Legislative Council, a member, Mr T. C. Theophanous made comments which included the use of my name and attributing me to activities and other things which were totally incorrect and slurred my name and reputation.

Within the comments, as recorded in *Hansard,* was the innuendo that I was promoting my business for profit when in fact I make no financial or other gain from the business I am employed in as a salaried person with no commission or other inducements. Nor do I hold any shares in any companies which may or may not be associated with this matter.

It was further stated that I was using the publicity being afforded me by the opposition to expand my business when there is absolutely no evidence to either expanding the business, obtaining profit from the publicity, holding licences or shares in a business likely to profit nor consultation with anyone else to be afforded any opportunity to realise any profits.

It was further stated that I had been talking to various people in the opposition when in fact I had at the time only spoken to one person briefly on two occasions. The further innuendo was that I was only in it for the publicity when that is unclaimable. The only publicity I have received has been adverse through the comments of Mr Theophanous which have prompted people from within the liquor industry to question me based on the comments.

It was further stated that I was probably providing funds to the Liberal Party and was therefore influencing them which is totally untrue and unclaimable. I have never made a donation to any political party in 29 years since I was able to vote nor have I sought to influence any politician in any way other than by argument and persuasion.

It was further stated that I was involved in a 'grubby deal' between the Liberal Party and myself which I find quite offensive both in the innuendo and the descriptive nature of

the comments which suggests I am less than honest and do not conduct myself or any business in an appropriate manner.

It was further stated that I was being promoted by the Liberal Party to do nothing but scuttle the proposed agreement when I have never made any deals or plans with anyone to do any such thing. I have never received any written or other communication from the Liberal or any other party or organisation apart from small business and independent business associations who advise me they are not part of the current discussions. The comments suggest that I am not being fair to the small business sector and that is offensive as I have only ever worked in the small business sector.

The recording of these comments slurs my reputation and suggests associations which are a lie. They suggest I am running a 'program to scuttle' which is a lie and they suggest I am doing grubby deals which is a lie.

Mr Theophanous has caused my reputation to be harmed, my occupation to be harmed and my standing within the industry to be questioned.

I therefore request that an appropriate response be included in *Hansard* and offer the following:

> That I take personal and professional offence at the incorrect comments made concerning myself by Mr T. C. Theophanous in the Council on Wednesday, 17 April and wish to correct the record as follows:
>
> 1. My involvement in the debate is not for the purpose of personal gain but to seek a solution in an inclusive manner recognising the small business sector across Victoria.
>
> 2. I have had two telephone discussions with one person from the Liberal Party only. I have not had discussions with any other person in the Liberal or any other party.
>
> 3. I have never made any donations to any political party nor sought any favours or sought to influence any political party.
>
> 4. I have never been a member of the Liberal or any other political party.
>
> 5. I have not engaged in any deals with any political or other party.
>
> 6. At all times in business I conduct myself in a proper and professional manner and am not nor have ever been associated with anything that could be described as a 'grubby deal'.

I humbly request your assistance in correcting the wrongs attributed to me by Mr Theophanous and ensuring the appropriate response is published in *Hansard*.

Laid on table.

Ordered to be printed.

Hon. T. C. Theophanous — On a point of order, Mr President, I draw your attention to 'Sessional orders as at 1 January 2002', which under the heading 'Right of reply' indicates under paragraph (c) that:

> In considering a submission under this order, the President —

and I go to (ii) —

> must give notice of the submission in writing to the member who referred in the Council to that person and then consult with the member prior to any response being presented to the Council …

I further bring your attention to paragraph (d) which says:

> A response presented to the Council —
>
> (i) shall be succinct and strictly relevant to the questions in issue and shall not contain anything offensive in character …

My point of order relates to both points in the sessional orders, and I direct your attention to this fact. I was asked to come to your office at 12 o'clock today, which I did, to consider the proposed statement by Mr Urquhart. That statement had been made available to me by you by way of letter earlier. I came to that meeting at the invitation of your letter, which invited me to consult with you. When I arrived at your office, you informed me that you had considered the statement by Mr Urquhart, made a change and were now going to present it to the house.

I further point out to you that the right of reply had already been written in the blue sheet showing the daily program. It says:

> Mr President presents a right of reply from Mr Ian Urquhart.

This occurred prior to my being consulted. At the consultation — —

Hon. W. R. Baxter — How do you know? It might have been printed after.

Hon. T. C. Theophanous — I do not think it was printed after 12 o'clock today. In fact, it was made available to honourable members in the morning. Mr President, as I indicated to you, presenting me with a fait accompli about the statement when I went to your office did not in my view constitute consultation with me. I therefore request that you do not have the statement incorporated into *Hansard* until such time as appropriate consultation occurs between you and me, taking into account the issues in (d)(i) of sessional orders — that is, whether the statement contains any matters which are offensive in character. I consider it offensive for someone to have made a statement to this house that things I have said in the house were untrue. Other statements are also contained in Mr Urquhart's statement.

I therefore request that you do not have the statement incorporated into *Hansard* until appropriate consultation with me occurs, and that that consultation should occur in the presence of the clerks so that advice can be provided as to whether the statement fits in with the sessional orders. At a minimum, you should provide some kind of guideline on how these consultations will occur with honourable members in the future when this kind of thing happens, so that the sessional orders are fully and completely adhered to.

The PRESIDENT — Order! In my discussion with Mr Theophanous earlier today I firstly made it clear to him that at the time of our discussion I had not signed the appropriate paper. He might be interested to know that the blue — —

Hon. Bill Forwood (to Hon. T. C. Theophanous) — Did you know that?

The PRESIDENT — Order! I told him that. I made it very clear and in fact I signed the paper — —

Hon. T. C. Theophanous — That's not true!

The PRESIDENT — Order! The honourable member just makes it worse for himself because subsequent to my discussion with Mr Theophanous I met with the Clerk and in his presence I signed the appropriate order — and by the way, those discussions were before 12.30 p.m. today. That is the first thing. Secondly, the blue paper to which the honourable member refers was only run off at 1.30 p.m., an hour after the discussion. The second point — —

Hon. T. C. Theophanous — When was it prepared?

The PRESIDENT — Order! It was prepared well in advance. Obviously you do not — —

Hon. T. C. Theophanous — It was prepared in advance; there you go!

The PRESIDENT — Order! The other issue is in relation to the suggestion that some of the expressions were offensive. Mr Theophanous made it clear that he wanted me to go through each of the statements he felt he was justified in making to the house. I made it very clear then, as I have just done in the statement I read, that the sessional order of the house says to me, 'You are not to look at the veracity or truth of the statement made in the house, nor at the truth of the statements made in the right of reply'.

Hon. T. C. Theophanous — I didn't ask you to do that. You are making it up!

The PRESIDENT — Order! In fact you did so and my diary notes make it clear that you did. Again there is a limit to my patience — —

Hon. T. C. Theophanous — Mine too!

The PRESIDENT — Order! The honourable member finds that he is — —

Hon. T. C. Theophanous — It was about offensive language; it was not about the truth!

The PRESIDENT — Order! Before raising anything, the honourable member ought — and I again invite him to do so today — to look at the precedent of the South Gippsland Conservation Society, which was the case we dealt with last year. I also invite him to look at the precedents of the Senate on which our work is based. I am not sure whether he has taken advantage of either of those. In relation to his point of order — —

Hon. T. C. Theophanous — You will rule in your favour.

The PRESIDENT — Order! That's right. You used that form of the house. Again I made the point to Mr Theophanous that in these matters I am strictly guided by the professional input from the Clerk, and his professional input backs up exactly what I have said to the house today.

Right of reply ordered to be taken into consideration next day on motion of Hon. T. C. THEOPHANOUS (Jika Jika).

RAIL CORPORATIONS (AMENDMENT) BILL

Second reading

Debate resumed from 8 May; motion of Hon. C. C. BROAD (Minister for Energy and Resources).

Hon. G. B. ASHMAN (Koonung) — The Rail Corporations (Amendment) Bill amends the Rail Corporations Act 1996. In doing so it implements a number of national competition policy guidelines.

Honourable members will recall that V/Line Freight was privatised and became Freight Australia, a division of Freight America. The Victorian government applied to the National Competition Council to have some changes made to the access regime and sought to have a new Victorian rail access regime ratified.

The history of Freight Australia is interesting and I will briefly deal with it. V/Line Freight was sold to Freight

America for $89.7 million. It was then later renamed Freight Australia, which was a more accurate and descriptive name of the business. The franchise agreement was for 45 years and included the sale of a significant amount of rolling stock. The contract is now some two years old and a number of minor amendments have been made prior to this legislation, but the amending bill introduces three additional changes.

The original franchise agreement contained a rail access regime based on negotiating access to the track and if access to the track could not be negotiated a process of arbitration could be followed. It meant that those seeking access applied to Freight Australia and negotiated with Freight Australia as the track owner. The new agreement continues that practice, but puts some checks and balances in place. Freight Australia and the company seeking access are required to negotiate in a fair and proper manner and if agreement cannot be reached the dispute goes to the Essential Services Commission, which will then determine the contract provisions.

The principal act allows for the Essential Services Commission to seek certain information from Freight Australia which can then be made available to the access seeker. The legislation puts some restrictions in place as to what Freight Australia can do with the information, but also provides some obligations to Freight Australia as to how it must provide that information to the access seeker. The process is relatively new. As I said earlier, the franchise agreement has only been in place for some two years and the privatised rail network is a new experience for Victoria. As an observation, I would have to say that it appears to be working well and if the early indications of the volume of freight being carried are accurate more freight is being attracted to rail, which is of great benefit to every one of us.

There are three principal amendments to the legislation. The first strengthens the protection provisions within the Rail Corporations Act to protect commercial confidentiality not only of Freight Australia but also of the access applicant. It will ensure that the access provider, which is potentially a competitor of the access seeker, does so at arm's length and does not withhold information that might prejudice any decision taken by the access seeker. Very importantly in this process, the information the access seeker provides to Freight Australia is also to be held in the strictest confidence. It can be used by Freight Australia to evaluate the viability of a proposal or the applicant's ability to pay, which is probably more important, but that information cannot be then used by Freight Australia in a way that would provide a subsidiary company of Freight Australia with an advantage. The proposal will create a level playing field so that all those seeking to gain access to the rail do so on an equal footing, have a common set of costs provided to them and that those costs are transparent.

I do not think anyone can argue against the provisions. The legislation is relatively straightforward. It maintains what each of us sees to be a commercial relationship and retains the confidentiality that is all important in these negotiations.

The second amendment provides that Freight Australia make and keep information confidential, but also assists the access applicant in preparing and formulating its request for information. The operation of many of these businesses is complex. There will obviously be shared time on the freight rail tracks and the knowledge required by somebody seeking to make an application can be complex. It might not just be purely costing, but may be about timeslots currently available or becoming available in the future, what provisions might be there as the business expands and opportunities for increased tonnages on the tracks.

To date the Essential Services Commission can only verify information at the time of a dispute. The bill will provide for the Essential Services Commission to gather information at any time. As I read the legislation, the commission has an obligation to verify the accuracy of information being collected by the access provider — in other words, it has a minor auditing role. These set of changes came about after an inquiry conducted by the National Competition Council and it is pleasing that the government has chosen to pick up most of the recommendations of the review.

The third major amendment covers the situation where the access seeker needs access to more than one track operated by Freight Australia covering Victoria or through the Australian Rail Track Corporation (ARTC). This would provide for interstate movements of both freight and passenger services.

If you were trying to run a service from Melbourne to Cairns the negotiations for track access would be quite complex. If it were possible, you would want to integrate all your negotiations with the respective agencies into one set of negotiations. It would not make a great deal of sense to negotiate an arrangement with Freight Australia if you were then not able to negotiate a similar outcome through the other states and on the other tracks, particularly the ARTC tracks. This provides for access not only across Victoria but into the interstate tracks.

We should bear in mind that there are a significant number of ARTC tracks throughout Victoria. Generally they are all those tracks that are of the standard gauge. Freight Australia tracks within Victoria are generally those tracks that are still on the old Victorian gauge. They are the tracks that tend to serve Mildura and Swan Hill and up through that grain area into southern New South Wales.

At the moment rail freight in Victoria represents about 5 per cent of freight movements; it is very low. So there is enormous potential for the volumes to be increased dramatically. In your contribution you may correct me, Mr Deputy President, but I believe about 90 per cent of that 5 per cent of freight carried in Victoria is grain. That is the major commodity moved by rail, and rail is the most practical way to move that type of freight, whether it is into Geelong or into Portland. As I have said, we have the opportunity to collect it from the northern part of the state and from the southern part of New South Wales.

My view is that as the rail network develops we will see significant changes in the nature and volumes of freight being carried. Victoria has by far the worst performance in terms of rail freight of any of the mainland states. New South Wales, Queensland and Western Australia all exceed Victoria's volumes by significant tonnages.

It is interesting to note that now we see more and more freight unloaded in Brisbane. Some of it is coming through from Adelaide. It is shipped into one of the Australian ports and then transhipped by rail. I am told Fremantle is a particularly popular port with ships coming in from Europe because it cuts off about 5 days sailing time between Perth and Melbourne. If the stevedores in Fremantle are efficient, you can actually get freight into Melbourne quicker by bringing it across on the rail than by bringing it around by sea. Similarly, freight coming in from the west coast of the United States is frequently dropped in Brisbane and transhipped to Sydney and Melbourne. As steaming time and port charges increase, I think we will see more and more of this.

I believe the completion of the Darwin rail link will completely change the flow of freight in this country. More and more we will see our exports going up through Darwin and imports from South-East Asia coming in through Darwin and once again transhipped by rail.

That raises a second issue for Victorians — that is, what is the future of Victorian ports? Do we continue to expand the ports? The government is currently looking at deepening the channel through Port Phillip Bay. That is quite important to do in the short term, but in the longer term it is likely that a lot of the larger ships will not come to Melbourne and the freight will be transhipped and exported through one of the three other ports I have mentioned. Transferring freight to rail makes a great deal of sense. It is very good for the environment.

Anyone who has spent any time travelling up the Hume Freeway late afternoon or early evening will be aware of the number of trucks and B-doubles that run on it through to Sydney each day. A percentage of those being transferred to rail will certainly be good for the environment, will have significant safety implications for us all by reducing road congestion, particularly within both capital cities of Sydney and Melbourne, and will improve efficiency. The recent acquisitions by the Corrigan group through Toll Holdings and Patrick Stevedores indicates where they believe freight movements are heading. They are now running a very efficient and well integrated road-rail operation.

Nevertheless, some issues need to be put on the table, which I ask the government to note, and which at some stage we might need to revisit. One would hope that companies are not found effectively cherry picking the freight lines. The new rail access regime will allow competitors to Freight Australia to pick a particular route or line and use only that line. Obviously if you are coming into the business you would pick the Melbourne–Sydney or the Melbourne–Adelaide line. You might not pick the Melbourne–Mildura line as one through which you could make a dollar.

Freight Australia has an obligation to maintain all the tracks. Up until the introduction of this legislation it was able to cross-subsidise the less profitable lines with the higher volume lines. As we read it, this new regime will not allow that cross-subsidisation for the unprofitable or non-viable routes. It might be that at some stage we will need to revisit the subject of how to maintain some of those lower volume tracks. The tracks I refer to would be many of the grain tracks which are used only for a few months of each year. They carry very high volumes and tonnages and are very important in protecting the rural road network from the damage that heavy vehicles can cause. So there is a significant benefit to the broader community in maintaining these tracks and keeping the grain trucks away from the subarterial and main road network in Victoria.

Through this legislation there is the potential for some of these tracks to close. As I have said, I hope we can come to some arrangement whereby that will not occur. Probably the worst outcome would be that some of the tracks end up coming back into government ownership.

That would not be appropriate, given the success that appears to be on the horizon with Freight Australia increasing the volumes of freight being moved by rail.

Freight Australia bought the franchise on a 45-year licence. As I said at the outset, it is only two years into the contract. I believe it bought a lot of potential, although it was not buying the business as a going concern as of today. Clearly it looked at the rolling stock, the tracks and the future of the freight industry in Victoria, throughout Australia and internationally, then made a commercial decision and put its $89.7 million on the table. Now Freight Australia has 43 years to make its business plan work. I believe it will work. It is eminently sensible to be moving significant volumes of freight by rail.

The opposition's one criticism of the legislation is about the lack of consultation prior to its introduction. As I understand it, Freight Australia advised the opposition that the bill had been introduced and the opposition was briefed by the government some two days after its introduction.

The Liberal Party will certainly not oppose the legislation. It has a firm commitment to encourage more freight onto the rail system. The bill provides a more open and transparent vehicle for competition on the rails and for new entrants to participate in rail freight and rail passenger services in Victoria.

Hon. G. D. ROMANES (Melbourne) — The purpose of the Rail Corporations (Amendment) Bill is to make provision for the improvement of the rail access regime in accordance with national competition policy guidelines. Previously we have dealt with the rail corporations legislation and with the access regime in the rail sector. Before the house is a bill that will make the access regime more workable; deliver stability, certainty and access to rail infrastructure across the state; and set the scene for a major modal shift from road transport onto rail transport.

Mr Ashman has gone through some of the background to the sale of V/Line Freight, which was sold by the Kennett government in 1999. At the time the bidders were advised that an access regime would apply, including how, for example, sunk costs would be treated and how a whole lot of principles of the operation of such a regime would operate. The bidders were advised of the principles of operation in the Rail Corporations Act, and information was summarised in various memoranda to those bidding for V/Line Freight.

Meetings were held with bidders to discuss the regime. For example, on 7 January 1999 a meeting was held with Freight Australia, and its bid acknowledged that such an access regime would apply. At the time various documents referred to the provision for Office of Regulator-General determinations. For example, these were outlined in the primary infrastructure lease and the direct agreement between the Director of Public Transport and Freight Australia. In April 2000 a consultation paper was circulated to all interested parties before the actual pricing orders and declaration of the access regime were made.

However, despite the rules the government had put in place, in May 2001 Freight Australia sought to have the network it leases from Victoria declared under part IIIA of the Trade Practices Act. It attempted thereby to escape from the Victorian rail access regime that had been put in place and to put itself under the commonwealth legislation. That would, in effect, have placed the regulation of a major state-owned asset under Australian Competition and Consumer Commission control. Not surprisingly, Victoria opposed Freight Australia's application, which was unsuccessful at the time. Freight Australia has appealed the outcome to the Australian Competition Tribunal.

In July 2001 Victoria sought certification of its access regime, and in December 2001, following discussions with Victoria, the National Competition Council (NCC) issued a position paper outlining the concerns it had with Victoria's regime. The government has indicated that it has put forward legislative proposals to meet those concerns in a number of areas. The proposals are contained in the bill now being debated by the house. In particular the bill ring fences, or provides protection of, access seeker information. This is very important and necessary because the freight network was sold to Freight Australia, which is vertically integrated — it not only leases and operates the network but competes to provide services on the routes of the freight network. It is important for those who are seeking access to know that the information they provide is protected and that a commercial-in-confidence provision is in place, with stiff penalties if the provisions are breached.

The bill also addresses what the NCC felt was a shortcoming in relation to information powers of the Essential Services Commission and makes it clear that the general information powers of the ESC can be applied to the access rail regime. It provides for the checking of information by the ESC in the access seeker packs, and the power for the ESC to check that information is being kept in the correct form — that is, a form that would ultimately make it easier to make an efficient determination were a dispute to arise.

As Mr Ashman said, the bill also addresses cross-border access issues to ensure consistency of decision making across the different access regimes, because Freight Australia runs its network alongside other states and networks. The NCC has sought comment on the proposals. Freight Australia was one of the respondents to the proposals in February 2002.

A number of issues have been raised about the rail access regime, and one which requires some clarification is the issue of line pricing verses network pricing. When the draft pricing principles for the freight network were first drawn up and provided to bidders in the data room, it was proposed that access prices be determined on the basis of pooling costs across the non-passenger lines section group and the passenger lines section group — that is, averaging out costs for the two different categories across those two networks and charging access seekers accordingly to cater for the average costs of maintenance and other requirements for each network.

However, on 12 August 1999 Freight Australia wrote to the Department of Infrastructure seeking consultation to improve the basis of open access. Further, on 23 August 1999 Freight Australia again wrote about 'the very productive meeting' with Department of Infrastructure officers. At that meeting, which Freight Australia deemed to be very productive, concerns were raised, and in a letter the head of Freight Australia said:

> We have concerns about anomalies arising from the averaging effect of line segment grouping. We would suggest that access be based on individual line segments with, perhaps, the ORG allowing grouping only when it is considered appropriate. There would of course need to be some averaging of costs allowed to cater for the cyclical nature of track maintenance.

The Department of Infrastructure agreed to the request, and the pricing principles now relate to individual lines not to groupings of line segments into a country network and a freight network as applied in the draft pricing principles. That has been addressed. It is an important response by the government to a suggestion from Freight Australia that the basis on which access prices should be calculated should be line pricing.

Further to that issue, there is also the matter raised by the Honourable Gerald Ashman about cherry picking. I can understand that there may emerge within the operation of the freight network in the future some lines which are more profitable than others and therefore the least profitable may then come under some threat. The lease that was contracted between Freight Australia and the former Kennett government allowed Freight Australia to surrender lines to the government after three years should they be found marginal or to be not productive. It is interesting that the three-year period has expired, and from 1 May 2002 Freight Australia can hand back lines to the government.

Under the lease, if Freight Australia wishes to surrender a line the government may still require Freight Australia to continue to retain a line and provide Freight Australia with financial compensation. Alternatively, the Director of Public Transport may accept the line back and do nothing, operate it himself or transfer it to another operator. Contrary to the passenger leases, which were struck between the former Kennett government and the rail franchisees that took up the passenger leases, there was no requirement or obligation in the freight network leases for the owner of the lease for the rail freight network to continue, but there is provision for a decision to be made on the future of those lines which are least profitable, and those decisions will always be weighed against proposals for other government funding, and weighed according to the needs of the various parts of the system and the state and the requirements to sponsor and encourage investment and economic activity across the country.

After 1 May 2002 there is no obligation for Freight Australia to maintain unprofitable lines, but here is a course of action for the government to take should Freight Australia no longer wish to keep certain lines under the lease arrangements.

One matter that has emerged with the bill is the focus on the importance of rail freight in Victoria. In the 1930s Victoria enjoyed a premier position in the country on rail freight, but the figures show that over the past two decades governments of all political persuasions have dropped the ball and failed to realise the importance of the rail freight network. They have presided over a major modal shift and road transport has competed successfully, aided of course by $42 billion in commonwealth funds for road compared with only $2.3 billion for rail from the period 1979 to the present.

The underinvestment in rail is particularly stark in Victoria. I would go so far as to say that under the Kennett government we saw the vandalising of rail freight infrastructure in this state, such as the severing of the Webb Dock and West Swanson Dock links with the rail terminals, and the proceeds of the sale of V/Line Freight and other rail networks — of the order of $163 million — going into consolidated revenue, which saw disinvestment in rail infrastructure in the state. Under the Kennett government the state failed to invest in its rail networks, both the passenger and particularly the freight networks. To compound that further, the

former Kennett government gave the go ahead for B-doubles and the trial of C-triples on the roads, which encouraged more and more the shift of freight from rail to roads. The impact is emerging as a stark one, given the appalling safety record of truck freight on the roads and the impact on the environment.

The Australian Bureau of Statistics figures for rail freight operations in 1997 and 1998 show that in Queensland it was 120.4 million tonnes; New South Wales, 80 million tonnes; South Australia, 6 million tonnes; Victoria, 5 million tonnes; and Tasmania, 3 million tonnes.

As Mr Ashman said, that is a poor performance. We are beginning to lift that poor performance, but we have a very low base to improve upon because we have seen that the states that continued to invest in rail achieved a result whereby rail goods movement is 16 times larger in New South Wales and 22 times larger in Queensland than in Victoria. Because of the importance of rail infrastructure to the future of farmers and others in rural parts of this state it defies belief that the National Party acquiesced during this period to disinvestment in the state's rail infrastructure.

The current Minister for Ports and the Minister for Transport in the other house both understand in this economic and social equation the importance of the rail-port connections. There have been a number of initiatives taken by the Bracks Labor government to begin to restore and integrate the rail and port networks and to steadily rebuild our infrastructure across the state. In the 2001–02 budget the government committed funds for projects designed to improve the competitiveness of rail freight, and to increase its ability to grow its market share and move export and other goods across the state effectively with less impact on the environment.

In that budget and continuing in the current budget, $96 million has been set aside to standardise up to 13 rail lines over the coming few years. There has been provision for standard-gauge access to the Geelong grain loop being provided in partnership with the private sector. The amount of $5.1 million has been provided in the 2002 budget for dual gauge access to Lascelles wharf at the port of Geelong. The dock link road has been restored and improved to make that link between the port with its container terminals and the South Dynon rail terminal, with a planned extension to North Dynon. The sum of $2.7 million is to be spent over the next three years to reintroduce passenger rail services to Ararat, Bairnsdale, Mildura and South Gippsland, and $9 million is committed to the upgrade of the Warrnambool track.

We must remember that these investments also offer opportunities for growth in the freight sector; as we improve the rail infrastructure it will have spin-offs for the freight sector. For example, industries along the South Gippsland line, such as the sand industry, will benefit from the reopening of the line to Leongatha. A contribution of $30 million has been made to the construction of the Albury-Wodonga rail bypass. In the recent budget the government has also committed $5.2 million to deepening the channel to the port of Melbourne. This will allow large container ships to be loaded to capacity for trips to the port, lowering shipping costs and ensuring that it continues to be Australia's premier port.

Other government initiatives include a range of freight studies, such as the Dynon hub master plan development; the inner west and north-west rail corridors; the development of a statewide logistic strategy by the Department of Infrastructure; and the establishment of the Victorian Rail Freight Advisory Council to operate as a strategic advisory body to the Minister for Transport on issues of the development, planning, regulation and operation of all aspects of rail freight services. In September 2001 the government reported on the strategic audit of the transport, distribution and logistics industry in Victoria, and recommendations from that report are now works in progress in regard to an industry action plan. Under the Victorian business statement in April 2002, $1 million has already been allocated to measure and improve supply chain performance as part of that industry action plan.

I mention those initiatives today to highlight the investment the Bracks Labor government is making in rail and port infrastructure and in economic development in this state. A vital part of putting all that in place is a competitive and effective freight network. The bill before us today will contribute to having the right structure in place and to creating stability and certainty of access to improved rail infrastructure for all participants who wish to take advantage of it. It will also contribute to the commitment of the government to a robust infrastructure that will shift more and more freight and passengers off the roads and onto the railways in Victoria. I therefore commend the bill to the house.

Hon. B. W. BISHOP (North Western) — On behalf of the National Party I have much pleasure in rising to speak on the Rail Corporations (Amendment) Bill. I listened with interest to the honourable Glenyys Romanes talk about many of the issues in relation to the railway system in Victoria. Not many of them pertain to this bill but one issue that she raised in her contribution

was that of governments not supporting rail. Let me talk to you about a party, the National Party, which supports rail. Without rail we cannot service the areas we represent so we are extremely strong supporters of rail. That will become apparent, I hope, in my contribution.

In her contribution — and I make no criticism but I make the point — the honourable member missed the point that the market for transport has changed dramatically in Victoria and Australia. One of the reasons for that is the deregulation of the market which this government forced on the barley industry against the wishes of the people and the industry. That is changing the mode of transport in Victoria as much as anything. Australia and Victoria must have a multimodal transport system, and the sooner we recognise that the sooner we will get on with the job and do it even better.

There is absolutely no doubt that in the areas of large tonnage and bulk cartage of product, be it grain or mineral sands, rail does the job magnificently. It is important to note that in point-to-point deliveries for grain, horticultural products or whatever this great state might produce road transport plays an integral part. The best example of that is Wakefields Transport in Merbein, just up the road from Mildura, which does a magnificent job of accumulating products in its cool stores. It does a train a day in containers from the Merbein–Mildura area through the Sunraysia area into the port of Melbourne. It is a magnificent operation which keeps the product off the road, many times in refrigerated containers on the rail, and I believe that is the true multimodal system that is needed in this state and in this country.

When we talk about rail and road we have to take care that the evolution that has taken place in transport continues. There is no doubt that with that evolution we have seen huge efficiency gains not only on the rail side with larger trains, quicker loadings and various other aspects, but on the road with the advent of B-doubles. Again I refer to Wakefields. Ken Wakefield, the principal of the company, designed and had built a particular unit for carting mineral sands from the mine at Wemen to the processing plant at Thurla near Mildura. It is a magnificent piece of machinery. The evolution we are seeing in the multimodal transport system in Victoria is something we should recognise, and as parliamentarians, play a part in.

I return to the bill and to what it refers to, which is generally speaking, confidentiality. I hope this is the final chapter of this type of bill. This is the fourth time we have been back in here tidying up processes. I understand why it is being done, and I suspect that a set of circumstances brought this bill to the house; otherwise the Victorian government would not have even had it in here. But I will talk about that a little later.

It is the National Party's strong view that this whole system has occurred because of Freight Australia's strong belief that the current pricing principles will have a detrimental effect on investment in Victoria's rail transport infrastructure in the future. It argues vehemently that there is no incentive to put investment into the particular rail lines being leased, as we have heard, on a 15-year-times-3 lease, because it could simply be helping a competitor. That is its argument and it has stuck to it.

In May 2001 Freight Australia sought a declaration of the access regime under part IIIA of the commonwealth Trade Practices Act. This would effectively put that regulation under the Australian Competition and Consumer Commission (ACCC). The application was unsuccessful and Freight Australia has made an appeal to the Australian Competition Tribunal. From our research when the National Party went through the process we believe it will be some time in September of this year when the appeal will be heard by the Australian Competition Tribunal.

The Victorian government opposed Freight Australia's application and in July 2001 sought certification of the Victorian regime from the National Competition Council. In December 2001 the National Competition Council issued a position paper outlining the concerns it had with Victoria's access regime. It is quite interesting reading if you are interested in the subject of rail transport. It is the view of the National Party that the government has now introduced this bill with these amendments to meet the concerns raised in the discussion paper.

Another issue was raised when we spoke to the National Competition Council. As we understand it, it does not require legislative change but it had to do with the pricing orders and the position that would be taken with new investment as against old investment, which would be treated differently. That gives the summary of why the National Party believes this bill is in the house and I make it clear that we do not oppose the bill. However, I wanted the history of the research we had done on the record.

I go to the first part of the bill. The National Party sees this as a protection of the confidential information that may flow between a number of parties in relation to access requirements. The first part of the bill provides

protection for commercial and sensitive information that a rail access seeker wanting to use the rail tracks will need to provide to an access provider when applying for the access. These new proposals will include a penalty for an infrastructure owner who misuses that information for commercial gain. This is to prevent a situation where, for example, an access provider realises from the details of an access application that a competitor is seeking a particular contract and uses this information to undercut the access seeker.

I refer to the provision on page 5 of the bill, which members of the National Party found quite interesting. Proposed section 38QA(1) states:

> A person referred to in sub-section (2) may apply in writing to the Commission for the making of a determination in accordance …

It goes on to talk about how you do that. We were particularly interested in the persons who may apply under this subsection, which was contained in proposed section 38QA(2)(a). It states:

> the Director on behalf of the State …

We in the National Party raised this issue because we had a view that the Essential Services Commission which was running the regulation of this process should be at arm's length. We could not understand for the life of us why the director of the state transport system would be able to be an applicant. During the process that the Honourable Roger Hallam and the Deputy Leader of the National Party in the other place, the honourable member for Swan Hill, and I were involved in — and I thank my colleagues for their assistance in that process — we raised this issue with a number of people. We raised it with the department, of course, and in one instance we raised it with the National Competition Council. We thought we would raise it with the NCC to ensure we have this arm's length process.

It is the view of the NCC that if the director was the person declaring the particular issue, there would certainly be an objection from anyone — and, I would suspect, from the NCC too — but in this case the director is the applicant and has nothing to do with the declaration. That would be done by the Essential Services Commission. The NCC assured us that there were other examples with regulators where this circumstance can occur, so there were some precedents in the area as well.

The other issue that was brought up during our research on this matter was that people thought the director, having a rather intimate knowledge of the workings of the whole process and of who might be applying for what, could perhaps get in a little earlier than some other people might do, such as an access seeker, so the process could not be stalled in any way and would proceed much more smoothly. Given those assurances from people with whom we in the National Party spoke — and even though we thought at the start that it was a problem — we accept that the director has a place in relation to that. The other people who can seek access are those proposing to seek access to the declared rail transport service.

Page 6 of the bill goes to areas where the commission needs to be satisfied that the operator or a related body corporate of the operator is substantially involved in the business and in competition with persons who may seek access to the declared rail transport service in proposed section 38QA(3)(a). Given that the rail business in Victoria is not all that broad, there is every chance that there will be limited sectors of it that people would want to get access to that are not already serviced by the particular track user. It then goes on further to say in paragraph (b) that:

> the Commission is satisfied —
>
> (i) that requiring the operator to comply with this Division would not cause detriment to the operator …

That is fine, that sounds pretty good; but then it goes on and says:

> (ii) that although requiring the operator to comply with this Division would cause detriment to the operator, it would assist in achieving the Commission's objectives and the benefit of achieving those objectives would outweigh any detriment caused by the requirements to comply with this Division.

That means that the operator could get injured, but if so, tough luck — that is what the determination would be. That is one of the concerns that we have, and we would ask that care is taken in that particular area of the act.

As we go further through the bill we see that the second part provides the Essential Services Commission with improved powers to obtain necessary information to perform its role under the act. Some of that information might be subject to confidentiality requirements as well.

The third part allows the Essential Services Commission to consult with other network operators and arbitrators appointed under other access regimes — in other words, if they are going across into other states they can talk to them as well, which is sensible and practical.

The fourth part clarifies that a determination by the Essential Services Commission is not an arbitration for the purposes of the Commercial Arbitration Act, which prevents any confusion about the procedures to be followed by the ESC in determining a dispute.

I would now like to put on the public record where the National Party sits in relation to these issues, which it sees as being far wider than just transport, but today we will just talk about transport. I have already spoken on the changing modes we see in the transport scene, particularly in handling, in Victoria and Australia. I will take the house back to where I believe a lot of this began. It is a bit of a history lesson on the grain industry and it started with the sale of the Grain Elevators Board of Victoria to the growers and the industry many years ago. If we look at the history of that particular sale, it was a good deal for the growers and a good deal for the industry. It took a lot of working through and it certainly took up a lot of the time of those of us who represent country Victoria. But again the National Party believes that was an extremely good deal for the growers and the industry.

I might take the house to the real reason for that sale. The reason why the growers and the industry wanted to get their storage and handling organisation out of government hands was the infamous public authority dividend payment. I can remember it well. I was in the grain industry at the time. If my memory serves me right — and honourable members must forgive me if I do get a bit off track — I believe the public authority dividend payment was introduced by then Treasurer Jolly.

Hon. R. M. Hallam interjected.

Hon. B. W. BISHOP — I think it was a payment, Mr Hallam, but we called it a tax; the true terminology was 'payment' — PADP. If my memory again serves me right, it dragged, before the bottom line, about $27 million out of the coffers of the Grain Elevators Board at the time as a tax, and I believe the true cost of that was estimated at about $50 million if you took opportunity loss and the borrowing loss and all of those issues that were brought into it.

I can well remember — and it is a good many years ago — a demonstration at Bendigo where thousands of growers turned up and objected strongly to the applying of the public authority dividend payment, which we called a tax, to this particular industry. They thought the government had no right to do it. However, the government of the day, under Treasurer Jolly, if my memory serves me right, pressed on and applied that tax. I believe that is the reason. The industry and the growers said, 'Let's get out of this lot. Let's get away from this mob. We want to be in charge of our own destiny and our own industry. We don't want any more government interference'. And it was done, and it was a good result.

Now we find that the Grain Elevators Board of Victoria, which then became Vicgrain when it was sold, has now merged with Graincorp, which is the New South Wales storage and handling organisation. We now have a New South Wales and Victorian storage handling organisation and grain marketer as well. It is certainly one of the groups interested in access to the Victorian rail lines that are leased by Freight Australia and operated by Freight Australia as well at this time. Then we had V/Line privatised as well. That was sold and called Freight Victoria under the umbrella of Rail America, and then it became Freight Australia sometime later. I think it is fair to say to the house that it paid the money and had a red hot go.

Freight Australia is a good operator on the basis of how it manages its business and how it carts the product. It has certainly done well under the leadership of the chief executive officer, Marinus van Onselen.

It has already been mentioned that in the deal the government kept the true ownership of the railway lines but leased most of the lines in Victoria to Freight Australia on a 15-year-times-3 times lease. Effectively, if it wished it could lease those lines for 45 years. Another mix came in when the Australian Wheat Board (AWB) and the Australian Barley Board (ABB)were privatised and listed on the stock exchange at about the same time. There was a massive change in the structure of the grain industry, over half of which is the transport task of the rail system in Victoria.

I cannot help but bring this up again, because I spoke about it earlier. A year ago in this place the National Party was not able to save the single export desk for the ABB. The National Party won the debate everywhere else; it won it in surveys, where 87 per cent of people supported its view. It brought a private member's bill into the house, which got through this house but fell over in the other house due to the pressures applied by the Independents, strongly supported by the Labor Party. They will carry the responsibility that they drove the decision, and will have to live with it for the rest of their lives in Parliament.

This year I have read in reports about the harvest that deregulation has helped prices. I am qualified to speak on the subject and that is absolute nonsense; it was a set of circumstances that had nothing to do with deregulation but with domestic quality, overseas market

pressures and the fact that it was a good year with good yields and good prices. We do not often get those together, but deregulation did not drive it.

What National Party members said during the debate on the private member's bill is now coming true. China, which is a huge market for Victorian barley, has now dropped its price because other traders have traded the price down. As we also predicted, traders other than the ABB dumped some lower quality barley that they called malting barley, so now the Chinese are confused. Their once reliable supplier of even-quality malt barley — Australia — is now not so reliable. There is a fair amount of questionable quality barley languishing in storage in China which will continue to drag the price down; it will continue to erode the market relative to the deregulation of the single desk out of this state.

That is only the start, and in a few more years the National Party's predictions will unfortunately become even truer. There will be lower prices, and although I hope we never see it I am concerned that inevitably we will lose some of the access we have enjoyed for many years. The Treasurer and the Independent honourable member for Mildura in another place combined to shatter the best marketing system we have seen for barley in this state for many years. Quality controls were in place and now they have gone. It is the responsibility of those two people to put quality controls on the wharf to ensure that Victoria's reputation does not continue to be driven down by the circumstances that they put into place.

Then there were more changes. The AWB, a huge organisation of which I was proud to be a director for a number of years, decided to build storages in country areas. The first was built at Dimboola, and others were built at Charlton, Sea Lake and Birchip in Victoria. It also built storage and handling facilities on and near railway lines in other states, as did other organisations. People spoke before about cherry picking, and obviously when an organisation spends a fair bit of money to build sites like that it will cherry pick for a good, reliable production area to ensure that it will always get a good volume going through.

Mr Hallam and I listened with great interest to debates about the grain industry, as did the rest of the National Party, about whether it was right or wrong and whether or not it was an overinvestment. Mostly we all thought that it was an overinvestment. A good example is that the AWB and Grainco Australia, a Queensland organisation, now own the Globex International port facility at Appleton Dock in Port Melbourne, while the two ports of Geelong and Portland are probably operating at about 40 per cent efficiency.

Hon. R. M. Hallam — Capacity.

Hon. B. W. BISHOP — 'Capacity' is the right word, Mr Hallam, thank you very much.

The National Party questions that overinvestment, and we all know who will pay for it — Victorian growers. Without doubt, in the whole mix of all this the AWB is the biggest player in the grain industry in Victoria and Australia. Certainly over the past few years it has taken a strong lead, and some say an adversarial approach, in relation to its position in the grain industry, and it has protected that position vigorously. I was talking to one of my good friends who used to be chairman of the AWB some years ago, and he said that it had done something that most of us could not do in the time we were in the grain industry — it had united the bulk handlers around Australia. That is a good thing, but as I see it, it has united the bulk handlers around Australia generally against the wheat board, and that is not a good thing.

Those are the pressures that are mounting in the system we are discussing this afternoon. The AWB is the carrier of Australia's best weapon against the corrupt world markets it sells into — more than 80 per cent of our wheat product goes offshore, so Australia is best protected by the single-desk export powers of the AWB. Some of the pressures are commercial, some are agropolitical, some are political, and they overlay the huge grain transportation business which is linked to handling and marketing throughout Victoria and Australia. It is a major part of Freight Australia's business. It has contracts with big players such as the AWB and the ABB for a fair part of its particular business.

Graincorp has a lot of experience with storage and handling, and as I said before, it is the Victorian and the New South Wales grain handler and marketer. It has experience with rail transportation in New South Wales, particularly on the branch lines, and it is interested in coming into the market, as are other companies. That is okay in today's competitive market, particularly when Graincorp has had experience in New South Wales and the other operators have had experience in other parts of Australia. That is part of the mishmash of pressures that is building up.

One thing that is not easily understood is the pricing policies of the Australian Wheat Board. The board is the owner of the product the minute it is delivered to any of its storages, so the freight pricing, including road freight pricing, is negotiated by the board. The board argues correctly that it does that on a performance-based process on three major criteria:

firstly, how quickly you can load; secondly, whether you can load 24 hours a day; and thirdly, the number of wagons you can load in one hit. If you add that together it amounts to about $3 to $4 a tonne. Graincorp, the Victorian Farmers Federation and others argue that the Australian Wheat Board manages the freight prices to suit itself. That has created an uproar in the grain industry. Some excellent motions were debated at the Victorian Farmers Federation grain conference highlighting the particular issue.

I understand both sides of the argument, and I am not critical of one side as against the other, but I am saying to the house that these pressures exist in the industry at the moment. At that conference there was talk about the Australian Wheat Board only taking ownership of the product when it reaches the wharf, which would alleviate the perceived or real view of manipulation of freight by the Australian Wheat Board. On the other hand, it would have a massive effect on the coordination of grain and on the retention of the single-desk system. We have all those pressures with the Australian Wheat Board rightly saying that it owns the product and will pick the freight rates, and others saying, 'Hang on, you may own the product, but we are not sure you are doing things in an even-handed way'; and all of that is moving around in the industry. That highlights the evolution we have seen over time, which I pointed to in the first part of my contribution.

In relation to that side of the grain industry, I must say we should not lose sight of the absolute necessity to retain the single desk for exporting in wheat marketing. Those powers are absolutely essential and are the only weapon we have against the corrupt world marketing we face on a day-to-day basis, especially when we export about 80 per cent of our product to world markets. Sometimes I think I would not mind being back in the grain industry so I could join in those debates, but that time has passed and I will not go back into that area.

After that history lesson I turn to where we are today. The National Party believes that Freight Australia was always clear that rail access would be applied — there was never any argument about that — but it was not clear, sure or convinced about the pricing principles that would be put in place regarding that rail access. Freight Australia has stood firm that it could use the sunk costs as a basis for recovering the costs from another access seeker on the line it leases. The National Party is concerned that if this were correct it would severely disadvantage Freight Australia if it had factored that into its price. As I said earlier, the Honourable Roger Hallam, the honourable member for Swan Hill in the other place and I spoke to a number of participants in the industry, one being the National Competition Council. The issues regarding the sunk costs side of the argument are clear to some degree.

Hon. R. M. Hallam — We were looking for evidence.

Hon. B. W. BISHOP — Yes, we were looking for evidence, because we wanted to be sure from Freight Australia's point of view and from our point of view representing the people in country Victoria that we were right and going down the right path. When we met representatives of the National Competition Council we discussed its position paper of December 2001 which talked about sunk costs. It states:

> Clause 6(4)(i)(i) requires an effective regime to take into account 'the owners' legitimate business interests and investment in the facility'. There has been considerable conjecture between Freight Australia and the Victorian government over whether the Victorian regime meets this subcriterion.
>
> The council notes that other parties participating in the bid, strongly assert that Victoria advised all prospective bidders that access prices could not take account of the value of the existing network at the time of lease …
>
> The council considered the relevant evidence presented on this issue and is satisfied that on the basis of evidence provided that Victoria advised Freight Australia that the ultimate pricing order would not allow Freight Australia to recover all the capital costs reflective of a positive value for the infrastructure existing at the date of lease. The evidence that brought the council to this conclusion was:
>
> > the consistent evidence of unsuccessful bidders and the Victorian government;
> >
> > the interests of the Victorian government in maintaining confidence that its bidding processes are impartial and consistent across bidders;
> >
> > the Victorian government's stated policy to subsidise all access seekers to the value of the network at lease time;
> >
> > the price paid by Freight Australia for the network;
> >
> > letters from Freight Australia to Victoria indicating Freight Australia was aware of the elements to be included in the pricing orders; and
> >
> > that Freight Australia has not pursued its case through legal channels.
>
> The council therefore considers that the regime's treatment of sunk costs for the networks is not contrary to 6(4)(i)(i).

The Australian Wheat Board indicated to us that it agreed with the principles set out by the National Competition Council. This bill is now before this house. Freight Australia's appeal to the National Competition Council tribunal will be heard in September; it wants to come under the commonwealth

system. Instinctively the National Party believes the national approach is better because it acknowledges that railway businesses cross state borders. However, during our discussions we were advised by many people who had studied this issue and who talked about track loadings and so on, so we agreed not to oppose this piece of legislation.

We also sought some advice in relation to Freight Australia's appeal, because we were concerned where that might lead. Three scenarios were put to us. The first was that if the bill were defeated or held over and Freight Australia won its appeal the Victorian regime would still be in place and the access seeker would then go to the Victorian regime, Freight Australia would go to the commonwealth regime and the process would be jammed between the two jurisdictions and would probably be settled in the courts. The second scenario was that if the bill were passed and the National Competition Council agreed with the process, as it really has through its position paper, the Victorian system would be certified by the commonwealth and the tribunal hearing by Freight Australia would cease. The third scenario was that if the bill were held over, which we looked at, and Freight Australia won its appeal and the bill was then reintroduced and passed, Victoria's regime would be certified on application by the commonwealth and would take precedence over the commonwealth system.

When we added all that up, taking into account the different track loadings and use, and the advice we received, we agreed not to oppose the bill. We have extreme sympathy for the people at Freight Australia because we are concerned at the adversarial process between the government and that company, to the extent that the government advised us that Freight Australia had not been notified about this bill. If that is true, it is absolutely ridiculous.

Hon. R. M. Hallam — Scandalous!

Hon. B. W. BISHOP — It is scandalous, as Mr Hallam says. That sort of nonsense ought to stop immediately. We in the National Party are the first to admit, and anyone who has met him would agree, that Marinus van Onselen is a strong personality. He has a strong point of view and calls a spade what it really is and probably more, without fear or favour, and he knows the business. He has put his credibility on the line in running Freight Australia.

Hon. R. M. Hallam interjected.

Hon. B. W. BISHOP — As Mr Hallam interjected, you don't have to worry about where Mr van Onselen is coming from or what he thinks; he tells you straight up. As I have said, I believe the organisation has done a good job.

The National Party strongly urges, or recommends — whichever is the strongest word I can put to it — that this adversarial relationship must cease, for the betterment of us all. I know some of the history of how this has built up, but it is certainly not a way to do business, either in this state or around Australia. I urge all parties to direct their energies to the job at hand — which is quite substantial — rather than continually arguing with one another. In that way we will ensure that this essential part of the freight system in Victoria and Australia can continue to grow. In particular investment money will flow into the infrastructure to always keep us in front with transport technology where we need to be to stay efficient and viable in this global economy in which we operate. As I said, the National Party does not oppose the bill.

Hon. ANDREW BRIDESON (Waverley) — In opening my remarks on the Rail Corporations (Amendment) Bill I must say what an interesting, informative and eloquent contribution we have just heard from the Honourable Barry Bishop. At the outset I state that the Liberal opposition is in agreement with the majority of Mr Bishop's contribution and, as Mr Ashman has already pointed out, it certainly does not oppose this legislation.

The bill allows for the amendment of the Rail Corporations Act of 1996 and incorporates three main amendments. When you are the fourth speaker on such a relatively short bill there is really not much left to say, so I will try to paraphrase as much as possible to allow the next speaker to contribute.

Firstly, this bill will implement a rail access regime in compliance with national competition policy. Secondly, it will allow for greater documentation from the Essential Services Commission (ESC) to use track-owner documentation to advantage access seekers. We have heard from previous speakers the definitions of 'track owner', which is pretty much self-explanatory, and 'access seekers'. Thirdly, as a result of the new document-seeking powers, the bill introduces a restriction on the disclosure of information and penalties to counteract any abuses. Many people might think these penalties — which are to the tune of 120 penalty units — are relatively excessive.

I will try to be as brief as possible. By way of background, in 1999 V/Line Freight was sold by the Kennett government for some $89.7 million to Freight America, which was renamed Freight Victoria, and has

recently been renamed Freight Australia. Freight Australia was given the right to use the network and operate a rail business for a period of some 45 years. Mr Bishop explained that that would be by 3-by-15-year leases.

We have also heard that the rail access regime is a negotiate–arbitrate model, whereby the access seekers negotiate with the track owners — in this instance, Freight Australia. The access seekers apply to and negotiate with Freight Australia. We have heard that this is a relatively adversarial system. If there is no agreement between the parties, the access seeker can appeal to the Essential Services Commission. This commission can provide information to the access seekers from Freight Australia. The current legislation sets out how Freight Australia must maintain its business and financial records.

In July 2001 an application was made to the National Competition Council seeking a new rail access regime. The NCC questioned the effectiveness of the existing regime and recommended that more competition could be introduced into the rail industry with the pricing mechanism determined by the Essential Services Commission. The NCC recommendations are at the very nub of and are implemented by this bill.

The opposition hopes that one of the main outcomes of this bill will be its assisting with the continuation of the very competitive, effective and efficient rail freight system. We encourage the government to give all the assistance possible to ensure that Freight Australia is one of the world's leading freight companies. It will be under enormous pressures, and it is incumbent upon governments to assist such companies with their new ventures.

The opposition would like to put on the record some of the issues it sees with this bill. The main one has been called the cherry picking issue, whereby the cost of the entire network is not considered with the implementation of these amendments, as competitors of Freight Australia can pick and choose the most profitable routes regardless of the costs incurred by Freight Australia for maintaining the network.

As we have heard, the current system is based on network pricing, and the proposed system is based on line pricing. This will mean that the new regime will not allow for cross-subsidisation of the unprofitable routes.

One of the consequences of this legislation is the potential closure of rural branch lines which are economically non-viable without cross-subsidisation from the main lines. There is no need for me to repeat the concerns of the National Party on this. A clause in the Freight Australia contract determines that if a track is not used or maintained for three years, the ownership of that disused line will revert back to the state government. The liability of the uneconomic routes will then be transferred back to government ownership. We sincerely hope that does not occur. The proposal also allows competitors to enter the Victorian market without the financial liability which has been incurred by Freight Australia. I also indicate that the powers proposed to be given to the Essential Services Commission for information gathering may be considered excessive in addition to its existing powers.

There is really not much more I can add. However, I would like to put on the record a response to what the Honourable Glenyys Romanes said in that previous governments had not paid the due regard they ought to have paid in maintaining rail infrastructure. She singled out the previous Premier, Mr Kennett, whom she claimed ran down our rail system.

If you look at the history, the Cain–Kirner governments played a significant part in running down the rail networks throughout rural Victoria. More importantly, what the Honourable Glenyys Romanes failed to put on the record was that we incurred a massive debt of some $32 billion.

Hon. W. R. Baxter — We inherited it!

Hon. ANDREW BRIDESON — I correct what I said: we inherited a $32 billion debt. There is only so much that a government that incurs such a massive debt can do. It is interesting to hear and read about the budget proposals. The Honourable Glenyys Romanes put a number of the rail proposals on the record today; although they had nothing to do with the debate I was interested to hear them.

Hon. W. R. Baxter — They announced them two years ago.

Hon. ANDREW BRIDESON — That is right. They announced them previously, as they announced them in the budget. I am sure there will continue to be further announcements over the next 12 months because the current government will probably be defeated at the next election. I am sure announcements will be made and the spin doctors will be hard at work spinning the government's points of view.

We inherited that debt. We could not implement the proposals we would have liked to implement. We set up the economy for the current government so that it is able to implement forward-thinking rail freight policies.

I hope they are successful. One of the more important social outcomes of the legislation may be the greater use made of rail freight. I and other members of the opposition hope that the amount of road freight will be decreased with an uptake in the use of rail freight purely for road safety reasons, in which we all have a great interest.

Rail freight will only survive with government assistance and a competitive economy. Freight Australia needs to be given every encouragement possible, as I said earlier, to run a successful and profitable business. However, a lot of work needs to be done with both road transport operators and Freight Australia in trying to work out an efficient means of combining both forms of transport. They are not mutually exclusive and both could depend more on each other. I hope one of the outcomes of the bill is just that.

In conclusion, I thank the ladies who gave the opposition an informative briefing. We posed difficult questions and they answered them competently. It is always a pleasure to deal with public servants of such a high calibre. Another two or three honourable members wish to speak on this small bill. The opposition does not oppose the Rail Corporations (Amendment) Bill.

Hon. D. G. HADDEN (Ballarat) — I speak in support of the Rail Corporations (Amendment) Bill. At the outset I should tell the house that I am not here to slam the previous Kennett government on its actions of selling our rail transport. I acknowledge the comments Mr Brideson made during his contribution — that is, that governments of all flavours, colours and persuasions over the past 20 or 30 years have added to rail not being the preferred mode of transport, as it should be. Certainly not only for safety reasons on our roads, highways and freeways but also for environmental reasons rail transport, whether it be passenger or freight, is the preferred mode of travel. It should be encouraged and enhanced at every opportunity.

I shall give the house some background about transport in Victoria. V/Line Freight was sold by the former Kennett coalition government in 1999. Bidders were advised that an access regime would apply. The access provisions were inserted into the Rail Corporations Act 1996 and summarised in an information memorandum. Meetings were held with bidders to discuss the regime, and Freight Australia's bid acknowledged that an access regime would apply. Various documents refer to the Office of the Regulator-General determinations: various access agreements between Freight Australia and V/Line Passenger, and between Freight Australia and Bayside Trains; the primary infrastructure lease; and the direct agreement between the Director of Public Transport and Freight Australia.

In May 2001 Freight Australia sought to have the network it leases from Victoria declared under part IIIA of the commonwealth Trade Practices Act. By so doing it sought to escape the access regime. That would, in effect, have placed the regulation of a major Victorian asset under the control of the Australian Competition and Consumer Commission. The state of Victoria opposed Freight Australia's application. Freight Australia was unsuccessful but has now appealed, as the house heard earlier, to the Australian Competition Tribunal. That outcome will not be known until about September next.

In July 2001 Victoria sought certification of its access regime to protect its role with regard to access. In December 2001, following discussions with Victoria, the National Competition Council (NCC) issued a position paper outlining the concerns it had with Victoria's access regime. The NCC indicated that Victoria has put forward legislative proposals to meet those concerns with regard specifically to protection of access seeker information, the information powers of the Essential Services Commission (ESC) and cross-border issues. The NCC sought comment on its proposals. Freight Australia responded to those proposals in February this year. Affidavits made in the tribunal also referred to legislative changes. Freight Australia has been consulted in the lead-up to the implementation of the access regime. It is also to be noted that it had full knowledge of this bill through a discussion paper issued by the government. The bill also was canvassed in the government's affidavits in the appeal of Freight Australia to the Australian Competition Tribunal.

On 12 August 1999 Freight Australia wrote to the Department of Infrastructure seeking consultation to improve the basis of open access. On 23 August 1999 Freight Australia again wrote regarding a productive meeting it had held on that day with departmental officers. On 23 September 1999 Freight Australia acknowledged the deliberate and publicised decision to exclude any premium paid for the primary infrastructure lease. A discussion paper was released in April 2000, and submissions received were reviewed by a working group. The protection of access seeker interests was identified as an issue. However, this was not proposed as it would have tightened the regime compared with that flagged to the bidders. Implementation of the access regime was announced on 1 February 2001 and implemented on 1 July 2001.

The main purposes of the bill are: firstly, to address the National Competition Council's concerns about Victoria's rail access regime in order to achieve certification of the regime as an effective one; and secondly, to exclude the application of the Commercial Arbitration Act 1984 to determinations on access to rail infrastructure made by the Essential Services Commission.

I turn to whether Freight Australia was aware or had knowledge of the rules of the access regime when it purchased the V/Line Freight business. As I have already pointed out, the correspondence passing between Freight Australia was as early as 12 August 1999 to the Department of infrastructure, and Freight Australia's capacity as a bidder to purchase the freight business acknowledged that there would be an access regime, and those documents are confidential. The provisions setting out the access regime was inserted into the Transport Act in 1998 before the sale of the freight business was completed.

In relation to whether Freight Australia knew about the proposed pricing principles, I refer to the letter from Freight Australia to the Department of Infrastructure of 12 August 1999, which states:

> A draft set of pricing principles for the direction of the Office of the Regulator-General has been provided to us prior to our acquisition of the railway.

The National Competition Council's position paper dated December 2001 states that the NCC was satisfied on the evidence presented to it that Freight Australia was aware of the regime and that the proposed pricing orders would not allow Freight Australia to recover sunk costs. This evidence cited was: the consistent evidence of unsuccessful bidders and the Victorian government; the price paid by Freight Australia for the network; and the letters to the Department of Infrastructure indicating that Freight Australia was aware of the elements to be included in the pricing orders.

The other criticism and query by the opposition was whether Freight Australia knew that sunk costs or lease costs would not be recoverable. There is correspondence on the issue. In particular a letter dated 23 September 1999 from Freight Australia to the Department of Infrastructure states:

> The draft pricing principles for the 'country network' specifically states that any payment for lease of the country network is to be excluded and the allowed costs relate only to operating and maintaining the running line infrastructure.

The other question was whether Freight Australia had signed any documents referring to an access regime. It is to be noted that Freight Australia entered into and took over a number of agreements as a result of its lease of the network at the time it purchased the freight business. A number of those agreements specifically refer to the access regime and access to determinations by the Office of the Regulator-General, now the Essential Services Commission. These agreements have confidentiality clauses and therefore cannot be cited any further.

In relation to the criticism of and inquiry about line closures by the opposition, Freight Australia entered into a primary infrastructure lease on 30 April 1999 as part of the privatisation of V/Line Freight. The lease allowed Freight Australia to surrender the lines to the government after a period of three years, and that three-year period expired on 1 May 2002, so we are in the time frame now when Freight Australia could hand back the rail lines to the government.

The primary infrastructure lease does not require Freight Australia to provide any minimum level of service or to maintain and operate the whole network, except for some more stringent obligations in the last five years of the lease. It should be noted particularly that there was no requirement for Freight Australia to maintain after 1 May this year unprofitable lines which are not subject to access agreements. Also, under the primary infrastructure lease if Freight Australia wishes to surrender a line the state government may still require Freight Australia to continue to retain the line, and it must provide Freight Australia with financial compensation. Alternatively, the Director of Public Transport may accept the line back and simply do nothing, operate it himself or transfer it to another operator, which then places the ball squarely back in the government's court.

From a commonsense point of view, the business of Freight Australia in its operation of freight on its network is a very big business venture, and if it was not profitable Freight Australia would not be in the picture at all.

It is also to be noted that the rail freight achievements of the Bracks government are many. I will put just a few on the record, particularly given that the Honourable Glenyys Romanes has gone through the government's rail freight achievements at some length. In the 2001–02 budget the government committed $96 million for standardisation of up to 13 rail lines over the next four years. Work is expected to commence in early 2003 on the North Geelong to Mildura and Yelta rail lines, which will provide a link connecting the state's north-west to the port of Portland, as well as the ports of Geelong and Melbourne. The

Mildura line is a priority for the Bracks government as its standardisation will create a direct link between the mineral sands deposits in the north-west of the state and the port of Portland in the south. The standardisation of the track on the north-east corridor is expected to commence by 2004, with work extending into the southern parts of New South Wales in 2005.

Importantly, in this year's budget of May 2002, $5.1 million has been provided for dual gauge access to the Lascelles wharf at the port of Geelong, which will lead to an increase in rail freight to and from the Geelong port and stimulate development of warehousing and other associated job opportunities on vacant land at the port. I am sure honourable members in this place from Geelong Province will be pleased with that announcement, in particular the Honourable Ian Cover.

Also, $32.7 million is being set aside by the Bracks government over the next three years to reintroduce passenger rail services to Ararat, Bairnsdale, Mildura and South Gippsland. The reopening of the Ararat passenger rail from Ballarat to Ararat is one that I am certainly interested in because it is a special part of the state. It is a beautiful trip on the highway, although it will be a more beautiful trip by train when it is running. It is being looked forward to by not only the Ararat community but also the communities north and west of Ararat, as well as the communities down to Ballarat.

There is also the $30 million being contributed by the Bracks government towards the construction of the Albury-Wodonga rail bypass. Most importantly, as has been mentioned by the Honourable Gerald Ashman for the Liberal opposition, is the recent announcement by the government of $5.2 million towards the deepening of the channel in the port of Melbourne. That will contribute to lower shipping costs and ensure that the port of Melbourne continues to be this nation's premier container port.

Another important announcement is the establishment of the Victorian Rail Freight Advisory Council to operate as a strategic advisory body to the Minister for Transport on issues of development and planning, regulation and all aspects of the operation of rail freight services. Rail freight services are a very important part of this state's movement of freight for business and export purposes and are high on the agenda and very dear to rural and regional Victorians. The other important aspects of the Rail Corporations (Amendment) Bill are to ensure that the Victorian rail infrastructure regime complies with the national competition principles agreement and to facilitate the certification of the Victorian rail access regime under the Trade Practices Act 1974. I commend the bill to the house.

Hon. C. A. STRONG (Higinbotham) — I also rise to speak on the Rail Corporations (Amendment) Bill and to touch upon a couple of key issues that have been skirted around by some of the previous speakers. It is worth noting that rail freight is an enormously important industry to Victoria and to Australia. It is one of the most efficient ways to move large volumes of goods around the country. I was interested to listen to the contribution of the Honourable Glenyys Romanes who said Victoria did not lead in rail freight compared with other states such as Queensland. That is true, but it needs to be put into context.

The fact of the matter is that large states like Queensland, with its major population and industry centres separated by very great distances, are particularly suited to rail transport compared with Victoria where the main industry and population centres are barely an hour away by road and therefore in many cases rail freight is nowhere near as economical an operation in Victoria as it is in the larger states with the long-haul distances.

The economics of rail freight are all about long-haul distances. Rail is economical for long hauls and not economical for short hauls. So without minimising the importance of rail freight for Victoria, the truth of the matter is that if you look at the amount of goods moved in Victoria compared with other states you would see a difference, but that difference can be quite clearly explained by the economics of the industry.

V/Line Freight was sold by the previous administration in 1999 to Freight America and rebadged as Freight Australia, sold with a 45-year lease over rolling stock as well as the whole track network. The basic arrangement was that Freight Australia would run and operate the system and if any other operator sought to use any part of the system it could endeavour to negotiate an arrangement at the appropriate price with Freight Australia to use whatever part of the system it wanted, and it if was impossible for them to get a satisfactory arrangement that part of the system could be declared and the Office of the Regulator-General — now the Essential Services Commission — could come in and determine a reasonable rate for access.

This bill does several things which are worth briefly dwelling upon. The first is to determine the regulator. Certainly, the way it was set up was for it to be the Office of the Regulator-General and its successor body, the Essential Services Commission. However, to do so the regulation regime of that body needed to be

approved by the National Competition Council (NCC) and there were certain things that the council required before it would approve the access regime and, as I understand it, that is one of the things this bill seeks to do.

However, it needs to be said that it is an open question as to who is the best person or what is the best body to be the regulator. Is it a Victorian regulator or a national regulator like the Australian Consumer and Competition Commission (ACCC) that would be best suited to regulate this network? That is an issue that has been raised by Freight Australia, which in fact now has an appeal before the NCC against the Victorian rail access regime, an appeal which I am advised is due to be heard in September and the result of which this bill seeks to gazump. That is unfortunate because it would be proper for the NCC to have heard that appeal and have given its studied opinion as to whether this local regime or some more national regime like the ACCC would be the best regulator.

It is highly unfortunate that the bill seeks to gazump that process and put in place a regime before the hearing of the appeal against the National Competition Council's previous recommendations, which, aligned with Victoria's submission, has been properly heard.

One of the other important issues that comes out of the change of the regulatory regime is the difference between what is euphemistically called network pricing and line pricing. In essence the original proposal for how the assets were to be sold was on the basis of network pricing. That means that in seeking to establish an appropriate access charge for somebody who wanted to use a piece of a network due account would be made of all the overheads and like charges associated with running the network. The truth of the matter is that with any network — and a rail network is exactly the same — parts of it are heavily used and are therefore profitable to run and other parts are lightly used, have large carrying costs and would be not economic on a stand-alone basis. In other words, the less profitable routes are subsidised by the more profitable routes and therefore you get an access charge based on running the whole network. That was the way the access regimes were established.

Now we are going towards a line pricing regime, which means that the access charge is based on what it actually costs to run that part of the network which an outside operator wants to use rather than the uneconomic parts being cross-subsidised and included as well. There is nothing wrong with that, and one could argue that it is a purer way of pricing to just do line pricing and look at what it costs to run and operate the particular part of the network over which an outside operator wanted to obtain access and use.

However, there is a consequence of that, which has been touched on by other speakers — that is, that parts of the network deemed to be uneconomical by Freight Australia can be handed back to the state. In other words, Freight Australia can say, 'These particular parts of the network are not economical so we are happy to give them back because we don't want to hold the cost of maintaining and operating them at a loss'. What can potentially happen is that if — and in all of these things there are many ifs — there is a big take-up of third party access over the profitable parts of Freight Australia's system and what it is able to charge for that third party access is only the cost of maintaining that specific part of the route — it is not able to charge a bit extra to cover all the non-economic routes — clearly it will say, 'Let's get rid of these uneconomic routes because we are getting no return on them. We are better off to get out of them. We will give them back to the government'. Then the government can close them down and say it will not run those routes, and that is not good for Victoria, or it will tender them out to somebody else, or ask Freight Australia to run them under a special deal.

What we may see 5 or 10 years down the track is Freight Australia running the good routes and granting third party access to those good routes at an access fee that covers the cost of running those good routes. However, there are all those other not-so-good routes that nobody particularly wants but which it is in the interests of the government to keep open for other reasons. How will the government keep them open? It will have to pay Freight Australia, or some other operator to run them, so it will have to subsidise them. That is fine, there is nothing wrong with that, but where will the subsidy come from? Surprise, surprise! The subsidy will come from levying the profitable routes to raise cash to pay Freight Australia or the other operator that takes over the unprofitable routes to run the unprofitable routes. What we will have is pure line pricing for the good routes and a levy on these good routes of some amount which will be used to subsidise the less good routes. We will be back to network charging anyway.

I do not know what this is achieving, because we will be back to network charging or we will be closing routes or the government will be paying for it out of consolidated revenue. I do not think we will be closing routes, and I do not think the government will be paying out of consolidated revenue. The government will have to levy the good routes to give itself cash to subsidise the bad routes. We will be back to network

pricing anyway. I do not have any argument about that, I must say; I simply say that all the government has done is find a fairly convoluted way to do what it is doing anyway.

The final issue I would briefly like to touch on is that as I understand it there has been a little bit of lack of consolidation over this process, and as I said earlier, an attempt to gazump the process of the appeal that Freight Australia has made to the National Competition Council. The most glaring example of this government's lack of consultation, which it prides itself on, is that this bill was introduced to state Parliament on Wednesday, 17 April 2001, but Freight Australia was not advised by the government until two days later what was in the bill, or that there would be a bill at all. I believe that is very unfortunate, because although, as other speakers have said, there have been various negotiations and interchanges going on for months and months, as it has been reported to us the actual consultation on the detail of the bill was lacking and extremely bad, and when taken with the attempt of the government to gazump the appeal by the company is most unfortunate.

With those few comments, I conclude my contribution on the Rail Corporations (Amendment) Bill.

Hon. S. M. NGUYEN (Melbourne West) — I will speak in support of the Rail Corporations (Amendment) Bill 2002. The bill is very straightforward: it is to show that the government has a commitment to railway lines and the will and commitment to provide a service to the Victorian community.

In this bill we are not talking about only the metropolitan area, and I will look at the range of issues related to passenger and freight rail services across Victoria, and especially in rural areas, which we need to update. The purpose of the bill is to address the National Competition Council's concerns about Victoria's rail access regime in order to achieve certification of the regime as effective, and also to exclude the application of the Commercial Arbitration Act 1984 to determinations on access to rail infrastructure made by the Essential Services Commission.

Our rail system has been restructured in the last few years — that is, since the Kennett government privatised the public transport system and sold out to the private providers, including a 45-year lease over Victoria's intrastate country rail tracks and associated infrastructure. It has been a big change for our railway system. The previous government wanted to privatise the system, so it did not worry about the loss of a service to the community. Under the previous government everything was based on profits, but this government worries about many of the services delivered by the private providers. We ensure that the service meets the required standards, and that the providers are not just doing their own thing. Part of our approach is based on the principle of making sure high standards are recognised by consumers. We also do a lot to upgrade the system and offer more services from the metropolitan area connecting to many railway lines around Victoria.

We are also concerned that country Victoria is isolated because of a lack of transport. People rely heavily on public transport in moving from place to place. It makes country Victorians feel more comfortable to have a good rail public transport system in Victoria. We are committed to this. We are not trying to make a political point; we want to provide a service to the people.

In the budget we can see very clearly that the government has spent a lot of money on rail freight achievements in 2001 and 2002. The government is committed to funding projects. It desires to improve the competitiveness of rail freight, and in turn increase the ability to grow the market. This is a commitment we make because we know that competition is very important. We make sure that the railway lines are of a high standard. We are committed to improving security and cleanliness, and to ensuring that trains run on time.

In the past many trains have run late or been cancelled because of a lack of good management. This government has tried to pour in more funding because we believe public transport is the way to go for everyone. We have to compete with the airlines and the buses, and we like to encourage people to use public transport for travelling long distances as well as around the metropolitan area. Improving public transport is a key way to improve Victoria because people from every part of the state are then able to move from one place to another.

Sometimes heavy costs are involved because infrastructure and services need to be improved and consumers educated to believe in and use the good public transport system more and more. The government has committed to many things including $96 million for the standardisation of 13 rail lines over the next four years so people can be confident in Victoria's public transport system.

Construction of the North Geelong to Mildura and Yelta rail lines will commence in early 2003. It will link the state's north-west to the port of Portland as well as

linking Geelong to the Melbourne ports. Many tourists will take advantage of travelling by rail, particularly on good summer days. The Mildura line is a priority for the Bracks government as its standardisation will create a direct link between mineral sands deposits in the north-west of the state and the port of Portland. Rail will then have a real opportunity to compete with road in the important north-western rail corridor.

The government will upgrade track standards in the north-east corridor. It is expected that work will commence in 2004 and will extend into southern New South Wales in 2005. The government wants to upgrade all rail facilities in country Victoria.

Standard gauge access to the Geelong grain loop is being provided in partnership with the private sector. It is a win-win situation for Victorians and the private sector in the ports of Geelong and Portland. In the budget the government has committed $5.1 million to provide dual gauge access to Lascelles wharf at the port of Geelong. The budget will benefit people in Geelong because it will improve the rail access to and from the port of Geelong.

The government has committed over $32 million over the next three years to reintroduce passenger rail services to Ararat, Bairnsdale, Mildura and South Gippsland. Thirty million dollars will be contributed towards the construction of the Albury-Wodonga rail bypass. At the moment negotiations are taking place between the cities of Albury and Wodonga in the hope of forming one large city so the rail bypass will be of benefit to people living on the borders of New South Wales and Victoria. They will be able to enjoy the economic growth of both the country and the city.

The government has committed over $5 million to deepening the channel to the port of Melbourne. This will allow large container ships to be loaded to capacity for trips to the port.

Other government initiatives include studies into Dynon hub, the inner western rail corridor and the north-west rail corridor. This new initiative will improve services to Victorian freight. It will benefit service providers, purchasers, suppliers, producers and the whole community.

The government will establish the Victorian Rail Freight Advisory Council, which will operate as a strategic advisory body set up by the minister. It will look at issues relating to the rail lines and discuss issues such as development, planning, regulations and the operation of rail freight services. It will be open to every part of the community.

People will have the opportunity to ask about the benefit to private providers, to users and to buyers. People will be able to discuss, through the Victorian Rail Freight Advisory Council, an initiative of the Minister for Transport, who is responsible for the issues concerning freight.

In September last year the government released the 'Strategic audit of the transport distribution and logistics sector in Victoria' which recommended a number of issues that the government should take up over the next three years. This independent study understands that the Victorian community wants the government to spend money on the freight system. The government wants to make sure that private providers do their jobs better and while it can leave them alone it also has to work with them.

The government must ensure that the service to the community is of the highest standard. The government knows that it is important to provide a good public transport system to all Victorians, including country Victorians, who rely on the public transport system because it is too expensive to drive their cars as petrol approaches $1 a litre. It is also safer to use the public transport system because it reduces the number of cars on the road and therefore reduces the number of accidents on the road.

The government will not undermine public transport users, which is why it will ensure that the private providers make sure the transport system is punctual, clean and safe. I urge all honourable members to support the bill and I encourage consumers to understand more about the public transport system and the changes that have occurred, including the improvements in the system in the last two years. I commend the bill to the house.

Hon. K. M. SMITH (South Eastern) — In speaking on the Rail Corporations (Amendment) Bill I will refer to issues in my local area that relate to the bill, including the track proposed to be extended from Cranbourne to Leongatha. I declare a pecuniary interest to the extent that I am the patron of the South Gippsland Tourist Railway. It is a wonderful organisation that for a number of years has made good use of the line running between Leongatha to Korumburra and further to Loch and Nyora. The difficulty the organisation has experienced for some time is the condition of some of the bridges it has to cross. The organisation had a steam train on loan for its tourist passengers running between Nyora and Leongatha. Testings were carried out on the tracks and it was found that the track between Cranbourne and Lang Lang which runs across the Koo Wee Rup swamp

was starting to deteriorate badly, to the extent that a rescue mission was carried out to get the steam train so it would not be trapped and become unusable. The steam train was recovered but was unable to use the line.

The organisation has what it calls the Red Chook, which is a diesel-electric train that carries tourists and gives people a great experience. I was astounded by the beauty of some of the areas surrounding the line. There are a number of waterfalls there that I was not aware of, even though it is part of my electorate. It is a fabulous area. With the proper instructions people are given the opportunity to drive the train. It is like giving people the opportunity to make a wish. People require proper training, which is terrific, because some of us boys like to have our toys and have the opportunity to have a go at these things. It is very exciting. You must run the train at a reasonable speed, not too fast because you cross over a number of crossings, but the instructors look after you and ensure that the training is done properly.

The funds raised go to the restoration of some railway stations. The Korumburra railway station is a magnificent old building that takes you back almost 100 years to when it was probably one of the major stations on the line. Its condition has deteriorated over time, but it has some magnificent wall and ceiling coverings that have to be restored. I know the South Gippsland tourist group has put a lot of money and effort into repairing the railway station. It also ensures the Loch railway station and other railway stations on that line are being maintained because they have deteriorated since the line was closed in 1991 or 1992.

The line was closed because of the lack of patronage. That was a sad experience because it is something that no-one wants to do. Former transport ministers, the Honourable Alan Brown and the Honourable Robert Maclellan in the other place, had an association with that area. One of the last things they would want to have done was close that line. Since that line was closed a good bus service has been put in place. People have become used to the bus, and a lot think it is safer.

I have given some background information, but there is a proposal for the track to be reopened. I would love to see it reopened. If it were financially viable, reopening it would be a great thing. For a start, the tourist railway in my area would have a much longer track to run along and tourist trains could be run as they are down to Warrnambool. Steam trains could be run as far as Leongatha and would take people to probably the most beautiful parts of Victoria. But it has to be viable. From what I could ascertain from a feasibility study done by the Department of Infrastructure, the track is not viable for passenger travel and that if it were ever to be replaced a number of options would have to be looked at. One is that there is enough freight to justify the expenditure.

The total of replacing the track and upgrading the stations, bridges and so forth came to nearly $10 million. Recently this government contributed $600 000 for the replacement of some bridges between Korumburra and Leongatha, which will enable the tourist railway to run a little further along. The tourist railway people, with a $60 000 grant given to them by the former Minister for Transport, the honourable member for Mornington, repaired some bridges there. New ballast and sleepers also have to be put into place. Over its time the South Gippsland Tourist Railway has done a magnificent job in turning its $60 000 into probably $200 000 worth with all the volunteer work it has put in there.

Recently in my desire to discover whether the passenger rail could get up and running I had to laugh. Looking at last year's budget papers I saw that the government had allocated $5.6 million for the upgrade of the track, $2.4 million or $2.6 million of which it allocated for spending in the current financial year. With only about 50 or 60 days left, the only money it has spent — and I am not sure if it came out of that $2.6 million — has been the $600 000 that has just been allocated by the Minister for Transport.

I called in at a meeting at Lang Lang to find out whether the freight rail people at Freight Australia would be prepared to upgrade the track. In the Lang Lang and Grantville areas are large deposits of sand. They will become the sand mines of Victoria, and sand will be taken out of that area for possibly the next 100 years. Freight Australia sees this as an opportunity and was enthusiastic about the rail being extended to down there and for that type of freight to be carried.

We spoke to most of the sand mining companies down there about whether they would use a rail freight service to move the sand from their mines to where it would be used in the Melbourne metropolitan area. A lot of the sand is used in many different ways. A lot of it is used in manufacturing glass, some of it is used for concrete batching for our city buildings, and some of it is used for mixing with cement to stick together the bricks for normal villas. That sand can be used for far more purposes than I have spoken about.

When we spoke to both the big and small mining companies that operate from that area we found they were in a difficult position. Each was very open in their

discussions, although not letting out too much about how the companies worked and what amount of money they would allocate to the movement of sand. Their no. 1 concern was: how much would it cost to move the sand by rail?

The Freight Australia representative talked about the fact that large amounts of sand have to be carried over reasonably long distances for it to be viable for Freight Australia to move it. ACI used to have a terminal there, called the Koala terminal, where it used to load sand straight from the mine onto a train to take it to its factory, where it was unloaded. That was all done automatically. The only difficulty we have is that the railway line will not be close to the number of sand mines down there and sand will not be able to be loaded straight from the mines onto the railway trucks to be moved long distances. Therefore it may not be viable, as Freight Australia may not be able to put forward competitive prices.

If a passenger rail is to return to Leongatha it is important that the sand companies will be able to be part of the game, if I can put it that way. It has to be worth their while. I am aware that some companies down there are now moving sand by road. They have found that there are considerable savings in moving it by road rather than moving it by rail, as they did previously. That is also something Freight Australia has to overcome if it wants these companies to use its rail freight transportation.

We also have a difficulty with where the mines are developed. As I said, they will be not only in the Lang Lang area, which is where the train runs through, but also in the Grantville area. Grantville is nowhere near the railway line, so the sand will need to be loaded onto trucks for movement to Melbourne or other areas. It will be double handling — in fact, it will be quadruple handling — for the companies to move the sand to the places they want it moved to. With road transportation they can load the sand onto their trucks at the mine sites and take it to wherever it is needed — whether it be a factory, a building site, a garden supplier, or wherever. This is a difficult situation. I had hoped this legislation would be a panacea for some of the difficulties I have explained, but I am not sure that it solves the problems.

Among the things that have occurred with this bill has been the lack of consultation with Freight Australia. The bill was introduced on Wednesday, 17 April. One would think that Freight Australia's interest in this is paramount; it is the company that will be most adversely affected by this piece of legislation. Freight Australia was not advised by the Bracks government until 19 April — that is, two days after the bill was introduced — that it had planned the legislation.

Hon. R. A. Best — What a disgraceful form of consultation.

Hon. K. M. SMITH — It is, because this government is supposed to be an open and transparent one and its belief in consultation, as the house heard today from the lips of some ministers, is of paramount importance. The Minister for Sport and Recreation talked about how he is consulting on projects associated with the Commonwealth Games, but we know that is not correct; there has been a complete lack of consultation.

This bill is another example. How could the government put the legislation together without talking to the main people involved in the rail industry? Part of the problem is that the government has attempted to beat the findings of the Australian Competition Tribunal. Freight Australia had applied to the tribunal in an effort to assist it to run a more competitive railway system in Victoria. I find it strange that the government did not talk to Freight Australia about the bill.

The decision on the appeal by Freight Australia to the Australian Competition Tribunal is expected to be handed down on 11 September. The house is debating legislation that will override that tribunal decision. That is crazy and shifty on the part of the government. I find it difficult to understand why it would go to that sort of trouble. I refer to those issues so the house can deliberate on them.

We are also in a position where the new rail access regime allows for the competitors of Freight Australia to pick and choose the most profitable routes; they can start running trains on the tracks that Freight Australia had to pay for. They will operate on the tracks but without facing the cost that Freight Australia has had to overcome. Freight Australia paid $89.7 million for V/Line Freight, but what it paid will be wiped out because others can come in and run their trains on the tracks. That is not competitive; in fact, it is anticompetitive because Freight Australia has been carrying that approximately $89 million capital cost for a long time, and will continue to bear it in the future.

That will allow for tracks that are not viable not to be used. It is crazy to think that we will reach the stage where the tracks will be closed down and handed back to us — because the Liberal Party will be in

government when the tracks are handed back to the Victorian government.

Then, suddenly, we will be responsible for looking after the tracks, yet Freight Australia bought them on the basis of its paying about $90 million and being entitled to run the trains. It has run them competitively. It has turned losses around and is starting to make profits. Congratulations to that company because I believe in that sort of thing. Believe it or not, it is offering better services to the people who want their freight moved throughout the state by rail. That is an important issue for the house to note.

This regime does not allow for the cross-subsidisation of the unprofitable and non-viable routes. If you have some part of a business that is profitable, you can afford to have another part that is unprofitable using cross-subsidisation; you can make both tracks of a railway line work. You will not be returning a huge profit from one part of your business but you would be subsidising it, and keeping the tracks operating, which is important for Victorians.

The government has acted disgracefully through its introduction of this legislation, but without consultation with Freight Australia and without taking into consideration what the government is doing to the people. All those facts should be put on the record so that Victorians who may be in a position to pick up a copy of *Hansard* — I am sure they would rush to get a copy of *Hansard* to read my speech! — can read what I have revealed to the house today.

It concerns me that this sort of legislation is allowed to pass. It contains an excessive penalty of $120 000 for breaches of confidentiality. That is equal to the highest penalty we have for corporate crime in Victoria. Confidentiality may be important, but the fact that a $120 000 fine hangs on it seems to be going overboard.

That is what the government is doing. It is trying take away all the good things that have been done with rail in Victoria. It is trying to ruin it. It is trying to apply so much pressure that Freight Australia may eventually say, 'We have had enough'. Maybe that is what the government wants; maybe it wants to have its own little toy trains again and run the railways at a loss again.

The Kennett government was in a position to make changes to the railway system in Victoria. Now there is competition in passenger and freight rail. Victoria is now losing less money than was being lost by the previous Labor government as there is no longer responsibility on the companies that bought the rail lines.

Now we have better transportation, including our trams, to service Victorians — and that was achieved not by this government but by the Kennett government. A great deal was achieved in the time the present opposition was in government. We had to look at the debts run up by the previous Labor government.

Victorians are being serviced far better by the public transport system than was the case when the Labor Party lost government and left the state in such a mess. We did not have to go in in an underhanded way to try to put Freight Australia out of business through this sort of legislation. The government has acted disgracefully. It is time it woke up to itself, although I am not sure it is prepared to ever do that. I am pleased that the Minister for Sport and Recreation has entered the house because earlier I talked about open, transparent and accountable government. The minister let us down today.

Hon. J. M. Madden — On the bill.

Hon. K. M. SMITH — I am on the bill, because we are talking about open and transparent government. The minister talked earlier today about consultation with residents of the City of Port Phillip, whose Labor Party mayor was critical of the lack of consultation on behalf of the minister.

The same thing has happened so far as rail services are concerned. Now it is becoming a standard of this government. It hides as much as possible and does not consult with people. Freight Australia has been successful for Victorians through being able to deliver on time and at a lower cost because it is competitive, but I know the Labor Party does not like competition because it does not fit in with what the Labor Party stands for.

The minister is pleased, and so she should be. However, I am disappointed that the bill has shown that the government does not work for the betterment of the people of Victoria. In an underhanded way it is trying to seize back Freight Australia rail lines.

Motion agreed to.

Read second time.

Third reading

Hon. C. C. BROAD (Minister for Energy and Resources) — By leave, I move:

That this bill be now read a third time.

In so doing I thank all honourable members for their contributions to the second-reading debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

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

AUDIT (FURTHER AMENDMENT) BILL

Council's amendments

Message from Assembly disagreeing with following amendments considered:

1. Clause 16, page 15, lines 8 and 9, omit "when the Parliament is in recess".

2. Clause 16, page 15, line 10, omit "one business day's" and insert "2 business days'".

3. Clause 16, page 15, lines 16 to 18, omit all words and expressions on these lines and insert —

   "(c) publish the report on the Auditor-General's Internet website —

      (i) as soon as practicable after it is first laid before a House of the Parliament; or

      (ii) if the report is given to the clerks when the Parliament is in recess — as soon as practicable after giving it to the clerks.".

4. Clause 16, page 15, lines 24 to 30, omit all words and expressions on these lines and insert —

   "(b) if the report is received when the Parliament is in recess — give a copy of the report to each member of the House as soon as practicable after the report is received.".

5. Clause 16, page 15, line 32, after "(4)(b)" insert "when the Parliament is in recess".

6. Clause 21, lines 27 to 30, and page 22, lines 1 to 5, omit all words and expressions on these lines and insert —

   "'(2) A person who receives a relevant document from the Auditor-General or who, in accordance with the Auditor-General's written authorisation, receives information contained in a relevant document must not disclose any information contained in the relevant document except —

      (a) in accordance with the Auditor-General's written authorisation; or

      (b) after the information the person discloses has been made public in a report by the Auditor-General.".

7. Clause 21, page 22, after line 9 insert —

   "(3) In this section, "**relevant document**" means a proposed report or part of a proposed report of the Attorney-General under this Act.".

8. Clause 21, page 22, line 10, omit "(3)" and insert "(4)".

9. Clause 21, page 22, line 14, after "information" insert "the person discloses".

10. Clause 21, page 22, line 20, omit "corporate."." and insert "corporate.".

11. Clause 21, page 22, after line 20 insert —

   "(5) For the purposes of sub-sections (2) and (4), information is taken to have been made public in a report of the Auditor-General when —

      (a) the report is laid before a House of the Parliament under section 16AB(3); or

      (b) the report is taken under section 16AB(6) to have been published by order, or under the authority, of the Houses of the Parliament.

   (6) A person who contravenes sub-section (2) or (4) also commits a contempt of the Parliament and may be dealt with by the Parliament for that contempt.

   (7) Despite sub-section (6), a person is not liable to be punished more than once for a contravention of sub-section (2) or (4).'.".

Hon. M. M. GOULD (Minister for Education Services) — I move:

That the Council do not insist on amendments 1 to 10 with which the Legislative Assembly have disagreed.

House divided on motion:

Ayes, 11

Broad, Ms	Madden, Mr
Carbines, Mrs	Nguyen, Mr
Darveniza, Ms (*Teller*)	Romanes, Ms
Gould, Ms	Theophanous, Mr
Jennings, Mr	Thomson, Ms
McQuilten, Mr (*Teller*)	

Noes, 26

Ashman, Mr	Davis, Mr P. R.
Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Bishop, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms (*Teller*)
Bowden, Mr (*Teller*)	Olexander, Mr
Brideson, Mr	Powell, Mrs
Coote, Mrs	Rich-Phillips, Mr
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr

Pairs

Hadden, Ms	Ross, Dr
Mikakos, Ms	Smith, Ms

Motion negatived.

Hon. M. M. GOULD (Minister for Education Services) — I move:

That the Council do not insist on amendment 11 with which the Assembly have disagreed.

Motion agreed to.

Hon. D. McL. DAVIS (East Yarra) — I move:

That the following amendment be now made in the bill in place of amendment 11 not insisted on by the Council.

Clause 21, page 22, after line 20 insert —

"(5) For the purposes of sub-sections (2) and (4), information is taken to have been made public in a report of the Auditor-General when —

(a) the report is laid before the House of the Parliament under section 16AB(3); or

(b) the report is taken under section 16AB(6) to have been published by order, or under the authority, of the Houses of the Parliament.'.".

In doing so I make the point to the house that the opposition has chosen specifically not to insist on the matters relating to contempt of Parliament in this bill, which has been moving between the houses, as honourable members will be aware. The opposition has chosen to take a conciliatory and discussive mode and is prepared to discuss further aspects of this bill. By doing so, I register the concerns the opposition still has about the impact of this bill on the press and on the freedoms of the press.

It still concerns me and the opposition is still persuaded by the advice of D. G. Robertson which I read into the record in this house when the bill was dealt with earlier. I will quote briefly from that advice again and make the point from the last paragraph of the legal opinion that we inserted in the record:

Although the restrictive interpretation of the proposed subsection can be supported in the way set out by Mr Hanks and Mr Syme, the true meaning of the proposed subsection is, at least, unclear. In my opinion, the better view is that the proposed subsection (2) would prohibit the disclosure by any recipient of a proposed report or part of a proposed report of the Auditor-General (no matter how the report was received) of information contained in it, except as set out in the subsection.

The PRESIDENT — Order! The honourable member has moved an amendment and the house is entitled to hear the explanation. There is too much audible gossip. I ask honourable members to keep quiet and allow Mr Davis to be heard.

Hon. D. McL. DAVIS — The conclusion of the advice by D. G. Robertson was:

Thus a journalist who received a leaked copy of a proposed report would be criminally liable if he or she disclosed any of the information contained it.

The opposition continues to insist that this aspect of the bill be dealt with more adequately by the government. The opposition is concerned about the impact of this bill specifically on the press, both electronic and print, and there is considerable concern that freedoms and liberties would be infringed and inhibited in this way. In doing so I commend the amendment to the house.

Hon. JENNY MIKAKOS (Jika Jika) — I rise to make a brief contribution to this amendment, as this bill has now come before this chamber on a number of occasions. The government will be opposing the opposition amendment as it constitutes too little too late. The opposition has known now for many weeks of the government's position regarding this bill. We have had this bill bouncing back and forth between the two chambers of the Parliament since before Christmas. We put together a bill in consultation with the Auditor-General.

The bill is essentially what the Auditor-General requested but we have seen mindless opposition and spurious amendments put forward by the Liberal Party. There have been a number of half-baked amendments that are only seeking to pander to the laziness of the opposition because they are not prepared to come into the Parliament and obtain copies of the Auditor-General's report in order to comment on its substance. Obviously, they need to have enough time to get copies of the report and give it to their advisers and for them to give them some sort of analysis of it.

The government has been prepared to consider reasonable amendments to this legislation. We have seen the opposition acknowledge its folly and remove the contempt of Parliament provision in clause 21. That requirement was never going to work because there are hundreds of statutes in this state, and only one refers directly to contempt as a provision. The opposition was never serious in putting up such a half-baked proposal.

The government's resistance to the opposition's amendments goes much further than clause 21. It is opposed to watering down the notification periods of reports to two days when this has never been required in the past. We believe the Auditor-General should be free to choose when he forwards reports to the

Parliament. The bill has been debated a number of times and I do not wish to recap all those arguments that we have covered adequately in the past. The opposition needs to understand the government's resolve in respect of this matter — it opposes this amendment and the half-baked amendments that the opposition has put forward. If the opposition wishes to come up with reasonable amendments that will seek to balance the need to prevent public disclosure of confidential material with the rights of ordinary Victorians, the government is prepared to negotiate on that basis.

However, the government believes that as it currently stands the amendment is half baked and unworkable, and it will not support it. We ask the opposition to accept the bill in the form it came in from the Assembly.

Hon. R. M. HALLAM (Western) — I am saddened to hear the government's response delivered by the Honourable Jenny Mikakos to the recast amendments offered to the chamber. In the past I have commented that we are talking about issues at the margin. We have gone through a lengthy, even tortuous process to determine a range of amendments to the Audit Act. We have gone to the trouble of having the Attorney-General sign off on the changes. Here we are talking about issues that are ancillary to the major changes.

There were three issues on which the two major parties determined there was a difference of opinion, and tonight the Liberal Party has given an enormous amount of ground. It has said that it would not proceed with the issue of parliamentary contempt which was the major issue concerning the government. The other issues are absolutely irrelevant in the grand scheme of things. I entreat the government to take on board what has been offered in the spirit of cooperation in the chamber tonight because in my view the Liberal Party has stepped back from what was a very substantial issue in the initial debate: the question of whether the breach of confidentiality by an honourable member of the Parliament automatically constituted an issue of contempt.

My colleagues in the Liberal Party have said, 'Look, if that is such a big issue to the government we are prepared to put it to one side'. Please do not let a major piece of legislation be determined on the flippant response we have just heard from government.

Hon. Jenny Mikakos — It was not flippant.

Hon. R. M. HALLAM — I ask the government to go back and look carefully, Ms Mikakos, at what has been offered here. A substantial compromise is being offered across the chamber and the government has made very light of it. I am not sure that the senior members of the Australian Labor Party understand what is being offered and what is being denied.

Hon. R. F. Smith — How patronising!

Hon. R. M. HALLAM — I accept the interjection by the Honourable Bob Smith. Even though he is not in his place and the interjection was unruly, I accept it.

However, in the spirit of the enormous amount of work that has gone into the bill by a whole range of people quite external to the Parliament — the people who were directly involved from the Office of the Auditor-General in finding a compromise in a very big issue — I ask that the government does not let this Mexican stand-off pass as it has been put to us. All we need to do is find a very simple compromise to the issues remaining on the table. It should not be beyond the wit of the chamber to find the key to that compromise.

I hope that what Ms Mikakos put to the chamber tonight is not the continuing attitude of the government because it is passing up an important piece of legislation. I appeal to the government to look at this in the light of day, perhaps not immediately after dinner when we are inclined to be flippant, to see if there is a solution to the issues that have been put on the table. The opposition has stepped back dramatically from its initial position and in the same spirit the government should be prepared to look at the prospect of a really good change to the Audit Act in this state.

House divided on motion:

Ayes, 26

Ashman, Mr	Davis, Mr P. R.
Atkinson, Mr	Furletti, Mr
Baxter, Mr	Hall, Mr
Best, Mr	Hallam, Mr
Birrell, Mr	Katsambanis, Mr
Bishop, Mr	Lucas, Mr
Boardman, Mr	Luckins, Ms
Bowden, Mr	Olexander, Mr
Brideson, Mr	Powell, Mrs
Coote, Mrs (*Teller*)	Rich-Phillips, Mr (*Teller*)
Cover, Mr	Smith, Mr K. M.
Craige, Mr	Stoney, Mr
Davis, Mr D. McL.	Strong, Mr

Noes, 12

Broad, Ms	Madden, Mr
Carbines, Mrs	Mikakos, Ms (*Teller*)
Gould, Ms	Nguyen, Mr

Hadden, Ms
Jennings, Mr
McQuilten, Mr
Romanes, Ms
Smith, Mr R. F. (*Teller*)
Thomson, Ms

Pairs

Ross, Dr
Smith, Ms
Theophanous, Mr
Darveniza, Ms

Motion agreed to.

Ordered to be returned to Assembly with message intimating decision of house.

THEATRES (REPEAL) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

The Theatres Act 1958 sets up two regulatory regimes:

a permit scheme for cinemas that wish to show films on Good Friday and Christmas Day; and

the licensing of live entertainment.

The act also allows the Attorney-General to revoke an authority or licence for the provision of live entertainment, if certain public entertainment has been provided in a theatre on Anzac Day before 1.00 p.m.

The Theatres Act is a consolidation of previously existing laws. In fact much of the Theatres Act reflects the Licensed Theatres Act of 1850. The current act was enacted in a time when social attitudes were quite different to those held today. In particular the view of the community towards days sacred in the Christian calendar such as Christmas Day and Good Friday, and Sundays for that matter, were also quite different. This is clearly reflected in the regulatory regime set up by the act.

The only part of the Theatres Act that is currently administered relates to the issuing of permits for cinemas to operate on Good Friday and on Christmas Day. Permits have regularly been issued for cinemas to operate on Good Friday and were issued for Christmas Day 2001.

The need to review the act to determine its continuing relevance has been apparent for a number of years. In Victoria's increasingly multicultural and diverse society, the Theatres Act has become somewhat anachronistic.

In February 2000, the Bracks government gave the parliamentary Law Reform Committee a reference to inquire and report to the Parliament on the continuing relevance of the Theatres Act. In summary, the Committee was to report on:

the need to retain the licensing system for theatres;

the appropriateness of requiring special authorisation for the provision of live entertainment and the operation of cinemas on Christmas Day, Good Friday and Anzac Day; and

the impact were the Theatres Act repealed.

The committee's report was tabled in Parliament on 31 May 2001. The report made six recommendations. In summary, the committee recommended that the Theatres Act be repealed and that provisions dealing with the prohibition against live entertainment prior to 1.00 p.m. on Anzac Day be transferred into the Anzac Day Act. The government's response accepted these recommendations. The Theatres (Repeal) Bill 2002 seeks to implement the committee's recommendations.

Repeal of the Theatres Act

Part 2 of the bill repeals the Theatres Act 1958 in its entirety. While the act provides for a scheme for licensing live entertainment, this scheme has been inoperative, at least since 1958. The repeal of the act will also mean that cinema operators will no longer be required to obtain a permit to operate cinemas on Christmas Day and Good Friday. The Law Reform Committee considered the aim of the restriction on cinemas operating on Christmas Day and Good Friday and concluded that:

> If it is to encourage the observance of the Christian religion, it would be difficult to accept this as a legitimate activity of the modern state even though it has historically been an explicit objective of the forerunner to the present legislation.

Repealing the Theatres Act as recommended by the Law Reform Committee will contribute towards reducing regulatory burdens on business, for instance, cinema operators. In addition, repealing the act recognises that, while Good Friday and Christmas Day continue to have historical and religious significance in Victoria, the restrictions that the act imposes on entertainment options on these days may no longer be appropriate.

Amendments to the Anzac Day Act

The Law Reform Committee also considered the appropriateness of restrictions on the types of live

entertainment undertaken on the morning of Anzac Day.

Anzac Day is an opportunity to remember the sacrifices of many Australians in times of war. As a result, there are already restrictions on many public activities during the morning of Anzac Day which is traditionally reserved for the Anzac Day parade and attendance at the dawn service. There are restrictions on shop trading hours, sport and racing activities, gaming, the operation of Crown Casino, the sale of liquor and the operation of cinemas. Currently, under the Theatres Act, the performance of live entertainment before 1.00 p.m. on Anzac Day, is restricted.

The Returned and Services League made strong submissions to the Law Reform Committee about the importance of maintaining the Theatres Act restrictions on live entertainment prior to 1.00 p.m. on Anzac Day. The committee recommended that these restrictions be transferred to the Anzac Day Act, following repeal of the Theatres Act.

Part 3 of the bill includes amendments to the Anzac Day Act to restrict the provision of entertainment before 1 p.m. on Anzac Day. However, to provide some flexibility the bill includes a permit scheme, so that the minister may provide a permit for entertainment which is a genuine commemoration of Anzac Day or where the entertainment would not detract from or adversely affect the commemorative nature of Anzac Day.

The bill makes clear that a person must not, without a written permit from the minister, provide any entertainment or allow any entertainment to be provided before 1.00 p.m. on Anzac Day at a place where persons are admitted on payment of a fee or charge, or at which a commercial business is carried on for the supply of goods or services or both. The bill adopts an inclusive definition of 'entertainment' — for example, a coffee shop that wishes to provide live music before 1.00 p.m. on Anzac Day will be required to obtain a permit from the minister.

The bill provides a limited exception to the general restriction on the provision of entertainment before 1.00 p.m. on Anzac Day. The restriction will not apply to live entertainment if it is provided on premises which are currently licensed for the sale of alcohol. Effectively, live entertainment provided in conjunction with a current liquor license would be carved out of the general prohibition. For example, where a pub is licensed to supply alcohol until 3.00 a.m. on Anzac Day morning, the provision of live entertainment until 3.00 a.m. on those premises will be permitted.

Under the Liquor Control Reform Act, where ordinary trading hours apply, a venue is authorised to supply alcohol until 11.00 p.m. on Anzac Day eve. However, the director of liquor licensing may approve extended trading hours which will typically allow venues to stay open after midnight and into Anzac Day morning.

The limited exception in the bill will not detract from the commemorative and sombre nature of Anzac Day. When considering whether to approve extended trading hours, the director of liquor licensing takes into account both the time of closure of a venue and its proximity to either the dawn service or the Anzac Day march, to minimise the impact on either of these events.

The approach proposed in the bill is aimed at recognising the importance of Anzac Day while limiting interference with the normal operations of licensed venues, which often includes the provision of live entertainment.

I commend the bill to the house.

Debate adjourned on motion of
Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until next day.

GUARDIANSHIP AND ADMINISTRATION (AMENDMENT) BILL

Second reading

Hon. J. M. MADDEN (Minister for Sport and Recreation) — I move:

That this bill be now read a second time.

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

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

Consent to medical and dental treatment

In 1999, the Guardianship and Administration Act was amended to include a substitute consent regime for

incompetent people in relation to their medical and dental treatment (part 4A of the act). At present, part 4A applies to a 'patient', which is defined to mean 'a person with a disability which is a permanent or long-term disability'.

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

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

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

Accordingly, the bill provides that where a 'patient' is likely to be capable, within a reasonable time, of giving consent to the carrying out of medical or dental treatment, the person responsible (which is defined in section 37 of the Guardianship and Administration Act and includes a person appointed by the patient under the Medical Treatment Act 1988 or a person appointed under a guardianship order) can only consent to the carrying out of the treatment, and a registered practitioner can only carry out that treatment if —

the registered practitioner reasonably believes, and states in writing in the patient's clinical records, that a further delay in carrying out the treatment would result in a significant deterioration of the patient's condition; and

neither the registered practitioner nor the person responsible has any reason to believe that the carrying out of the treatment would be against the patient's wishes.

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

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

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

Special procedures

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

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

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

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

Other amendments

Mental Health Act 1986

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

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

These amendments will ensure that appointed decision-makers have power to consent to non-psychiatric treatment for involuntary patients.

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

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

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

Guardianship and Administration Fund

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

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

I commend the bill to the house.

Debate adjourned on motion of
Hon. P. A. KATSAMBANIS (Monash).

Debate adjourned until next day.

FISHERIES (FURTHER AMENDMENT) BILL

Second reading

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That this bill be now read a second time.

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

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

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

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

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

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

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

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

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

The bill is presented to Parliament following consultation with affected stakeholder groups. There has been support from many groups for the proposed

amendments and this bill will continue the development of ensuring sustainable cooperative management of our fisheries into the future.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. FURLETTI (Templestowe).

Debate adjourned until later this day.

BUDGET PAPERS, 2002–03

Hon. C. C. BROAD (Minister for Energy and Resources) — I move:

That the Council take note of the budget papers, 2002–03.

Hon. N. B. LUCAS (Eumemmerring) — I note that the Minister for Energy and Resources moved that this house take note of the 2002–03 budget. In addressing this issue I firstly want to say that in recent times a number of ministers in this house have said, 'We are turning this state around'. I have reflected on that statement. It seems to me that they may be right, but I think they are turning it around in the wrong direction, and in my contribution I will point out to the house how I have come to that decision. We seem to now be moving in a direction in which we should not be moving.

Under the Kennett government this state was on the move. It was a place of action, it was a place of excitement, it was a place that people from all around Australia looked to and it was a place where something was happening.

Hon. W. R. Baxter — It was jumping.

Hon. N. B. LUCAS — It was jumping, as my colleague Mr Baxter suggests, but now it is just the place to be — a mundane sort of statement. It is the place to be for procrastinating. It is the place to be for reviewing. It is the place to be for vacillating. It is the place where recurrent expenditure has increased enormously. It is the place where the government makes a whole lot of announcements but does not actually do anything. It is the place where the government crows about 800 extra police, but the figures that come out show that the number of sworn operational police — on the figures that I have — has gone down. It is the place where a high-taxing government has ripped record amounts of stamp duty, land taxes, insurance taxes, payroll taxes, and police fines, out of the community. It is the place where Victorian families are each paying an average of $1500 more per year in taxes than when the Bracks Labor government came to power.

There is no doubt in my mind that Victoria is losing under Labor. We are now commencing our ride down the traditional slippery slope. In this regard I refer to an article at page 15 of the *Age* newspaper of 19 December, where Ewin Hannan referred to the report of the Auditor-General. The article reported that the Auditor-General:

> … found costs associated with employee entitlements — salaries, wages, allowances, and employee-related on-costs — totalled $8.6 billion last financial year, $661 million or 8 per cent more than the previous year.

This is typical of Labor governments — they pump so much money into public servant entitlements that they get to a situation where the state can no longer afford to run itself.

This is what happened when the Minister for Energy and Resources was advising the former Premier, Joan Kirner. The Honourable Candy Broad worked for Minister Kirner and advised her how to run the state. When Minister Kirner, the Premier of the day, finished her time in 1992, what was the recurrent expenditure situation in this state? We were more than $2 billion in the red on recurrent expenditure.

Hon. G. K. Rich-Phillips — How much, Mr Lucas?

Hon. N. B. LUCAS — More than $2 billion.

It seems to me that we are starting to head in the same direction. That is a real worry. Public servant entitlements have to be appropriate, but they should certainly not be over the top. The additional cost this puts onto the community has to be funded, and that is where this additional $1500 per family has come in.

There is no doubt that we are losing under Labor. It seems that the problem with Labor is that it just cannot make any decision other than improving the lot of public servants. It is just so slow to make a decision; it is so slow to make a commitment; and that is why there have been 700 or more government-initiated reviews. So embarrassing is the number of reviews that the government is not calling them reviews any more. A Labor member has advised me, 'We are now calling them analyses'. You do not do a review any more, you do an analysis, because they do not want to add this to the list and get up to 800 or 1000. But we know what is going on: the government just cannot make decisions.

In the 2002–03 state budget the Bracks government's tax rip-off of Victorian families will result in a $2.7 billion increase in the tax burden on poor families

in this state — and by 'poor families' I mean all of them since the Bracks government came to office in 1999 — or $1500 for every family.

The government is dipping its hands into the pockets of every Victorian. We have seen a huge increase in taxes. Victoria's effective land tax rate of 2.32 per cent is higher than the national average of 1.96 per cent, and is higher than our major competitors. The figure in New South Wales is 1.68 per cent and in Queensland, 1.64 per cent. Victoria's stamp duty — another Bracks government rip-off — is the highest in Australia. Our figure is 4.05 per cent compared with 3.09 per cent in New South Wales and 2.43 per cent in Queensland. It is interesting that Victoria is also higher than the national average of 3.24 per cent.

Stamp duty on motor vehicles in Victoria is $89.31 per capita. In New South Wales the figure is $71.55; in Queensland, $46.42; and the national average is $71.82. Labor's addiction to poker machine income is another way of generating income for the government. Victoria's per capita gambling tax in 2000–01 was $343.43 compared with $260.68 over the same period in New South Wales; in Queensland, $194.59; and the national average, $247.19. What about payroll tax? Victoria has the second-highest payroll tax in Australia, at $529.23 per capita. Victoria may be below the $613.34 per capita in New South Wales but is higher than the national average of $494.33. There are numerous examples of where the Bracks government is ripping tax out of individuals and out of businesses. That will catch up with the government.

Eumemmerring is not only a great little suburb between Doveton and Hallam but it also describes the name of the upper house province that I am proud to represent, with the Honourable Gordon Rich-Phillips. That province includes Dandenong, Narre Warren, Berwick, Pakenham, the Dandenong Ranges region and all the towns and suburbs alongside those major centres.

Prior to the 1999 election the Labor Party in opposition made a number of promises. Its first promise for the south-east metropolitan area was to build an Endeavour Hills police station. I have raised that issue in this place many times. That promise was made in 1999; it is now almost the middle of 2002, yet not a brick has been laid for that police station. In fact, the site has not been chosen. The government decided on a site and said to the local council, 'We have found a place to put the police station'. Where is it? In a park! The government wanted to rip out the swings and slides and build a police station in a park on Heatherton Road. The council said, 'No way' — and I agree with the council. Land is available next to the shopping centre on Heatherton Road and I cannot for the life of me understand why the government has not moved to take over that site.

In 1999 the Labor Party said, 'Elect us and we will build and open the Narre Warren South P–12 school for the start of the education year in February 2001'. The Liberal Party said, 'No, that cannot be done; it cannot be opened until February 2002'. When was it opened? February 2002, as the Liberal Party had said. The Labor Party in opposition had said it would build the school and open it a year earlier, but it certainly did not do that.

Fast trains to Gippsland was another promise. Not one has gone past the station at Berwick near where I live. Not a sleeper has been laid on the track to allow for fast trains to Traralgon. The people of Dandenong, Berwick and Pakenham, where the train may or may not stop, have not yet seen such a train. It will be a long time before they see it because although that was another promise by the Labor Party, very little has happened to give us any joy in expecting a train will come along that line in the very near future.

The Labor Party also said it would negotiate to keep Waverley Park in operation. Waverley Park is having another operation but not to retain Australian Football League matches — it is to chop off the forward flank, the wing, the back flank and the back pocket, to demolish the outer and some of the grandstands, to rip up the car park and turn it into housing. That is what came of that promise.

The government has promised a number of times to build a railway underpass at Narre Warren. Another promise was made recently. The government said $22 million would be spent on the railway underpass on the Narre Warren–Cranbourne Road. That is another promise I am waiting to see kept. The Minister for Transport has made that promise on a number of occasions, but again no action has occurred. It is another empty promise!

The Regional Infrastructure Development Fund was another opportunity that a reasonable person may have thought would go to the farming areas in places such as Garfield or Tonimbuk or up into the Upper Yarra area or the potato farming areas around the hill country of Cockatoo and Gembrook. They are rural areas, with farming people living in each of the places I mentioned. But — surprise, surprise! — although Labor Party announcements promised the fund as something that would fix all the ills of rural areas, the shires of Cardinia and Yarra Ranges were not included in the schedule under the act and have not been provided with 1 cent in funding from that fund.

When he launched the election campaign for the Labor Party the then Leader of the Opposition, now the Premier, made some statements. Under the heading of health he said that as part of its first steps to restoring confidence in the Victorian health system his government would do a number of things.

Hon. B. C. Boardman — Like what?

Hon. N. B. LUCAS — He referred to hospital waiting lists. The government conveniently publishes quarterly figures. That practice was started by the previous government and the Bracks government has continued it. We are able to see from those statistics how things are going. It is a fact that this do-nothing government does not have a good record in health. It has made the system even worse because, for instance, at the Dandenong Hospital within my electorate in December 1999 the waiting list for semi-urgent elective surgery had 262 people on it. Under the Bracks Labor government that figure increased to 688 in December 2000 and at the end of December 2001 the figure had increased to 865. From December 1999 to December 2001 the number of people on the semi-urgent elective surgery waiting list increased from 262 to 865. That is not fixing anything!

The statistics for people waiting for a longer time than is deemed necessary for semi-urgent elective surgery show an increase. In December 1999 the list had 90 on it; in December 2000 it was 389; and in December 2001 it had increased to 551 — that is, an increase from 90 to 551.

The third set of figures I mention relates to people waiting in the emergency department of the Dandenong Hospital for longer than 12 hours. The figure in December 1999 was 248; in December 2000 it was 563; and in December 2001 it had increased to 712. These figures, assumedly correct, are from a government publication. They clearly show that the health system in so far as it affects Dandenong Hospital has become worse.

Hon. R. A. Best — Consistent with all public hospitals across Victoria.

Hon. N. B. LUCAS — Indeed, Mr Best. In our local newspapers we read articles about the Berwick hospital. Prior to the election, discussions were held about the finalisation of establishing a private hospital at Berwick. That was put on hold when the Labor Party won office in 1999. We all had to hold our breath for a long time.

Finally, the local *Berwick-Pakenham Gazette* of 19 July 2000 carried the headline ‘New hospital by 2002’. It is 2002 now! I went down there the other day and there is not a brick, although the Minister for Health said that Berwick is set to receive the much-anticipated new hospital by August 2002.

Hon. Andrew Brideson — They must be doing an analysis!

Hon. N. B. LUCAS — No, it must be a portable! The article states:

> The announcement of the $50 million project was made last Thursday by state health minister John Thwaites and Dandenong MP John Pandazopoulos.

August 2002 is not far away. It is now May, so there is not long to build a hospital! This is another broken promise.

The other day there was a community meeting on the hospital, and a public servant came along. I wrote down what he said about the Berwick hospital: ‘It looks like people are digging in their heels’ over the hospital. I agree with him because that is the way it looks to me. He went on to say, ‘We are pursuing an aggressive timetable, and we will have done well if we achieve the December 2002 final contract’ But he sort of suggested they might not achieve that. If you start building in December 2002 at the earliest, when will the hospital be finished? The latest from the government is that the Berwick hospital will open in 2004. The Labor Party came to government in 1999 and said, ‘You will get your hospital’ but we will not see the hospital at the earliest until 2004. To me, that is a disgrace!

I turn to education and the Berwick Primary School, a school that has had a long and interesting history in that governments of both persuasions have believed it should be shifted. The former government agreed it should be shifted and came up with a site. Following the election, the former Minister for Education decided to conduct a review, because that is what you do if you are a Labor minister. After reviewing the matter funds were allocated, but then there was procrastination in choosing between three different sites. The promise was that the school would be built by 2001, and we hoped for it in 2002. I found out this week that the government signed some document with a contractor to start building the school. The possibility now is that it will be opened some time next year. This is another project in Berwick where the people have believed and hoped that promises will be fulfilled but have had their hopes dashed.

Another matter is education and the capping of class sizes. That is an issue in my electorate because it is the fastest growing area in Victoria and has the highest

number of young children of any area in Victoria. When the Premier said that a Labor government would cut class sizes for prep and grades 1 and 2 to 21 or less we thought, 'When will it happen?'. The fact is that that has not happened either, because the former minister changed her mind and moved from using a cap to using an average figure. Everybody knows there is a large number of prep and grades 1 and 2 primary classes throughout the state that have more than 21 children. There are throughout my electorate, as there are throughout every other electorate.

I have mentioned the Endeavour Hills police station and also the promise that there would be 800 more police. The government's own figures through the Productivity Commission report show that for 1998–99 through to 2000–01 the figure for sworn operational police moved from 9272 to 9232 — which means there has been a reduction, not an increase. If you put 800 police on and 840 leave that means there are 40 fewer; it is not a matter of putting a spin on it by saying that it has increased police officers by X number. How many sworn operational police are on the job? According to the figures there are fewer police. Another promise has not been fulfilled.

I represent the City of Greater Dandenong, and recently it has been dudded by the government. The government certainly has had discussions with the council over the years about the saleyards at Dandenong, which had been closed and all the buildings demolished. It is a waste site just about adjacent to the railway station and nothing is happening with it. The other day the council received a message that the Premier was coming on 12 March and it was told, 'We cannot tell you what time he is coming; it is all a big secret. The reason it is secret is for security reasons'. The reason is that the Premier is worried about hazardous waste protesters having a go at him. I do not know whether he flew in, but I hear that he may have flown in and that a councillor had to drive from Dandenong into the city so that she could fly in the helicopter with the Premier. I do not know whether that happened, but I gather that was the plan.

The council was stunned that the Premier arrived in Dandenong and announced a $250 million housing project to redevelop the land where the saleyards used to be. He announced that the Urban and Regional Land Corporation (URLC) will invest $250 million developing 1000 homes and apartments on the former saleyards site in Dandenong and that the project will create 4000 jobs. I do not have a great problem with that, but my view is that the council and the government certainly should have had discussions and worked out exactly what was going to happen, they should have been happy with that, and there should have been some agreement.

The facts are that the Premier marched into Dandenong and announced the project when the council owns the land and had not agreed to sell it to the URLC or given any formal approval to any of the proposals the Premier announced. He had an idea to get around that, because he said, 'We will introduce legislation into the state Parliament to create a new authority, the Dandenong development board'. He will take the council's land and cut the council out of the debate — they may get one representative. The development board will become a planning authority for this major development in the Dandenong area.

I am concerned that the government has walked over the council and announced what it will do. At page 3 of the *Dandenong Journal* of 18 March, the local member, the Minister for Gaming, is quoted as saying:

> … the government made the announcement rather than waiting for the council to reach agreement on the project.

Nobody will reach agreement with the government if the government does not talk to them about a project it is just about to announce. There appears to have been insufficient consultation. Agreement certainly is not there, and this will be to the detriment of the Greater Dandenong area.

Some months ago I took the initiative of distributing 4000 surveys across the areas of Berwick south of the freeway, Narre Warren South and Hampton Park East, asking members of the community what they thought about public transport. The response I received was, 'What public transport?', 'We don't have any', 'We have not sufficient', 'We need more' or 'This is where it should go'. They gave me a range of ideas which I sent on to the Minister for Transport. I asked him to consider providing more public transport in my area and initiating public transport in places that have none at all.

Similarly in the hills areas that I represent — Gembrook, Cockatoo and Emerald — the bus services are paltry, to say the least, and I have attempted to raise that issue in this chamber and through correspondence with the minister. Today, through this speech, I am again saying that I hope as a result of funding in the 2002–03 budget we will get the results in additional public transport in the areas I have mentioned. The Minister for Transport has the information and now that he has the money I am expecting he will do something to assist those people in my electorate.

I turn to roads. Certainly a range of road projects is needed in such a fast-growing area — there is a need to improve roundabouts on Heatherton Road, in Narre Warren North and Endeavour Hills; to continue works on the Narre Warren–Cranbourne Road in order for it to become a duplicated road with traffic lights at all the major intersections; the need to start work on the underpass at Narre Warren which I have already mentioned; and the need for a railway line underpass at Berwick which I have raised with the minister. There are works needed right across my electorate. One is the Pakenham–Gembrook Road south of Gembrook, about which I have made submissions to the minister. I hope funding will be provided for that road when details of this budget come forward during the course of the year.

The other road project which I could not let pass without mentioning, is the Pakenham bypass. That is an issue about which all members of Parliament — except the honourable member for Gippsland West in another place — have done a lot of work to try to get that project up. It is really the state government that is holding it back. Interestingly, just prior to the last federal election the honourable member for Gippsland West said, 'I have made sure the issue is at the forefront of government attention, more particularly at state government level'. I can tell you that the honourable member does not appear to have done a very good job because there is not a penny for the Pakenham bypass in the 2002–03 budget — not a penny! That is a huge dilemma and problem for the people of Officer and Pakenham who have an enormous traffic flow along the Princes Highway with more accidents than there should be. The Cardinia Shire Council and all the Gippsland councils are saying, 'This is the no. 1 project we wish to have put forward'. But there is not a cracker, not a cent, for this bypass. That is a huge problem that will not go away.

The facts are that in 1998 the federal government put aside $30 million for this project and that could have been taken up in the following year by the Labor government and in every year since. Had it done so we could have spent $60 million on the start of the roadwork. We all know that Vicroads divided this works project into two sections, the first being the design and acquisition of the land that has not yet been acquired, the planning works and all the development activities before the bulldozers moved in. We could have done a lot on this project but we have had nothing done. I have raised the matter; the Honourable Gordon Rich-Phillips has raised it; the Honourable Ken Smith has raised it — everybody in the area has raised it. The Honourable Ron Bowden may have raised it too. This is a project that everybody wants and it appears we are still waiting.

Tracey Radford, whom I congratulate, has led a group of local people to try to put more pressure on the government and to bring it more to the attention of local communities in the Pakenham and Officer areas. She has done a fantastic job. Everyone is on-side, but there is no money — not a cent for the project. I implore the minister to do something about this. There is $60 million worth of works that could start tomorrow.

Under the heading of tourism, the area I hope to represent after the next election, is the Upper Yarra which includes the Woori Yallock area up to Yarra Junction, Warburton and Powelltown. I have been there on a number of occasions lately, meeting people and looking at this lovely area which is a little left out in terms of tourism opportunities. It is a wonderful place to visit and the potential is fantastic.

In the budget, funding for tourism has actually gone down from $52.2 million to $38.4 million. I wonder whether the people of the Upper Yarra region will be able to get any money out of the government to enable them to do worthwhile things and to promote their area, because it is really worth promoting. Powelltown and the forest are lovely areas, and I hope that tourism promotion will see the economies of all the towns grow not only through the work of local entrepreneurs but hopefully Tourism Victoria might be able to give them a hand.

There are many farmers up there. The farming community has been got at by the government through the $50 motorcycle levy. Any farmer who has a farm bike for use in public places or on the roads will have to pay a $50 levy for its registration. That additional tax is a disgrace and the Liberal Party has already said that it will abolish it when elected.

A main issue I wish to address tonight is stamp duty. As I said, I represent one of the fastest growing areas in Australia. I believe the Narre Warren South suburb is the fastest growing suburb in Australia. In Casey you are talking about 80 houses a week, and a large proportion of them are being built in Narre Warren South. That suburb sits alongside Berwick, Hampton Park and Cranbourne North. In the last two and a half years the Labor government has ripped off an enormous amount of money from that area. Looking at it conservatively I believe the Labor government has taken between $30 million and $40 million in stamp duty out of those suburbs I just mentioned.

For a house valued at $180 000 in September 1999 the stamp duty was $6460. For the same house, which had risen in value to $255 000 by December 2001 — an increase of 42 per cent — the stamp duty would have

increased by 70 per cent. The value of the house goes up 42 per cent; stamp duty goes up 70 per cent. The stamp duty goes from $6460 to $10 960. At the same time salaries have not increased by 70 per cent, so I ask: why did not this greedy Labor government reduce the stamp duty? Why has there been no adjustment to take account of the increased property prices?

I notice on page 391 of budget paper 3 that the stamp duty on property will increase from last year's budgeted figure of $1.15 billion to $1.59 billion. Other property stamp duty, which is a separate line item, will increase from $169 million to $209 million. They are enormous increases!

A young couple from an outer suburb was interviewed in the *Herald Sun* of 28 April. They bought a house for a bit over $200 000. They searched for it for 12 months and got their first home in the low $200 000s. The *Herald Sun* says:

> But they now must swallow a bitter pill — a stamp duty bill of almost $8000, which they consider unnecessarily high.

They are quoted as saying:

> We were aware of the cost of stamp duty but until recently we were not aware of the difference between states …
>
> The burden of stamp duty affected our price range and when you look at the disparity between states it makes you feel all the more ripped off.
>
> The stamp duty on a house of the same value in Queensland —

remembering that they had paid $8000 —

> is about $2500 — it is a joke. Even in New South Wales it is about $6500.

It seems to me that young people in the new suburbs in my electorate are being got at by the Labor government. The article in the *Herald Sun* goes on:

> The existing stamp duty rates were at the right level to ensure the government could continue to deliver services such as health, education and community safety.

That is from a government spokesman. In other words, the government needs all this money to fix up education, health and safety.

I have already given some examples of what is going on in health at the Dandenong Hospital and the Berwick Community Hospital. I have given the example of the Berwick Primary School and the numbers of students in primary school grades. I have given the police figures. A government spokesman saying that the government needs all this money to do these things does not make sense because they are not happening. These promises made by the Australian Labor Party have not been fulfilled.

I wish to move on to the issue of the surplus. On page 5 of the budget overview the Treasurer said:

> A sound and stable financial base requires the maintenance of a substantial operating surplus …
>
> > A substantial budget operating surplus of $522 million forecast for 2002–03, and surpluses averaging around $600 million for the following three years …

I will tell you why the government is able to have a surplus. The government has conveniently forgotten what happened during the last Labor government. The Treasurer has a surplus because of the good work of the former government in recreating the finances of this state.

I do not think I am telling the Minister for Energy and Resources, who is at the table, anything new because she was part of the Guilty Party advising former Premier Kirner. We know — and the figures show quite clearly — that during the time the now minister assisted Premier Kirner and during the time of the Cain Labor government Victorian public state debt increased from $11.3 billion in 1982 to $21 billion in 1987 and to a staggering $32 billion in 1992. I have already mentioned that the recurrent expenditure was $2 billion in the red at the end of the last Labor government.

The fact that Treasurer Brumby can get up and crow about a surplus is because the Kennett government got the state's finances back into balance and paid off that debt. The Treasurer goes on to say on page 5 of his statement:

> … over the same period net debt, excluding Growing Victoria infrastructure reserve, is expected to fall by more than half from $4.9 billion to $2.3 billion in 2006.

So he is making a big deal of getting the debt from $4.9 billion to $2.3 billion. But let none of us ever forget that it was the Kennett government that got the debt down from $32 billion to the manageable level of around $6 billion at the time of the last election. During the last state Labor government we had the State Bank, the Victorian Economic Development Commission, Tricontinental, Pyramid, and all these other sorts of disasters.

We have an example here of the Central City Studios. This Labor government has tipped a bit of money into it and it has tipped in a loan at 2.75 per cent. That equates to around $1.65 million as a taxpayer-funded subsidy to Central City Studios each year based on the interest rates in March, and they have gone up since. So here we go again. It is another Tricontinental sort of thing where we are loaning money to organisations at a small

interest rate and throwing $1.65 million of subsidy into this each year.

On page 15 of the Treasurer's speech he said :

> This budget has again been examined by the Auditor-General as required by the new standards of financial reporting and transparency established by the government in 2000.

So I looked through the budget papers for what the Auditor-General had said. Given that the Treasurer said it has been examined by the Auditor-General, it sort of inferred that everything was hunky-dory. But what did the Auditor-General say? He said:

> The review has been conducted in accordance with Australian auditing standards …
>
> These procedures do not provide all the evidence that would be required in an audit, thus the level of assurance provided is less than that which would be given in an audit. Accordingly, an audit has not been performed and an audit opinion is not expressed.

He went on to say this about the Brumby and Bracks budget:

> Prospective financial information relates to events and actions that have not yet occurred … As a result, I am not in a position to obtain the level of assurance necessary to express a positive opinion on those assumptions and the accompanying forecast information included in the estimated financial statements. Accordingly, an opinion is not expressed on whether the forecasts will be achieved.

That is what the Auditor-General said on page 168. And yet the Treasurer is inferring that the Auditor-General, as required by the new standards, had a look at it and everything is okay. But when you read the Auditor-General's opinion it is a different matter.

We have had broken promises. In my electorate I have mentioned quite a number of them. I will mention some others — for instance, the achieving of 5 per cent unemployment rate within the first term of government. We still have not got there. Another was to establish a statewide call centre to provide information on waiting lists and advise doctors and patients of waiting times at different public hospitals. We have not heard of that. Another promise was the construction of the airport rail link — cancelled, gone!

What about cutting the road toll by 20 per cent? That has not happened. Another was the establishment of a world-class national sports medicine facility. And the creation of family-friendly beaches. We have asked the minister in this house on numerous occasions where they are. How many summers have we had now? We have had three summers and we still do not have a family-friendly beach. What about the construction of the Dingley bypass? I have heard that that money has been siphoned off to something else. Another was preventing the use of commercial-in-confidence provisions to end government secrecy. That is a joke. I think the government has put that one in there as a joke.

One of the local members in a lower house seat covered by my province is the Minister for Gaming. He is the former Minister for Major Projects. He is the only major projects minister who has never initiated a new Labor government major project. In terms of government spending on infrastructure, it is a fact that — and the last figure I have is for the September quarter last year — the Australian Bureau of Statistics engineering construction activity survey indicates that government spending on infrastructure in New South Wales for that period was $338 million; in Queensland it was $277 million; in Tasmania it was $12.2 million; and in Victoria it was $8.3 million. We are spending less on infrastructure here than in Tasmania! If you compare us with New South Wales and Queensland, our paltry $8.3 million does not compare very well to the $277 million or the $338 million spent there. It is a disgrace.

What we have here is a high-taxing government. We have a government that finds it hard to make decisions. We have a government that has the coffers reasonably full of money because of our good work, not theirs, and we have a government that is ripping off Victorians to too great an extent. An amount of $1500 per family is a serious matter. An additional $1 billion into public service spending in terms of deals on salaries and entitlements is going to catch up with the Labor Party, mark my words!

We are standing today at the top of the slippery slope, and I believe in coming years we will look back and say, 'This government did the wrong thing when it built up all the recurrent expenditure, when it said it was going to fund a whole lot of things and promised them and could not do it, and I think finally it will end up spending millions of the government's money rather than private money, as it originally proposed to do. We will end up with the traditional Labor government being seen for what it is — a bad money manager!

Debate adjourned on motion of Hon. R. H. BOWDEN (South Eastern).

Debate adjourned until next day.

ADJOURNMENT

Hon. M. R. THOMSON (Minister for Small Business) — I move:

> That the house do now adjourn.

Public transport: Eumemmerring Province

Hon. N. B. LUCAS (Eumemmerring) — I wish to raise a matter with the Minister for Transport in the other place to do with public transport in my electorate in the areas of Gembrook, Cockatoo, Emerald and Belgrave, and also in the areas of Narre Warren South and Berwick South. In the latter areas I had a survey sent out to 4000 properties. As a result my constituents told me in no uncertain manner that public transport in those areas was totally insufficient.

As a result I wrote to the Minister for Transport providing him with suggestions as to where new bus routes could be placed and asking him to look at additional services in the budget considerations. On a number of occasions through this house I have also raised with the minister the need for further services on the Belgrave–Gembrook bus route.

The money is in the budget and the announcement has been made that there is going to be more public transport. I really hope the Minister for Transport will give every consideration to the issues I have raised in the fast-growing suburbs of Narre Warren South as well as in the hills area from Gembrook through to Belgrave. I hope that announcements can be made in the near future in relation to new routes to provide services to families living in those areas.

Schools: state representative sport

Hon. R. A. BEST (North Western) — I raise a matter for the Minister for Sport and Recreation which I took the opportunity of discussing with him this afternoon. As far as I am concerned it is not really a political issue but needs the support of the minister to ensure that the discrimination that is occurring against children who attend non-government schools and their participation in state-level sporting competitions does not continue.

The Victorian Secondary Schools Sports Association (VSSSA) decided last year that it would admit non-government country schools to participate in statewide competition across a range of athletic pursuits, including football, athletics, triathlons and so forth — and that occurred.

The problem is that it was a pilot program for 12 months and at the annual meeting held last year a number of school representatives from government schools got up and said they no longer wished to support the participation of non-government country schools in the VSSSA program. Consequently many schools in my electorate, including Girton Grammar School and Catholic College in Bendigo in particular, found themselves in the circumstance where their students were unable to participate at a state level.

It is particularly disappointing to many of the young people who play football. I have been approached by parents of young footballers who attend Catholic College and who concerned that while their children are able to compete at the catholic schools level, they are not able to enjoy the opportunity of being able to represent their school at a state level.

I accept that the minister does not have responsibility over VSSSA. However, I seek the minister's assistance to consult with VSSSA and ensure that non-government schools throughout country Victoria have the opportunity to compete in elite competition at a state level. If there is discrimination against those children that prevents their competing at a state level not only are they missing an opportunity but also the state is missing its opportunity to have the best athletes represent it.

Newcastle disease

Hon. E. C. CARBINES (Geelong) — I wish to raise a matter with the Minister for Agriculture. It concerns the minister's confirmation yesterday that a case of virulent Newcastle disease has been diagnosed at a poultry farm at Meredith. As honourable members may be aware, Newcastle disease is highly infectious and can cause sudden widespread death in chickens, turkeys, pheasants, pigeons, guinea fowl and ostriches. The diagnosis of the disease at Happy Hens Egg World in Meredith followed a dramatic drop in egg production identified by the farm's vet last week. That prompted an investigation by the Department of Natural Resources and Environment. The diagnosis was confirmed at the Animal Health Laboratory in Geelong.

This outbreak of Newcastle disease has caused concern to chicken growers in my electorate of Geelong Province, as I am sure it has around the state. I ask the minister what steps have been taken to isolate this outbreak to the Meredith farm and to prevent it from spreading and in doing so avoid a potential disaster in the Victorian chicken farm industry.

Kangaroos: control

Hon. G. R. CRAIGE (Central Highlands) — I raise a matter for the Minister for Environment and Conservation concerning the kangaroo problem which has reached plague proportions at Puckapunyal defence base. Honourable members would be aware that this issue is now at a dramatic stage and requires attention. I

raise the issue tonight so that an approach can be made because it is both a federal and a state issue. The Department of Defence has sought the cooperation of the Department of Natural Resources and Environment to look at a cull management program. It is estimated that there are some 80 000 kangaroos which have serious health problems. They are malnourished and carrying disease. We have a real problem and it needs to be tackled jointly with the Department of Defence.

One farmer next to the defence base who has 500 hectares estimates that he has something like 1000 kangaroos on his property. I raise the question tonight because not only does the Department of Defence at Puckapunyal have a problem but adjoining landowners also have a serious problem. The minister needs to be aware that we cannot merely carry out an eradication and culling process within Puckapunyal. It will have to occur on adjoining land as well.

Ray Pitman, the principal of the Puckapunyal Primary School, is concerned for the young children at the school. Approximately 60 to 70 kangaroos camp on the football oval next to the school. Not only is there a risk to the young children, but the kangaroos are diseased.

On behalf of the people of Seymour, farmers and landowners adjoining Puckapunyal I urgently request that the minister work cooperatively with the commonwealth Department of Defence on establishing a well-thought-out program to help manage this herd of kangaroos within the region.

Mildura: municipal offices

Hon. B. W. BISHOP (North Western) — I raise with the Minister for Small Business a matter for the Minister for Finance in the other place regarding the topical issue of a suitable site for the future home of the Mildura Rural City Council and the lack of public consultation relating to that.

This issue has been at the forefront in the local media with comments that the Minister for Finance has imposed a deadline of 30 June to decide whether or not the council wishes to rehouse itself at the old Mildura Base Hospital site. Despite the fact that the mayor and the honourable member for Mildura in the other place have criticised my comments regarding the need to look at the viability of other sites and that careful consideration be given before any commitment is made, I believe a full consultation process needs to be undertaken and it needs to involve all sectors of the community. Leaving a mere seven weeks for the decision to be made is not reasonable or accountable in light of the fact that many of the discussions have not included anyone other than the mayor, the honourable member for Mildura and the minister.

The Mildura Rural City Council has decided by a consistent 5-to-4 vote that only two sites be considered — its present site in Madden Avenue or the old hospital site. It is now clear that the final decision may well rely on the generosity of the government's financial support. It is not acceptable that there is insufficient time for other submissions to the council from the ratepayers who elected it as there is not a shortage of vision, talent and ability in this community. I have been approached by constituents who are very supportive of my call for wider consultation on this issue.

In an effort to meet the community's needs for this consultative process, the deadline is not fair or just. This is an urgent request so I ask the minister to advise if that deadline he has imposed on council can be extended?

Schools: Melbourne West Province

Hon. KAYE DARVENIZA (Melbourne West) — I raise a matter for the attention of the Minister for Education Services. The Bracks government has commenced major construction projects at six schools in Melbourne West Province. These are Altona Secondary School, due to be completed in November this year, Bellbridge Primary School, due to be completed in May, Seaholme Primary School, due to be completed in August, Braybrook Secondary College, due to be completed soon, Iramoo Primary School, due to be completed in September this year, and Mossfiel Primary School, due to be completed in December this year.

The current budget funds five new projects at Laverton Secondary College, Seaholme Primary School, Footscray North Primary School, Bayside Secondary College and Wembley Primary School. As a result of the Bracks government's 2002–03 budget, nearly 100 schools will be funded for substantial facility improvements and modernisation projects.

Given the very high levels of construction activity in Victorian government schools under this government, I seek assurances from the minister that the projects already commenced in Melbourne West Province will be completed on time so that the schools can make the necessary preparations to occupy their facilities. I also seek an assurance from the minister that the schools with recently announced projects will be promptly informed of the next steps in the department's process

so that they can make the necessary plans to accommodate these improvements.

Tertiary education and training: private providers

Hon. C. A. STRONG (Higinbotham) — I refer to the Minister for Small Business an issue for the attention of the Minister for Education and Training in the other place which essentially deals with the issue I raised on the adjournment motion last week regarding the accreditation of courses being developed by the Association of Professional Engineers, Scientists and Managers of Australia. Two courses were proposed by APESMA which had gone through all the processes of accreditation but somehow were bogged in the bureaucratic wheels of the system. I place on record the gratitude of APESMA and myself for the very quick action that resulted from the raising of this issue. Those courses have now been accredited, so there has been a very successful outcome to the issue I raised last week.

Schools: student welfare coordinators

Hon. E. J. POWELL (North Eastern) — I raise an issue for the attention of the Minister for Education and Training in the other place. I refer to the need to introduce student welfare coordinators in primary schools. I have received a number of letters from principals of primary schools in my electorate who have asked me to raise this important issue on their behalf. I am not diminishing the need to have student welfare coordinators in secondary schools or colleges, but it is important to understand that research has shown the importance of early intervention, the need to pick up on any welfare problems early in a child's schooling and development, and the need to deal with any identified behavioural problems that could be serious if not picked up before the child goes to secondary school.

The primary schools tell me they receive no student welfare funding in their global budgets which secondary schools do, but they receive student service funding. The problem with receiving student service funding is that it is very expensive and that it is often difficult to get outside providers to deal with some of these welfare issues. In country Victoria sometimes it is even harder to access these providers. Students need constant and regular contact with a person they trust and primary schools need student welfare coordinators in their schools so that they can be contacted when the student needs to see them.

I ask the minister to review current Department of Education and Training policy to recognise the requirements of primary schools and the importance of early intervention in a child's development.

Melbourne Sports and Aquatic Centre

Hon. ANDREA COOTE (Monash) — I raise for the attention of the Minister for Commonwealth Games the lack of community consultation on the extension of the Melbourne Sports and Aquatic Centre at Albert Park. I refer to an article that appeared in my local paper, the *Emerald Hill Times* of 24 April, entitled 'Aquatic centre debate farcical says locals'. It states that residents and local lobby groups have branded the government's community consultation over the proposed extension of the aquatic centre a sham.

The government's only defence to its general inaction is that it is consulting widely — that is its only claim to fame — but it does not appear as if it is consulting widely on this issue. The proposal faces fierce opposition from locals who fear it will create traffic congestion, noise and reduce parkland. Resident groups state that no discussion of the important issues is to be considered such as social equity, misappropriation of parkland and cost effectiveness. The community is being asked its opinion on the colour of the doorknobs.

I refer to a comment by the honourable member for Albert Park in the other place during the debate on the principal act in 1994 that:

> It is important that they —

the local residents —

> have some real input into the design of car parking and traffic flow so that if large crowds attend key events there will be minimal disruption to residents.

That is not being reflected at the moment, but it was important for the then opposition that the locals be consulted. They are not being consulted about anything aside from the colour of the doorknobs. I ask the minister when he will begin an honest and open consultation process with the local residents and lobby groups?

Omeo Highway: upgrade

Hon. W. R. BAXTER (North Eastern) — I raise a matter for the attention of the Minister for Transport in the other place regarding the Omeo Highway linking north-eastern Victoria and Gippsland. Despite being a designated state highway it is yet to be sealed for its full length.

Persons who live on a state highway can expect to have the road running past their front gate sealed and, more

particularly, motorists travelling around — particularly people from Melbourne visiting country Victoria — who look at a map to see the Omeo Highway designated as a state highway find to their surprise when they get there that it is gravel in sections.

The budget has just been presented. It is now so difficult to read, it is impossible to find what major expenditure and major projects are being made, let alone relatively minor projects, such as sealing the Omeo Highway. So it could be — and I would be greatly pleased if it were so — that an allocation has been made in the budget for the Omeo Highway. But certainly a substantial budgetary allocation has been made for road maintenance and construction in Victoria, and I invite the minister to include the sealing of more of the Omeo Highway in that allocation.

The Minister for Roads and Ports in the Kennett government set out to seal the remainder of the Omeo Highway. It started at Mitta Mitta and went south some way, and a considerable amount of work was done. But work has ceased and no more has been done now for some years. At a minimum and as a starter it should go south past an area known as the Walnuts, and at least to Begg's Gate, the most southern residence on the northern side of the ridge, and subsequently the other two or three relatively short sections that remain to be sealed. I implore the minister to make sure this year's budget includes an allocation for at least a recommencement of that work.

Melbourne Sports and Aquatic Centre

Hon. P. A. KATSAMBANIS (Monash) — I also raise an issue with the Minister for Commonwealth Games. Again it relates to the proposed Melbourne Sports and Aquatic Centre redevelopment, specifically to the expansion of the car parking facilities that go along with that expansion. Any regular user of Albert Park would know that because of the popularity of the redevelopment of the park and of the Melbourne Sports and Aquatic Centre the demand for car parking is a very real priority issue in the local area.

Interestingly, the redevelopment of both Albert Park and the Melbourne Sports and Aquatic Centre was opposed by the Labor Party in opposition, which shows how out of touch it was, especially now the demand for use of the facilities is so great.

It is important to ensure that an expansion of car parking facilities does not lead to increased traffic congestion. In an inner city area the traffic is congested enough as it is, and we need to ensure that any increase in car parking is done in a way that is sensitive to the needs of the local area and clears rather than adds to that traffic congestion. Additionally, we need to ensure that as far as possible the car parking expansion does not encroach on the open space in Albert Park itself. People have to bear in mind that the Albert Park precinct accounts for over 60 per cent of all open space within the City of Port Phillip. So it is very important to preserve open space in an inner urban environment.

The local council has requested the state government to undertake a separate precinct-based transport study before it goes ahead with any plans to increase the car parking with the Melbourne Sports and Aquatic Centre redevelopment. It would have been better if the minister answered this in question time today, but he chose not to answer. So I now put it to him directly. Will the minister agree to the council's request to undertake a separate precinct-based transport study before the expansion of the car parking at Albert Park goes ahead?

Deer: hunting

Hon. P. R. HALL (Gippsland) — The matter I raise for the attention of the Minister for Environment and Conservation concerns deer hunting on public land. It has been brought to my attention that the government is considering closing a number of areas currently available for deer hunting. Those areas include Lake Eildon National Park, Gippsland Lakes Coastal Park, Harrietville, Tunnel Bend, Kurth Kiln, Wartook Valley, Wonnangatta Valley, Track 10 Gippsland Lakes Coastal Park, Dargo, Lake Coleman State Game Reserve, and Howqua Hills Historic Area. I remind honourable members that deer is an introduced species and that deer hunting has long been a legitimate and lawful recreational activity on some very limited areas of public land in Victoria. The National Party has long supported the rights of hunters to pursue this recreation in a lawful form. I seek from the minister an assurance that the areas currently available to deer hunting will be preserved and that none of the hunting areas to which I have referred are closed.

Eramosa Road West, Somerville: traffic control

Hon. R. H. BOWDEN (South Eastern) — Through the minister for Small Business I seek the assistance of the Minister for Transport in the other place on a matter relating to the obvious need for a set of traffic lights to be installed in a portion of Somerville known as Eramosa Road West where that road meets the entrance and exit of the relatively new shopping centre. On my information the Somerville township dates from the early 1870s and for many decades was a small village. But during the 1980s and 1990s its growth has been spectacular. In 1984 its population was approximately

3000, and I am advised that currently it is approximately 14 000. So within a short period of years a large increase in population in subdivisions has taken place around the town structure, which is really not designed, historically and practically, to cater for a huge population.

When the shopping centre was built adjacent to Eramosa Road West there was no provision for traffic lights. Even going back three or four years ago when the centre was first opened, there was much less traffic in the area than there is today. So there has been a natural increase. Eramosa Road West is a straight road, and in the distance between the railway line and the shopping centre traffic reaches a considerable speed.

Unusually, the shopping centre has an entrance and an exit with both directions available, and each of these entries onto Eramosa Road West is separated by only about 100 or 150 metres. So it is a complex arrangement. Frankly, it is extremely difficult to safely get in and out of the shopping centre and cross, exit or enter Eramosa Road West. Will the minister as a matter of priority seek consultation with experts in the department and the Mornington Peninsula Shire Council to ensure the early provision of traffic lights at this location so that an unfortunate traffic incident can be avoided?

Alpine National Park

Hon. PHILIP DAVIS (Gippsland) — The issue I raise for the attention of the Minister for Environment and Conservation in the other place concerns the matter of integrity and transparency of the exclusion of cattle grazing from the alpine park in the area which was impacted on by the Caledonia fire in 1998. I draw the minister's attention to representations by the Mountain Cattlemen's Association of Victoria (MCAV) on a number of occasions over concern about the advice being provided to the minister and to Parks Victoria on the scientific assessment of that area.

An honourable member interjected.

Hon. PHILIP DAVIS — Yes. Last year the MCAV wrote to the minister requesting observer status to the Alpine Ecology Scientific Review Panel. That request was not responded to.

On 17 January last I attended a meeting with the MCAV, Parks Victoria and the affected licensees. That request was put to Parks Victoria. Some response was forthcoming, but the Parks Victoria advice was that the request had been refused. Given that observers to the panel represent other interest groups; that, for example, one of those observers has connections with the Victorian National Parks Association; and that the MCAV represents licensees whose livelihoods are affected by recommendations of the review panel, it is important that for the integrity of the process, and more particularly, for transparency, that it should be perceived that there is fair and unbiased advice. The MCAV should be provided with the opportunity to have observer status.

I would like the minister to explain the rationale she has used so far to deny access as observers to the MCAV in relation to the Alpine Ecology Scientific Review Panel.

Mount Buller–Jamieson roads: safety

Hon. E. G. STONEY (Central Highlands) — I direct a matter to the attention of the Minister for Transport in the other place through the Minister for Small Business. It regards the extremely dangerous intersection of Mount Buller Road and Jamieson Road, Mansfield. I have raised this issue previously, but since then there have been several incidents there, including a head-on collision.

The problem arises because drivers are confused when they drive from Mansfield to Jamieson. They get confused with the sweep of the road from the Jamieson Road because suddenly they face head-on traffic and there is no turning lane for traffic coming from Mansfield turning towards Jamieson. It is quite important that this intersection be upgraded. I ask for a total upgrade of the intersection before a fatal accident occurs.

Dingley bypass

Hon. ANDREW BRIDESON (Waverley) — I ask the Minister for Small Business to direct to the attention of the Minister for Transport in the other place the issue of the Dingley bypass. I will pass correspondence to the minister.

Two constituents, John and Julie Lockett, purchased their property in Old Dandenong Road in 1968, which is some 34 years ago, on the assumption that the Dingley bypass would be constructed from Warrigal Road through to Heatherton Road with no access from Old Dandenong Road, and they thought the traffic on Old Dandenong Road would therefore be significantly reduced. They seek specific information on the progress with the Dingley bypass, a prediction on forward funding for that it and the estimated construction dates. They also want to know the non-financial terms and conditions covering Vicroads leases on land reserved for the proposed bypass. They cite the examples of a golf club and market gardens as users of that land.

My constituents are very concerned about Old Dandenong Road for several reasons: one is that the road has been allowed to become a safety hazard; further, that section of the road carries a large number of speeding vehicles. There is also road noise because the road is not kept in adequate condition. They are also concerned about parking in front of the residences along that road, which is relatively narrow but busy, with many sand and gravel trucks using it. They cite the cases of some parked cars under certain conditions being either hit from behind or scraped along their sides. They also complain about the lighting in Old Dandenong Road.

My constituents are not sure who is responsible for the road, but I suspect it would be Vicroads because the road will become a bypass. The former Moorabbin council, which is now the Kingston City Council, believes Vicroads controls the road and will therefore not assist with any traffic management plans.

My constituents state:

> Over the years Old Dandenong Road has become the forgotten road. No authority wishes to take responsibility and with the proposed Dingley bypass waiting for funding, nobody has any concerns for the residents' issues and the safety of all users of Old Dandenong Road.
>
> We request a traffic management plan for Old Dandenong Road covering the following issues …

Those matters are detailed in the correspondence that I will forward to the Minister for Transport.

Pakenham bypass

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I ask the Minister for Small Business to direct to the attention of the Premier an issue of great importance to me and my constituents, as well as to the Honourables Neil Lucas, Ken Smith and Cameron Boardman, but which is not of much interest to the government. I refer to the Pakenham bypass. The issue has been raised in this chamber a number of times by a number of honourable members, but it has received little attention by the government.

Last November the Minister for Transport in the other place attended a public meeting about the bypass at Pakenham. He said that following the federal election, during which the federal government and state opposition had committed funding for the bypass, he and his government would consider state funding for the Pakenham bypass. The bypass is a road of national importance and is to have its funding shared fifty-fifty by the state and federal governments, requiring a contribution of $100 million each. At that meeting the Minister for Transport indicated that following the election he would consider funding the bypass. To date, eight months later, there has been no state government funding. Mr Lucas informs me that in tonight's budget the federal government has announced full federal funding for the Pakenham bypass this year, which is a fantastic announcement.

On 27 October last I wrote to the Premier and the Minister for Transport. I enclosed in my letter to the Premier a petition signed by residents of Beaconsfield and Pakenham bearing 2300 signatures in support of the Pakenham bypass and requesting funding from the state government. I am appalled that some six months after sending that letter to the Premier, to which, as I said, I attached a petition bearing 2300 signatures, I am yet to receive even an acknowledgment from the Premier. At least I received an acknowledgment to my letter to the Minister for Transport, although with no response six months later, but not even an acknowledgment from the Premier. That shows the disregard the government has for the people of Pakenham. The Premier has ignored a letter containing a petition bearing 2300 signatures. That is appalling, and it is a shame that the Premier should treat those people with such disregard.

I ask that the Premier do me and the 2300 residents the courtesy of responding to my letter. He must not ignore the 2300 people in Pakenham who want that bypass.

Traralgon Racing Club

Hon. I. J. COVER (Geelong) — I raise with the Minister for Small Business for the attention of the Minister for Racing in the other place an issue concerning the Traralgon Racing Club: the news today that the club in question will fold before the year is out. I raise this matter in the context that the Minister for Racing professes to give great support to and have much enthusiasm for country racing, as I am sure all honourable members here do.

Mr President, like your counterpart in Western Province, the Honourable Roger Hallam, you would be well aware of the racing clubs that provide not only great entertainment for people who attend racing at those clubs but also employment opportunities for people where horses are in training, jockeys are riding and, when events are staged, all the ancillary activities that surround race meetings. You and the Honourable Roger Hallam have recently seen in your electorate the staging of the renowned and time-honoured Warrnambool race meeting.

I am sure, Mr President, you may well have had success insofar as supporting the successful horse in the event I speak of. The importance of Country Racing Victoria cannot be understated. The minister has spoken of the need to encourage a strong and vibrant country racing scene. Insofar as Traralgon is concerned, the minister has been in attendance at at least one Traralgon Cup in his time as minister.

I am informed by the Honourable Philip Davis that the Leader of the National Party in this place, the Honourable Peter Hall, says that the Latrobe City Council declares a public holiday on the occasion of the Traralgon Cup. It is obvious how important the Traralgon Racing Club and the events that it presents are to Traralgon and the surrounding areas of Gippsland. They create a focus for local activity. What action is the minister taking in response to the news that the Traralgon Racing Club will close before this year is out?

Schools: class sizes

Hon. D. McL. DAVIS (East Yarra) — My matter is for the attention of the Minister for Education and Training in the other place. I wish to make some points about schools in the Burwood electorate. An analysis of the figures the *Herald Sun* has on its web site shows a listing of the number of students in classes. The average class sizes of schools in the Burwood electorate produce some concerning and disturbing information. In particular, it is clear that the figures show that 86 per cent of Burwood primary schools have a prep to year 2 class size average above the 21 that was promised by Labor in its 1999 election policy.

The figures also show that two schools have classes over 30 — they are the Ashburton Primary School and the Hartwell Primary School. The average for the Burwood electorate is 24.95, well above the state average of 23.5. Each of Burwood's seven state primary schools has at least one class above the state average of 23.5, and 71 per cent of those schools have average class sizes above the statewide average. This is a disturbing aspect. It is clear that the government has made no adequate provision in the budget, noting that only a 2.3 per cent increase in education was provided.

The Burwood electorate is an important electorate, and the honourable member for Burwood in the other place appears to be unable to advocate adequately for his electorate. He appears to have been unprepared to step forward and forcefully advocate. Burwood was overlooked completely when it came to capital works in the state budget. I refer to Ashwood Secondary College, Parkhill Primary School, and I can go on. We put a lot of money into the Burwood electorate, the electorate of the former Premier, but nonetheless the current honourable member has been a complete flop, a failure and a disappointment in his ability to advocate for the schools in the Burwood electorate.

It is clear that, with a 24.5 per cent average class size in schools in the Burwood electorate, the honourable member for Burwood, the Labor Party and the Minister for Education and Training have failed the electorate.

Hon. I. J. Cover interjected.

Hon. D. McL. DAVIS — Absolutely, Mr Cover, they have failed badly. This is a friend in the eastern suburbs. It is interesting that 35.9 per cent of schools — over one-third of classes — in the eastern suburbs have classes of more than 25 students. It concerns me. I will be writing to local schools to explain my disappointment.

Responses

Hon. M. R. THOMSON (Minister for Small Business) — The Honourable Neil Lucas raised a matter for the Minister for Transport concerning Gembrook–Belgrave public transport for the Gembrook–Belgrave route and the Narre Warren South area. I will pass that on to the minister for his direct response.

The Honourable Ron Best raised a matter for the Minister for Sport and Recreation concerning the Victorian Secondary School Sports Association and the participation of non-government schoolchildren in events run by the association and the fact that they are no longer allowed to participate. He wants the minister to see if she can intervene on behalf of the children. I shall pass that on to the minister for his direct response.

The Honourable Elaine Carbines raised a matter for the Minister for Agriculture concerning the virulent Newcastle disease at a poultry farm in Meredith and the steps taken to isolate the incident. I shall pass that on to the minister for his direct response.

The Honourable Geoff Craige raised a matter for the Minister for Environment and Conservation concerning the kangaroo problem at Puckapunyal and seeks a cooperative well-managed and thoughtful program to deal with the problem as it exists at Puckapunyal and surrounding farms. I will pass that on to the minister for her direct response.

The Honourable Barry Bishop raised a matter for the Minister for Finance concerning the consultation process in relation to the site for the Mildura Rural City

Council. I will pass that on to the minister for his direct response.

The Honourable Kaye Darveniza raised a matter for the Minister for Education Services concerning major projects in Melbourne West schools, both new and continuing. She asked, firstly, whether the projects will be finished on time and, secondly, the next steps for those new projects that are to be undertaken. I will pass that on for the minister's direct response.

The Honourable Chris Strong congratulated the Minister for Education and Training, and with great pleasure I will pass that on to the minister.

The Honourable Jeanette Powell raised a matter for the Minister for Education and Training concerning student welfare coordinators in primary schools and whether there could be a review of the policy that does not have the welfare coordinators in primary schools. I will pass that on to the minister for her direct response.

The Honourable Andrea Coote raised a matter for the Minister for Commonwealth Games concerning the consultation process on the extension of the aquatic centre at Albert Park. I will pass that on for the minister's direct response.

The Honourable Bill Baxter raised a matter for the Minister for Transport concerning the sealing of the Omeo Highway. I will pass that on to the minister for his direct response.

The Honourable Peter Katsambanis raised a matter for the Minister for Commonwealth Games concerning the extension of the car park for the Melbourne Sports and Aquatic Centre and whether the minister would undertake a precinct-based transport study. I will pass that on to the minister for his direct response.

The Honourable Peter Hall raised a matter for the Minister for Environment and Conservation concerning deer hunting on public land, seeking an assurance that the current areas available for deer hunting are preserved. I will pass that on to the minister for her direct response.

The Honourable Ron Bowden raised a matter for the Minister for Transport concerning the installation of traffic lights at Eramosa Road in Somerville adjacent to the shopping centre. I shall pass that on to the minister for his direct response.

The Honourable Philip Davis raised a matter for the Minister for Environment and Conservation concerning observer status for the mountain cattlemen in relation to the Alpine Ecology Scientific Review Panel, and I will pass that on to the minister for her direct response.

The Honourable Graeme Stoney raised the matter of Mount Buller and Jamieson roads at Mansfield and an intersection upgrade. I will pass that on to the Minister for Transport for his direct response.

The Honourable Andrew Brideson raised a matter for the Minister for Transport concerning the Dingley bypass. I will pass that on to the minister for a direct response.

The Honourable Gordon Rich-Phillips raised a matter for the Premier concerning the Pakenham bypass. I will pass that on to the Premier for him to respond.

The Honourable Ian Cover raised the matter of the Traralgon Racing Club and sought from the Minister for Racing information on what he can do to assist the club. I will pass that on to the minister for a direct response.

The Honourable David Davis raised a matter for the Minister for Education and Training concerning class sizes in schools in the Burwood electorate. I will pass that on to the minister.

Motion agreed to.

House adjourned 10.35 p.m.