

PARLIAMENT OF VICTORIA

**PARLIAMENTARY DEBATES
(HANSARD)**

**LEGISLATIVE COUNCIL
FIFTY-FIFTH PARLIAMENT
FIRST SESSION**

**14 October 2003
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By authority of the Victorian Government Printer

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CONTENTS

TUESDAY, 14 OCTOBER 2003

ROYAL ASSENT	717	CEMETERIES AND CREMATORIA BILL	
QUESTIONS WITHOUT NOTICE		<i>Second reading</i>	738
<i>Small business: tram track relocation</i>	717	HERITAGE (AMENDMENT) BILL	
<i>Sport and recreation: multicultural participation</i>	717	<i>Second reading</i>	740
<i>Small business: food safety legislation</i>	718	<i>Third reading</i>	764
<i>Bushfires: minimisation strategies</i>	718	<i>Remaining stages</i>	764
<i>Information and communications technology:</i>		PLANNING AND ENVIRONMENT (PORT OF MELBOURNE) BILL	
<i>broadband access</i>	719	<i>Second reading</i>	764
<i>Information and communications technology:</i>		<i>Third reading</i>	780
<i>investment projects</i>	719	<i>Remaining stages</i>	780
<i>Information and communications technology:</i>		VICTORIAN QUALIFICATIONS AUTHORITY (AMENDMENT) BILL	
<i>computer games industry</i>	720	<i>Introduction and first reading</i>	780
<i>Housing: national standards</i>	721	ADJOURNMENT	
<i>Small business: planning permits</i>	721	<i>Tourism: convention centre</i>	780
<i>Consumer affairs: Lunar Realty Pty Ltd</i>	722	<i>Students: truancy</i>	781
<i>Supplementary questions</i>		<i>Water: conservation rebate</i>	782
<i>Small business: tram track relocation</i>	717	<i>Employment: government initiatives</i>	782
<i>Small business: food safety legislation</i>	718	<i>Consumer affairs: Gainsborough Industries</i>	783
<i>Information and communications technology:</i>		<i>Housing: Ballarat</i>	784
<i>broadband access</i>	719	<i>Prisons: capacity</i>	784
<i>Information and communications technology:</i>		<i>Sport and recreation: multicultural participation</i>	784
<i>investment projects</i>	720	<i>Drivers licences: motor trikes</i>	785
<i>Small business: planning permits</i>	722	<i>State Emergency Service: Casey unit</i>	785
QUESTIONS ON NOTICE		<i>Workcover: claim review</i>	786
<i>Answers</i>	723	<i>Sunraysia Institute of TAFE: department closure</i>	786
MEMBERS STATEMENTS		<i>Responses</i>	787
<i>Como House</i>	723		
<i>Ukrainian Youth Association</i>	724		
<i>Tallangatta Secondary College and Corryong College: feed-for-feed day</i>	724		
<i>Dr Jim Cairns</i>	724		
<i>Small Business Commissioner: role</i>	724		
<i>Point Nepean: future</i>	725		
<i>Planning: native vegetation amendment</i>	725		
<i>Myrtle Muir</i>	726		
<i>Rick and Todd Kelly</i>	726		
<i>Member for Higinbotham Province: opposition statements</i>	726		
<i>Skiing: Mount Buller</i>	727		
<i>Bali bombings: Geelong victims</i>	727		
<i>Association Carabinieri of Victoria</i>	727		
<i>Essendon Football Club: coach</i>	728		
BUSINESS OF THE HOUSE			
<i>Program</i>	728		
PAPERS	732		
INSTRUMENTS (ENDURING POWERS OF ATTORNEY) BILL			
<i>Second reading</i>	733		
GRAIN HANDLING AND STORAGE (AMENDMENT) BILL			
<i>Second reading</i>	735		
MENTAL HEALTH (AMENDMENT) BILL			
<i>Second reading</i>	736		

Tuesday, 14 October 2003

The **PRESIDENT (Hon. M. M. Gould)** took the chair at 2.02 p.m. and read the prayer.

ROYAL ASSENT

Message read advising royal assent to:

Constitution (Supreme Court) Act
Health Legislation (Amendment) Act
Human Services (Complex Needs) Act
Non-Emergency Patient Transport Act
Superannuation Acts (Family Law) Act
Supreme Court (Vexatious Litigants) Act
Victorian Industry Participation Policy Act.

QUESTIONS WITHOUT NOTICE

Small business: tram track relocation

Hon. R. DALLA-RIVA (East Yarra) — I direct my question without notice to the Honourable Marsha Thomson, the Minister for Small Business. The Bracks government is examining a public transport proposal to relocate tram services from the centre of certain roads to the edges of the road. I ask the minister: what consultation has the minister undertaken or does she propose to undertake with small businesses in shopping centres and business centres who are adversely affected by this tram service relocation?

Hon. M. R. THOMSON (Minister for Small Business) — Unlike the previous Liberal government, this government actually does consult on moves and changes that it makes — not one minister does it; every minister does it.

The question Mr Dalla-Riva asked is a question for the Minister for Transport about transport issues, and the Minister for Transport is very consultative over the processes of change that have been put in place in relation to the transport scheme. I have every confidence in the Minister for Transport.

Supplementary question

Hon. R. DALLA-RIVA (East Yarra) — I have a supplementary question. Will the minister seek compensation from the government for businesses adversely affected by any relocation of tram services, including compensation for the loss of on-street parking relating to the businesses?

Hon. M. R. THOMSON (Minister for Small Business) — President, I think it is a very long bow to

draw to say that that is a supplementary question, given the question and my response to it.

Sport and recreation: multicultural participation

Mrs CARBINES (Geelong) — I refer my question to the Minister for Sport and Recreation, the Honourable Justin Madden. I ask the minister to advise the house of what action the Bracks government has taken to encourage youth from culturally and linguistically diverse backgrounds to be more physically active?

Hon. J. M. MADDEN (Minister for Sport and Recreation) — As recently as August I had the good fortune, in conjunction with the Centre for Multicultural Youth Issues, to launch the recently produced multicultural resource kit for state sporting associations. This kit was introduced as part of a 30-month long multicultural sport and recreation project with the centre. It was jointly funded through Sport and Recreation Victoria and Vichealth, and it had two broad aims: to lift participation levels of people from culturally and linguistically diverse communities and to build the capacity of state sporting associations to be inclusive.

The government committed \$100 000 over a 30-month period to resource this kit, with \$130 000 being provided by Vichealth. Members of the opposition should be interested in that, particularly if they have representatives on the Vichealth board.

The kit includes some of the following elements: strategies for state sporting associations and clubs to become more inclusive, best-practice case studies, and cultural and religious information required in order to set about delivering those strategies. This represents just one cornerstone — one program, one element — of our ability as a government to enhance the strength of local community organisations, to build cohesive communities, to reduce inequities and to respect diversity. It also allows us to make sure that we are encouraging a physically more active state and a broader mix in terms of those accessing those sporting and recreational opportunities, especially for a population that currently presents itself as under-represented in sport and recreational clubs.

We are continuing to grow the whole of this state. We are building cohesive communities and getting on with the job. I am pleased that Sport and Recreation Victoria is able to do that in a way which makes not only sport but the broader community more inclusive.

Small business: food safety legislation

Hon. C. A. STRONG (Higinbotham) — My question is to the Honourable Marsha Thomson, the Minister for Small Business. Local government authorities have reported concerns about provisions of the law introduced by the government in respect of food handling. Minor breaches of the law can result in business licences being revoked and in some cases newsagents having to obtain a permit to sell such things as Lifesavers. What has the minister done to effect changes to food safety laws to address the concerns of small business and local government?

Hon. M. R. THOMSON (Minister for Small Business) — It is obviously my day today in question time; we have gone back to the old strategy.

I think the opposition has a real cheek in asking questions on food safety, given the nightmare legislation that was in place in relation to food safety prior to our election as government that small business would have had to have dealt with.

Food safety issues are very important and are ones which the community has certain expectations will be addressed. It is this government that moved to simplify the requirements on small business. It is this government that sat down with small businesses and spoke to them about the issues that they are confronting with food handling issues. We are providing the templates and the answers to make it easier for small business to comply.

Supplementary question

Hon. C. A. STRONG (Higinbotham) — It is all right for the minister to make the normal tirade of what other people have and have not done, but will she seek a report on the impact of existing food safety laws on small business from the — —

The PRESIDENT — Order! I did not hear the member's question. I am sure that Hansard had difficulty in taking it down, and I am sure the minister wants to hear it. I ask members to lower their voices and allow the Honourable Chris Strong to pose the last part of his question again.

Hon. C. A. STRONG — Will the minister seek a report on the impact of the existing food safety laws on small business from the Small Business Commissioner?

Hon. M. R. THOMSON (Minister for Small Business) — The government is always conscious of being aware of the impact of legislation and the application of that legislation on small businesses. We

continually keep an eye on and monitor those situations, and we will continue to do so with food handling.

Bushfires: minimisation strategies

Mr SMITH (Chelsea) — I refer my question to the Minister for Energy Industries. Will the minister inform the house of the steps taken by the Bracks government in the energy sector to prepare for the coming bushfire season?

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I thank the honourable member for his question; it is a very important one indeed. I wish to inform the house of measures which have been taken in the energy area, both in electricity and gas, in relation to the problem of bushfires which our community faces every year.

During the previous sitting of Parliament I reported on the new requirements for enhanced reporting by the electricity distribution companies that was brought in under the Electricity Safety (Bushfire Mitigation) Regulations 2003 which state that the distribution companies must provide bushfire mitigation strategies as a way of minimising the risk of fire. I am pleased to report that preparations by the network businesses are already well advanced, with more predictable and frequent reporting to the Office of the Chief Electrical Inspector.

With the bushfire season upon us the Office of Gas Safety is also being vigilant regarding Victoria's gas supply safety. Members might not be aware, but gas can contribute to significantly increasing the amount of damage in bushfires. In relation to the fires in the Australian Capital Territory it was shown that gas meters or gas bottles catching fire was a significant issue. Victoria has been working with the Australian Capital Territory government on its review into the reasons for its calamitous fires, and one of the issues that has been identified is gas meters catching fire. I am pleased to acknowledge the very valuable contribution which the director of the Office of Gas Safety, Ken Gardner, made to the ACT review. It was an important contribution, and it has been recognised by the ACT Minister for Planning, the Honourable Simon Corbell, as well. The lessons from the ACT review are ones that we could well learn here in Victoria, particularly in relation to the specific issue of gas meters catching fire.

To reduce the risk this summer I urge householders and businesses to implement the following measures in the event that they face an issue in relation to a bushfire. If they are leaving the house when a bushfire threat is

imminent they should turn off the gas at the meter, making sure that it is turned off at the meter and not just at the appliances inside the house, including turning off liquefied petroleum gas cylinders, if the house uses LPG. They should also keep the area around the gas meter or LPG cylinder clear of all flammable material, including mulch and plants. That should be done on an ongoing basis and not just as a bushfire becomes imminent.

I am pleased to announce these measures and the actions we are taking to mitigate against bushfires. We are getting on with a job of fixing this issue following the privatisations which took place when inadequate measures were put in place by the previous Liberal government. We want to restore safety in this state as the no. 1 priority that it should be.

**Information and communications technology:
broadband access**

Hon. P. R. HALL (Gippsland) — My question without notice is to Minister Thomson, but to prove that there is no collusion this time it is in her capacity as Minister for Information and Communication Technology. I refer the minister to her answer to a question last week in which she spoke about the Bracks government making \$10 million available to provide adequate broadband services to areas of country Victoria. Could the minister advise the house of the process and the criteria being used to allocate this \$10 million in funding?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for the question, which is in relation to the customer access networks (CAN) projects that the government is funding based on a competitive model — not a competitive model in the sense of competing for a tender but to create an environment to encourage more participation by telecommunication companies to provide innovative alternative infrastructure. It is about looking at new ways that infrastructure can be provided to supply bandwidth into communities that otherwise might not have access to it.

I have spent some time talking about the CAN projects in the past, and they are about innovation. It is not about extending what programs telecommunications companies should have in place for their own infrastructure rollout, it is about new innovative infrastructure and new ways of providing telecommunications. They are assessed on the basis of criteria in relation to that innovation. They are assessed independently of me and approved on the basis of the

provision to those communities, the innovation it provides to those communities and to encourage the competitive model to ensure that there is availability of affordable bandwidth and communications to those communities.

Supplementary question

Hon. P. R. HALL (Gippsland) — I put to the minister that one example is that the good people of Yarram have a particular problem with Internet services, which seriously disadvantages a number of small businesses in Yarram and also education providers. I want to know if the minister is able to give me an application form that the people of Yarram can use in putting a submission for assistance in funding; or in what way can the minister assist the people of Yarram access these funds to improve their Internet services?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — This is about funding the telecommunications infrastructure spend in new and innovative ways. In some areas communities have come together with communication companies or companies that are getting into telecommunications provision and are applying for full funding under the CAN process for that purpose.

Hon. P. R. Hall — How do they apply?

Hon. M. R. THOMSON — They apply through Multimedia Victoria. Announcements will be made at the next round of funding, so I suggest that Yarram looks at trying to meet that. It is more about demonstrating to telecommunications companies that the government provides the information that comes from these trials to hopefully get to those communities that might not have the capacity to put those projects together themselves because it is about the infrastructure and the technology.

With that technology we are hoping other telecommunications companies will see ways in which they can reach out to communities that they have not otherwise done so.

**Information and communications technology:
investment projects**

Hon. BILL FORWOOD (Templestowe) — My question is to the Minister for Information and Communication Technology. I refer the minister to page 129 of budget paper 3 with shows that the expected outcome in 2002–03 of the investment recruitment projects outcome group as 115 projects attracted. I also refer to the minister's letter to the

Public Accounts and Estimates Committee in which she stated that:

... for commercial-in-confidence reasons it is not appropriate to disclose the 115 projects to which this measure refers.

What is commercial in confidence about providing the Parliament with a list of companies which have decided to invest in Victoria?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — The member will be aware that investment attraction is an issue that has been dominated by a competitive model around this country. The government has been very conscious of the need to protect the confidentiality of the investments being attracted to the state; in some instances at the request of those businesses. It has always been the practice to afford confidentiality to those businesses when discussions are taking place. When there are successful investment attractions, they are announced at the time of that occurring. However, there is no disclosure of investments still under discussion. That has been the practice in the past.

Supplementary question

Hon. BILL FORWOOD (Templestowe) — I thank the Minister for Information and Communication Technology for her answer, which was a great help. However, what I am actually talking about is the expected outcome for 2002–03 — the year which has finished — which is shown as 115. In other words, these are projects that the Victorian government has already successfully attracted. In these circumstances I put it to the minister that her answer is in complete contradiction to the letter she wrote to the Public Accounts and Estimates Committee in which she said she would not make the list of projects available for commercial-in-confidence reasons. Will the minister now make the list of the 115 companies — not the money, just the successful companies — available to the Parliament?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — The level of assistance given to companies to attract them to this state varies from assisting with potential locations right through to investment attraction in the sense of providing support for that investment. Discussions are held with companies in relation to the announcement of their investment in Victoria and those announcements are made in cooperation with those businesses.

Information and communications technology: computer games industry

Ms ROMANES (Melbourne) — My question is also for the Minister for Information and Communication Technology. Last week the minister informed the house of the boost to Victorian computer game developers from the establishment of the Academy of Interactive Entertainment and said that the Bracks government would continue to work with the industry to deliver innovative and world-leading industry development initiatives. Can the minister advise the house of any world-leading initiatives the government has delivered since she made that statement?

Hon. M. R. THOMSON (Minister for Information and Communication Technology) — I thank the honourable member for her question, because I was fortunate to be with the Premier yesterday when he announced the Xbox development kit program. This program has been put together by the Bracks government in association with Microsoft and the Games Developers Association of Australia. It will make 18 Xbox development kits available to the games industry in Victoria.

This is a very important initiative. Members will have heard me talking repeatedly about the importance of the games industry in Victoria. This gives another advantage to Victorian game developers. This is a world first. This is the first time the Microsoft Xbox development kits have been provided to small development companies to give them an opportunity to provide the best possible games for that form of technology and to therefore gain business and benefit the state and grow the sector.

It reflects on the standing of the Victorian IT industry in the world arena. I was fortunate to have had the opportunity to visit Microsoft in Seattle this year, and it was through the discussions there that we were able to lock in this arrangement which, as I said before, is a world first.

This follows from the Playstation 2 program which I announced last year when the Playstation 2 development kits were made available through the Game Developers Association to deal with this game platform. The Sony Playstation 2 is the no. 1 game platform in the world.

In the *Australian Financial Review* today, the Asia Pacific general manager of Microsoft Xbox, Mr Alan Bowman, is quoted as saying that this would be something he would like to see moving to other states,

but he would also like to see the federal government take it on on behalf of games developers around the country. I agree, it would be good, but the federal government does not, which is why half the developers in the games industry are here in Victoria. We listen and we act, and we are providing the games developers here in Victoria with what they require.

Housing: national standards

Hon. J. H. EREN (Geelong) — My question is addressed to the Minister for Housing. Will the minister tell the house what the Bracks government is doing to support quality improvements for community housing?

Ms BROAD (Minister for Housing) — I thank the member for his question and the recognition of the vital role that community housing plays in providing affordable housing in Victoria. I am pleased to advise the house that progress is being made in implementing the standards set out in what is now the second edition of the *National Community Housing Standards Manual*. This manual is a valuable tool for anyone who is dealing with the community housing sector, and the Bracks government is very pleased to have contributed towards funding the revision of the first edition which was developed by the Carr government in New South Wales.

The Bracks government endorses the standards, and it is moving to make certain that people living in community managed housing across Victoria have access to minimum rights and standards. It is committed to providing the highest level of service to them and to the organisations that work to assist people in that housing. The government views this as a very important part of its commitment in this term of government to support initiatives that further strengthen Victorian communities. As plans are further developed for the creation of affordable housing associations — to which the Bracks government committed itself before the last state election, the Office of Housing will work towards a plan for full implementation of these standards by July 2004.

The national standards include a number of guidelines on tenants' rights and participation; managing tenancies; working with communities; recruiting, selecting and training staff as well as good governance within these agencies. In addition, the Bracks government is currently supporting two projects that will further strengthen these quality improvement and assurance strategies. These are the development of homelessness assistance standards as well as a charter of rights for people experiencing or at risk of

homelessness and an enhanced mechanism for complaints.

The charter of rights will apply to people accessing or wishing to access crisis or transitional accommodation and support services as well as affordable long-term housing. The homelessness assistance standards will be closely linked to the national community housing standards and together will form a comprehensive suite of service delivery standards to cover the full range of homelessness assistance and community housing providers and programs. It is great to see that the community housing sector is right behind these standards and has participated in their development.

These are the agencies on the ground — the agencies, if you like, at the front line — that understand the importance of building tenants' rights, participation and quality into every aspect of delivering these services.

I certainly look forward to working with them into the future in implementing these revised standards. The Bracks government is getting on with the job of delivering in the area of affordable housing for Victorians and building for the future of community housing, and these standards clearly demonstrate our commitment and support for those aims.

Small business: planning permits

Honourable members interjecting.

Hon. B. N. ATKINSON (Koonung) — It is a good question, so I thank members for their acclamation. I direct my question to the Minister for Small Business. Small business owners have raised concerns with Liberal members about delays in the assessment of planning permit applications by local government authorities. I ask the minister: will she instruct the Small Business Commissioner to undertake a review of the impact of these planning approval delays on small business?

Hon. M. R. THOMSON (Minister for Small Business) — I thank the member for his question.

An honourable member interjected.

Hon. M. R. THOMSON — That is right. There is a question as to what role he has in asking the question and which hat he is wearing.

Mr Gavin Jennings — This is the adjournment hat. He asked the question in the adjournment last week!

Hon. M. R. THOMSON — We are having two bites of the same cherry! But it is nice to see Bruce fulfilling his parliamentary role for a change!

There are concerns in local government with planning approvals and delays, which I am sure the Minister for Local Government has addressed in this house before. There are some difficulties attached with that. The government is conscious that there are issues, and it is having discussions with local government through the Minister for Local Government. I have every confidence in the Minister for Local Government, and she is dealing very well with these portfolio issues for the benefit of small business.

Supplementary question

Hon. B. N. ATKINSON (Koonung) — Taking into account the minister's answer, what action will she take to ensure that small business owners do not continue to face additional costs and disruption to their businesses as a result of delays in planning approvals by local government? In other words, what action will she take as Minister for Small Business?

Hon. M. R. THOMSON (Minister for Small Business) — As I have already stated, the Minister for Local Government is well and truly aware of these issues, as is the government. Of course as a minister in the government I am also aware of those issues and have had them brought to my attention. As I have already indicated to this house, the matter is being addressed in an efficient and in what I believe will be an effective way by the Minister for Local Government.

Consumer affairs: Lunar Realty Pty Ltd

Hon. R. G. MITCHELL (Central Highlands) — I refer my question to the Minister for Consumer Affairs. Can the minister advise the house what action the Bracks government is taking in relation to the recent real estate scam that has entered the Victorian market?

Mr LENDERS (Minister for Consumer Affairs) — I thank Mr Mitchell for his question and for his ongoing interest in consumer affairs and avoiding scams. One that immediately comes to mind makes me wonder whether it is within my jurisdiction, because it is a bit extraterrestrial. Consumers Affairs Victoria has identified a series of advertisements for the sale of real estate on the moon — that extraterrestrial body circulating way above the jurisdiction of Victoria!

Advertisements offering lunar land have appeared in the *Herald Sun*, they appeared on the Internet and reports were aired on commercial television, most notably Channel 10 last night.

Consumer Affairs Victoria identified that the Internet web site is associated with a company called Lunar Realty Pty Ltd, an Australian company having a registered office in Sydney. The directors of the company have been identified. Hopefully, they are not moonlighting!

Consumer Affairs Victoria has recently had provisions under the Fair Trading Act amended to provide it with the power to pursue this company and its directors for substantiation of the claims made on the web site. If it is established that the advertising material published by Lunar Realty is false or misleading or if the company and its director fail to respond to inquiries, the department can prosecute.

But, President, to bring us back to earth, the issue here is that a company is purporting to sell real estate on another terrestrial body — that is, on the moon. It challenges me, as a minister and as a member of this government, to ask how do we respond to this type of issue? As I have advised this house before, we need to go back to basics: if it looks too good to be true, it probably is.

I put to this house that if someone offers you for \$59 a piece of paper for the sale of a quarter of an acre in the Sea of Tranquillity, or in any of the other places on the moon, you have to start looking at it. My advice to consumers is that it is about a piece of paper, not real estate. If it looks too good to be true, it certainly is.

We can look around here and say, 'Where is this all taking us?'. We know that certain members of this house go moonlighting. We also know that people dressed up in spacesuits have been going around Half Moon Bay in the Higinbotham electorate. We also know that there is a whole range of these issues going on.

However, as I said, the serious issue for us in this government is that if it looks too good to be true, it probably is. Consumers ought be aware. I repeat, if someone is being offered a piece of paper at a cost of \$59, they ought be conscious that it is only a piece of paper — a very expensive piece of paper — and not a piece of land. We understand that this is an issue that has the potential to be very serious —

Honourable members interjecting.

The PRESIDENT — Order! Again, I remind honourable members that this is the last question, and the minister has 33 seconds to conclude his answer. It is difficult for Hansard to record the minister's response, which I am sure members will look forward to reading

tomorrow. I ask members to desist and the minister to conclude his answer.

Mr LENDERS — The final thing I would say is that if we find that consumers have been disadvantaged by this, I give this house an assurance that Consumer Affairs Victoria will launch prosecutions.

QUESTIONS ON NOTICE

Answers

Mr LENDERS (Minister for Finance) — I have answers to the following questions on notice: 536, 576, 589 and 772.

The PRESIDENT — Order! I call the Honourable Bruce Atkinson — —

Honourable members interjecting.

The PRESIDENT — Order! I ask members to lower their voices. I have called the Honourable Bruce Atkinson. If members are going to talk, would they please leave the chamber.

Hon. B. N. ATKINSON (Koonung) — I have some concerns about outstanding answers to questions on notice. Whilst I have heard explanations in previous days about the difficulty in getting ministers in another chamber to supply answers, my difficulty is with a minister in this chamber — namely, the Minister for Small Business. These questions have been outstanding since 18 March, 20 May and 3 June.

The question that I have an answer to today — and I thank the minister for it — is 589, but yesterday I wrote to the minister to indicate that there are outstanding answers to questions 159, 167 and 168, which were all lodged on 18 March — more than six months ago; to questions 563 and 564, which were lodged in March — more than four months ago; and to question 602, which was lodged on 3 June — more than three months ago.

The rule of this house is that answers ought to be supplied in 30 days. I ask the minister: when will answers to these questions be forthcoming?

Hon. M. R. THOMSON (Minister for Small Business) — I was unaware of a letter arriving at my office in relation to that. I believed that we were up to date in responses to questions on notice, and I will try to discover what has occurred in relation to this and provide the answers to the member.

Hon. ANDREW BRIDESON (Waverley) — I seek an explanation as to why I have not yet received a response to question 173, which was to the Premier; and question 317, which was to the Minister for Police and Emergency Services in the other house through the Minister for Energy Industries. I wrote to both ministers yesterday, advising them of the same.

Mr LENDERS (Minister for Finance) — I did receive an email from Mr Brideson's electorate officer regarding question 173 to the Premier. I assure him that I will seek to get that answer expeditiously.

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — I have not seen an email, but I take the member's word that he has sent one to my office. I will look at it and seek to get a response on the relevant question.

MEMBERS STATEMENTS

Como House

Hon. ANDREA COOTE (Monash) — I wish to raise a matter regarding a property in my electorate called Como House, that is owned and operated by the National Trust of Australia (Victoria). Como House was the first property acquired by the national trust in Victoria. It has been a hugely popular tourist attraction in Melbourne. In 1993, according to the Victorian Auditor-General, Como House received 57 000 international visitors. That is nearly 8 per cent of all international visitors to Melbourne. According to the national trust, many of those visits were made by tourists who loved the house the first time they had visited it and had brought family and friends back to visit a second time.

In 2002, Como House made a loss of \$225 000, and the National Trust is looking at creative ways of encouraging visitors back to the house. On 24 September the national trust announced that it had acquired a liquor licence for Como House, which would be available for private functions and dinners. It is looking at dropping the entrance fees to the gardens to attract visitors to come and use its cafe and enjoy the gardens.

I commend the national trust and especially its chief executive officer, Stephen Hare, who has the difficult job of turning the National Trust around. I encourage all members to visit Como House and enjoy the stunning gardens and the colonial house.

Ukrainian Youth Association

Hon. KAYE DARVENIZA (Melbourne West) — On Saturday night I had the pleasure of attending the Ukrainian Youth Association annual debutantes ball, along with the member for Essendon in the other place, the Speaker; and my upper house colleague, Chris Strong. I congratulate the Ukrainian youth association, particularly the president, Dr Christina Moravski, not only on organising the ball where the debutantes and their partners looked stunning, but for the important youth development work that the association undertakes. The ball is part of a debutante leadership program which began in 1983. The program is based on assisting youth into adulthood by looking at a range of aspects that relate to being a stronger person and a contributor to the community and society.

The association was formed back in the early 1950s, with the purpose of educating and assisting the maintenance of Ukrainian identity and making a contribution to the Australian and Ukrainian communities. The 200-strong Melbourne branch is part of a national and international network. I congratulate the Ukrainian community on its youth association and the inclusion and participation of so many young people in maintaining its language, culture and traditions.

Tallangatta Secondary College and Corryong College: feed-for-feed day

Hon. W. A. LOVELL (North Eastern) — I congratulate a group of year 9 students from Tallangatta Secondary College and Corryong College who will today hold their first annual feed-for-feed day.

As part of the personal best program, the group of 10 students who have witnessed first-hand the effects the drought has had on their communities came up with a traditional Aussie way to help farmers hit hard by bushfires and drought. The group have contacted and invited schools across the state to hold sausage sizzle days and to donate all proceeds to buy hay for fire and drought-stricken farmers.

The group of 10 students — Sarah Reid, Hayley McFarlane, Allira Larkin, Rebecca Hughson, Laura Vance and Kim Green from Tallangatta Secondary College, and Daniel Whitehead, Nathan Wallace, Lauren Drummond and Michelle Ballard from Corryong College — met through a telematics conference to plan the event. Feed-for-feed day will raise money for stock feed and, just as importantly, show farmers that the whole community is behind them and that the community cares.

These young people deserve congratulations on their community spirit, and I know the bushfire and drought-stricken farming communities will be very grateful for the feed provided through the proceeds of today's feed-for-feed day.

Dr Jim Cairns

Mr SCHEFFER (Monash) — I pay tribute and offer my deep respect and sorrow at the passing of Dr Jim Cairns, federal Labor parliamentarian, political activist, intellectual and hero of the Australian left.

Jim Cairns was an inspiration to me and to many of my generation. He held relentlessly to the conviction that we can change the world for the better through social action. Cairns believed passionately that individual and collective liberty could only be enlarged through social organisation and collective action. Despite decades of working as a parliamentarian, he came to recognise that all around the communities there were centres of power in churches, trade unions, workplaces and schools, and that legislative and structural reform on their own could not improve society.

Lasting social development comes about through people changing their mind, having a change of heart. I guess Cairns became a Gramscian believing in the need for personal and cultural — as well as political — transformation.

For me, Jim Cairns demonstrated his convictions most powerfully in his leadership of the movement against the Vietnam War in the 1960s and 1970s. He saw that through the hundreds of community peace groups, whose members had changed their hearts and minds, a profound political and cultural transformation took place.

I will remember Jim Cairns chairing our moratorium planning sessions in the old Flinders Street railway station meeting rooms — the Deputy Leader of the Opposition in his shirtsleeves, looking over his spectacles, pointing his pen at someone at the back of the room raising a hand to speak. Everyone got a hearing and everything got done. Jim Cairns was a great and inspirational Labor leader.

Small Business Commissioner: role

Hon. B. N. ATKINSON (Koonung) — I have some concerns about the role of the Small Business Commissioner in practice compared with his role of examining issues that are relevant to small business. The Liberal Party very strongly supported this appointment, because it believed this is a valuable position — to advocate the interests of small business

within the government. But it seems to me that the Minister for Small Business has failed to use this officer in a way that allows him to examine key issues.

I refer particularly to an issue that has arisen in recent days which is to do with the Cemeteries and Crematoria Bill and the fact that the stonemasons association has indicated there are significant problems with that legislation. Indeed it is in contravention of national competition policy, and from that point of view the Small Business Commissioner ought to have been able to inform the government of problems associated with that or other legislation at any other time. In the context of — —

Mr Gavin Jennings — On a point of order, President, if the member has a look at the notice paper he will see that the Cemeteries and Crematoria Bill is listed there and is about to be dealt with by this house. He is dealing with a matter of substance that would be better dealt with in the second-reading debate on that legislation. I ask the President to rule the member's current contribution out of order.

Hon. B. N. ATKINSON — On the point of order, President, there is no rule of anticipation applying to members statements. It would certainly apply to a question without notice, and therefore I chose not to issue a question on this particular matter, but on members statements there is no such position. I have also been very careful in my remarks, and I am not going to the substantive elements of the legislation which I will canvass at the appropriate time in the debate.

The PRESIDENT — Order! I am concerned about the member referring to the Cemeteries and Crematoria Bill, which is an order of the day and is on the notice paper. It will be dealt with some time during the course of today. I ask the member to desist from referring to the Cemeteries and Crematoria Bill in his 90-second statement before the house, or I will have no option but to rule him out. The member, to continue.

Hon. B. N. ATKINSON — The Small Business Commissioner has explored a piece of legislation that he believes has some significant problems with its impact on small business but has been unable to inform the government of that position.

Point Nepean: future

Hon. J. G. HILTON (Western Port) — On Sunday, 5 October, I attended a protest rally at Point Nepean. Estimates of the number of people varied, but it was certainly in excess of 300. The attendees were asked to

wear red and to ring a bell at the end of proceedings. The colour red and the ringing of bells signify distress — the distress is caused by the potential disintegration of Point Nepean if the commonwealth government proceeds with its small-minded, mean-spirited and money-grubbing exercise to lease this iconic part of Victoria. Ten days ago the Bracks government submitted its tender to the commonwealth government.

Hon. R. H. Bowden — On a point of order, President, it is with great reluctance that I raise this point of order, but I have been listening carefully and so far the statement has been a direct attack on the federal government, and I think that is out of order.

The PRESIDENT — Order! There is no point of order with respect to 90-second statements. The member may continue.

Hon. J. G. HILTON — Ten days ago the Bracks government submitted its tender to the commonwealth government to retain Point Nepean in its entirety, and in three years time to incorporate Point Nepean into an enlarged national park. I had the opportunity to discuss with many of the rally attendees the thinking behind the Bracks government's tender protest, and I am pleased to tell honourable members that the reception was entirely positive.

It is a great pity that we have in Canberra a government that is more interested in raising money than in listening to the will of its people. If the federal government follows through with its determination to disintegrate Point Nepean, not only will it be a sad day for Point Nepean, it will be a sad day for all Victorians.

Planning: native vegetation amendment

Hon. J. A. VOGELS (Western) — My statement today is as a result of the anger felt throughout rural Victoria on the way a planning amendment dealing with the environment is proposed to be introduced.

The amendment will empower local government officials and bureaucrats to approve or disapprove permits for the destruction of rabbit warrens if native vegetation will be disturbed. We all know the enormous damage rabbits already inflict on native vegetation and that they cause erosion to the extent that they are classified as vermin, yet our farmers will be severely restricted in their eradication due to this amendment. There is no such restriction on our rabbits.

The amendment will also enshrine this government's net gain policy, forcing land-holders to plant hundreds of new trees to replace a handful removed through

necessary clearance — for example, for farming practices, powerline construction and roadworks. The anger out there stems in large part from the fact that the acting minister, the Honourable Bob Cameron, who signed the amendment, exempted himself from the requirement of the Planning and Environment Act 1987 to make it available for inspection or give due notice of it.

In fact, the general manager of environment regulation, planning and land services in the Department of Sustainability and Environment, Mr Paul Jerome, in signing off, stated that the acting minister did not consult the responsible authorities and no notice of the amendment was given. The Honourable Bob Cameron was the previous Minister for Local Government and is now the Minister for Agriculture — and he should know better.

Myrtle Muir

Ms HADDEN (Ballarat) — I wish to pay tribute to Mrs Myrtle Muir, who has a long history of being a very caring, committed and hardworking volunteer member of Ballarat's indigenous community in various areas, such as the Aboriginal community justice panel, welfare and housing. Myrtle has recently, albeit reluctantly, retired from these very demanding community positions due to ill health.

In 1979 Myrtle became a member of the steering committee on Aboriginal housing, which established the Aboriginal Housing Board of Victoria, comprising elected representatives from all regions. Myrtle was elected as a representative for the Ballarat region at the first elections and held that position for 23 years.

Myrtle was also chair of the Aboriginal community justice panel for over 15 years. Last week Myrtle was publicly thanked and presented with a Victoria Police service award by Commander Ashley Dickinson for her dedication and commitment to the Aboriginal community.

Myrtle also received the chief commissioner's citizen commendation for her work in improving Aboriginal-police relations in 1996. In 1998 Myrtle received the inaugural Mollie Dyer award for the advancement of the rights of Koori children and their families. In 2000 Myrtle received the Frances Pennington Award, which recognises Victorians who live in public housing and contribute to their communities.

Myrtle in fact has been a very proud public housing tenant for over 50 years. Myrtle's simple motto is that she enjoys helping others, and it comes naturally. She

says she does not do it for the glory; she just does it because she enjoys helping people who need it.

Rick and Todd Kelly

Hon. B. W. BISHOP (North Western) — I have much pleasure in congratulating the Kelly family, who hail from Mildura, who did very well at Mount Panorama in the Bathurst 1000 on Sunday.

John and Margaret Kelly, who own the K-Mart racing team, were proud parents after seeing their son, Rick, team up with Greg Murphy to win the race in the family race car, while their other son, Todd, was unfortunate not to come in second with his co-driver, Mark Skaife, in the Holden team after they had some vehicle difficulties towards the end of the race.

Rick Kelly, at 20 years of age, also wrested the title of youngest winner from superstar Craig Lowndes, who held it for some years and who did well to come home second in this year's race.

The Kellys, who are property developers from Mildura, rescued the K-Mart racing team from the mess of the Holden motor sport collapse of earlier this year, and have now received just rewards for their risks and efforts by winning the big race. Rick and Todd Kelly have really arrived in Australian motor sport and join a long list of Sunraysia sportsmen and women who have achieved greatness, and I suspect they could be next to hang in the Sporting Hall of Fame in Mildura's Bendigo Bank Centre.

Member for Higinbotham Province: opposition statements

Mr PULLEN (Higinbotham) — During the Non-emergency Patient Transport Bill debate last week the Deputy Leader of the Opposition, the Honourable Andrea Coote, claimed that I attacked a person who was exercising their democratic right by presenting a petition to the other place and claimed that I am obviously against democracy. She further claimed that I was very sarcastic and very derogatory about the petitioner. Also, the Honourable David Davis claimed that I launched a disgraceful and worrying attack on the petitioner.

Hon. B. N. Atkinson — On a point of order, President, I know the member does understand the rules of the house and it is possible that he might not have infringed, but I draw the President's attention to the fact that to this point the member's 90-second statement is more of a personal explanation. I therefore seek that you, President, make sure that the member either

pursues the making of a 90-second statement or otherwise avails himself of the other rules of this house and lodges a personal explanation as a separate exercise.

The PRESIDENT — Order! Under previous rulings made in this place with respect to members statements, members may raise a concern but may not make an allegation. I was listening carefully to the member's comments, and to this point he has not made an allegation. He still has a little over a minute to go, so I ask him to continue.

Mr PULLEN — I hold the Deputy Leader of the Opposition in high regard, and if I were a member of the parliamentary Liberal Party I would even vote for her to retain her position — —

Honourable members interjecting.

Mr PULLEN — I am not so sure about Mr David Davis, who can be flimsy with the truth when it comes to items such as the Kew Residential Services.

What I said in the debate about the petitioner was that the petitioner referred to:

... inordinate delays of the MAS in responding to a number of emergency calls in the City of Bayside ...

I said:

I do not want to be disrespectful to the petitioner, but I would be interested to learn more about these inordinate delays ...

I challenge both members to check *Hansard*; and then to do the decent thing and apologise.

Skiing: Mount Buller

Hon. E. G. STONEY (Central Highlands) — The ski season at Mount Buller finished on Sunday. It was the second-biggest season ever in terms of visitor numbers to the mountain, with over 548 000 people attending for the season. Sandie Jeffcoat, the resort manager at Mount Buller, told me today that it was a highly successful season, and that he is sure that commercial operators in Mansfield and on Mount Buller have been very pleased.

John Perks, who runs Arlberg Hotel, told me that attendances have been fantastic right to the end of the season — better than any other year. He went on to say that there is still a metre of snow at the front door of the Arlberg. Laurie Blampied, the general manager of Mount Buller ski lifts, told me they had 128 days of lifts running when normally there are only 110 to 120, and that the common feeling among those at the resorts

is that it has been the best season for 20 years and that that has had a great impact on Mansfield and on Mount Buller.

Management extended the ski season through to last Sunday, 12 October. There were 1600 cars through on the day and about 4500 skiers. They let anyone through the gate for free on the last day if they were wearing a Collingwood jumper — and I understand that quite a few came out of the cupboard.

Some facts about the season include approximately 548 000 visitors and 60 653 cars. I congratulate the resort management board, the lift company and all associated ski businesses at Mount Buller and Mansfield for providing a top service in what was a sensational snow year.

Bali bombings: Geelong victims

Mrs CARBINES (Geelong) — On Sunday evening I had the honour of attending a special ecumenical service in Geelong to mark the first anniversary of the Bali bombings. Held at St Mary of the Angel's church, and led by Father Kevin Dillon, over 200 people came to pay their respects and honour the 202 victims of the senseless attack and acknowledge the tremendous pain and suffering inflicted on so many others who were injured, their families and friends. Tragically Geelong lost five members of its community — Bronwyn Cartwright, Stacey Lee, Justin Lee, Aaron Lee, and Stacy and Justin's unborn child.

As a community we have also seen the tremendous courage and battle to survive faced by Therese Fox, who only last week was well enough to return home to Geelong for the first time since being so seriously injured in the bombing.

I pay tribute to the families of our victims and to Therese and her family. I hope that in a small way they were able to derive some comfort from the support of the Geelong community as demonstrated at this very moving service.

Association Carabinieri of Victoria

Hon. R. H. BOWDEN (South Eastern) — I would like to express sincere appreciation for the access, information and hospitality that was recently extended to me during my visit to the L'Arma dei Carabinieri headquarters in Rome, Italy.

The national carabinieri is a multifunctional police force in Italy that has approximately 120 000 personnel involved in land, sea and air operations. It is well known and highly respected internationally for

peacekeeping, for its fight against terrorism and for its work on United Nations humanitarian programs, as well as for its fine police work throughout the entire length and breadth of Italy. The carabinieri was formed in 1816 and is highly regarded right around the world.

In 1972 in Victoria the Association Carabinieri of Victoria was founded by retired members and members of the carabinieri who had relocated to Victoria. It is strongly supported and highly regarded by the Victoria Police, and from the time of former commissioner Mick Miller chief commissioners have become the honorary patron, and that continues today.

From the beginning the objectives of the Association Carabinieri of Victoria were to make every possible effort to make the various law enforcement authorities, including the government of Victoria, aware of the L'Arma dei Carabinieri, and more exclusively of the Italian community's virtues and citizenship. I pay special tribute to Cavalier Felix Prattico, OAM, the president, and I thank General Esposito in Rome — —

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

Essendon Football Club: coach

Mr SMITH (Chelsea) — I wish to raise a very serious matter about the statements being made by the current coach of the Essendon Football Club, Kevin Sheedy, who has had the audacity to criticise the tactics of my club, the Richmond Football Club, in its recruiting campaign. It is absolute nonsense for the Essendon coach to complain that we are trying to poach one of his players when that club has mismanaged its list for so many years. It has been caught rotting time after time — in fact, more times than the Carlton Football Club, which is the biggest rotter of the lot!

To condemn the Richmond Football Club is just beyond the pale. I say that Richmond is entitled to pursue any player who is available in the current draft to the best of its ability and will. Over a number of years Greg Miller has clearly demonstrated that he has an enormous capacity to get his man, and I hope he gets the Essendon man because clearly he is an outstanding footballer. Obviously I refer to Dean Solomon. For a club coach to complain that it is having to pay \$400 000 is outrageous when it pays \$1 million to James Hird — and the fact that its full forward, Lloyd is paid approximately \$700 000 is just insanity. I say to Kevin as an old Richmond man, 'You need to settle down and get a grip'.

As far as I am concerned the Richmond Football Club is doing everything in its power — —

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

BUSINESS OF THE HOUSE

Program

Mr LENDERS (Minister for Finance) — I move:

That pursuant to sessional order 16, the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 16 October:

- Instruments (Enduring Powers of Attorney) Bill
- Grain Handling and Storage (Amendment) Bill
- Mental Health (Amendment) Bill
- Cemeteries and Crematoria Bill
- Heritage (Amendment) Bill
- Planning and Environment (Port of Melbourne) Bill
- Child Employment Bill

I have moved that the first seven bills on the notice paper be included in the government's business program for four reasons. The government has not sought a business program for some months now, but as a government we are acutely conscious that as we approach the end of the spring parliamentary sitting we do not want a long, congested list of bills to deal with at the end of the year. So the adoption of a business program at this juncture which will enable us to continue debate until 10.00 p.m. on Thursday and on Friday from 9.30 a.m. until 4.00 p.m. without any encumbrances will allow 10 extra hours of government business. That will permit this Parliament to have a considered discussion of these seven bills — some of which discussion commenced before this week — so that we can have a full and current debate on the legislation in an orderly fashion.

For those reasons it is important that we plan a legislative program, and I seek the support of the house to adopt this business program.

Hon. PHILIP DAVIS (Gippsland) — I heard only one reason! Much to my surprise the Leader of the Government has brought in a government business program today. I am surprised and frankly disappointed because for the duration of last week, and in particular on Thursday, the government repeatedly came to the opposition and sought its cooperation in regard to

managing its legislative program. Not only did it seek cooperation in regard to the program in general — which, I point out, the opposition agreed to — but it came to us and asked for leave to introduce and pass amendments to the Victorian constitution in one day.

There was a high level of cooperation, and notwithstanding the concerns that were raised during debate on that bill the opposition did not frustrate the government's legislative program. Nor is it evident to me that the government's legislative program has been as yet frustrated in any way in respect to the legislation before the house.

Except for one, the bills listed on the notice paper have not been longstanding on it. The bill which has carried over, the Child Employment Bill, is due for further debate in the committee stage. I believe the government has already acknowledged during the second-reading debate and the committee stage that some aspects of the bill require some detailed further debate in committee so that further matters of policy can be tested in Parliament.

I find it highly insulting that the government should introduce a government business program today and suggest by implication, because that is what it is, that the opposition has been less than cooperative. To date the government has had every cooperation and its business program has been facilitated in every way; there has been no impediment. Indeed, there is no bulge in the notice paper. All of the matters on the notice paper that could be dealt with should be dealt with this week irrespective of what is listed in a business program.

A business program is not warranted. The opposition will look less favourably in future at requests by the government for cooperation because of its resorting to these very heavy-handed tactics which are clearly a threat that, irrespective of the merit of the debate and the stage at which the debate is at on any particular bill during the course of this week, at 4.00 p.m. on Friday the nominated legislation will automatically pass.

As I have said in this place before, the advent of sessional orders has been disappointing and reprehensible. They were without precedent until 2 May this year. It did not bring any credit on the government when it guillotined the Outworkers (Improved Protection) Bill. There will be no credit to it if the government intends to guillotine further legislation this sitting.

Hon. P. R. HALL (Gippsland) — Firstly, the National Party will not oppose the motion, but I believe

the chamber works better without the need to have a defined government business program. There are advantages in having a more flexible working arrangement during the course of the week, as was evidenced last week when legislation had to be passed with some haste. We believe Parliament can work better if it has that flexibility to accommodate changes that need to be made.

The other point I make in terms of this procedural debate is that it is less than desirable that we have, like we have today, four bills at the start of the notice paper asterisked to indicate that they have not even been second read, and perhaps we will be debating them later today or early tomorrow, because there are not many items on the notice paper. That is less than a preferable situation. Once again it is a reflection on the management of the government's legislative program during the course of the sitting. It would be far more preferable if bills were introduced, second read during the course of one week and then the Legislative Council could come back a week or so later to complete debate.

In support of that position, item 8 on the notice paper — the Aerodrome Landing Fees Bill — was debated in this place early last week. The government has indicated, I think, that it wants to have a look at matters associated with that, and there yet may be potential for change in that bill. That is fine by us, because it is a sensible way to handle legislation. Maybe if we had let it sit there on the notice paper for a week and thought a little more about it, then it could have been dealt with more efficiently — that is, it could have been second read, gone into the committee stage if required and then passed.

It would be in our best interests and preferable were we to structure a program so that items were not automatically listed on the notice paper, second read and debated during the same week. With those few points, the National Party will not be opposing the government business program, but I stress that it is not happy to have to resort to such action.

Hon. BILL FORWOOD (Templestowe) — I am keen to contribute to this procedural debate. The first point I make is that obviously the government does not care much about it because it has the numbers and does not want to even participate in the debate, so it has decided to introduce —

Mr Gavin Jennings interjected.

Hon. BILL FORWOOD — So far as I am concerned, we have had minimal justification from the government for this heavy-handed tactic. There are two

ways of running this house: one is cooperation and the other is the jackboot. As Mr Hall rightly points out, we have four pieces of legislation listed on the government business program that are being introduced, second read and which could be guillotined through this place this week.

Frankly, there is a better way of operating, as Mr Hall said, and that is by cooperation. You seek leave sometimes to make this place work better. Sometimes this place works according to the party system, and the parties decide what they will do, but it is the right of one individual to refuse leave. I take exception to this sort of behaviour. Last week the government needed to get something done, and we cooperated — yes, we made our points about it, but we cooperated. This place has always operated in that particular way. Last week the government took advantage of the fact that the opposition was prepared to be flexible about it, and this week it does not even give it four reasons — one reason, in my view — about why it thinks it is necessary to introduce a government business program.

I make a point about the four reasons: if the government wants to sit on Thursday night, it can do so without a government business program. If it wants to come back on Friday, it can do so without a government business program. It does not need a government business program to have legislation passed.

The government should make up its mind about how it wants to run the house. Does it want to do it through cooperation or in this way? It is up to the government; it has the numbers and there does not have to be any debate. The government can move its motion, and if it goes to a vote, it will win anyway.

As I said, the government should work out how it wants to run this house. It works much better through our cooperation because, like last week, one day it will want cooperation. As I said, it only takes one person to refuse leave, and then the government has nowhere to go.

I understand that we will not oppose this motion. It is the government's right to introduce it, but it should think seriously about the way in which it runs this place.

Mr GAVIN JENNINGS (Minister for Aged Care) — I shall respond to a couple of points made by Mr Forwood, specifically about whether the government is contemplating how it wants to do transactions, about the way it does business in this place and whether it reaches levels of understanding and

cooperation. The answers to those questions is: yes, we do. In most instances we agree with the proposition put by the Leader of the Opposition, the Leader of the National Party, and indeed, Mr Forwood. We recognise the benefit of working in a collective and collaborative fashion whenever we possibly can to enable us to discharge our responsibilities in terms of legislation and the other business of Parliament.

We understand that situation as a general rule, and we acknowledge that last week we received a level of cooperation from the opposition and the National Party.

Hon. Philip Davis — A high level of cooperation.

Mr GAVIN JENNINGS — I am happy to raise the benchmark by acknowledging that there was a high level of cooperation. I believe Parliament, the people of Victoria, our constitution and the judiciary are all the better for that level of cooperation that was achieved last week. That is acknowledged and was responded to by the government. I acknowledge and understand, which was evident from the tone of my contributions to procedural motions last week, that I was aware of the notion that all it takes is for one person to deny leave which would have an effect. My contribution was targeted to all members of the chamber in terms of the degree of understanding and the urgency of the matter in the way we had to do business.

In relation to the government business program for this week, the government has made the considered decision that the best way to provide certainty for the passage of legislation on the notice paper down to and including item 7 is to introduce a business program to provide the house with a framework and a rigour in which we can find, through the running of the week, some renewed spirit of cooperation and understanding about how we will get through the pieces of legislation one by one.

There are seven pieces of legislation, and we imagine that there will be a huge discrepancy in the amount of time needed for one or two of these bills and that needed for the vast majority of them. During the course of the week the government will be trying to allocate the appropriate apportionment of time to the relevant debates in accordance with the level of concern expressed by opposition parties and the views that need to be expressed on the public record in deliberation of these bills.

We are taking the considered position that on this occasion — for this week, not as the standard rule — it would be preferable to have a government business program to provide within the running of the week

appropriate apportionment of time given the huge variation of time we anticipate members of the Parliament will need to express their viewpoints in relation to these matters so we can deal with them in a substantially significant way and deal with the issues on their merits. The government believes that structuring the program and structuring the hours to provide that opportunity is a better way to proceed, although it acknowledges that it comes at a cost because to some extent opposition members may feel their cooperation is not being acknowledged and respected. In fact, it is, but on this occasion the government's view is it requires that additional degree of certainty for the Parliament itself.

Hon. ANDREA COOTE (Monash) — That was very eloquent. In fact, the Deputy Leader of the Government was almost debating for the opposition's side. He spoke about being collective and collaborative and how we had cooperated. He acknowledged the huge amount of cooperation the opposition gave the government last week. However, I am really confused by his comments, as indeed I am by the very reason the government is putting forward a business program at all. There is no consistency here. One minute we have a business program, then we have a backflip and we do not have one. As both of my colleagues have said, it is very important to understand exactly where we are going and what sort of consistency we need to have in this chamber.

The Deputy Leader of the Government went on to say that he felt that having a business program this week would renew the spirit of cooperation. I think that is drawing a very long bow.

Mr Gavin Jennings interjected.

Hon. ANDREA COOTE — He said it would renew the spirit with vigour and within the framework. If the minister had a good look at how we operated and cooperated last week, he would see that we did not need a business program to do that.

I am exceedingly disappointed that the government feels it has to bring in a business program. I believe the opposition has worked very cooperatively with the government, and not just last week when we saw a bill introduced into this house with haste, discussed forthwith and pushed through. We should not be comparing various bills but this business program will provide, in the terms the Deputy Leader of the Government used, for an orderly and flexible program. The Leader of the Government said this would give us an additional 10 hours of debate on bills such as the heritage, planning and instruments bills, yet last week a

constitution bill, which is vital to the people of this state, was rushed through, with cooperation from us. It is absolutely inadequate.

I am really disappointed that the government believes it has to bring this in. Only three bills on the business program were on the notice paper before today, and there was no urgency at all. I cannot understand why the government has to be confusing and do a backflip, to go from being cooperative to introducing a business program.

It is very difficult to know how the opposition is going to deal with the government into the future. Do we cooperate with members opposite or do we operate according to a business program? What is it going to be? How are we going to run this chamber? How is the opposition going to cooperate with the government? Will it be, as my colleague said, with jackboots or will it be with cooperation? It is in the hands of the government. We need to know exactly how the house will operate. One minute it is one thing and the next it is another. I think it is about time the government stopped the confusion and we dealt cooperatively, which is the best way of operating and giving us the flexibility we all welcome.

Mr VINEY (Chelsea) — I think the reasons government members have articulated for bringing forward a government business program today are fairly clear — that is, the government has considerable legislation not only on the agenda now but coming before the lower house this week. It is my understanding that there are seven pieces of legislation being introduced into the lower house this week. This is necessary in order to get through the government's legislative agenda before Christmas and to ensure that in the last couple of weeks of sitting we are not faced with a situation we have seen on plenty of occasions where members are required to limit their speeches, by cooperation, to 2 or 3 minutes. We are trying to avoid that kind of problem by ensuring that we have an orderly and sensible progress of legislation through this place.

I think the government has been greatly appreciative of the cooperation of the opposition and the National Party in relation to urgent legislation that has come before this house from time to time; the legislation that was before this house last week has already been mentioned. I found it interesting in the debate on that legislation last week that the opposition had 14 members speak on the bill, to essentially repeat over and over the same point that had been made several times during the day.

What I have found really disturbing in the contributions made so far on this procedural motion this afternoon is that Mr Forwood foreshadowed a threat to the government — that is, that should the government decide from time to time that it needs to ensure orderly progress through the introduction of a government business program, the opposition may not cooperate with those kinds of requests in the future. I found that disturbing and unfortunate. I would have hoped that all members of this house would consider legislation on its merits when it comes before the house, especially whether it should be debated urgently.

If a matter needs to be debated urgently, the issue of whether the government has used government business programs to achieve orderly progress of its legislation should not be used as the basis of some kind of threat to deny leave to introduce legislation that should be considered on its own merits in each instance. I found it disappointing that Mr Forwood foreshadowed that threat to this house.

We have before us an opportunity for the government to ensure that it has an orderly and sensible progress of its legislation so we do not find ourselves in a situation where we are required to consider legislation before Christmas but with very limited opportunity to participate in debate. I think this provision by the government is sensible and will ensure that we are able to avoid that situation.

Hon. D. McL. DAVIS (East Yarra) — I want to make a point about the decision of the government to introduce a business program today in the light of a couple of specific bills that I, as the opposition's lead speaker on them in this chamber, have some responsibility for. The Mental Health (Amendment) Bill is a very significant bill as it changes the operation of community treatment orders. That bill has been forced through to this house by the government. Many psychiatrists and others in the medical community who deal with that issue have contacted me to say they have not had sufficient time to comment not only to the opposition but also to the government. The government has allowed insufficient time for that to happen because it will have that bill's second-reading speech this week and has listed it on the government business program for passage through this house this week.

I want to make the same point but with a slight twist about the Cemeteries and Crematoria Bill — a very significant bill that will affect cemeteries and crematoriums for the next 50 to 100 years. It is a bill that needs to be handled with great sensitivity and care. I know the government wants to ride roughshod over the community with a number of these issues but for it

to have the second-reading speech this week and to put it on the government business program to crunch or force it through the chamber this week is entirely in a new league from whatever we have seen before.

These things often can be done with cooperation but in the case of these two bills it is quite inappropriate to bring them in and second read them this week. The Mental Health (Amendment) Bill, as I said, is a very sensitive bill that requires a great deal of assistance from specialist people in the community. It is clearly impossible for members in two or three days to avail themselves of the detail needed to respond properly to that bill. For that reason I believe the government is quite out of order in second reading those bills and putting them on the government's business program for definite and forced passage later this week. As someone said, we are seeing the jackboot approach here, and it is inappropriate for both these health bills.

Motion agreed to.

PAPERS

Laid on table by Clerk:

Fisheries Act 1995 — Review of Fisheries Levy Administration: Review of Section 151 of the *Fisheries Act 1995*, September 2003.

Gascor Pty Ltd — Report, 2002–03.

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

Brimbank Planning Scheme — Amendment C36.

Campaspe Planning Scheme — Amendment C27.

Casey Planning Scheme — Amendment C59.

Horsham Planning Scheme — Amendment C16.

Victoria Planning Provisions — Amendment VC21.

Project Development and Construction Management Act 1994 — Orders in Council of 7 October 2003 of nomination and application orders (three papers).

Recreational Fishing Licence — Report on Disbursement of Revenue from Trust Account, 2002–03.

Statutory Rule under the Fair Trading Act 1999 — No. 119.

Subordinate Legislation Act 1994 — Minister's exemption certificate under section 9(6) in respect of Statutory Rule No. 119.

Treasury Corporation of Victoria — Report, 2002–03.

Proclamations of the Governor in Council fixing operative dates in respect of the following Acts:

Commonwealth Games Arrangements (Governance) Act 2003 — Whole Act (except section 8) — 7 October 2003; section 8 — 5 November 2003 (*Gazette No. SG182, 7 October 2003*).

Fair Trading (Amendment) Act 2003 — Remaining provisions (except sections 11, 75 and 76) — 9 October 2003 (*Gazette No. G41, 9 October 2003*).

INSTRUMENTS (ENDURING POWERS OF ATTORNEY) BILL

Second reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Gavin Jennings (Minister for Aged Care) — I move:

That the bill be now read a second time.

I am of the view that the bill was not amended in the Assembly and does not require a statutory majority.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

The bill amends the Instruments Act 1958 and the Victorian Civil and Administrative Tribunal Act 1998 to improve the effectiveness and operation of the regime governing enduring powers of attorney. An enduring power of attorney is a legal document that allows a donor to appoint an attorney to make financial and legal decisions on the donor's behalf, and enables the attorney to continue to make those decisions even after the donor loses capacity.

An enduring power of attorney is therefore an important legal instrument in that it allows members of the community, before they have a disability that affects their decision-making capacity, to exercise a measure of control over their lives into the future; hence its enduring quality.

The bill inserts a new part XIA to apply to enduring powers of attorney. The bill is modelled on provisions in the Queensland Powers of Attorney Act 1998.

The reforms contained in the bill relate to two main areas:

improving the standards of execution of the enduring power of attorney instrument; and

refining jurisdictional issues and powers in relation to the monitoring and use of enduring powers of attorney.

The aim of the proposed reforms is to create a more robust legal document that will assist in protecting the vulnerable and disadvantaged in our community from abuse and exploitation and enhance ways in which an enduring power of attorney can be monitored. While there is anecdotal evidence of financial abuse and exploitation of donors in relation to enduring powers of attorney, the real extent of such abuse and exploitation is difficult to assess.

Improving the standards of execution

At present there are limited formal requirements that need to be followed when making an enduring power of attorney.

These requirements need to be tightened to either prevent or minimise the risk that an enduring power of attorney will be abused. The bill introduces more formal requirements into the process of making an enduring power of attorney, without making the formal requirements onerous. The changes underlie the fact that an enduring power of attorney is one of the most important legal documents a person may make during their lifetime.

Some of the key changes include:

Special conditions and instructions

The bill includes a specific power which allows a donor to specify how an attorney is to carry out their responsibilities to the donor by including in the document special conditions and instructions about the exercise of the power. This amendment will provide further clarity in relation to the expectations and the wishes of the donor. The donor may also choose to nominate when they want the attorney to begin to exercise the power on behalf of the donor. Where a time of commencement is not specified, then the power becomes exercisable immediately, as is the situation under the current provisions of the Instruments Act.

Legal capacity of the donor

The bill provides that a donor can only make an enduring power of attorney while he or she has capacity — that is, while the donor understands the nature and effect of the enduring power. A test of legal capacity is also included in the legislation.

Witnessing of the document

In order to ensure that the donor makes the enduring power of attorney of their own free will and to put all parties on notice of the serious nature of the document, the bill introduces a number of formal requirements with regard to witnessing the document. The bill requires that the enduring power of attorney must contain a certificate signed by each of two adult witnesses to the effect that the donor signed freely and voluntarily in the presence of the witness and that, at the time, the donor appeared to have the capacity necessary to make the document. The witnesses must sign and date the certificate in the presence of the donor and each other. A witness cannot be the donor, or the person appointed as attorney, and only one of the witnesses can be a relative of the donor or of the attorney. One of the witnesses must also be authorised by law to witness the signing of statutory declarations.

Role of the attorney

The bill introduces a new requirement for the attorney to sign and date a statement of acceptance of the enduring power of attorney. This ensures that the attorney is aware of the existence of the enduring power of attorney and provides a record of the attorney's signature, which may assist in minimising the potential for fraud. The statement of acceptance must either be endorsed on, or attached to, the enduring power of attorney document. The statement of acceptance must include an undertaking by the attorney to exercise the powers given under the enduring power of attorney with reasonable diligence to protect the interests of the donor; to avoid acting where there is any conflict of interest between the donor and the attorney; and to exercise the powers given in accordance with the new part XIA.

The role of the attorney is now specified in the bill. For example, the attorney must keep accurate records and accounts of all dealings and transactions made under the power. This amendment is in line with a recommendation of the *Victorian Law Reform Commission Report No. 35 — Enduring Powers of Management* (1990). While it is recognised that this clause introduces new obligations for the attorney, it is considered necessary in order to monitor properly whether an enduring power of attorney has been exercised in the best interests of the donor. VCAT or the court or the Public Advocate may require an attorney to produce these records.

The bill provides that, under the enduring power of attorney, an attorney may execute an instrument under their own signature and do any other thing in their own name which will be as effective as if it were executed or done by the donor. However, the instrument executed or the thing done by the attorney must clearly show that the attorney is acting on behalf of the donor.

Importantly, the bill specifies that an enduring power of attorney does not authorise an attorney to make decisions about the medical treatment of the donor. Furthermore, where a decision made by a guardian or enduring guardian under the Guardianship and Administration Act conflicts with a decision by an enduring attorney, then the decision of the guardian or enduring guardian will prevail. Similarly, where VCAT makes an administration order under the Guardianship and Administration Act in respect of the donor, then the attorney may only exercise the enduring power to the extent authorised by VCAT.

Revocation of an enduring power of attorney

The bill makes it clear that the donor may revoke or withdraw an enduring power of attorney at any time as long as the donor is capable of understanding what he or she is doing. The bill specifies ways that an enduring power of attorney may be revoked. For example, a donor may revoke the power:

- by telling an attorney their power is withdrawn;
- by destroying the document and any copies;
- in writing.

In order to assist a donor who wishes to revoke a power in writing, the bill provides that a donor may revoke a power in writing. This can be done by completing an approved revocation form. However, the bill makes clear that this is not an exhaustive list of how enduring powers of attorney can be revoked.

The bill also specifies that a bankrupt or a person who is insolvent cannot be an eligible person to be appointed as an attorney. Also, where an attorney becomes bankrupt or insolvent then the power is revoked.

Information package

It is proposed that an information package containing the relevant forms and other essential information will be made widely available to members of the community. This will be combined with a targeted public information campaign.

Refining jurisdictional issues and powers

The other main area of reform undertaken by the bill is the extension of the jurisdiction of VCAT in relation to enduring powers of attorney. At present, the powers of VCAT in relation to enduring powers of attorney are limited to investigating whether an existing enduring power of attorney should be revoked in the 'best interests' of the donor. On the other hand, the Supreme Court has powers to deal with matters relating to the coming into operation of an enduring power of attorney, such as contested issues of capacity and matters relating to the execution and use of enduring powers of attorney.

Therefore, the bill confers on VCAT the power to make declarations, orders, directions, recommendations or advice in relation to enduring powers of attorney. For example, VCAT will now be enabled to make a declaration that an enduring power of attorney is invalid on the grounds that the donor did not meet the criteria of the test for legal capacity, as specified in the legislation, at the time the document was created. It is intended that these powers conferred on VCAT will operate concurrently with the powers of the Supreme Court.

Recognition of interstate enduring powers of attorney

The bill provides for the recognition of an enduring power of attorney validly made in another jurisdiction. However, the extent of the powers of these interstate enduring powers of attorney will be limited to the powers that could be validly exercised under the Victorian legislation.

This amendment is based on a recent recommendation of the Australian Guardianship and Administration Committee for the establishment between the states and territories of a mutual recognition scheme for enduring powers of attorney. The need for such a scheme is predicated on the increasing mobility of the Australian population.

A well thought-out and properly executed enduring power of attorney can ultimately prevent the appointment of an administrator where the donor loses legal capacity, and is therefore a much less restrictive option for any person. It also enables the donor to appoint an attorney of their own choosing and a person whom they trust. The bill seeks to enable and encourage people to make their own arrangements while they have capacity by providing clarity and certainty to the process of making an enduring power of attorney.

Because of the private nature of the execution of an enduring power of attorney, the trust placed by donors in their nominated attorneys to act in the donor's best interests, and because donors are often no longer capable of recognising what is in their own best interests, donors can be left vulnerable to financial abuse and exploitation. In the context of an ageing population, it can be anticipated that this will be an issue of significance for an increasing number of people. It is therefore essential that legal mechanisms that are purposely designed to protect the vulnerable and the disadvantaged from abuse and exploitation are as effective as possible.

I commend the bill to the house.

Debate adjourned on motion of Hon. C. A. STRONG (Higinbotham).

Debate adjourned until later this day.

GRAIN HANDLING AND STORAGE (AMENDMENT) BILL

Second reading

For **Hon. T. C. THEOPHANOUS** (Minister for Energy Industries), Mr Gavin Jennings (Minister for Aged Care) — I move:

That the bill be now read a second time.

I am of the view that this bill was not amended in the Assembly and does not require amendments to the constitution.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

The Essential Services Commission was required by the Grain Handling and Storage Act 1995 to review the regulatory arrangements for the handling and storage of grain for export by 30 June 2003.

The grain handling and storage industry is rapidly changing as recently privatised grain handlers around Australia seek competitive advantage through mergers and rationalisation of facilities. In light of recent developments in competition in the grain handling and storage industry in Victoria and changes in the rail and port sectors, the commission brought forward the review of grain handling and storage facilities to June 2002.

The commission found that competition in the sector had advanced significantly, particularly with the construction of the Melbourne port terminal by AWB Ltd and the Australian Bulk Alliance Pty Ltd in 2001. Although Graincorp, which owns the export grain terminals at the ports of Portland and Geelong, retains a dominant position, a substantial reduction in the degree of regulatory oversight was recommended.

The commission's final report recommended that regulating prices for prescribed grain handling and storage services be discontinued, whilst extending a regulated right of access to all facilities at the regulated terminals of Geelong and Portland for a further period, pending a review of the extent of competitive developments in three years time.

The commission also recommended that the regulatory regime should not be extended to the Melbourne port terminal. The commission concluded that it would be a contradictory position to move to a less regulatory environment in order to facilitate and encourage competition and then extend the access regime to the Melbourne port terminal. Furthermore, the market power of the new terminal is not as substantial as the existing regulated terminals.

This bill implements all the recommendations of the commission and in addition provides that the price-setting power be retained in the act only as a reserve power in case of an unforeseen event, such as a significant change in competition in the industry. The power to set prescribed prices across the regulated industry may only be exercised by the commission with the approval of the Minister for Agriculture following an inquiry by the commission.

The government expects that greater competition and investment in export grain handling and storage at Victorian ports will be encouraged as a result of this bill.

Specifically, key elements of the proposed amendment are:

regulation of prices for prescribed grain handling and storage services at the ports of Portland and Geelong will be discontinued prior to the 2003–04 harvest;

this price regulation will only be recommenced in the future with the approval of the Minister for Agriculture following an inquiry by the commission;

the regulated right of access to grain handling and storage services at the ports of Portland and Geelong will be retained;

the role of the commission regarding arbitration of disputes over access to grain handling and storage services will be clarified and strengthened;

the access regime will be extended to all grain handling and storage facilities that are integral to the export of grain at the ports of Portland and Geelong but will not be extended to include facilities at the Melbourne port terminal; and

another inquiry into the industry will be conducted by 30 June 2006.

The bill will improve the existing powers of the commission to make determinations in relation to specific disputes about access to grain handling at the regulated ports. For example, new section 24B contained in clause 16 of the bill provides the commission with a general power of direction, including a power to require exchange of information or gathering of information by the parties. These new powers will enhance the commission's ability to ensure that all relevant information is obtained whilst at the same time improve the commission's capacity to ensure that the process of resolving disputes is not excessively delayed or drawn out and therefore costly to the parties.

In order to promote growth in competition and to minimise distortion of the relevant market, it is also important that the commission, while exercising its responsibility for resolving terms and conditions for access, also facilitates commercial negotiation. To this end, clause 8 of the bill ensures that minor disputes will be resolved in the marketplace by conferring a discretion upon the commission to decline to make determinations where it considers that the application for a determination is trivial or vexatious or where it believes that the terms and conditions offered do not constitute the exercise of a substantial degree of monopoly power.

Clause 14 of the bill requires the commission to publish guidelines in relation to the exercise of the discretion to decline to make a determination. This will assist the industry to understand whether their dispute is one that should be referred to the commission for determination.

The bill retains the requirement for regular inquiries into the regulated industry, in accordance with the government's competition policy responsibilities. The commission or the government may also initiate reviews at any other time should a further inquiry become necessary. As I have already stated, an inquiry will be necessary before approval can be given for the reintroduction of price regulation.

The government believes this bill strikes an appropriate balance between the needs of Graincorp to operate and maintain their facilities at the ports of Portland and Geelong, and the needs of growers and grain marketers to access these facilities. It will allow the commission and government to respond rapidly to unforeseen events in the industry and provide a safety net for grain exporters.

I commend the bill to the house.

Debate adjourned for Hon. PHILIP DAVIS (Gippsland) on motion of Hon. E. G. Stoney.

Debate adjourned until later this day.

MENTAL HEALTH (AMENDMENT) BILL

Second reading

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

I am aware that the bill was passed by the Legislative Assembly without amendment and does not include a variation to the constitution.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

The Mental Health (Amendment) Bill amends the Mental Health Act 1986 and the Coroners Act 1985. The amendments improve the operation of the community treatment order provisions in the Mental Health Act to address problems that have been identified by the Supreme Court, the coroner and the chief psychiatrist.

The bill also clarifies the confidentiality provisions in the Mental Health Act that govern client information stored in electronic records systems.

Community treatment orders

Detention

Community treatment orders permit the involuntary treatment of some people with mental illness while they live in the community. As such, they are a less restrictive option than inpatient treatment. The Victorian Supreme Court examined the legislative scheme that establishes community treatment orders in *Wilson v. Mental Health Review Board* (2000) VSC 404 and concluded that the deeming of a person on a community treatment order to be 'detained' under the act is the attribution of a 'fictitious' status. The coroner has also questioned the meaning of 'detention' as it applies to community treatment orders.

Both the Wilson decision and the coroner's comments raise questions about the appropriateness of using legal 'fictions' in the context of legislation restricting individual liberty.

Community treatment orders are now the primary way in which people are provided with involuntary psychiatric treatment in Victoria. The change over the past decade from

institutional treatment and care to a primary focus on community-based treatment has been guided by the national mental health strategy. The government considers that the underlying structure of the act, which has a history based on a model of detention, is now no longer appropriate.

The bill addresses this issue by removing the requirement for 'detention' from the involuntary admission criteria in the act. The criteria will instead focus on whether a person should be an involuntary patient for the purpose of providing treatment.

To do this, the bill introduces an 'involuntary treatment order' to the act. The bill provides that a medical practitioner making a recommendation is required to consider whether the person's mental illness requires immediate treatment and whether that treatment can be obtained by making the person subject to an involuntary treatment order.

The bill then provides clear pathways by which a person requiring involuntary treatment is either made subject to a community treatment order and allowed to remain living in the community or is taken to an approved mental health service and detained for treatment.

Treatment plans and community treatment orders

The bill amends the act to require that every patient of an approved mental health service must have a treatment plan.

For patients subject to a community treatment order, their treatment plans will give clear guidance about the person's obligations under the community treatment order and a clear statement of the treatment that they can expect. The authorised psychiatrist will be required to discuss the community treatment order and the treatment plan with the person.

Consistent with principles of good clinical practice, the bill requires the supervising medical practitioner to carry out regular assessments of the person subject to a community treatment order. In carrying out an assessment, the supervising medical practitioner must consider whether the involuntary treatment criteria continue to apply to the person and the treatment the person requires can still be obtained under the order.

Revoking a community treatment order

The Mental Health Act currently provides little guidance about the grounds for revoking a community treatment order when a person has been non-compliant with the order or their treatment. The government considers that the act should provide patients with certainty about their obligations under a community treatment order and guidance about when a community treatment order might be revoked for non-compliance. The bill introduces specific criteria and processes to inform both clinicians and consumers about the circumstances and procedures to be followed when a community treatment order might be revoked.

Expiry of a community treatment order

In the Wilson decision the court concluded that a person's involuntary patient status ends if the community treatment order to which they are subject expires without having been extended. The bill legislates the Wilson decision with the effect that involuntary status is automatically discharged when a community treatment order expires without having been extended.

Appeal and review by the Mental Health Review Board

Currently the Mental Health Review Board does not have the power to make a community treatment order for a patient detained in an approved mental health service, even when the board considers the person meets the criteria for being on a community treatment order. The bill amends the act to allow the board to direct that the authorised psychiatrist make a community treatment order for an inpatient where the board considers that the treatment the person requires could be obtained by making the person subject to a community treatment order.

In making its decision, the board will be required to specify a reasonable period within which the authorised psychiatrist should be able to make the community treatment order. For example, it would not be reasonable to order that a person be immediately released on a community treatment order if the person will be homeless or if arrangements with family or carers have not been fully negotiated. The board is required to consider the social circumstances of the patient under section 22 of the act and should allow a reasonable period for the authorised psychiatrist to make the necessary arrangements to enable the person to make a smooth transition into the community.

Consumer advocacy groups have argued that the board should have a role to independently review a patient's psychiatric treatment. A review would make the treatment planning process more accountable and responsive to an individual's needs.

The bill amends the act to require the board on hearing an appeal or review to examine the treatment plan for a patient. The board must be satisfied that the authorised psychiatrist has developed the treatment plan in accordance with the procedures set out in new section 19A of the act and that the approved mental health service is capable of implementing it.

The Mental Health Review Board has reported that the presence of case managers at hearings assists the board, as case managers generally have an excellent knowledge of the patient's situation, including their social circumstances. The bill provides that the authorised psychiatrist must provide a copy of the notice of hearing to the person's case manager. This will ensure that case managers are informed about the hearing and can take an active role in the review process.

Relationship with the Coroners Act 1985

The Coroners Act requires that 'reportable deaths' be reported to a coroner or the officer in charge of a police station. The death of a person receiving treatment or care for a mental disorder from a psychiatric service that is also a 'reportable death' must also be reported to the chief psychiatrist. These provisions ensure there is independent review of the circumstances surrounding a reportable death.

It has been unclear whether the death of a person subject to a community treatment order or a restricted community treatment order is a 'reportable death'. The bill amends the Coroners Act to clarify that the death of such a person is a reportable death for the purposes of that act.

Restricted community treatment orders

If a person with a mental illness is found guilty of an offence, the relevant court has the option to make a hospital order under the Sentencing Act 1991. The person is then admitted

to and detained in an approved mental health service as an involuntary patient.

Restricted community treatment orders are similar to community treatment orders in that they permit some 'hospital order patients' to receive involuntary treatment while living in the community.

Changes made by the bill to the community treatment order provisions, such as the introduction of treatment plans and improved consultation and monitoring of community treatment orders, have been made to the restricted community treatment order provisions of the act.

Confidentiality

Use of information within a mental health service

Section 120A of the Mental Health Act establishes a regime for the confidentiality of mental health information. The main purpose of section 120A is to prohibit the disclosure of client information by a relevant psychiatric service.

Following the commencement of the Health Records Act 2001 the government considers that section 120A should no longer apply to the 'use' of client information within a service. Instead the Health Records Act should regulate the 'use' of client information within a relevant psychiatric service. The bill provides that the communication of health information by one employee of a relevant psychiatric service to another employee would be 'use' of information by the organisation and therefore subject only to the Health Records Act and not also potentially subject to section 120A. This applies to both electronic and paper-based records.

Access by the secretary to RAPID for planning, monitoring, funding and research purposes

Section 120A was amended by the Health Records Act to regulate sharing of information between approved mental health services by means of an electronic records system established for the purpose of providing treatment to persons with a mental disorder. RAPID is the Victorian statewide mental health client information system and is the principal electronic records system regulated by section 120A.

While the Department of Human Services holds and controls the information stored in RAPID, the basis for the department to have access to and use that information is unclear. This has been an inadvertent consequence of the drafting of the original amendments.

The bill amends section 120A to clarify that the Secretary of the Department of Human Services may 'use' the information in RAPID if it is necessary for the performance of the duties, powers or functions of the secretary and it is done in accordance with the Health Records Act.

The amendments do not envisage unlimited use by the secretary. They link the relevant provisions to health privacy principle 2 of the Health Records Act, which imposes strict limits on why and how an organisation can both use and disclose information.

Employees of approved mental health services

Section 120A currently limits access to RAPID to persons employed by an approved mental health service, and to the Mental Health Review Board, the chief psychiatrist and the

forensic leave panel. Community-based mental health staff regularly access information in RAPID to facilitate treatment to mental health clients. However, it is unclear whether community-based staff are employees of an approved mental health service for the purposes of section 120A.

The bill provides that all the service elements of the public mental health service system — hospitals, clinics, mobile teams — can access information in RAPID for the purposes of providing treatment to public mental health clients.

Miscellaneous amendments

The bill makes a number of miscellaneous amendments to achieve the following outcomes:

to require staff of the Mental Health Review Board and the Psychosurgery Review Board to comply with the secrecy provisions binding members of each board so as to address a gap in the confidentiality regime provided for by the act;

to permit the Governor in Council to appoint members to the Mental Health Review Board and the Psychosurgery Review Board for a term of up to five years and thus provide sufficient flexibility for optimal timing of appointment processes;

to broaden the range of persons who can be appointed as a legal member of a division of the Mental Health Review Board. Currently a person must be admitted to the Supreme Court of Victoria for eight years or more. The bill provides that any person admitted to practice as a barrister or solicitor in any jurisdiction of Australia for five years or more will be eligible for appointment as a legal member. A similar amendment is made in relation to the eligibility criteria to be a legal member of the Psychosurgery Review Board;

to give the secretary power to declare premises or a service as an approved mental health service in an emergency. This amendment will enable immediate action to be taken if it is necessary to evacuate patients from an approved mental health service to another place pending a proclamation by the Governor in Council in accordance with section 94 of the act.

Conclusion

Many of the amendments made by the bill are technical in nature or seek to clarify operational provisions of the act. Nevertheless, the changes to the community treatment order provisions are significant and recognise the increasing importance of these orders in providing involuntary treatment to people with mental illness. The amendments clarify and strengthen the rights of involuntary patients and promote improved clinical practice with regards to people subject to community treatment orders.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until later this day.

CEMETERIES AND CREMATORIA BILL

Second reading

Mr GAVIN JENNINGS (Minister for Aged Care) — I move:

That the bill be now read a second time.

In doing so I am aware that this bill had a bit of a tortuous entry in the second-reading stage of the Legislative Assembly, so I want to provide this house with the confidence that this is a complete second-reading speech and, as the bill was not amended in the Legislative Assembly, and as it does not contain an amendment to the constitution and given that I have a degree of personal confidence that this is the complete second-reading speech that is being delivered to the Council, I move in accordance with sessional order 30 that it be incorporated into *Hansard*.

Second-reading speech as follows incorporated on motion of Mr GAVIN JENNINGS (Minister for Aged Care):

All societies organise places to bury or cremate their dead. These places are treated very differently according to the custom of the community to which they belong. Regardless of the different traditions that communities have, burial and memorial grounds are all regarded as special places.

In Victoria there is a long tradition of religious and secular burial sites. These sites are managed by cemetery trusts of which there are currently 526. These trusts are run by volunteers and are charged with the important responsibility of managing the burial and memorial places of many of our citizens.

The trusts and the cemeteries they manage are regulated by the Cemeteries Act 1958. This is the legislation governing the use and operations of the cemetery system. It is an amalgamation of older legislation dating back to early colonial days.

Since its enactment in 1958, the act has been amended to reflect practices and values of the times. This has made it an unwieldy piece of legislation that is difficult for the trusts and the public to interpret. A challenge is therefore presented to government to assist the volunteer members of the Victorian cemetery trusts to discharge their duties.

The composition of the Victorian community is very different from that of 1958. The cemetery and crematorium system is expected to respond to the diverse cultural and religious requirements of the communities they serve wherever possible. This will reassure the broad cross-section of modern Victorian society that their place of residence is a place that is sensitive to a diversity of cultural and religious practices.

The process of review of the cemetery system has been happening for over 20 years. It is through the determination of the Bracks government that I now place before the Parliament a bill that will place the cemetery system in good stead for future generations of Victorians.

This bill repeals the Cemeteries Act 1958. The Bracks Labor government in replacing this act is meeting its commitment to maintaining access to public cemetery and crematorium services for all Victorians and to ensuring that these services are financially well managed.

We have listened to the people of Victoria. The bill has been developed with considerable input from the cemeteries sector and the broader community over many years. Input has taken the form of written submissions to public discussion papers and targeted consultation with key stakeholders.

I will now outline key aspects of the bill.

Cemeteries and crematoria will remain in public ownership.

The expectation that trusts will respond to the cultural and religious diversity of their communities is a clearly stated obligation.

Limited tenure is not being introduced for burials in cemeteries. Perpetual tenure for burials in cemeteries will remain.

The rights and responsibilities associated with cremated remains will be clarified. Consistent with the current legislation, there will be no requirement that cremated remains must be held in a cemetery. However, a requirement that a cemetery trust must offer perpetual tenure for interring cremated remains in cemeteries will be introduced as well as continuing to offer the 25-year limited tenure option.

Some members of the community want the ability to bury or cremate body parts and pre-viable tissue in a cemetery. The bill introduces this option; however, this will not be a requirement.

The government has responded to community concern about how we care for people who die with insufficient means to cover their funeral and burial or cremation costs. The bill now provides for magistrates to order burial or cremation and for cemetery trusts to provide a simple form of memorialisation for all people buried or cremated by such an order.

Cemeteries will be able to be closed to future burials under order of the Governor in Council if there has been no interment for 25 years and no new right of interment has been issued for 25 years.

The bill recognises the heritage and record-keeping obligations of cemetery trusts to ensure that the historic fabric of cemeteries is preserved and that cemetery records are kept in the public domain and are accessible for historic and genealogical research.

Where a community no longer exists and it is not possible for a cemetery trust to continue to meet its obligations to maintain a cemetery, a process for the conversion of a cemetery to an area of parkland exists under the current act. This provision is retained in the bill but it is the government's clear intention that such action will only be an option of last resort. The minister will have to approve any conversion to a historic cemetery park and the historic fabric of a cemetery must be thoroughly documented.

Rights of interment in a public cemetery are the foundations of the business operations of a cemetery trust. The bill clarifies the type of rights of interment that can be issued by a trust and the responsibilities that flow from being a holder of

a right of interment. They will be issued for graves, mausolea, vaults and a range of cremation memorials. Rights of interment for bodily remains are in perpetuity and for cremated remains can be for 25-year periods or in perpetuity.

The bill outlines when a right of interment may be granted or transferred and the associated responsibilities. This will make it easier for cemetery trusts and the public to resolve problems relating to the registration and transfer of rights regarding places of interment in a cemetery.

Rights of interment can be transferred under specified circumstances, but a transfer will only become effective once it is registered with the responsible trust. It will be an offence to sell a right of interment for more than it would be sold by a cemetery trust.

If a grave is full, the holder of a right of interment can apply to the cemetery trust to have the burials in the grave lifted and repositioned in the same grave, thereby allowing space for additional burials in that grave. In these circumstances, an exhumation licence would not be required.

The bill introduces a requirement for the secretary to approve the establishment of new cremation or mausoleum facilities proposed by cemetery trusts. This will assist in the planning of facilities across the state.

Clarification of the core activities of cemetery trusts in the bill will help address conflict within the cemetery sector regarding vertical integration and competition issues. A new appeal mechanism to the Victorian Civil and Administrative Tribunal against specified decisions of cemetery trusts in relation to the issuing of permits will also assist the resolution of disputes between cemetery trusts and the broader funeral industry.

The volunteer trust system that administers the operations of cemeteries and crematoria will be retained. This acknowledges the significant public benefit obtained from the current model of operation. There will be an improved system of appointment to trusts and greater accountability for trusts under the new act.

Cemeteries will be able to be managed directly by a municipal council. In such circumstances, the municipal council will be subject to both the Local Government Act 1989 and the Cemeteries and Crematoria Act. The council must report to the secretary in respect of its powers and functions under the Cemeteries and Crematoria Act.

Clear powers for the secretary to provide directions to trusts will be introduced.

Cemetery trust fees will be reviewed to ensure they are transparent, meet competition principles and take account of the trusts' perpetual maintenance obligations.

The process for approving and publishing fees will be streamlined. Fees will be approved by the secretary and published on a departmental web site. This will give the public greater access to cost comparisons when selecting services provided by the sector. Cemetery trust fees will be automatically adjusted in line with the consumer price index.

Increased scrutiny of the financial activities of cemetery trusts will be achieved through giving the secretary greater powers to enforce the financial reporting requirements by cemetery trusts to the department.

Cemetery trusts will be assisted by the Department of Treasury and Finance in developing investment practices suited to their needs. The minister will have the power to approve investment directions for cemetery trusts. The borrowings of trusts will still require the approval of the Treasurer.

The bill clarifies the maintenance obligations of cemetery trusts and the owners of private memorials. Trusts will be required to secure perpetual maintenance funds for the upkeep of cemetery infrastructure such as roads, fences, grounds and facilities. The responsibilities of the holder of a right of interment to maintain any memorial positioned on the site is clarified in the bill.

A revised system for the medical authorisation of cremation simplifies the administrative processes but retains the requirement for two doctors' signatures before a cremation can occur.

False statements made by a person applying to a cemetery trust for cremation or by a medical practitioner authorising cremation will be an offence. It will also be an offence to cremate without permission from the cemetery trust.

A review and update of the offences and penalties for offences committed under the act including new offences regarding the mistreatment of a corpse or cremated remains will bring penalties in line with offences in other acts, and give police the power to act on cases of misconduct.

The bill will require a comprehensive implementation program to enable a systematic review of all the business operations of cemetery trusts to ensure they are soundly based. It will also enable the significant consultation required with the sector in the development of new regulations and model rules and a training program for all volunteer trust members regarding the new provisions.

In closing, the Parliament can be confident that the bill will provide a clear and flexible regulatory framework that will position the cemetery and crematorium sector to be able to continue to provide quality and financially responsible services to the Victorian community in the 21st century. It will benefit the cemetery sector and allied industries by simplifying the administration of Victorian cemeteries and crematoria through modern legislation.

The bill recognises the importance the community places on the respectful treatment and commemoration of the dead and the expectation that the system will respond to the diverse cultural and religious needs of the Victorian community.

I would like to thank the many people who have contributed to the development of this bill, in particular, the thousands of volunteer cemetery trust members who continue to give generously to the Victorian public through their commitment to administering cemeteries and crematoria, the many individuals who made submissions to the Cemeteries Act reviews under this and the previous government, community, church and religious groups and the various organisations which interact directly with the sector.

I commend the bill to the house.

Debate adjourned on motion of Hon. D. McL. DAVIS (East Yarra).

Debate adjourned until later this day.

HERITAGE (AMENDMENT) BILL

Second reading

Debate resumed from 7 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I make a contribution to debate on the Heritage (Amendment) Bill with some pleasure because I have to say the substance behind this change is the issue surrounding the preservation of heritage. I also indicate that the genesis of this bill relates to a specific issue that has arisen on one particular property in Hawthorn, and I note that the Heritage (Amendment) Bill seeks to remedy some difficulties that have occurred there. As I make a lengthy contribution to this debate I will also put some issues about the processes that have occurred there and the processes within this bill. I will also make some contribution as to what I see as some issues of general principle within the primary act itself — namely, the Heritage Act of 1995.

The purposes of this bill are set out in clause 1:

- (a) to amend the Heritage Act 1995 —
 - (i) to increase penalties for certain offences under that Act; and
 - (ii) to give the court a power to make any order it considers appropriate to remedy or restrain a breach of the Act if a person is found guilty or convicted of an offence under that Act; and
 - (iii) to give the Magistrates' Court the power to make an order permitting entry to a residence, for the purpose of investigating its cultural heritage significance, if the residence is unoccupied or if entry has been refused by the occupier;
- (b) to make further provision in the Magistrates' Court Act 1989 to enable certain indictable offences under the Heritage Act 1995 —

the primary act —

to be tried in the Magistrates' Court.

In the first instance I place on the record the opposition's decision not to oppose this bill and its strong support for the aims and objectives in the Heritage Act 1995, which I will come to shortly. I also put on record my personal support for that act, its objectives and the broader principle of protecting our heritage.

I find it incongruous to say the least that this week, at the same time as the house debates an important issue of heritage in this bill, the government chooses not to give sufficient weight and attention to heritage issues in the Cemeteries and Crematoria Bill, which is due to be debated later this week. I find those two decisions quite incongruous and disappointing, to put it mildly.

The National Trust has of course been very active in all of these areas, both with issues surrounding heritage and cemeteries but also with the issues surrounding the protection of heritage more generally; and I know that those in the community who do value our cultural heritage, in particular our architectural heritage and the heritage that surrounds many of the structures that we deal with in everyday life and within our community more broadly, will strongly support the objectives and purposes of the Heritage Act, the primary act that this bill seeks to amend.

I think it is worthwhile in the context of this debate to go back to the primary act and record for *Hansard* the purposes set out in that act. I quote:

The main purposes of this Act are —

- (a) to provide for the protection and conservation of places and objects of cultural heritage significance and the registration of such places and objects; and —

I think it is important to note that it is both the preservation and the registration, because the registration is an important primary step before any steps of substance can be taken to preserve sites —

- (b) to establish a heritage council; and
- (c) to establish the Victorian Heritage Register.

The Heritage Council has an important role, one of great trust for the community, to act in a way that will achieve not only the objectives of this act but also to reflect properly the views of the community and to do that in a way that means that our points of heritage are preserved for the future.

This is something we need to respect. As our society has grown in its appreciation of heritage issues we need to place more responsibility with the Heritage Council but at the same time we need to ensure that it is acting in a way that is responsible and that it does not lose sight of the wood for the trees.

We have to make sure that the Heritage Council and other government instrumentalities in this area are able to prioritise in a way that is reflective of the community's views but also to keep a weather eye open for the future. The views and the styles today, the

fashions I daresay in heritage and preservation may not be those for the future, and I think it is important to place on record that some styles and things that are not so important to some people today may be very important in the future.

Going back to the primary act of 1995 it is important to again place on record some of the definitions in that act:

'Conservation' includes —

- (a) the retention of the cultural heritage significance of a place or object; and
- (b) any maintenance, preservation, restoration, reconstruction or sustainable use of a place or object ...

I note that 'sustainable use' is important because we must come up with practical solutions to many of these issues.

In making this contribution I want to place on record again my personal support for the movement of preservationists in this area. I know that the house in question and the extraordinary sequence of events that has transpired with respect to attempts to preserve that house, and the perhaps less than focused attention that some of our bureaucrats have put on to that preservation effort, show up some significant lessons for the future.

The case, for those who are not aware of it, concerns a house in Riversdale Road. I am trying to remember the number, I think it is 666–668 Riversdale Road, and I stand to be corrected on that location. It is a significant house — it is a Robin Boyd house. I place on record my personal love of Boyd architecture. I regard him as an Australian hero and as somebody who had a great understanding of what is important in architecture. I know his tragic loss in the early 1970s is something that Australian architecture is much the poorer for.

I regularly examine — from the outside mostly — those Boyd houses that are found across Melbourne's inner suburbs, including in my electorate around Kew, Hawthorn and Camberwell, as well as Toorak and other areas. I see Mr Scheffer over there, and I note that there are a number down his way too. The houses and other buildings that Boyd produced really led the way not only in a practical sense of demonstrating architectural styles and techniques but also they had something deeper within them. They were part of the modernism movement — the move to internationalism — that has made Australia a much richer place. Boyd typified that understanding.

He made many comments in the press — he was a great publicist and writer on issues of architecture. He was prepared to argue a case that may have been controversial or against the general tide. He was prepared to put a positive viewpoint for change and for the incorporation and adoption of different ideas.

He was prepared to present a clear-eyed view of what architecture was about. It was not just pasting things together or producing a derivative version of things; it was much more a recognition of international trends. At the same time he had an understanding of how that applied in the Australian landscape and how the issues surrounding that could be made into a whole on one project. He understood how a project could be brought forward in a way that said something more than, 'This is a building'. He understood how a project was able to incorporate an openness to its surrounding environment. He understood the important features that we associate with modernism and internationalism, including the use of light, and he had a preparedness to be adventurous with different materials and to adopt the increasing range of materials that could be brought to bear in architecture. It is quite interesting.

Perhaps the best way to understand the bill is to have some understanding of the case that led to its introduction, and I think it is important to place that on record. The Boyd house in question on Riversdale Road was built privately as a house for Robin Boyd and his family in the early 1950s. It includes an extension built in 1952. This would not be regarded as one of his great achievements by anyone who has seen it. Whatever its specific heritage values, you would have to say that when stacked up against many of his other achievements, it is not remarkable. That is not to say that it is without value. The issues surrounding this place show up some of the difficulties in the heritage movement and the decision to try to preserve many things of value. This is where, as a community, we have to find a sensible way through.

I understand the current purchasers bought the property before the house was put on any register or recognised as being of any significance. The 1952 extension, I am very reliably informed, has a whole series of structural and other defects. It was built as a project at the time to a certain price; it was a slab construction built on a significant slope on an area of unstabilised fill. I am quite reliably informed — and I will quote some details shortly — that it was built of very light materials.

When the present owners purchased it they lifted off a galvanised iron roof and underneath discovered an older roof — the original roof — of straw and Strammit with a bituminous layer on it. This roof was in a very

poor state of repair. There are also issues surrounding the slab itself and its stability.

It is hard to divine when those structural defects first became apparent. Nonetheless the fact is that this Boyd house was one of his very first constructions and has several parts to it. The 1952 section is, as I said, not one of his greatest constructions. It was built clearly to a price, but it incorporated some original ideas and techniques that properly might be described as innovative at the time.

Its very light construction has also made it a very difficult site to preserve or bring up to modern standards. In this situation one sees the difficulty that preservationists face when confronted with property owners who have a reasonable expectation of enjoyment of a property and of the normal property rights as well as the need to balance the community interest in important buildings. I think we have to do more and get better at finding solutions to some of these issues. It is unfair for property owners to be saddled with a disproportionate or unfair burden in respect of their property when they have insufficient community assistance to achieve what is required in preserving what on one reading is a community asset. That is the conundrum that has to be faced.

One of the issues on this site is that there has been a sequence that has involved litigation and legal toing-and-froing. It is not my proposal to review that, but there has been significant legal activity. That is a loss for everyone because those costs could have been more productively employed. At the same time I am not saying that there are not appropriate occasions where the authorities should take legal steps, but they should be applied sensitively and sensibly. It is the case that in this example there appears to have been some loss of focus on those issues.

A better way is to have a stronger involvement with the Heritage Council. What is required in cases like this is a holistic view of the whole site to develop a proposal or a plan that will achieve the conservation or preservationist outcomes while accommodating the reasonable private interests of those who own the land. I readily concede that is not an easy balance to strike, but we need to strive for that, and we need to do that through this concept of balancing things on site with a whole-of-site plan. To take an overly narrow view of a section of the site is potentially problematic. While we need to look at individual structures, they should be put in a broader context. I think that perhaps on this occasion that broader view has not been the view adopted, and it has in part contributed to the legal

difficulties that have occurred. As a community, we need to work our way through that.

I know that an architectural historian, Roger Beeston, has produced a paper entitled the *Conservation Management Plan for 664–666 Riversdale Road, Camberwell*, which is the former Robin Boyd house. It is a significant review, but it seems to be too narrow, and it points to the specific problem that there should be a more integrated view with these sorts of studies that look into the future, and we should say, ‘How can we produce a structure or arrangement that satisfies the individual property owner while achieving the heritage and preservation outcomes?’. The conservation management plan was prepared for Heritage Victoria on 4 September 2001. As I read through this, it does not actually get to the heritage management plan that you would expect. I will quote briefly page 75 of the report, first referring to the *Burra Charter*, which states:

Reconstruction is appropriate only where a place is incomplete through damage or alteration, and only where there is sufficient evidence to reproduce an earlier state of the fabric.

The report then states:

Whether reconstruction is warranted is an important issue —
this is referring to the site —

and must be considered in the light of an overall reconstruction strategy where an effective and balanced holistic approach is taken to the site incorporating conservation objectives and the need for the amenity of the owners/occupants.

It makes those statements but does not go forward to develop a plan. I believe that is where we have fallen down. The bill strengthens the power of officialdom and those who seek to preserve buildings. I have no particular problem with that, but the aim of the power is not, in my view, to bear down unreasonably on owners and occupiers. The use of the power is indisputable, and in the Heritage Act it is to reach these conservation solutions in a way that does not overly bear down but produces workable outcomes for property owners. If the process seizes and freezes because of disputes, we will all be the poorer because enormous costs will be incurred legally and we will not get the preservation outcomes that many of us fervently desire.

I also quote from the executive summary of the report set out at page ii:

A particular focus of this conservation management plan has been with respect to the attributed significance and consequently the appropriate future management of the northern section of the additions, designed by Robin Boyd in 1952. Further to the architectural assessment, three engineers

have in recent years assessed the integrity of this structure. It can now be concluded that, since it has been built on recovered fill with an inadequate amount of stabilisation, with an unusual for its time and inadequate footings system, the walls and reinforced concrete slab are currently in an unstable structural condition. Further to this, the observed defects in the walls and footings appear to be longstanding and not the result of the roof being removed in 1999.

To editorialise, there has been a view that by the removal of the galvanised roof in some way the structure was compromised. The truth of the matter is, and this independent report shows, that that was not the critical action; it was the long-term decay in the building. The report continues:

Stabilisation of the existing footings and walls is deemed to be possible, but it would involve substantial interventions and would be expensive, meaning that the extant structure probably needs to be demolished. The remaining important question pertaining to the merits of the subsequent wholesale reconstruction of this portion of the building has also been addressed where, for example, the issue of authenticity is a consideration.

We are in a very difficult situation. If we reconstruct to a great degree we lose the original structure. It is clear the original structure is in some decay. The only way this could be dealt with properly would be through the development of a proper broad management plan for the site that would save those aspects of the site that are salvageable and make practical decisions about the rest of the site and its usage.

I do not pretend to have easy, straightforward answers in this matter, but it is important to place on record something of the background of this legislation and for the community and the Parliament to understand something of the difficulty confronted by the owners of the property, by the department and by the Heritage Council.

I understand there is still legal action going on in this case and work by the Heritage Council. I am hopeful that a sensible resolution may be reached. I say this not only as somebody interested in preservation of important things and as a lover of Robin Boyd’s architecture but also as a local member. I believe there are many sites in my area, and I take the opportunity in this bill, which deals with how we manage some of these issues, to talk about Shrublands, a significant property that is very near to my office. It is important to understand the principle of how we deal in a practical way with a building that may have had a more glorious day and is of some historical significance and at the same time preserve those values and structures that are so important.

I note that Shrublands at 16 Balwyn Road, Canterbury, is just halfway up the hill from my current office in the electorate. I have raised the issue of that property in the Parliament on previous occasions. I should record that the current situation is that one-third of the property, including the building, has been sold to somebody who apparently will spend a significant amount of money on renovating it as a private home. When we are dealing with decaying buildings we need to understand how to work with the owners and not penalise them when they are prepared to commit significant amounts of personal resources to restoring and developing sites. The other two-thirds of the site are owned by a developer who, I am informed, plans to build 20 three-storey townhouses. You ask yourself: how will this juxtapose with the important Shrublands site? I pick this as a nearby practical example of the sort of problems that we face as a community. There needs to be a sympathetic and sensible application of these powers to ensure that we preserve things.

For those who are unaware, Shrublands is a very important site which was built in the 1860s; it is a house that has real significance. When I raised the matter in the house earlier this year, I was disappointed with the response I got from the Minister for Planning in the other place, Mary Delahunty. Despite the fact that I raised this in a mode that was not overly party political — I was genuinely concerned about this important site — the minister offered no way through the difficulties. Her letter to me states:

I refer to a matter that you raised during the adjournment debate ...

She advised me what I already knew — that there was a planning permit application:

Boroondara council has further indicated that the development proposal is currently in the initial stage of assessment ...

There was no significant focus on the importance of the site or an awareness of the need to work with local organisations, the Heritage Council and the municipality. I believe we have to move away from a view that means one is not prepared to work cooperatively with those organisations.

I commend many of the local bodies, particularly in my electorate but also around the state, that are prepared to get directly involved. That is not just the national trust and so forth but the smaller heritage organisations that are prepared to step forward and advocate in their local area or more broadly for some of the heritage values. I think these organisations have had a powerful impact on our community and have an important role to play as

custodians — as guardians — of the future. The important thing here is that if we do not get these preservation efforts right we will lose significant structures; and in my view they will never be able to be recovered.

I want to say something about Robin Boyd in the context of the property in Riversdale Road, which has in many ways been the genesis of this important bill, and to put on record some comments about his involvement around metropolitan Melbourne and as a leader in the modernist and internationalist movement here. He was, of course, very critical of suburbia and of the views of many Victorians and Australians. He wrote *The Australian Ugliness*, which is quite a famous book, and I will refer to some short quotes which have been taken from that book and republished in *Robin Boyd — A Life* by Geoffrey Serle. The book says :

Apart from age and decay, Boyd attributed ugliness chiefly to expediency, whether conscious or unconscious:

Then it quotes Boyd:

... trees uprooted to save diverting a few yards of drain, the ill-considered and un-coordinated assortment of posts, hydrants, bins, transformers, benches, guards, traffic signs, tram standards, a hundred other necessary public appliances, and neons, placards, stickers, posters, slogans ...

Boyd was particularly critical of advertising slogans and so forth. His inspiration was the internationalist movement, as I have alluded to. To again refer to the quote from *The Australian Ugliness*:

The international architectural giants of the century were self-taught in the matter of their art, as are all creators. They were immensely stimulated, perhaps, by some personal contact with a master, but if they had formal training they succeeded in spite of it.

I think he believed very strongly that architects and those with a leadership role in the cultural side of architecture had something deeper in them than what could be taught simply at a university or a TAFE college. I tend to agree with him; I think some broader understanding is important in this area if we are to have the sorts of architectural appearances that we need.

He talked further about the ugliness. Again I refer to the Serle book:

Ugliness, such as destruction of beach fronts by car parks, continued to proliferate. Vandalism by 'antisocial toughs' and littering and dumping of rubbish on streets and highways by the general public were as prevalent as ever. Yet Boyd was hopeful, for after the usual time lag Australia was bound to follow the examples of —

United States of America presidents and others internationally. I think he had a positive view of the

future — and that is important, and I think that is the way we have to approach some of these issues. His architecture, whether it is manifested in all the wonderful houses that you see around the suburbs of Melbourne or in the larger buildings, such as Jimmy Watsons in Lygon Street or the building overlooking the Domain, which was constructed with much flare and understanding of positioning and light, are beacons to us for the future.

With this bill we need to understand that there are lessons for us as we go forward with our planning focus into the future. We need to understand that in one sense we cannot do this in an ad hoc way but that we equally need to allow for the flexibility for individual architectural design and to enable individual projects to flower. There is obviously a balance to be struck there; nonetheless, there needs to be appropriate planning.

One of the things I am concerned about with planning, as I have said in this house before, is where the current government is heading, and the impact that some of that planning will have on the conservation and preservation values which I hold dear and which are represented by both this amending bill and also the primary Heritage Act of 1995.

I am concerned about how the 2030 plans the government is currently implementing will impact on heritage and preservation. I am concerned about how they will impact on my electorate in the City of Boroondara and the City of Whitehorse. It is important to understand that the overly forceful way in which 2030 is being implemented places at risk many of the heritage values that certainly I and others would seek to preserve.

In the City of Boroondara are the sites of some of the Boyd houses, and in the important case that I talked about earlier in my contribution the council is working hand in glove with the state government to ensure that 2030 is implemented. It is doing that through a framework called My Neighbourhood. As I have said in this house before, I do not believe that framework sufficiently takes into account the community's views or sufficiently protects the future heritage of our area. I think that much of this will be placed at risk as the push for increased density of population, particularly clusters of development, presses forward. The idea of imposing an unofficial quota or pressure to achieve increased population density within the municipality concerns me greatly, and it will place not only the amenities of our community life but also the heritage and preservation of many structures within the City of Boroondara at risk.

I know the council tries to defend its position, and that the minister tries to defend her position on this, but I must indicate my implacable opposition to the way this process is unfolding. In this house last week on a motion about Kew Cottages that dealt with both the planning and community services aspects of that very important site I made some comments about the focus of the City of Boroondara. I think some of the officers there, the chief executive officer in particular, have not understood that these things and their direction are not supported by the residents and community of the City of Boroondara. I am sure that it is not supported because of the many contributions and representations that have been made to me.

I am conscious that the chief executive officer and others are working hand in glove with the state government to achieve the 2030 objectives of increased density and the tired uniformity that we see with some of the high-density constructions — the tilt-up sorts of constructions that we see.

As I said in that earlier debate, I want to make it clear that I am not anti-developer; I am actually pro-developer when it is done in a proper way. But I am concerned that a new version of Boyd's Australian ugliness is being created in the municipalities that I am honoured to represent — the cities of Boroondara, Whitehorse and Monash — and elsewhere around Melbourne's middle and inner middle suburbs.

I know the chief executive officer (CEO) was very touchy about my comments and my indication to him that I believed he was working closely with the state government to achieve those objectives. Whilst I accept that he was very touchy about that, I did not appreciate a phone call late on Friday afternoon which I found quite threatening. I do not step back in any way from the comments I made last week as part of my protecting the heritage and values of the Boroondara municipality that I represent. I indicate to the house and the community today that I hold those values very strongly, and I am very concerned that the City of Boroondara would not only work so closely with the state government against the interests of the people in our area but that the CEO of that municipality would be prepared to make a phone call that I found threatening.

I record my disappointment and sadness that that is the situation in the City of Boroondara. I suspect that the inordinate reaction of the CEO is a reflection of the fact that what I said was essentially right and accurate and that he is very sensitive and touchy about the matter. I am saddened and disappointed that he has that view and that he is not prepared to work with a number of the councillors who are prepared to stand up to the state

government and protect the quality and amenity of life in the City of Boroondara and to do so in a way that would also protect the heritage values that this bill and more particularly the primary bill attempts to promulgate.

As I said earlier, I want to record a number of other facts. The local groups I referred to before are very important; they act as protectors or watchdogs for local community values including the very important heritage values. I live in Kew as well as having had an office there for many years, and I note that there have been some changes in the Kew Association of Boroondara. I pay tribute to the work of Philip Slobom, who worked very hard to represent the interests of Kew. I include the work he did through the Kew Association of Boroondara, and I acknowledge also the others who worked with him to protect the cultural and heritage values within the old City of Kew area. I know the new president of the Kew Association of Boroondara, Tony Michaels, will follow in his footsteps to take those sorts of actions. I believe local community associations like the Kew association have an absolutely critical role in acting as watchdogs and protectors of the interests of parts of municipalities and in particular in the context of this bill in protecting important heritage sites and structures in each individual municipality.

I also record a couple of further suggestions as to how we might go about protecting the City of Boroondara and similar municipalities — perhaps the municipalities that Mr Pullen represents down towards Brighton, Sandringham and Mordialloc and those that Mr Schaeffer represents in parts of Toorak and Albert Park. There are important structures in those areas, and I think that the development of high-density development in some of those areas will place their character and amenity at risk. I know that is a controversial view with some, but nonetheless it is important to place it firmly on the record.

Any number of things need to be looked at in the planning area in terms of protecting street amenity and character. The heritage overlays that have been placed on some areas of the City of Boroondara and elsewhere around the state are very important, and I commend the municipalities for their work in developing them. It is true that some of the municipalities were a little slower than we would have liked in getting some of these heritage overlays into position.

I also note a specific and interesting case brought to me by Catherine Gordon of Daphne Street, Canterbury. It concerns the issue of minimum setbacks and an oversight in the regulations that has significant potential

to impact on the streetscapes and their heritage values. I draw the attention of the community to the issue that she raised with me about the setbacks in Hopetoun Avenue, Canterbury — again very near to other properties that we have discussed in this debate.

Hon. P. R. Hall — Just up the road from your electorate office!

Hon. D. McL. DAVIS — Absolutely, and not very far from where you frequent, Mr Hall, when you are in Melbourne. I know the issues surrounding these setbacks, and the minimum setbacks are significant. The quirk that has occurred here is that a particular property goes from one street through the block to another street. While there is a streetscape on both sides, a number of people are beginning to build at the rear of the property large garages and such like to the detriment of the streetscape.

I place on record my concern. I am not sure that the specific case that has been brought to my attention can be assisted because it may be too late, but the issue is of significance. I sincerely believe we need systems in place that protect the heritage value of our streetscapes and setbacks. I do not believe the construction of a whopping car park on the street is sufficient. While technically, under the regulations, one is entitled to build a whopping car park on the road if it is an area of one's property or right on the rear side of one's property, but that does not help the rest of the community if that streetscape is of some significance to the community.

We need a better system to ensure that such arrangements cannot occur with untoward ease. Perhaps a system can be put in place that is not overly intrusive and does not restrict not only the rights of people unreasonably or unfairly but at the same time ensures that heritage values and other amenity issues are appropriately protected.

I conclude by again stating that the opposition will not oppose the bill because it is cognisant of the issues involved. The underlying case has not been perfectly handled by the department. I do not apportion all responsibility on the department, but in future a better way needs to be found so that genuine landowners who wish to accept their responsibility and work with the Heritage Council and other empowered bodies to ensure that heritage structures are properly protected and given due accord are not lost, and that the property owners equally are not unfairly treated by the process.

In that context, I reiterate my views with respect to that Boyd house, the place of Robin Boyd in our

community, and as a leader in architecture and internationalism in Australia. I indicate not only my personal love of his architecture and recognition of the significance of it but also that the opposition will watch the government's implementation of these changes to the law and hope that a better system can be found to implement them.

Hon. P. R. HALL (Gippsland) — I am pleased to report that the National Party will also not be opposing the legislation. I take this opportunity to talk about some of the cultural and natural heritage that is referred to — the terminology in the second-reading speech — before I make comments about particular provisions of the bill.

One of the sentences in the second-reading speech states:

Victorians are passionate about their cultural and natural heritage.

Not all Victorians are absolutely passionate about their heritage because that is why the bill has been introduced — it prescribes tougher penalties for those who breach heritage permits. Not everybody shares the same level and passion for our heritage. It is unfortunate that we need the provisions in the bill to toughen up some procedures with respect to our heritage so that people respect our heritage at a much higher level.

I have the utmost praise for those who have such a passion, because many people have a passion for our heritage and without them much of our heritage would be lost. Although it says in the second-reading speech that:

The Victorian community has supported the conservation and preservation of all types of its heritage —

I would say that rather than supporting it, the Victorian community has led the preservation and protection of much of its heritage.

Not only governments can lay great claim to accepting all the accolades for protecting and preserving our heritage; it is very much led by our communities around the place, and I pay them the highest respect in that regard. Without those volunteers and those with a passion for our past much would be lost for future generations.

That is why I was disappointed last week when I was thinking about the bill. I picked up the *Age* of 6 October and read on page 5 the article entitled 'Heritage plan collapse may sink Victoria's historic vessels'. It is a story about a proposed \$35 million maritime heritage

seaport project at Williamstown. The article talks about a 70-year-old steam tug called the *Wattle*, suggesting that that might be the first casualty of the collapse of the project. The article states:

Volunteers who have restored and run the tug say that without the capital injection they will have to declare insolvency at their annual meeting this month and look at selling the *Wattle* to Sydney.

The *Wattle* was one of eight vessels to be moored at the maritime heritage precinct that Premier Steve Bracks announced in April last year.

The article goes on to say that for a variety of reasons that proposed project, which was endorsed by the government, looks like falling over. I would have thought that Williamstown, which is in the Premier's electorate, would be an ideal place for a maritime heritage project.

I also note in the article that part of the particular project involved education and training funding from government agencies for its planned school of maritime trades. That would be an excellent initiative, but this will be falling over.

Hon. J. M. McQuilten — What about Maryborough!

Hon. P. R. HALL — Well, I will argue for Port Albert in my electorate because we have a maritime museum there. The people of Warrnambool will probably argue that such a facility should be at its very fine maritime museum, which I have visited in the past. When I read this article I was disappointed that some of our heritage looks like it cannot be preserved. I believe some eight vessels have been restored by volunteers and the community in Williamstown, and there will not be a place in Williamstown to display those fine heritage projects.

When I read the article I was reminded of one other similar project in the Orbst region, called the *Curlip* project because it is a restoration and rebuilding of an historic steamship called the *Curlip* that carted timber products on the Snowy River. A dedicated group of volunteers in the East Gippsland region are dedicated to restoring and rebuilding the steamship *Curlip*. That is an example of the community passion that many people have for heritage projects around the state.

It is also important to mention that our heritage in Victoria is important to us and is something that needs to be preserved and protected. After all, Australia is a relatively young country. It is only a little over 200 years since white settlement, so we do not have a lot of heritage since white settlement whereas people in

Europe, for example, go back hundreds and thousands of years. Certainly our heritage extends prior to white settlement but not a lot is known about our heritage prior to then in this country. Our heritage is an important asset and deserves the highest levels of protection.

I could talk this afternoon about a lot of local historical groups. As I said, I have the greatest admiration for some of the volunteer work that local people do in preserving local history. I mentioned the Port Albert Maritime Museum, and it is a classic example. Community people with a passion for the sense of maritime history in that region — after all, Port Albert was the first place of settlement in the South Gippsland area — have established a marvellous museum where some of the relics and materials salvaged from shipwrecks in the area are very well displayed. Yes, the facility gets some funding assistance from the government but largely it is generated by the passion of local people to keep that place going. It is a wonderful facility for the region.

I pick out also people like Mr Jim Hood of Traralgon, who has been president of the Traralgon and District Historical Society for many years. He and his organisation do a great job preserving the history of the Traralgon area. I might add that almost every country town has a local historical society. I think they do a wonderful job preserving the history of their local areas.

I want to mention one other exhibition that is currently on in Gippsland. It is an exhibition organised by Senior Sergeant Eric Duffy of Victoria Police. He has assembled a collection of copies of the *Victoria Police Gazette* dating from 1870 to the time publication of the gazette ceased in about 1960. They contain a fascinating record of the accounts of local events and portray another side to the history of local areas. I understand many people are accessing the gazettes because they may not have a photograph of their ancestors. They discover that, lo and behold, in some of the gazettes for one reason for another there is a photograph of an ancestor, not always shown in the greatest light but there it is. I am told that many people have been able to add valuable information to their family histories by studying the gazettes.

The intention of those gazettes, as I understand it, was to inform police officers at different stations around the countryside of the goings on — crimes, events and local disasters — where police were involved in rescuing people. Collectively that information provides a fascinating account of some of the history of those areas. I commend people like Eric Duffy for making the effort to bring those volumes of the police gazettes up

to the Gippsland area. I am sure many people with an historical interest in Gippsland will access them. I understand the gazettes will be displayed at various libraries and other venues in Gippsland communities over the next few months.

I want to spend a couple of minutes talking about our natural heritage. We need to be particularly vigilant in ensuring that our natural heritage — the natural features of our landscape — is preserved for future generations. That is why the National Party has been so passionate about Basslink, about wind farms and about projects like Dutson Downs. Projects like those have the potential to have an impact on the natural heritage of these areas.

The Gippsland Lakes are a great natural heritage asset in Gippsland. I am concerned, and I think the government is concerned, about the impact of pollution on the Gippsland Lakes. To its credit the government has put money into reducing some of the inflows into the lakes, which might be polluted in one form or another. However, Dutson Downs becoming a potential toxic waste site — we know it will definitely be a contaminated soil site — will pose some risks to one of our natural heritage areas in Gippsland, being the Gippsland Lakes. That is why the National Party has stood up on these issues; it is concerned about our heritage. Basslink, with its pylons, and wind farms, with a proliferation of wind turbines, will also impact on the natural heritage of the South Gippsland area. We know there needs to be a balance in all of these things, but that is why we have been so strident in our views about some of these matters: we are concerned about protecting our natural heritage in the areas we represent.

I want to quickly add that, as was said in the second-reading speech, most Victorians are passionate about their heritage. To an extent we all share that passion. I know that on a personal level I particularly enjoy restoring old furniture; it is a hobby and passion of mine. I have had a go at a couple of houses from time to time during my life; I suppose most of us have had a go at restoring houses. I enjoy that, and I can understand and appreciate the craftsmanship that went into building some of the old cabinets and tables that I have disassembled, restored and put back together from time to time. That is also an important part of our heritage. I have also enjoyed watching my father restore several old motor vehicles during his life; it is a passion of his. That is an example of how we all contribute towards preserving the heritage we enjoy here in Victoria.

I want to emphasise the fact that I think protection or preservation of our heritage is community driven.

Government should not accept all the accolades for doing that because without the support of the community and so many volunteers much of what we have would indeed be lost.

The last comment I want to make on cultural heritage before turning to the provisions of the bill concerns a comment made in the *Leongatha Star* of Tuesday, 23 September. It states:

The state government has ordered a stay on big coastal developments in South Gippsland.

Those affected include Tarwin Cove at Pound Creek and Lakehaven Village at Venus Bay.

The article says that the Minister for Planning has asked that big developments not proceed until an assessment of their impact has been completed. I say that is probably appropriate. You have to do an assessment of the impact of big developments on our natural heritage.

Again, that is what the National Party said about wind farms. We said we need to look at and assess the cumulative impact of wind farms on our natural heritage. Wind farms are big developments, and we argued for a 12-month moratorium on the basis that we need to look at the cumulative impact of them. I can understand why Minister Delahunty has done this. I do not say I necessarily agree with her, because there are some important projects going on there. However, I agree with the view expressed in the article that we should always take into consideration the cumulative impact on our natural heritage of any developments. That has occurred in this instance. The National Party was very disappointed that it did not happen in respect of wind farms.

All of that being said, I now wish to turn to some specific provisions of the bill. As I said, the National Party will not be opposing the bill. We know this bill amends the Heritage Act 1995. We also know that one of the main purposes of the bill is to increase penalties for certain offences under that act. Some of the maximum penalties will rise to \$280 000 for an individual and \$480 000 for a business. This is more than a 100 per cent increase; I believe it is close to a 140 per cent increase in those penalties. I also understand that these penalties are not quite as severe as some of the penalties imposed in other states of Australia. Nevertheless, as I said before, it is important to protect our heritage, and breaches of the act deserve to be punished. I hope these penalties serve as a deterrent to people who would breach provisions of the Heritage Act.

Another main provision of the bill gives a court the power to make any order it considers appropriate to remedy or restrain a breach of the act if a person is found guilty or is convicted of an offence under the act. That provision is contained in clause 11 of the bill. I note that one of the orders the court could make is for restoration or reinstatement of historical features to buildings. That is an important power the courts will have.

A third main provision in the bill gives the Magistrates Court the power to make an order permitting entry to a residence for the purpose of investigating its cultural heritage significance if the residence is unoccupied or entry has been refused by the occupier. That provision is contained in clause 8 of the bill. From time to time some people have suggested to me that this is an undue power. They say, 'It is your house, you own it and you should have the right to do what you want with it.' I say that that is true within bounds. However, if there are particular features of a privately owned property which should be retained in the best interests of the general public of Victoria, then I think people should have a right to expect that the general public of Victoria will contribute towards the cost of retaining that facility.

I know that most people would do that willingly without expecting any contribution from government, but at some time if there are features of the property — and I am not just talking about buildings; it might be landscape or vegetation on a property — that need to be retained in the best interests of the public and heritage values, I think there are cases where it is not unreasonable to expect the public to contribute to the cost of retaining that provision.

There are a few other mechanical procedures in this amending bill, but it is not a big or complicated one. As I have said before, the National Party is prepared to support the bill. I will repeat, before I conclude, that we as a party are very concerned about the state's heritage, and we acknowledge the importance of preserving and protecting it. That is why we support the measures in this bill.

Mr SCHEFFER (Monash) — The Minister for Planning in the other place, as my colleague Mr Hall has indicated, is quite correct when she says in the second-reading speech to the Heritage (Amendment) Bill that Victorians are passionate about their cultural and national heritage. I am extremely pleased that the opposition supports this bill.

The Heritage (Amendment) Bill updates the principal act in three main ways. Firstly, it increases the penalties set out in the Heritage Act so that they remain an

effective deterrent. Secondly, the amendment gives the Magistrates Court the power to require a person who has contravened the provisions of the act to stop the activity and/or restore any damage that may have been done to a residence that has cultural or heritage significance. Thirdly, the amendment gives the Magistrates Court the power to issue an order to enable entry to such a residence where the occupier refuses to consent to the entry or where the occupier is not available to give that consent.

The government's election policy 'Protecting our suburbs — Labor's plan to manage our growth' promised to enforce tougher penalties for people who breached heritage and planning permits. Destroying places of cultural significance is a serious offence and penalties should reflect the level of that seriousness. We should not tolerate developers deliberately breaking the law and forever destroying cultural sites, figuring that the penalty could easily be absorbed into the overall cost of the development. The maximum fine under the new legislation will be \$480 000 for a company and \$240 000 for an individual.

Clause 8 of the bill is concerned with how an inspector or a person properly authorised by the Heritage Council can apply for a permit to enter a residence to investigate whether or not it has cultural heritage significance. The process of this application for entry is worth spelling out in some detail. It is a matter which in the lead-up to the introduction of the bill attracted some attention because of its sensitivity. Where an occupier of a culturally significant residence refuses to permit entry to an inspector or authorised person, or where the occupier cannot be found, or where the residence is unoccupied the investigator can apply to a magistrate for an entry permit.

However, the inspector or the authorised person must serve a copy of the application to enter the premises at least 14 days prior to the hearing before the magistrate. Once an order has been granted the inspector or authorised person needs to announce to the occupier that they wish to enter the residence, and give the occupier an opportunity to let them in. Finally, the inspector or authorised person must identify themselves and present a copy of the magistrate's order.

The bill strikes the right balance between the rights of the owner or occupier and the rights of the community to make sure that the common cultural heritage is protected. As provided in the principal act, it is not enough to look at the residential building only from the outside. The process for entering a residence, as set out in the bill, has sufficient safeguards to ensure that due consideration is given to everyone's rights and that

permission to enter a residence is fair under the circumstances. Making an assessment of the heritage values inside a residence can also be of benefit to the owner or the occupier because it enables them to identify the distinctions between various parts of the building and their relative value.

Often internal sections have no heritage value at all, and that leaves the owner or occupier free to make whatever renovations they wish. It is better that the owner is clear about that rather than having the whole place listed without an inspection, which of course the Heritage Council has the power to effect.

The bill also enables the Magistrates Court to compel a person found guilty of an offence under the act to reinstate the building and to stop any work in progress. This measure prevents a developer from deriving any benefit from the building without having a permit even after they have paid the penalty.

In debating this bill it is also useful to consider the types of illegal activities in which owners and occupiers of heritage buildings are involved. For example, in domestic houses serious breaches could include gutting the interior so that features such as plasterwork and joinery are destroyed and walls are entirely removed. Additionally, painting of external brick walls, extending the building and removing parts of the original house, including the roof and so forth, are regarded in the bill as being serious.

Penalties for these breaches can be expected to be high, and under the present legislation reinstatement could be required. The Victorian Heritage Register lists the most significant places that are legally protected under the Heritage Act 1995, the principal act which the bill amends. The Heritage Act established a legislative framework for heritage protection in Victoria, replacing both the Historic Buildings Act of 1981 and the Historic Shipwrecks Act of 1981 and parts of the Archaeological and Aboriginal Relics Preservation Act of 1971.

The act enables places of historical and cultural importance or places that exhibit good design or aesthetic richness or that are unusual or associated with an event or an achievement to be protected by law.

To convey some sense of the importance of this I point to the range of buildings in my own electorate of Monash Province that are included on the heritage register. Examining the web site where the register is placed is very instructive because it reveals how many and varied are the sites all over Victoria that people care about and that they wish to preserve and protect. I

refer particularly to sites in Monash Province because they are places that my own community particularly values.

The municipalities of Glen Iris, Stonnington and Port Phillip boast 50 such sites, and many are icons to the whole of Melbourne if not Victoria, but I will single out a few just to make the point. The heritage register states that the famous Labassa in Manor Grove, Caulfield, is extremely rare, if not unique, in Australia. The interesting thing that I learned about it is that it would be one of the few buildings in Australia that has international significance, which is quite remarkable when you think of the brevity of western development in Australia. Labassa has fallen into near ruin.

Hon. J. M. McQuilten interjected.

Mr SCHEFFER — The Exhibition Building as well, Mr McQuilten, there you go. It is not in Monash Province, unfortunately, but I believe that would be the case. Anyway, this fine building, Labassa, had fallen into near ruin in the mid-1970s when I knew it as student digs. People liked the place a lot, but it was falling apart before our eyes. I see in an article in yesterday's *Age* that the fortunes of the building do not seem to have much improved; it is still up against it in terms of finding resources to improve its situation.

As well there is Albert Park Lake; Alfred Square on the Upper Esplanade; the Biltmore in Victoria Street, South Melbourne; Station Pier, where generations of migrants first set foot in Australia; the Astor Theatre, an art deco icon of the 1930s; the George Hotel; the little tram shelter down on the corner of St Kilda Road and High Street, and so forth. There are lots of buildings in the area that are registered under the act.

In Stonnington there is Como House, which was mentioned earlier in the day, South Yarra and Windsor railway stations, Melbourne High School and Mandeville Hall. They are all examples of buildings without which we would be poorer.

The bill will strengthen this important Heritage Act in relation to residences and ensure that sites of cultural heritage significance are protected against individuals and organisations that would seek to destroy what is precious in our culture. I commend this bill to the house.

Hon. ANDREA COOTE (Monash) — I have pleasure in speaking on this bill. The purpose, which has been outlined by others, is to increase the enforcement of the Heritage Act 1995 by increasing penalties and introducing the ability for a court to make an order to remedy or restrain a contravention. The bill

provides entry provisions for the purposes of investigating heritage significance of residences, and it clarifies when the National Trust is entitled to notices of referrals to the Victorian Civil and Administrative Tribunal.

Firstly, I welcome the bill because it is timely to have an opportunity to look at the Heritage Act and to reflect on how important our heritage is to the Victorian community. In my capacity as the shadow Minister for Tourism, I see heritage as a great focus for both national and international visitors as well as for many Victorians. As the previous speaker, a member for Monash Province said, Victoria is blessed with many excellent examples of heritage.

The bill contains a number of issues that need to be looked at. A huge part of clause 8 is dedicated solely to penalties, and it almost outweighs the other aspects of what is in a sense a small bill. That clause gives the bill an enormously punitive approach, yet there is no evidence that the existing penalties are a deterrent. It is interesting to see that the government has taken the opportunity to make the bill very punitive. We certainly understand the reasons behind and the necessity for putting penalties in place, because we all want to protect our heritage. Some of us in here can remember the 1960s when Whelan the Wrecker was at work. He was up and down Collins Street, and we can remember his great big balls of destruction.

Hon. J. M. McQuilten — He went all over country Victoria as well!

Hon. ANDREA COOTE — That is right, and that company slashed all sorts of Victoria's heritage. During that time many buildings along St Kilda Road, which is an excellent road, were destroyed. I think that at the end of the day it was a union ban that saved a number of those buildings, and we would probably all agree it was the proper thing to do. We have all come a long way since the 1960s, but it is important to acknowledge that in the 1960s the community was starting to focus on heritage and on looking into issues of preserving what was important in the history of this state.

The bill still allows people to go to the Supreme Court for action, but in reality there has been only one example — the Boyd house in Camberwell, which my colleague the Honourable David Davis has elaborated on. Enormous expense has been put into trying to take this through to some sort of resolution. It has caused huge stress for everybody concerned, and I think there has been an overly vehement expression of heritage protection.

There are a number of issues dealing with the Boyd family. There is an excellent book out at the moment about the family and Robin Boyd himself, it was Geoffrey Searle who also put out an excellent book acknowledging the work and the architecture of Robin Boyd. One of the Robin Boyd projects now with heritage recognition is the Robin Boyd apartment building in Domain Road, overlooking the Royal Botanic Gardens. Considerable outrage was expressed about that when it was built, and it is interesting to go back and reflect upon people's anger and angst at the time about this enormous high-rise building, when here today people are acknowledging it as a true reflection of Robin Boyd's brilliance and they expect it to be part of our heritage into the future.

Heritage Victoria's web site shows the diversity of items listed on the additions to the register. Items include the Bells Beach Surfing Recreation Reserve, the Auburn Uniting Church and the Black Powder Mill in Parklea Avenue, Cairnlea. Interestingly we have the Essendon incinerator complex, the Craig and Seeley offices and showroom at Hope and Percy streets in Brunswick, the former Brunswick Gas and Coke Company Retort House and the Traralgon engine shed and turntable.

I have to say there is a deal of hypocrisy in this government because the Great Ocean Road is recognised internationally as being an excellent venue for tourism and is acknowledged as being important for this state as a tourism attraction. There are 5.2 million visitors to that area every year, and every time you open the Tourism Victoria web site or any brochure that it puts out, the Twelve Apostles and the Great Ocean Road are listed among the most important areas in this state. Yet as we know, because we have had these debates here before, this government is intending to put strings and strings of wind farms down there to make certain that we go there not to see the natural heritage but to see lines of wind farms and windmills. The Liberal Party believes in renewable energy, but not at the cost of tourism and not at the cost of this excellent part of our coast. Indeed, the hypocrisy is breathtaking!

The Heritage Victoria web site looks at the heritage overlay issue. This is a great concern for many people who are in the caravan park industry because they have had a double problem with this government. One property that is particularly relevant is in Ocean Grove. The Ocean Grove Caravan Park, which has provided the opportunity for camping families from around Victoria to enjoy excellent holidays for so many years, is under threat. It is a privately run caravan park that has a land tax of a million dollars. That involves a lot of caravan sites. Either a lot of people are going to have to

increase their payment to holiday in that place or the owners of the caravan park will have to sell the place, if they can. However, they cannot sell it because it has a heritage overlay. They face a double jeopardy, so to speak: they cannot sell it because of the heritage overlay and yet they have a million-dollar land tax. They have a huge problem.

The Heritage Victoria web site talks about overlays and says:

As at February 2001 there are 1900 properties that have been included on the Victorian Heritage Register and which are subject to the requirements of the Heritage Act 1995. At the local government level there are at least 80 000 properties that are covered by a heritage overlay under municipal planning schemes.

With over 25 years of statutory protection for heritage places in Victoria, economic matters and the impact of heritage controls on property values are still raised as issues when heritage protection is contemplated either under the Heritage Act 1995 or through a planning scheme.

I encourage the government to have a much closer look at this and to see what the economic implications are for caravan park owners particularly, certainly through this state, because they are under enormous threat. I would have thought the government would have encouraged the people of Victoria to go on camping holidays.

The previous speaker, the Honourable John Scheffer — who is the other member for Monash Province — spoke about many of the historical places in Monash. I would like to also speak about some of its key heritage aspects.

I would like to put on record how sad and tragic it was for the whole of Victoria when the kiosk at the St Kilda pier burnt down recently. It was a tragedy for everyone involved. I feel enormously sorry for the proprietors of the restaurant that was at the end of the pier. It was heartbreaking for everybody involved. It was an icon that all of us will miss. To drive down Jacka Boulevard now, to go past Luna Park and to see that the kiosk is not there any longer tugs at everybody's heartstrings. I do hope that we can come to a good solution on its replacement. I know that the City of Port Phillip is looking into this issue and working very hard to try to find a solution; it certainly is going to need support from the state government. I hope the government realises how important that kiosk was to all Victorians.

Earlier today in my member's statement I spoke about how the National Trust is doing an excellent job with Como House. The National Trust has many properties and the old formula of 'Going through a heritage house' in Victoria is starting to change. We are now seeing a

second generation of tourists coming back to Como House to show it to their families. Tourists tended to come from Japan. They came by bus loads as they did a whiz around Victoria. Interestingly these same people who came on a large tour are now coming back as independent travellers and bringing their families with them.

The heritage in Victoria is among the things they come to see and put high on their list. Many of us in this chamber have seen the brides outside Parliament House. Many of them are from Asia and they have their wedding photographs taken outside this building, which is another excellent example of heritage in Victoria.

Within Monash Province we also have Ripponlea, which is an excellent example of how a heritage building and private enterprise can work together. The caterer Peter Rowland, who does an excellent job for weddings, functions and events, has the catering contract at Ripponlea. It is a very good use of a heritage building. The building and its gardens are kept up to a high standard. Many people are able to use this wonderful facility. Victorians and international visitors are able to see exactly how people in bygone times lived. Ripponlea was built by the Sargoods. It is interesting to see how they lived all those years ago.

One of the aspects that the other member for Monash Province did not speak about but that is prevalent in the electorate is the town halls. We have a number of heritage town halls: at Port Melbourne, the City of Stonnington, the City of Glen Eira, and the City of Port Phillip.

The City of Port Phillip town hall burnt down several years ago. I have to pay credit to everyone who was involved in the restoration — the council at the time did an excellent job — and it has been put back to its former glory. The council treated it very well. It would be good to see more of these types of restorations being sensitively done to various heritage buildings within Victoria.

I was involved with the board of Parks Victoria when we had to look into developing something that was complementary at Werribee Park, which is managed by Parks Victoria. They built a very successful extension to the mansion house. That was not without controversy, because it is difficult to try to get the balance right between modern architecture and architecture of days gone by. In that instance you had the Chirnsides' house and the Catholic seminary, all of which had to be incorporated into the new building. I pay tribute to all those involved in developing that building because it was very good. It fitted within the

Burra convention, which is an international convention on architecture and heritage buildings. Everyone involved with that development is to be congratulated.

However, it brings me to the article in the *Age* which was mentioned earlier entitled 'Cash-strapped historic sites under pressure'. The article refers to Labassa in Caulfield, in my electorate. The excellent article by Royce Miller refers to the neglect many of these buildings suffer from. Parks Victoria is looking after these heritage buildings, or in this instance is not looking after the buildings under its control. The government should be giving Parks Victoria significant amounts of money to make quite certain that heritage buildings are kept up to date and are restored, because once they are gone, they are gone forever.

The government should understand that these buildings are essential and of ongoing importance in the state. It is a tragedy that buildings such as Labassa are falling into disrepair under our very eyes. Woodlands Homestead in Tullamarine is another example of the neglect by Parks Victoria and the state. I call upon the government to provide the funds to make certain these buildings will be around in the future for all Victorians.

Mrs CARBINES (Geelong) — I am pleased to speak on behalf of the government on the Heritage (Amendment) Bill. In bringing the legislation before the Parliament the government is fulfilling an election commitment to the people of Victoria that it would legislate to enforce tougher penalties for those who breach heritage and planning permits. It is very important that we act to protect our heritage because it is a testament to how we once lived and the values that we as a society hold dear.

Members of the house will have heard me speak many times of my former professional life as a state secondary school teacher. One of the subjects I taught most often during my years as a school teacher was history, particularly Australian history. I have spent most of my professional life outside of being a parliamentarian trying to instil in young people an understanding of the value of heritage and the need to protect it.

The Heritage Council works very hard to protect our state heritage. I commend the chair of Heritage Council of Victoria, Chris Gallagher, and her board, for working very hard in looking after our historic buildings, gardens, cultural sites, relics and historical shipwrecks, and for making sure that they are protected not just for our benefit but for generations to come.

I was pleased to launch recently on behalf of the Heritage Council a fabulous piece of work it has called *Shipwrecks of the Surf Coast*. The work details all the ships that have been wrecked along the surf coast dating back into the 1800s. I am sure it will be a useful resource to anyone who is interested in the state's history, especially the maritime history and the history of the surf coast. As someone who lives close to the surf coast, I know how treacherous it can be. I remember when I made my inaugural speech in 1999 the theme of my speech was the essential role Geelong Province played in Victoria's history since white settlement. John Batman came ashore at Indented Heads in 1835, so Geelong Province has a strong claim to holding the heritage values of our state very high.

The municipalities that make up my electorate have many fine examples of our state's heritage contained in them. Indeed, the Borough of Queenscliff is well known for its historical charm. It is a tourist drawcard to Queenscliff. We have the Queenscliff fort and fabulous examples of the Victorian era in the hotels: the Ozone; the Queenscliff Hotel, where I spent my honeymoon; and the Vue Grand. The Queenscliff community and the borough council take heritage very seriously and ensure that the heritage of the borough is keenly protected.

In the City of Greater Geelong, where I live, there are over 100 heritage listed sites. As Mrs Coote outlined, many of them are town halls. The City of Greater Geelong town hall is one of the heritage-listed buildings in Greater Geelong. We have the lovingly restored Spray Farm on the Bellarine Peninsula, which is home to many of Victoria's finest wines. We have also lovingly restored Geelong's first hotel, the Shearers Arms, which is now home to the Geelong Art Society and its many terrific exhibitions.

A Geelong icon, the Eastern Beach complex and reserve, is also under heritage listing. This area has become a symbol of Geelong and a tourism drawcard. Overlooking Eastern Beach is a wonderful dwelling called Corio Villa, which was completed in the 1850s. It is a fine example of a wrought iron structure — the wrought iron lacework is intricate. Just as many brides come to have their photos taken on the steps of Parliament House, in Geelong it is very fashionable to have your bridal photos outside Corio Villa, overlooking Eastern Beach.

Earlier today I talked in my members statement about the moving service held at St Mary of the Angels Cathedral in Yarra Street on Sunday night. That church is undergoing significant restoration at the moment, and I am pleased to see how much has been done and that

the government has assisted with funding to allow the restoration to go ahead.

Of course, many of the buildings in our electorates are well maintained and well used and have become part of our culture today. An example is the old Geelong courthouse, which has been fabulously restored and is now the Courthouse project, which is the mecca for young people in Geelong. It has a recording studio, an arts precinct, a medical centre for young people and a café. Having been a secondary school teacher, I know how dearly young people hold that centre. Sadly, as in most municipalities, there are examples in the City of Greater Geelong where heritage buildings are not being looked after and are falling into disrepair. They have become an indictment. It is hard to reconcile the need to protect heritage sites and buildings and the cost that is incurred with the need to provide services and infrastructure for a growing population. There is always that tension, and Mrs Coote has referred to an article in the *Age* on Monday in this respect. I also read that with interest. In Mercer Street, near my office, we have an iron store, the facade of which is looking increasingly sad. I know it has had several owners over the past years who have wanted to do something but have never settled the future of the store. I am hoping the new owners manage to achieve something with it, because it is a particularly charming and interesting building in Geelong.

A very sad example of the need to protect our heritage is the saga of Osbourne House in Geelong, which was constructed in the mid-1800s and is a majestic two-storey residence overlooking Corio Bay, with stables and a courtyard. It was the original home of the Royal Australian Naval College, and once the college vacated the premises it became a private residence. It was then used as an office for the Shire of Corio until the City of Greater Geelong was formed in the 1990s.

Although the house still looks imposing and lovely from the street, from within the grounds and from the bay, its former splendour has been severely affected by neglect. Several attempts have been made by the City of Greater Geelong to find a future or use for Osbourne House. Indeed, many interested members of the community are prepared to sit on committees to talk about its future — what should be done with it? But sadly it remains empty. It is a bit of a symbol of the failure of the local council to reconcile the need to preserve our heritage with the need to meet the demands of our growing population in Geelong.

We have already heard that Bells Beach has been listed this year on the heritage register, and I am very pleased to see that as it is in my electorate. I know how

important the surfing culture is not just to my electorate but to Australians generally. This is a very important inclusion on the register, because it is very reflective of the values Australians hold today. I think if the Heritage Council is to succeed it needs to make sure it is also including sites that are culturally significant today as well as in the past. I notice that Bells Beach is on the cover of *Inherit* magazine.

Victorian heritage is very important. As a government we have an obligation to legislate to protect it. We have brought this legislation into the house to fulfil an election commitment. We want to enhance our protection of the state's heritage through this bill in three ways. Firstly, this bill will increase the penalties for breaches of the Heritage Act. Secondly, it will allow for the making of orders to remedy or restrain any breach of the Heritage Act, and this will become a very useful tool to address any issues when there are cases where heritage buildings have been altered or damaged. Thirdly, it will allow for increased powers of entry for inspectors.

The penalties that are currently listed under the Heritage Act have not changed for the best part of a decade. As a government we believe it is very timely to increase them. They are not now reflective of the cost of restoring any damage that is done as a result of a breach of the Heritage Act. We also feel they need to be increased as a deterrent to anyone who thinks it is going to be a cheap way out just to pay the fine for any damage to a heritage building. We want to make sure it is not a cheap way just to pay the fine; it is not going to be a cheap option. We know it is very costly to try to replace any of our heritage buildings — in fact it is impossible to replace them — but it is also very costly to repair them. We have set the penalties in conjunction with the Department of Justice, and they will send a very strong message that any breaches of the Heritage Act will be taken very seriously. We hope in this way we will see fewer of them in the future.

The bill gives a court the ability to make any order that it considers appropriate to remedy or restrain a breach. This will be a very useful tool because prior to this bill — and as we understand it will be passed today — the Heritage Council has needed to pursue any such action in the Supreme Court which of course is very costly and prohibitive.

Finally, the bill increases powers of entry to officers where an occupier has refused to give written permission for an inspection or where there is no occupier from whom to gain consent. This bill will allow officers to seek the right of entry through the Magistrates Court.

In bringing this bill before the house today the Bracks government is very serious about protecting our irreplaceable heritage. The bottom line is that once it has been irreparably damaged or destroyed, it is lost forever. All of us have an obligation to make sure we try to minimise opportunities to lose our heritage. This bill is all about increasing our capacity to protect our state's heritage, and I therefore commend it to the house.

Hon. R. DALLA-RIVA (East Yarra) — I have pleasure in contributing to the debate on the Heritage (Amendment) Bill 2003. In doing so, I will not be opposing the bill, but will be raising a number of issues about it that need to be put on the record.

As I am led to believe from the outline, the bill will do a number of things. The bill has essentially three purposes: to increase the penalties, which I will get to subsequently; to give a court power to make an order in terms of restraint or remedy for a breach of the act; and to give a magistrate power to make an order permitting entry to a residence where entry has been refused by the occupier or when nobody is there. The bill also makes a further amendment to the Magistrates' Court Act in relation to certain offences.

On occasions in this house I have congratulated the government for quite extensive explanatory memorandums, but on this occasion I must say I am disappointed with the detail contained therein in the context of this bill. Often when referring to a clause the explanatory memorandum just repeats the clause. For example, clause 6 states:

6. Certain activities prohibited

After section 64(4) of the Principal Act insert —

“(5) An offence against sub-section (1), (2) or (3) is an indictable offence.”.

When you go to the explanatory memorandum, it says:

Clause 6 provides that an offence under sub-section (1), (2) or (3) of section 64 of the Act is an indictable offence.

That is a great revelation — that is great explanatory advice within the bill! All that has been done is that the words have been rearranged. In the context of trying to get some grasp of what the government is attempting to get at in explaining certain clauses within the bill it would seem to me that the explanatory memorandum — and I do not want to be critical of any person or persons — indicates the level of commitment the government has in presenting this bill before the house. As legislators it is incumbent upon us to have available to us as much information as is reasonable. I

think the clauses just being repeated or reworded in the explanatory memorandum fails this house miserably, and fails the community even more so. It is important to put that on the record.

I have been through part 2 of the bill and referenced it back to the explanatory memorandum. Again the explanatory memorandum makes no actual contribution by explaining what that part of the bill does. It just says that there have been increases in penalties. If you read the act that is very clear — you do not need a massive amount of intelligence to understand that in the context of the bill. It would have been good to have had explained a bit more in the explanatory memorandum why certain penalties in the principal act have been increased substantially.

We have heard Mrs Carbines in her contribution refer to the notion that deterrence has a great effect, and therefore the penalties have been increased as a deterrent. In the context of this debate that notion has not been proved by the government side. Thus far I find it very hard to be convinced. I look forward to further contributions from the government to explain how an increase in the penalties for certain offences within the principal act would be a further deterrent.

I went to the Crimes Act and some of the penalties associated with indictable offences. I draw the attention of Ms Hadden to the fact that there are indictable offences in that act that do not have penalties at the level that are proposed here. Clause 5(6)(b) proposes to substitute 4800 penalty units for the existing penalty, and although I have listened to the debate in here and in my office I have not heard an argument for why the government is proposing a massive increase to that level that would justify the change.

It is interesting, and should be of note to the house, that from the advice I have a person could be fined up to \$30 000 for pinching a bottle from an archaeological dig. I would prefer to wear the offence of theft because often people who are convicted of theft get a slap on the wrist and a minor fine; yet under this piece of legislation you would be fined \$30 000 just for doing that. I am not saying that we should condone that, but in the context that this is using a sledgehammer to crack a walnut no evidence has been produced so far to indicate that the existing penalties have acted as a deterrent. In fact the government has provided no evidence to suggest that the increase will prevent this from occurring in the future. It is important to put that issue on the record.

The other concern is that clauses 6 and 7, and subsequently clauses 9 and 10, talk about the fact that

an offence under various sections is an indictable offence. Again, if you go to the explanatory memorandum, what is explained? For example, for clause 7 the explanatory memorandum states:

Clause 7 provides that an offence under section 11(1) of the Act is an indictable offence.

Again, what a great revelation! Could we have some explanation why?

This government has presented a bill to the house in which it says it will make an offence indictable, and when you go to the explanatory memorandum it says it will be an indictable offence. Gee! Can the government at least present legislation in a way that will enable informed debate? I know the government does not like to be exposed, open or accountable, but this could have been an opportunity for the government to be open and accountable. It has failed miserably because it has not outlined substantially any reasons whatsoever within the explanatory memorandum. It is important to again put on the record just how shallow and hollow this government is in its presentation of bills before this house. It has no plan, it has no direction and it is without vision or focus — and, again, this bill unfortunately reflects that.

What is the government hiding? Why does it hide these issues? It could be open and honest, but it is not. It is hiding behind a veil of secrecy — a curtain of not explaining to the Victorian community why there will be these massive increases.

I move on to clause 8, which relates to a court order for entry to a residence. I have been listening to the debate, and again I have heard nothing so far to indicate there is the need for this heavy-handed approach. There are similar bills before the house which will be debated a bit later, but we seem to be getting bills from this government that are about heavy-handed approaches to dealing with issues that could be dealt with in a more transparent and open manner.

This bill provides for an inspector to be authorised by the Heritage Council to be permitted entry to a residence for the purpose of investigating its cultural heritage significance. I put on the record before, and I will put on the record again, the fact that the police have to provide justification before a magistrate or a judge in a court for entering, searching and seizing documents, which is what this will allow inspectors to do. The way this government seems to be approaching it is that with every bill where there needs to be some approach to enforcement it ends up putting in another overlay — another bureaucracy — to perform this process. So at the end of the day what we have is

another department with more search powers, another bureaucrat who has the power to enter into people's homes and search and seize. Government members opposite might well look downtrodden on this issue, because they should.

Its members should be very ashamed. They should go home tonight and say, 'The opposition is quite right in saying that every piece of legislation before the house is a way of enforcing the government's ideological values in relation to enforcement'. At the same time the government impinges on the democratic and human rights of Victorians to go about their lawful business, and this bill is another reflection of that.

I refer to the Outworkers (Improved Protection) Act under which the government's union mates can be empowered on a reasonable belief — nothing else — to go into a house, and this bill does the same thing. There is a power to go in, search and seize. The government continues on a merry path of enforcement by pushing through its views and values believing that what it is doing is right for the good of the community — and it is not. The government is really on the nose because it has no vision and no future and come 2006, the government's mismanagement will be shown. People will be sick of their premises being raided day in and day out under the police state that Victoria is becoming.

Meanwhile the government does not support the police or the overall police process. It continually drives down the police and blames the coppers when things get hard. The government cannot take responsibility for its own actions and when it all gets a bit too hard, it blames the police for doing their jobs.

I do not know how government members look in the mirror every day and smile; they must be feeling pretty average about the way things are going. I often use the word, but it is a 'disgrace' and government members should hang their heads in shame over this bill.

I commend the government on one area — that is, where the commonsense factor comes in. The government has gone in with a sledgehammer to crack a nut. It has typical socialist views in the way it runs this state. I commend the government for clause 11; it must have had a significant rush of blood to the head, because it contains some good thoughts.

Hon. M. R. Thomson — You are still in the 1960s!

Hon. R. DALLA-RIVA — I thank you for your interjection, Minister. You hate being criticised, and this is another example.

Clause 11 has some commonsense attached to it. Clause 11(2)(b) requires:

... the restoration or reinstatement, so far as is possible, of the place or object to the condition it was in immediately before the contravention.

That is a commonsense approach. I commend the person who, I am sure, is at the bottom rung of the overall bureaucracy of the Labor Party. We know the Labor Party loves bureaucracy and has a layer that is 10 miles thick. I congratulate the junior adviser on the addition to the legislation because that adviser should now be the minister. It is a good clause; I have even ticked it as being good. I turned to the explanatory memorandum to seek further clarification; it must have been written by the same person because that is also well explained. I congratulate the government.

There are a number of missed opportunities. The bill does not talk about demolition by neglect. What happens to a property site that has been left and is just falling away in decay —

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

Hon. J. G. HILTON (Western Port) — It is with great pleasure that I make this contribution on the Heritage (Amendment) Bill. It was my understanding that the bill was to be unopposed, but Mr Dalla-Riva appears to be very keen on opposing it in many ways, and if he has such strength of feeling, I am surprised that he has not prepared some amendments. If he is not to move amendments, I wonder what the purpose of his speech was? I will leave that to other members to judge.

The main purpose of the bill is to amend the Heritage Act 1995 in order to improve the enforcement of that act. It is achieved by substantially increasing the penalties under the act and enabling the Magistrates Court to make orders to remedy a contravention. At the present time, although the Magistrates Court can impose fines, it is left to the Supreme Court to order a remedy, and this can be time consuming and expensive. The Magistrates Court will now have an opportunity to make an order permitting entry into residences for the purpose of investigating their cultural heritage.

Heritage reminds us of our history, and in another context it has been said that those who forget the mistakes of history are bound to repeat them. Heritage, which can be represented by buildings or places, is a way of continuously reminding us that we have a history. An example of a building is obviously this Parliament House, and there will always be some

debate as to the appropriateness of buildings being listed on the heritage list.

Indeed, I have some personal difficulties with the Orica building — which used to be the ICI building and which is next to Parliament House: I understand it is Melbourne's first skyscraper. However, its architectural value is somewhat beyond me although I am happy to acknowledge that people with more understanding of these things have made that decision.

Previous speakers have mentioned local heritage areas in their electorates, and I would like to do the same with Western Port Province. The Briars Homestead and outbuildings on the Mornington Peninsula is one of the peninsula's oldest properties. The Bunurong tribe lived for at least 40 000 years on the original site of the Briars building.

In 1840 Captain James Reid erected a hut on the site which is now occupied by the visitor information centre. In 1846, Alexander Beeton Balcombe and his family purchased the property. They made bricks using clay from the Balcombe Creek and built the first part of the 12-room homestead that still exists today. The family renamed the property The Briars after the family home on St Helena which, of course, provided the Napoleonic connection to the Briars property. William Balcombe, the father of Alexander, while living on St Helena, befriended the French emperor Napoleon who, as honourable members know, was exiled to St Helena after his defeat at the Battle of Waterloo in 1815. Napoleon, in appreciation of the Balcombe's friendship, presented the family with items of furniture and memorabilia, and this collection is still on display in the homestead. In fact, the French flag still flies proudly at the homestead, and I understand that after a recent visit by the French Ambassador a new flag has been promised to replace the one that currently flies there.

The Briars remained in the Balcombe family's possession until 1977, when it was presented with the surrounding 8 hectares jointly to the Mornington Peninsula Shire and to the National Trust in Victoria. I encourage any member of this house who has not visited The Briars to do so, and I can guarantee them a most pleasurable experience.

The second property I wish to mention is the iconic Point Nepean. Honourable members would be aware of my views on the present dispute surrounding its future, and I will not be going to those again. However, Point Nepean with its quarantine station and other buildings is redolent with history. Anyone who has visited the site knows that the sense of history is almost palpable. You

can indeed almost touch the history. It is absolutely essential that such pieces of historic significance are retained for the enjoyment, and indeed, education of all Victorians. I wish the bill a speedy passage.

Hon. A. P. OLEXANDER (Silvan) — I rise to speak on the Heritage (Amendment) Bill, introduced to amend the Heritage Act 1995. The bill sets out to strengthen and build on the original legislation by allowing the courts to step in and remedy situations with harsher penalties or court intervention in disputes.

The legislation is not opposed by the Liberal Party. Our party has a long and proud tradition of supporting environmental and heritage imperatives. This bill builds upon the important work that was originally undertaken by the Kennett government in 1995.

When it comes to taking a stronger stance on protecting our revered heritage, it is a commendable step that is being taken by introducing a strengthening of the original Kennett government legislation. That original legislation in 1995 was the subject of some controversy, but the then Liberal government had the foresight and determination to introduce it and to see it through until its enactment. It is worthy of note that it has taken the current government some time into its second term to build on the important foundations which were laid in 1995. But better late than never, and the opposition welcomes the strengthening of that legislation.

For my part, being a member of Parliament in this place representing a seat in the outer eastern suburbs of Melbourne, heritage values are extremely important to me and to people in my electorate. We in the outer east possibly do not have as many heritage sites quantitatively speaking as other parts of Melbourne or other parts of the state. While it is true that quantitatively we do not have the numbers of sites, we certainly have extremely significant sites, which are, in the context of what is being preserved statewide, unique and still in working order. Often they are sites related to industry or transport.

It is a function of our area that it is not as old as some of the inner city areas or some of the regional cities and provincial towns, but we certainly value the sites we have. The City of Knox has a couple of very interesting sites, one of which is the pipe organ at the Lutheran Church of our Saviour on Burwood Highway, Knoxfield. I commend to members that if they are travelling to the Dandenong Ranges along Burwood Highway they take a look at that site, because it is a unique example of this type of musical instrument. It resides, thankfully, in the outer eastern suburbs of Melbourne.

We also have within the City of Knox municipal boundaries of my electorate of Silvan on the corner of Dorset Road and Burwood Highway a very historical example of a primary school building which is still a functional and serviceable building in use. That is also listed and of great significance not only to the school community but to the local community generally. We obviously wish to see that preserved and protected.

The City of Maroondah has only one site listed in the register. It is an interesting one related to the transport sector. It is a working site — the Ringwood railway station. It is a fine example of early railway stations in Victoria, but it is important to the local community that the heritage values of that site are preserved, particularly given the significant development and redevelopment which has taken place and which is still taking place and is planned for the future. Amongst all the redevelopment work there is a community expectation that what is unique about that site is preserved and protected for future generations, and heritage listing obviously is one way in which that can be assured.

We do not have as many historic homes or buildings in the outer east which are protected in the same way as other electorates do, but we have some. In the City of Manningham the Inge and Grahame house at 18 Drysdale Road, Warrandyte, is one. There is also the former Naughton house and factory, which is a residence and factory at 1–15 Hutchinson Ave, Warrandyte. It is also protected under heritage legislation. There is also an interesting site — the Pound Bend gold diversion tunnel — in the Warrandyte State Park. This tunnel was used when gold was still actively being mined in Warrandyte in the outer east of Melbourne. It is probably unique in the heritage register, because there is no other tunnel of its type that is protected. In historical terms it is significant, because it is an example of the way in which the industry used and extruded that precious metal in Victoria during that era. It is now preserved for future generations and has an educative as well as a heritage value.

There is also an interesting former wine hall at 232–238 Yarra Street, Warrandyte, which is also protected under the legislation. One of the buildings in the Shire of Yarra Ranges which is subject to protection of the act is Burnham Beeches. Many members and people have travelled there over the years. It has been used for accommodation and as a very successful reception centre. It is in Sherbrooke Road, Sassafras, up in the Dandenong Ranges. It has been used variously as a restaurant, reception centre and accommodation over its history. At the moment the property is again the subject of some controversy because it has recently

changed hands and the new owners wish to develop it. There is a very strong community expectation in my electorate that what is special and unique about Burnham Beeches be preserved for future generations and that any development, regardless of commercial imperative, be sensitive to that requirement so that anything that is done to develop this property for future commercial use does not destroy or take away from what is unique and special about it from a heritage perspective.

The final heritage site I will mention is a working railway bridge over Monbulk Creek which is part of the Puffing Billy line at Selby.

Hon. Andrea Coote — A great tourist attraction, Puffing Billy.

Hon. A. P. OLEXANDER — A huge tourist attraction as my friend and colleague the Honourable Andrea Coote points out in her capacity as shadow Minister for Tourism. Thousands and thousands of visitors to Victoria use that line every year for a very enjoyable experience. It is an extremely important site because it is one of the few examples of that particular architectural construction of bridge. It is still in working order and from time to time there are significant safety issues related to the preservation of the bridge.

At times it has been burdensome and challenging for the engineers who are involved in the preservation of the site to ensure that not only is the trestle bridge preserved from a heritage perspective but also that it is safe and functional for the thousands and thousands of overseas, interstate and Victorian visitors who use it. I think there is a community expectation that the extra work will be done to ensure that it is preserved not only from a heritage perspective but also from a safety perspective. That extra work is legitimate given how unique this particular site is.

This bill will change the level of penalties. It will make the penalties harsher. It provides for the making of orders by courts. It also clarifies, and in some respects enhances, the powers of entry to enable the registration of significant heritage places.

I know that virtually every member of this chamber is proud and very defensive of heritage in their electorates. That is as it should be because our communities are also very proud and very defensive of those places and want to see them preserved in an effective manner. Of course, whenever you have legislation of this type which gives quite sweeping inspection powers, whenever you have legislation of this type which can infringe on private ownership rights

there needs to be a good degree of commonsense displayed in the exercise of that legislative power. Whenever we look at a site we need to take heed of its uniqueness and what it brings to the heritage — what is the word I am looking for? — consolidation we have.

Ms Hadden interjected.

Hon. A. P. OLEXANDER — Yes. What I am trying to say is we need to look at how unique it is and what that brings to the total pool of heritage sites in Victoria so that it broadens them and is not just a repetition of what we are preserving in other places. I think we also need to exercise some commonsense in considering a site's functionality and what its commercial purposes might be so as not to deter these sites from being real working examples and being utilised by the community and/or commercial interests in that process. I think we have to be careful not to prevent that from occurring.

We also have to ensure that the sites that are preserved are preserved in line with community expectations. That is extremely important. With heritage sites generally the local community needs to be behind the preservation because communities drive heritage. Communities are really the people who in the first instance will protect a site if it is significant. However, heritage sites also need to be in line with the expectations of Victorians across the board.

I believe that is why this bill brings into play a tougher form of reparation for those who disregard our heritage laws. I believe that is supported by the general community and in fact is demanded by the community.

While ignorance is no excuse in the eyes of the law, it is important for legislation like this to be explained to the community. It is beholden upon governments to do this. People in the community generally and developers, whether they are private commercial interests, community organisations or individuals who may own a heritage site, need to be made aware of the reasons this legislation exists and the specific contents of it. That is very important.

For instance, somebody fossicking on what is actually an archaeological site may be an innocent mistake but the fossicking can do untold damage to that site, particularly if the fossicking becomes something that large numbers in the community are doing. It is extremely important to explain to people that the site is significant for a particular reason and to make it clear to them what is and is not acceptable in terms of this heritage legislation.

I think the government could do much better than it is doing with its current advertising campaigns which quite often seem more intent on self-promotion than providing the community with any real information. I believe that some of the significant public money that is being used for advertising a range of things from tariffs to 'You name it, we have it' could and should be diverted to informing the community about what this legislation contains, why it is there and what is and is not acceptable in terms of interference with heritage sites. That would go a long way to ensuring that this legislation is not only on the statute books and supported by us in here but is also real, living legislation that Victorians can get behind and the government can actually enforce: educate the community about this and we are halfway there. I commend the bill to the house.

Ms HADDEN (Ballarat) — I am pleased to rise to speak in support of this very important bill, the Heritage (Amendment) Bill. I compliment the previous speaker, Mr Olexander, for a very thoughtful contribution, unlike that of his colleague Mr Dalla-Riva.

This is a bill to amend the Heritage Act 1995 and the Magistrates Court Act 1989 and for other purposes. Its main purposes are to increase the penalties for certain offences under the act, to give the Magistrates Court greater power to order reinstatement or restoration of works to a heritage place, and to give the Magistrates Court the power to make an order permitting entry to a residence for certain purposes.

In relation to the increased penalties contained in the bill, the 22 penalties currently provided for in the Heritage Act are unchanged from when the act was first passed in 1995 — they have not been reviewed until now. The Bracks government believes that the deterrent effect of these penalties has diminished over time and that the penalties now do not reflect the true consequences of destruction of a heritage place and the loss of that heritage place to all Victorians.

On average the penalties have been increased by 140 per cent. The lowest penalty of \$5000 is now increased to \$12 000, up to a maximum fine of \$240 000 for an individual and a maximum of \$480 000 for a body corporate or company. I think those penalties certainly will act as a deterrent, and they are a very good thing.

Mr Dalla-Riva criticised a number of aspects of the bill, in particular clause 9. He reckoned it was not ground breaking and that it stated the obvious. For the record — and I am sure Mr Dalla-Riva is listening to me with great expectation in his room, since he is not in

the chamber — clause 9 of the bill provides that an offence under section 162 of the principal act as an indictable offence. As Mr Dalla-Riva and members in the chamber know, an indictable offence is a serious offence. The Sentencing Act of 1991 sets out the framework for sentences in this state. Section 109 of the Sentencing Act gives tables which set out the levels of penalties. Monetary penalties have a corresponding term of imprisonment.

Hon. B. N. Atkinson interjected.

Ms HADDEN — Offences that have penalties provided at levels 1, 2, 3, 4, 5 or 6, as set out in section 9, are considered to be indictable offences and outside the jurisdiction of the Magistrates Court. However — and I hope Mr Atkinson is listening — if an act provides for a monetary penalty as set down in the respective levels but does not specifically refer to the level number then it is not an indictable offence unless specifically stated to be such. Therefore this clause is appropriate, and it would have been better if Mr Dalla-Riva had done a little more research instead of spouting off in the chamber as he did.

Another amendment in the bill is to make orders for restoration or reinstatement of works. All prosecutions under the Heritage Act have been initiated in the Magistrates Court. This jurisdiction is limited, as we know, in relation to the imposition of fines. Only the Supreme Court can currently make an order to reinstate or restore a heritage place after damage has been done to it. Logically, if the court has dealt with the initial offence it should have the power to follow through and address the issue of restoration, so the bill deals with that.

It might be said that a fine and reinstatement of a damaged heritage place is what is called a double whammy, but the purpose of this amendment is to protect the heritage place and where possible to restore it to its original state or fabric. Paying a fine often does not fix the problem; people may or may not pay the fine, but generally they pay the fine and do not make good the damage to the heritage building. Enabling the magistrate to order reinstatement or restoration ensures that the heritage place is preserved for future Victorians.

In my electorate of Ballarat Province, which includes not only the city itself but Ararat and Maryborough, Creswick, Avoca and Daylesford, and even the Bacchus Marsh area and its courthouse, there are some incredible buildings of note. All you need to do is tap into the web site of Heritage Victoria and scroll down to the various local government areas. There are pages

and pages about certain towns, and it is wonderful to see the buildings that have been retained — in most cases — and I will shortly get to one that has not.

The bill also enables and clarifies powers of entry to enable the registration of significant heritage places. This is an additional and needed process. Currently inspectors can enter all places for the purpose of investigating whether a building is of cultural heritage significance, but if it is a residence they require the written consent of the occupier. Where the residence is listed on the heritage register and the Heritage Council believes an offence under the act has occurred an inspector may apply to the magistrate for a search order. Where the place is not on the register, and the owner refuses to allow entry after written requests, there is currently no mechanism to ascertain whether the place is of cultural significance to the state, so this amendment will enable a process to be followed in these exceptional circumstances. The process for this is set out in the bill, and it will require evidence to be given to the Magistrates Court to indicate what procedures have been followed in accordance with the legislation.

I was listening to an earlier contribution by Mr David Davis, who was talking about the Robin Boyd property in Riversdale Road and the book *The Australian Ugliness*. He used the term 'for the sake of expedience'. For the sake of expedience a magnificent building in Ballarat was knocked down in the late 1960s — the Commonwealth Bank on one of the four heritage corners of Lydiard Street South and Sturt Street — and a new Commonwealth Bank was constructed on that site. That was the done thing then: they knocked down anything that was left standing in Ballarat, I can assure you. The verandas were knocked down because they were considered to be unsafe, so it was expedient to knock everything down.

So there developed in Ballarat a very committed group of people who fought, and who are still fighting, to maintain many of their heritage buildings. However, to the credit of the Commonwealth Bank, it has now said publicly that it is prepared to spend \$3 million to do what it can to restore or at least give a facelift to its current building, in consultation with the council, heritage officers and hopefully the public. I commend the Commonwealth Bank for that, because the Victorian-era building it knocked down was built during the gold rush days in Ballarat and it was absolutely magnificent. What initially sparked the community to action was that famous Labor Prime Minister Paul Keating, who visited Ballarat in the early 1990s. He was appalled, and he spoke of his disdain for the Commonwealth Bank's knocking down its old

heritage building. Since then there has been a continual push by the community for action by the Commonwealth Bank.

There is another building in Ballarat, south of the Commonwealth Bank, at 127 Sturt Street, which is the former Unicorn Hotel. It has been saved but not without a fight by the community with the Victorian Civil and Administrative Tribunal; a fight by the husband and wife owners and developers of the site; and a fight by the council.

It cost everyone dearly in emotion, stress, time, trauma and money. Believe me, it cost everyone a lot of money! At the end of the day and after all the Victorian Civil and Administrative Tribunal decisions backwards and forwards over about 18 months they finally agreed — with an order of VCAT of course. The surviving element of the main building, which is now included in the heritage register, is the front 12 metres, which is the original part of the former Unicorn Hotel, a magnificent building, and it will be developed into four heritage apartments. Again, if people want to look at the history they can find it on the www.doi.vic.gov.au web site.

Another example of heritage being saved in Ballarat is the Camp Street precinct, an archaeological site which was discovered when that precinct was under redevelopment. They discovered the original camp site of the early military police and government officials who were camped there. The 1850s site is locked in between the old Ballarat post office, the mining exchange and the fine art gallery. The archaeological digging was open to everyone and anyone, and it was conducted over a number of weekends and a couple of weeks. There was a viewing platform and guides, and it was fantastic. You can see the outline of the camp site, the ablutions block and the early sewerage system. There are the foundations of a magnificent old kitchen with crockery and bottles. The redevelopment of that precinct has been sympathetic and sensible and is very welcomed. It is now called Alfred Deakin Place.

There are a few other examples in my electorate. The one I will note is Sawpit Gully on the site of the first forest activity in this state. The box-ironbark and midland areas were about to be logged back in 1999 in the first weeks of this Parliament. I received a call from frantic people in my electorate and in Creswick who were prepared to lay down in front of the bulldozers. About 200 students from the Creswick School of Forestry were on the march to lay down in front of the bulldozers at the heritage Saw Pit and Oak Gully. It has been saved, and to their credit the plantation owners have not done anything silly to date. They now work

well within the community, because they realise the heritage value of that site.

We read in the newspapers many instances of heritage abuses and of people damaging heritage buildings, knowing full well that they are doing the wrong thing. I have no doubt that a high penalty will act as a deterrent. I commend the minister for the bill, and I certainly commend this government's commitment to protecting our heritage places and sites and recognising them as important places for all Victorians not just for those who own particular sites — if indeed it is a privately owned site. I hope that into the future development on such sites is not allowed to continue for the sake of expedience. Certainly it means that every community, whether it be in the country or in the city, is absolutely on the ball and sees that things are done in a right, sympathetic and correct manner to safeguard these heritage buildings. I commend the bill to the house.

Hon. B. N. ATKINSON (Koonung) — You learn a lot in debates. One of the interesting things that I learnt from this debate is that Corio village has some heritage value. It is not a shopping centre I would have regarded as having a great heritage value. It was a slip of the tongue in Mrs Carbine's speech which she obviously corrected.

It is interesting to reflect that buildings that are held dear by some people in the community are not always held dear by others when it comes to heritage, support for their retention or coverage by legislation that is designed to protect much of our history and certainly our built environment as a point of reference for people into the future and as a context for the lives we lead in Australia.

As has been indicated in debate, this legislation will not be opposed by the Liberal Party. I certainly do not have a fundamental problem with this legislation, but I share some of the concerns raised by the Honourable Richard Dalla-Riva, though perhaps not in quite the same animated fashion. Nonetheless I agree with him that there is reason for concern that so much legislation coming before this place is introducing the concept of government officers who have rights of entry and opportunities to seek court orders or court authority to achieve rights of entry into the homes of individuals.

Although it might well be arguable that with any piece of legislation the rights that are sought are important and integral to the effective use of legislation by the government, I would have to say that as somebody who values the privacy of individuals and believes in civil liberties I have some concerns about legislation that is coming forward at a reasonable pace that seems to

reflect that same opportunity of putting in a layer of people who have rights of entry and rights to, in some cases, obtain information or seek documentation or such like from people who are simply going about their ordinary lives.

I do not think the provisions of this legislation were necessarily conceived in any sinister or draconian fashion. I believe they have been put together because people have recognised the importance of our heritage and of affording protection to our heritage. I accept the provisions in that context, but I share the concerns of the Honourable Richard Dalla-Riva about the overall impression that is obtained from various pieces of legislation that have come before this house.

I have been a member of the National Trust of Victoria for many years. I do not think I am a member currently, but I have certainly maintained membership with that organisation for over a decade, and I share the pride of all Victorians in many significant buildings around this state which are very much part of the fabric of our Australian heritage. However, I have a very strong personal view that if the public values a property for its community benefit and for its long-term heritage value, then it ought to do so with a view towards assisting the owners of that property to maintain that property in the state to which the community believes is crucial to the integrity of that heritage value. In other words, I do not believe private owners should face unduly onerous community expectations in the upkeep of their properties simply because they happen to live in a particular property.

This is not to say that they ought not take a responsible attitude, that where they are proposing some renovations or the like they ought to have an appreciation of the importance of the buildings, which are established by way of National Trust registers and in many municipalities by way of municipal heritage registers. I do not think it is as if a property owner is going to be surprised to find when they are planning a particular project that their property is covered by some particular order or listing.

Most of the municipal and National Trust registers are arrived at after a process of consultation and discussion as to what are the buildings or the features — in some cases, landscapes — that ought to be included as part of a listing and either preserved or at least protected or conserved.

I do not think that ignorance is an issue here, but as I said, I am of a view that if there are circumstances where owners come across a situation where they need to make some changes to the property, then if they are

being unduly and unfairly penalised by way of that ownership because of a community expectation on that property the community ought to be in a position to compensate the owners and assist them in trying to resolve the issue. I do not believe in individuals bearing a responsibility for community good to that extent. I think or I certainly hope that this legislation will be fairly applied.

There has been some very significant legislation passed in recent years. One of the pieces of legislation that I had something to do with in this place was the shipwrecks legislation, which was important in protecting much of our heritage. The Victorian coastline was a fairly treacherous coastline to navigate in the early days, and there was a significant number of shipwrecks on it. In some cases many lives of people who had planned to come to settle in Victoria were lost.

One of the issues that faced the government was that in many cases people with modern-day diving equipment were looking to dive to the shipwrecks and collect artefacts and so forth. It is important that those areas be protected. We have a lot to learn as a community from archaeological digs.

Moving quite away from shipwrecks, the particular dig on dry land in Little Lonsdale Street and some recent work that has been done in the Western District on areas that were previously occupied by a number of Aboriginal groups have been fascinating in what they have revealed of our history. We need to ensure that those things are protected. It is not something that any Victorian would want to see wantonly destroyed, but there needs to be some balance; there needs to be a respect for individuals' rights as well.

I guess one of the things that was the trigger for this legislation for the government was the circumstances surrounding the Robin Boyd home in Riversdale Road, Hawthorn. The interesting thing about that particular property was that it had already been significantly modified on at least two occasions and there had to be some question marks over some of its heritage values at any rate. The fact that somebody lived at a particular address was perhaps not a reason to classify that property. The damage that was done to the original building on that property was significant and an important link with probably Australia's greatest architect was destroyed. Nonetheless it is important to also recognise that the property had been changed and renovated at least twice.

One of the interesting things about properties is that they are an evolving exercise. Most of us build or occupy homes and carry out renovations, in many cases

extensions, to those homes because they are places where we live. They are not museums.

That brings me back to my central point : if we expect to retain some properties in their pristine condition, if we expect them to be museums or time capsules of the heritage of Victoria, then the community must step in and provide support to those owners in doing so. I might add that there are already a number of grants that have been in place over the years, and there is a range of services that are available to support those people.

What I am arguing is that it is important to maintain — perhaps expand — those grants and services to focus very much on education and support for those owners rather than to look at opportunities to pursue an enforcement approach and to try to be quite punitive in pursuing the significant increased fines that are provided for in this legislation.

Obviously no amount of money will replace a lost building that is treasured and respected by the community. I find it hard to admire buildings that are replaced in a style similar to something that has been lost — in other words, where a building or part of it that was a heritage building has been lost and somebody sits down and tries to recreate it, to me that is Disneyland stuff and not what heritage is all about. It reminds me of the adage: this is an original spade that my grandfather used — —

The PRESIDENT — An axe.

Hon. B. N. ATKINSON — Okay, I stand corrected. This is an original axe my grandfather used; it has only had six new handles and three new heads, but it is the original! I have concerns about that. We need to ensure that these buildings are the buildings that we are preserving and that we are not trying to create a Disneyland approach to our heritage.

I believe the public will support this legislation. It should do so because we should all respect what we have in the community and do whatever we can to encourage the preservation of those splendid examples of our past, which in many cases are also examples of innovation and of grand times — some of the major milestones in the development of Victoria.

On a note of sadness, I am a member of Rotary, and Rotary is about to celebrate 100 years of service — Lawrence Money missed that. One of the things I did as part of my work in Rotary was to cast around to see if we could find a building that was turning 100 years old at the same time as Rotary so we could have a function there and reflect on Rotary's achievements of service in the context of something that was around when Rotary

first started. We found a brilliant one — the kiosk at the end of St Kilda pier. It was very sad to see that it had burned down and that now there are plans to do all sorts of things to it. Going back to the Disneyland comment I made, I would hate to see us recreate what was there. It is sad that it is lost, but it is irretrievable.

I do not oppose the legislation. I support most elements of it, but I have some concerns about some of the underlying objections, and I would not want those to be misunderstood by the community.

Motion agreed to.

Read second time.

Third reading

For **Hon. J. M. MADDEN** (Minister for Sport and Recreation), Mr Gavin Jennings (Minister for Aged Care) — By leave, I move:

That the bill be now read a third time.

In so doing I thank Mr Scheffer, Ms Hadden, Mrs Carbines and the Honourables Geoff Hilton, David Davis, Andrea Coote, Andrew Olexander, Richard Dalla-Riva, Bruce Atkinson and Peter Hall for their contributions to the debate.

Motion agreed to.

Read third time.

Remaining stages

Passed remaining stages.

Sitting suspended 6.30 p.m. until 8.03 p.m.

PLANNING AND ENVIRONMENT (PORT OF MELBOURNE) BILL

Second reading

Debate resumed from 9 October; motion of Hon. J. M. MADDEN (Minister for Sport and Recreation).

Hon. D. McL. DAVIS (East Yarra) — I rise to make a contribution to the Planning and Environment (Port of Melbourne) Bill. In doing so I indicate that the Liberal Party will support the bill. The port of Melbourne is an absolutely critical facility for Melbourne, Victoria and Australia. The port has a central role in ensuring the flow of goods into Victoria, onto our rail systems and throughout the roads of Victoria. The minister no doubt feels that my comments

could be made by any port minister. The Honourable Geoff Craige, a former minister, could have begun his speech exactly the same way a few years ago. In talking about this bill I want to indicate briefly what it does and make some comments about what we see as its significance.

The bill amends the Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996. It allows in particular the creation of a new planning scheme for the port of Melbourne. It restricts or prohibits local councils from preparing planning schemes in the area. It removes the need for the port of Melbourne planning scheme to include municipal strategic statements. The bill allows for certain adjustments, additions or deletions of the land area that is involved.

I know the bill has some controversial aspects, and I want in particular to direct the house's focus to the section 85 statements in the bill. I rely here on the Scrutiny of Acts and Regulations Committee's report, which draws attention to several section 85 statements, making the point that these require as usual the alteration or variation of section 85 of the Constitution Act 1975.

Before I get into broader discussion, I want to place on record again my comments with regard to section 85 and the government's intentions. People will remember — the Honourable Peter Hall for example — that between 1996 and 1999 the then Kennett government was attacked viciously —

Hon. P. R. Hall — Castigated!

Hon. D. McL. DAVIS — It was castigated by the then Labor opposition for the use of large numbers of section 85 statements. I distinctly point the house and the community to the statements made by Steve Bracks as Leader of the Opposition to the Law Institute of Victoria. They were reported in its journal, and Mr Bracks went to town attacking the Kennett government for its use of section 85 statements. In doing so he made a series of promises. He promised that he would repeal more than 200 section 85 statements. Bear in mind that each and every section 85 statement limits the right of citizens to appeal to the Supreme Court. Under the constitution section 85 gives citizens the right to appeal to the Supreme Court to ensure that they do not have their rights or liberties trampled on by executive government or the Parliament.

Premier Bracks and the Labor Party correctly made the point that liberties should not be restricted and people's

right to appeal to the Supreme Court ought not be unreasonably or unfairly reduced without good reason. That is not to say there is never an occasion when a section 85 statement is appropriate, but clearly this government has spoken in one way and acted in another. Far from repealing 200 section 85 statements as he promised in opposition, Premier Bracks has gone on to create dozens and dozens more section 85 statements, each and every one of which limits the right of citizens to appeal to the Supreme Court if their interests or rights are trampled on.

This bill regarding the port of Melbourne is another one that contains statements that restrict the right of Victorians to appeal to the Supreme Court. It is quite wrong in my view for Premier Bracks to have spoken in one way in opposition and to now act in such an entirely different manner in government.

I do want to place on record the opposition's mounting concern about the use of section 85 statements by Premier Bracks and his government. It is no small matter, and it is simply hypocritical of him and his government to act so differently in government from the way they spoke when in opposition.

Hon. G. K. Rich-Phillips — They used to regard it as a serious issue.

Hon. D. McL. DAVIS — Absolutely; they did, didn't they? They used to regard it as a serious issue — and it is a serious issue to restrict the rights of citizens and to reduce their ability to appeal to the Supreme Court against court judgments or decisions by administrative authorities.

I note that the port of Melbourne, with the conjunction councils in and around the area, is becoming an increasingly interesting zone. I make this comment preliminary to my broader discussion of the bill. The Docklands area sits very closeby, and the future planning position with Docklands is a matter around which there are considerable questions. I had the opportunity to meet with Cr Kate Redwood, who is the chair of the social policy committee of the City of Melbourne. It is clear to me that there is a whole series of issues about the Docklands and how that area will be handled by the Bracks government. I would not be surprised to see some movement by the government to return a local democracy to that area, and in the next short period.

Ms Broad — It is an election commitment.

Hon. D. McL. DAVIS — Yes, but is it going to happen? Many election commitments made by the Bracks government have not happened. We have just

talked about one — section 85 statements — and there is the Endeavour Hills police station. I could go through any number of —

An honourable member interjected.

Hon. D. McL. DAVIS — Never-never hospitals.

Mr Viney interjected.

Hon. D. McL. DAVIS — Indeed, Mr Viney, through the Chair.

I have to say that the Bracks government is not great on keeping its commitments; it is a very poor performer when it comes to keeping its election commitments.

The returning of local democracy to the Docklands area is a significant issue. I think the community that is growing quite rapidly there believes it has every right to have some input through its local authority on the sorts of services it requires. It is clear there are issues of the coordination of services with the City of Melbourne, the City of Maribyrnong and other local municipalities to the south, into Mr Scheffer's area, and it is entirely appropriate that those issues be considered in the future by government, but it would be welcome to many in the Docklands area that their involvement be with proper local processes. I think that pocket of the city that includes Docklands and goes into the port will be an area of great significance to Melbourne over the next period, not only for the population growth that has occurred in part of that area but also, as I said, for the significance of the port itself.

In beginning this contribution I want to make some comments about and draw openly and significantly on a speech given by Dr Chris Whitaker, chief executive and managing director of Melbourne Port Corporation, entitled *Ensuring Long-term Sustainability of Our Ports — What Should We be Doing Today as an Investment for Tomorrow?* The paper was presented in October 2002 to the Pan Pacific 2002 conference in Oakland, California. I think it is an important contribution, and I am indebted to Dr Whitaker for it. I just want to make a couple of comments regarding his statements.

He draws our attention directly to commercial challenges, and I will quote a couple of sections from his speech, because I think it is worth while putting it on the record. It states:

First, against a background of overall trade growth, there is increasing competition between ports. There are winners and there are losers.

A related commercial challenge is the pressure on ports, from customers, to reduce our charges. This has implications for a port's profitability, and in turn on its ability to maintain and fund new infrastructure.

We are also being required to provide for increasingly larger ships. For ports without naturally deep channels, this raises an important commercial question: should any recovery of the costs of channel deepening be targeted solely at the deeper draft vessels, or at all vessels?

One consequence of larger ships on major routes is an increased tendency for cargo to be 'hubbed' through a reduced number of primary ports, whereby some ports grow at the expense of others.

I will just quote another couple of short paragraphs, because I think they put the future of our port in an interesting light. The speech states:

Ports are also increasingly dependent on other parts of the logistics chain. Indeed, competition today is between whole logistics chains — not just between ports themselves.

This presents a major challenge, because our commercial success may depend in part on those very elements of the chain which we do not own or control.

We also face competition for investment funds, in an increasingly nervous investment climate.

A final commercial challenge facing us (if not today, then in the near future) is the requirement for us — as suppliers — to certify to key customers that we are operating according to principles of long-term sustainability.

I think that lays out a number of the key challenges for ports. It is clearly very important that our ports be competitive, and that the port of Melbourne, as the premier entry point for goods into Victoria, is the most competitive that it can possibly be.

That also directs our attention to the issue of the larger ships that are coming in the future and to the issue of port charges. It is clear that port charges were managed in part by the work of the Honourable Peter Reith in a previous federal Parliament, and he placed the port of Melbourne, and other ports in Australia, on a much stronger footing through the lifting of crane rates of movement and reductions in costs. Equally, the larger ship issue is a significant one, and I know the minister responsible for ports is very focused on the future with respect to larger ships and the issue of channel deepening. It is clear that for the port of Melbourne to remain competitive the issues in this area will need to be carefully looked at and dealt with.

As has been pointed out, the issue of hubbing is significant. The port of Melbourne needs to ensure that it is the primary hub for southern Australia and that Melbourne remains the transport interchange and centre that it has traditionally been, but we also need to

strengthen that position because there are significant challengers. Sydney is a significant challenger, and we need to ensure that we do not miss out in any of that.

I am interested to know about the impact, and the minister may choose to tell us something about this. I am not sure of the facts on this matter, but it will be interesting to see what impact the railway line to Darwin has in the longer haul. I am sure it will not have any impact in a short period, but as to whether some goods will move in that way I am not absolutely certain; not that I am suggesting for a moment that I do not support that important piece of national infrastructure.

I also note the point made by Dr Whitaker regarding the whole logistics chain. I note that the most significant addition to the logistics chain in the last several decades in Victoria has been City Link and the ability of the City Link project to cut through the transport morass that existed in Melbourne for many decades before.

Hon. G. K. Rich-Phillips interjected.

Hon. D. McL. DAVIS — There were traffic lights on the South Eastern Arterial, Mr Rich-Phillips.

Hon. G. K. Rich-Phillips interjected.

Hon. D. McL. DAVIS — John Cain; I remember it well. I think it was a mistake, and that process was cut through very effectively by a former Minister for Roads and Ports, Bill Baxter, and the City Link process that was put in place by the former Kennett government.

In a similar light, I wish to pick up the contribution that the government has made to this broader debate by its positioning of TV advertisements — the talk about the port and about infrastructure — which were run before the election and which drew attention to the importance of the Scoresby freeway, which according to the government is now the Mitcham–Frankston freeway. I am talking about ports — —

Hon. C. D. Hirsh — There is no port at all on the freeway!

Hon. D. McL. DAVIS — No, but as I have been saying, it links through a logistics chain. The importance of the port is that these things link back to industry and infrastructure right across the state. If you want to move goods in Victoria, you need to have the right transport interchanges — —

Hon. C. D. Hirsh — That is why the freeway is being built.

Hon. D. McL. DAVIS — It is not at the moment.

The ACTING PRESIDENT

(Hon. J. G. Hilton) — Order! Ms Hirsh should address the Chair.

Hon. D. McL. DAVIS — I note that the Scoresby freeway is not being built at this point. Under the Bracks government's proposals, if it were to be built it would not be a freeway at all; it would be a tollway — —

Mrs Carbines — Is this relevant to the bill?

Hon. D. McL. DAVIS — Absolutely. I am talking about the importance of the port. On 16 October 2002 in a speech to the Pan Pacific 2002 conference in Oakland, California, the chief executive and managing director of the Melbourne Port Corporation, Dr Chris Whitaker, said:

Ports are also increasingly dependent on other parts of the logistics chain. Indeed, competition today is between whole logistics chains — not just between ports themselves.

As an old seafarer I am sure Mr Smith will agree with that.

Mrs Carbines — You are extrapolating from that, are you?

Hon. D. McL. DAVIS — No, I am saying that the port has a central role —

The ACTING PRESIDENT

(Hon. J. G. Hilton) — Order! I ask members to address the Chair. This is the second time in 5 minutes that I have had to remind honourable members.

Hon. D. McL. DAVIS — Acting President, the point I am making to Mrs Carbines is that the port of Melbourne has a central role in the movement of goods into and out of Victoria. That requires a logistics chain. The most significant addition to that logistics chain in the last decade or two has been the City Link project. The next most significant addition to the chain would be the addition of the Scoresby freeway, which has a critical role.

I will move to another point in the logistics chain, which is the importance of proper rail networks and rail hubs into that port.

Hon. C. D. Hirsh — We need a rail link from Mitcham to Frankston.

Hon. D. McL. DAVIS — We need heavy rail links, but we also need standard gauge rail links, and that is

one area in which the government has conspicuously dropped the ball. I think that instead of bleating about the federal government and others, this government ought to get on and commit the \$96 million for the completion of standard gauge conversions in Victoria and ensure that some of those key projects link into the logistics chain, to use Dr Whittaker's important words.

Roads are important and the rail connections are also equally important. We need to very closely focus on some of those issues. Despite Ms Hirsh's protestations, the Scoresby freeway is an absolutely central project for Victoria.

Hon. C. D. Hirsh — I agree!

Hon. D. McL. DAVIS — If you agree, Ms Hirsh, you should be prepared to stick to the promises and commitments made by the state government. You should accept the \$455 million of federal money and if your government had not dithered endlessly we may well have seen that project already strongly moving forward.

As I alluded to earlier, a TV commercial was run by the government prior to the election — and it was a misleading commercial, if I may say so. It was ruled on unfavourably by the Federation of Australia Commercial Television Stations because the commercial alluded to the existence of works commencing on the Scoresby freeway when those works had not commenced. I note the reappearance of a version of that commercial — a reappearance that significantly does not feature that freeway as it did in its first version.

The logistics chain for the port of Melbourne has a significant role to play and the completion of the road to Geelong is a significant addition that is strongly supported by the Liberal Party.

In this context and coming to the specifics of the bill, I want to make a number of other comments. As the second-reading speech states:

This bill is required to establish administrative machinery to enable implementation of a new planning scheme for the port of Melbourne area.

In many ways it is true to say that this bill completes part of the vision that the former member for Pakenham in the other place, the Honourable Rob Maclellan — a very good former planning minister — had for this area. The second-reading speech also states:

It is intended that the new scheme will include a formal strategic planning statement about planning in the port

area — but not a municipal strategic statement, as the scheme will not cover any one municipal district.

I will be interested to know if the minister has some contribution on what that precisely means. As the second-reading speech states:

Clause 10 is the heart of the bill which includes into the act the power for the minister to prepare and approve (in accordance with provisions set out in the Planning and Environment (Planning Schemes) Act 1996), the new planning scheme for the port of Melbourne area.

It is not my intention to take this bill into committee, but the minister may wish to provide some slightly clearer explanation about that point.

I note that the second-reading speech makes the point that:

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

I am interested to know how much change is intended, because it seems like an opportunity and I am interested to know what process will be adopted in that context.

The other aspect of the bill that is important is the consultation that the opposition has had. I pay tribute to the honourable member for Hawthorn in another place, Ted Baillieu, for the work he has done consulting with a wide range of groups. I know he has had many discussions, much of which he has passed on to me, with a number of architects, the Housing Industry Association and the Master Builders Association. I know he spent some time talking to the Municipal Association of Victoria, the Property Council of Australia, the Law Institute of Victoria and certainly the Real Estate Institute of Victoria. It is important that that consultation was properly undertaken and enabled the opposition to reach a position on the bill.

I will be interested to hear something further perhaps from one of the Labor speakers about the possible expansion of Webb Dock and whether the government has further plans in mind with respect to rail access. The linkages I referred to earlier are important. I would also be interested to know if there has been any opposition to this by local councils such as Port Phillip, Maribyrnong or the City of Melbourne and if there has been any statement by or issue of concern from those councils. I understand the port of Melbourne may have expressed some concerns, but I should be interested to know about statements by other municipalities. There is also an interdepartmental committee looking at some of these issues.

I return to the Webb Dock issue. I am interested to know exactly what the government's plans are. I would be pleased if the minister would make some further contribution on that as part of the debate on the bill, or perhaps one of the other Labor speakers could do so. I know Webb Dock is a significant issue. It is important for Victoria that we have the best infrastructure into the future and, as I said, it is important that those rail links are in place. There is the question of the reinstatement of full rail links to Webb Dock.

There is not a great deal more I wish to say about the bill, but I indicate clearly that the interplay between the councils and the new residents moving into Docklands and the port of Melbourne is significant. I indicate again the opposition's strong focus on the fact that the port of Melbourne is a significant piece of infrastructure for the Victorian community going forward into the future. We wish to see every opportunity for that infrastructure to expand and to fulfil its full economic and social potential for Victorians. In that context I record the Liberal Party's support for the bill.

Hon. B. W. BISHOP (North Western) — I rise on behalf of the National Party to speak on the Planning and Environment (Port of Melbourne) Bill, which it does not oppose. The bill is reasonably highlighted when one reads the first paragraph of the second-reading speech, which states:

This bill is required to establish administrative machinery to enable implementation of a new planning scheme for the port of Melbourne area.

It is a straightforward but technical bill, which follows on from the Port of Melbourne Corporation bill, which was debated a few weeks ago in this place. Therefore it is a link in the chain as we move towards improving the very important port of Melbourne. The bill that was debated a few weeks ago gave the Port of Melbourne Corporation a good deal more freedom to invest in other areas, to move forward and to have the capacity to effectively compete with other ports around Australia.

As a country member of Parliament I am proud of the port of Melbourne. When I look at the performance of the port since the reform process just a few short years ago, I see it now going very well; in fact it is leading the way in Australia. I took the opportunity to have a quick look at the Melbourne Port Corporation's 2001–02 annual report. It is only fair that when talking about the port of Melbourne I should mention some of its highlights in the proceedings tonight. One of the dot points under the heading 'Trade highlights' is that:

2001–02 was the eleventh successive year of trade growth at the port of Melbourne with 49.2 million revenue tonnes handled, an 8.1 per cent increase on the previous year.

A record container throughput of 1.42 million TEU (twenty-foot equivalent units) was achieved, an increase of 7.5 per cent on the previous year.

Both overseas exports and imports of loaded containerised cargoes performed strongly, exports increasing 7 per cent and imports 4.2 per cent on the previous year. The export figure reflects impressive growth in:

Paper and fibreboards exports, increased by 71 per cent;

Fruit and vegetable exports, increased by 24 per cent —

that should assist us as a state in achieving the \$12 million food export target by 2010 and export links are very important in relation to that target —

Cotton exports, increased by 20 per cent —

that is most important in the Sunraysia area that I generally operate from —

Wine exports, increased by 7 per cent.

The report goes on to deal with non-containerised trade:

Total non-containerised trade increased by 7.6 per cent to 16.3 million revenue tonnes.

Exports of non-containerised cargo grew by 11 per cent to 6.1 million revenue tonnes, and imports increased by 5.7 per cent to 10.2 million revenue tonnes.

That is a strong growth process. The report continues:

Of the non-containerised trades, dry-bulk trade increased by 44.4 per cent to 4.3 million revenue tonnes.

It proves that the port of Melbourne is a multipurpose port and can handle products of any sort, be they imports or exports

The final dot point on this page is also quite enlightening. It states:

The number of ship visits to the port rose by 5.3 per cent to 3019 and vessel tonnage increased by 5 per cent to 65.2 million gross tonnes.

That indicates a very strong performance measure for the port of Melbourne.

The port of Melbourne is hugely important to the industries in the electorate I represent, particularly in the Sunraysia and Mallee areas. Their products need to be exported quickly and efficiently so they reach the end user on that export market. Just as importantly, the inputs that our producers and manufacturers require must be effectively and efficiently brought into this country and distributed to those particular users.

I had a bit of a look through the annual report. I was looking through the management structure process, and

I came across the name of a young lady who we have a reasonable amount to do with in the Sunraysia area. Her name is Trudy Lawrie and she works out of the port's South Australian office. She does a great job in the catchment area around Sunraysia. I can assure the house that she is a real asset to the port of Melbourne and to the industries around Sunraysia that utilise the port of Melbourne's facilities.

Not so long ago a number of parliamentarians were fortunate enough to have the opportunity of taking a tour of the port of Melbourne. It gave us a good appreciation of the size of the port and possibly more importantly the complexity of the port in its modern-day operations. There have been huge changes there in mechanisation. Those changes are important and they are very necessary as we move forward in the shipping world.

People may question the huge capital expense that goes into this mechanisation, but mostly the larger vessels that come in there are very expensive to operate, so obviously it is very important to have the right technology which cuts down on the time the vessel is in the port; it does not make any difference whether it is unloading or loading.

I was impressed to see that the port is moving towards global positioning system operations where satellites will control a number of the operations in the port. This will speed up and make the operations very efficient. Our ports in Victoria must be very efficient to be able to compete against the other ports around Australia which are also striving for that extra bit of work to ensure that they keep their costs down and they can compete for the overseas trade. It is a real challenge.

We have heard predictions about the port for years. I know that when I was a director of the Australian Wheat Board we thought those handy-size vessels of, say, 25 000 tonnes — which you, Mr Acting President, would remember as you understand the shipping industry — were probably the ultimate. Now they have gone to many, many larger sizes than those vessels. We thought the Panamax vessels were probably the ultimate, but modern vessels are now increasing in size to the extent that our Australian ports will have to be able to receive those vessels and the economy of scale they will present. The port of Melbourne will need to be able to compete on that basis.

The port is hugely important for country Victoria, and it does not matter whether it is dairy or horticultural products or, over the last few years, grain going out through the Globex facility at Appleton Dock. Every time I talk about the port of Melbourne I think of the

tentacles that reach out from the port into country Victoria and the very modern and effective management practice of accumulating products in country areas, such as Wakefields Transport does in Merbein, just out of Mildura. It is highly effective and efficient.

Wakefields has a world-class operation of accumulation of products with containerisation prior to getting a train together. Some of the containers are not refrigerated, but some of them have to be, and Wakefields can supply them. The way they accumulate the products, get them on board the vessel and get them to the end market is absolutely essential in today's world. When I think about the port of Melbourne I perhaps look at it in a different way to many. I see it as one of the very important gateways to this state. I think the distribution of imports is done so effectively and efficiently out of that port that it should be commended for the way it manages that. When we did the tour of the port we noted the distribution areas which are quite close to it from which transport is mainly handled by road, but obviously there are distribution organisations that do use rail.

When I had a look at the bill in relation to the port and had a look at the history of planning of the port of Melbourne I found it quite interesting and at times quite confusing. From what I can understand of it, in the 1988 act there was one planning scheme for each municipality in the Melbourne area. The port was excluded by statute from the adjoining municipalities of Melbourne, Footscray, Williamstown and Port Melbourne. There was a separate set-up at the port of Melbourne which was administered by the minister — quite a different arrangement to what we are heading for today.

In 1996 many of the municipalities were amalgamated and some of the land in the port of Melbourne was added to Melbourne, some to Maribyrnong, some to Hobsons Bay and some to Port Phillip. It became even more confusing as some bits were in and some bits were out of the port of Melbourne area. It was certainly clear when you studied that that you could not put together a planning provision for the port of Melbourne when it was as dispersed as it was at that time. The bill we are discussing tonight addresses that situation and will provide for a new planning scheme for the port of Melbourne.

The bill does a number of things. I will not go through the clauses in the bill; they are quite clear and there for all to see. The bill picks up that particular point and manages those issues as they go through. I think the port of Melbourne has been moving ahead and

preparing itself for this bill. I noticed in the corporation's 2001–02 annual report a reference under 'operational highlights' to:

The launch of the whole of port environmental management plan, which sets an overall environmental management framework for the port of Melbourne.

That is listed as one of that year's achievements. Another achievement which links up to this bill is the dot point that says:

The completion of the port of Melbourne land use plan which provides a 20-year strategic planning framework for land use, transport, infrastructure and environmental management within the port.

The port of Melbourne itself has been moving along getting ready for this bill as part of the links to its better management. The two issues I have just mentioned are certainly complementary to this bill.

I think we all have to understand the port structures and the fierce competition other ports can produce for the traffic that goes in and out of this country. The search for reduced port charges is always on the go. Obviously industry is driving that. However, I noted in a section in the 2001–02 annual report headed 'operational highlights' that the first dot point says:

Reductions in berth hire and berth rental charges provided savings for port users of an estimated \$2.6 million during 2001–02 and will provide estimated savings of \$2.7 million during 2002–03.

In fact the ports are already moving down that line, and they will have to maintain that thrust if they are to remain competitive with other ports around Australia. Coupled with that, as I mentioned before, is the need to make their facilities workable for bigger ships as the fleet grows and the economy-of-scale thrust increases for ships with more containers. Other bills link with this. It is interesting to observe them as they come through. The Port Services (Port Management Reform) Bill, which I expect we will debate in this house in the next week or so, also touches on the performance structure and management of the port, and deals with the channels and how they would be assessed and managed.

Another important issue we have to address and understand is that our ports around Australia need to be hub ports. They need to be certain that they have the capacity to manage themselves as hubs, with the product flowing into the port and the imports flowing out from the hub. That is going to be an important part of the growth of Australia's sea transport in the future, and again that depends on our road and rail traffic and our ports complementing each other. They can work

together to provide a very good sea freight service for this country, whether inwards or outwards.

There is no doubt that the port of Melbourne is considering the future challenge of the Darwin railway line when it is completed and gets under way. We hear many commentators say it will be a great idea and there will be a lot of traffic going up. We hear other commentators — Mr Bowden is shaking his head; he has heard the negative commentators as well — say that the box costs on the Darwin railway line will be far too high. So be it, that might be so; but the fact is that the Darwin railway line is there now and if the volume in the box traffic picks up the costs will certainly go down. More importantly, the line will give Victoria and Australia more access to other ports for their products as evolution takes place in world trade and sea, road and rail traffic. We surely want to be aware of it and utilise it in the future.

In talking about rail I cannot let pass that I was discussing the issue with a number of the councillors who are involved in the municipalities that have joined up as an alliance to promote the upgrading and standardisation of the Mildura rail line.

Hon. D. K. Drum — Twenty-two councils.

Hon. B. W. BISHOP — Twenty-two councils, Mr Drum — that is what has been reported to us. They certainly realise the benefits of the reduction in costs it will provide for our freight services and the opportunity it will provide for the return of passenger rail services to places like Mildura, which we all thought might happen. But now it is a bit like the fairies in the garden, and that is why these 22 councils are getting a bit cranky at the promises this government has made about the upgrading and standardisation of the rail system. It has been put off to the extent that it now appears it will not occur. That would be a sad day for the efficiency of our transport system in Victoria and Australia.

Hon. D. K. Drum — Could it be Freight Australia's fault?

Hon. B. W. BISHOP — No. It is interesting that you should remind me of that, Mr Drum. In fact government members are now blaming someone else. They have probably tried the seven-year blame with the coalition government before and that has worn a bit thin, so now in this case of the upgrading and standardisation of the Mildura line they have said, 'We got sick of blaming the coalition government; now we will blame Freight Australia'. So they have picked on it as well. Anyone who wants to study the process — —

Ms Romanes — We can blame the federal government.

Hon. B. W. BISHOP — No, that is absolute nonsense, but thank you for bringing it up, Ms Romanes. I am pleased that you brought the federal government in.

This present Bracks government blamed the federal government as well, but the Minister for Local Government, who is in the house, is on the record as saying that this government will go ahead regardless of whether the federal government contributes — and that is in *Hansard*. It is quite clear. But the government has not gone ahead with this, and it is an absolute disgrace that it keeps passing the blame onto someone else; and, as Mr Drum interjected, in fact it is now having a go at Freight Australia. If it were fair dinkum it would get on with the job. It has done it with other lines throughout Victoria on which it has reached agreement. I suspect the excuse is that the government has run out of money and cannot undertake the project. If that is the case it should simply say so on behalf of the communities it is letting down.

However, if you go for a bit of vision it would be a great idea if the Mildura line were extended 200 kilometres to pick up the transcontinental line, which would give us in Victoria tremendous access regardless of some of the views of commentators on the Darwin line. It would give us great access there, and that is part of the vision.

Hon. D. McL. Davis — They don't have any vision.

Hon. B. W. BISHOP — Mr Davis interjects that the government does not have a vision, and I must agree with him at this stage. Whilst it came into power with a lot of trumpeting and visionary statements, that appears to have dissipated over time, which we find most unfortunate. But in fact that vision of extending the railway line could see the Sunraysia area be a much stronger accumulation centre, where products could be gathered from other parts of Victoria and go on to markets, particularly the Asian markets, in an effective and efficient way, and with world-class management of transport facilities in this country. We also must make our ports, particularly the port of Melbourne, attractive to investors — the port must keep moving on.

A couple of bills are coming up in the future which have caused us some concern because of the impediments that might be put in the way of investments into the port sector. We will address that concern when those bills come into the house.

The other thing that we in the National Party find interesting — and we are having some concern about it from a planning perspective — is that we have gone through the process of right to farm. I think now we call it something else, Mr Stoney. We call it 'Living together harmoniously in country Victoria' or something to that effect.

Mrs Carbines — Do Pete and Linda live there?

Hon. B. W. BISHOP — Yes, they do. We are interested in Pete and Linda because they are the people who would vote for us. I am glad, Mrs Carbines, you raised that issue.

The ACTING PRESIDENT (Mr Smith) — Order! Through the Chair!

Hon. B. W. BISHOP — It gives me the opportunity to talk about the future vision of the National Party in relation to Pete and Linda. We recognise those people do exist; they are an important part of our society. It is quite obvious by the concern exhibited by those in the government ranks that that struck a nerve, so I thank Mrs Carbines very much for the interjection. I am very pleased to get it on the record.

Hon. E. G. Stoney — It is meant to be the Nationals!

Hon. B. W. BISHOP — It is the Nationals now, that's right.

Mrs Carbines interjected.

Hon. B. W. BISHOP — No, it is a branding change to have consistency in the National Party as it moves forward.

I am sorry I got off the track. I was talking about the right to farm and the term — I cheerfully forget the way the government put it, but I think it was something like 'Living together harmoniously in country Victoria'.

Honourable members interjecting.

Hon. B. W. BISHOP — If you want to talk about that, what a cop-out! I would like to talk to you about the right to port.

The ACTING PRESIDENT (Mr Smith) — Order! I suggest you talk to me, Mr Bishop!

Hon. B. W. BISHOP — I just wonder what the planning facilities will be and what pressure will be applied to the port of Melbourne in the future. Those of us who went on the tour saw the developments at Docklands. They looked great — there are no problems

with that. But we wonder whether the pressure will come on the ports like it did with the right to farm. I will leave it at that. The National Party — now branded the Nationals across Australia — will certainly be keeping a very close eye on the planning issue and, to put it another way, the right to port.

Hon. P. R. Hall — Make sure those yachties don't get in the way!

Hon. B. W. BISHOP — That is right. We in the National Party will certainly keep a close eye on that.

To conclude, the National Party sees this as a technical bill and a link in the chain as the ports around Victoria, particularly the port of Melbourne, evolve. We put on the record that we believe very clearly that the port of Melbourne is of the utmost importance to Victorians, particularly those in country Victoria. We rely very much on that port for our exports — and for our imports as well. We see the port as the gateway to our state, and we wish the port of Melbourne well into the future.

Mrs CARBINES (Geelong) — I am very pleased to speak on behalf of the government in relation to the Planning and Environment (Port of Melbourne) Bill. This is a very small bill. The opposition members — the Liberal and National parties — indicated that they would support this small but important bill.

As both the previous speakers have indicated, the port of Melbourne is very important to the Victorian economy. It is not only important today; it has been important historically. It is the premier port in Australia, and it is very important to our exports and imports. In fact 40 per cent of Australia's imports and 50 per cent of the state's exports go through the port of Melbourne.

It is the state's most significant piece of infrastructure. It is very important to metropolitan Melbourne, but it is also important to regional and rural Victoria, as the Honourable Barry Bishop already explained in his contribution tonight, which I have to say I enjoyed very much!

My electorate of Geelong Province has its own port — the port of Geelong, which is very important to the Geelong economy. Because I live in an electorate that has a port, I understand the vibrancy that a port environment gives to the local economy. However, I also have my own personal link to the port of Melbourne, because in 1968 when my family arrived in Australia as migrants from England we arrived at Station Pier on the *Ellinis* of the Chandris Line, having travelled for five weeks across the oceans. My memory of the port of Melbourne is a very personal one, and I

must say that back then it was not impressive. As a small girl I was pretty frightened by Station Pier at night. It was not how I imagined Australia to be, and I was very pleased once we moved away from Station Pier and found Australia was much more like I thought it was going to be.

Hon. Andrea Coote — That is my electorate. It is very nice!

Mrs CARBINES — Station Pier is a pretty confronting place for a migrant to arrive in, I have to tell you. It was then, and it is now. We are very lucky in the Legislative Council to have as a member of this place Mr Smith, who is my colleague on the government benches and now Acting President in the chair. He navigated the port of Melbourne as a member of the navy. Many times Mr Smith has regaled us with his old navy stories in his contributions to the house. It is very disappointing that he is not able to speak on this bill tonight, because he would probably regale us with a few more stories. The port of Melbourne is essential to the state's economy. As I said, it is a very important transport link not just to metropolitan Melbourne but also to regional and rural Victoria.

We heard the Honourable David Davis speak about important transport links, and a very important transport link to my electorate is the Geelong road. The Bracks government has been very pleased to oversight the upgrading of the Geelong road, and that has been a major economic boost to the electorate of Geelong which has been very — —

Hon. Andrea Coote interjected.

Mrs CARBINES — I am pleased you asked me about that, Mrs Coote. You might not be so pleased once you hear my contribution. It has been very important to the Geelong economy to have the state and federal governments contribute to the upgrading of the Geelong Road. However, we have another piece of infrastructure in Geelong which is just as important to Geelong — that is, the Geelong bypass — what we call the western ring-road around Geelong. The Bracks government — —

Hon. D. McL. Davis interjected.

Mrs CARBINES — The truth hurts, Mr Davis. The Bracks government has committed \$190 million to the construction of the Geelong ring-road. Where is the federal money? The federal government has not committed one cent to the Geelong community — to its shame.

The ACTING PRESIDENT (Mr Smith) — Order! The member will restrict her contribution to the bill.

Mrs CARBINES — Thank you, Acting President. I am following the contributions of previous members. It is very disappointing as a member of the Geelong community to see that the federal government is not prepared to match the Bracks government's contribution in relation to the ring-road.

Hon. D. McL. Davis interjected.

Mrs CARBINES — We have already ruled out a toll, Mr Davis. Stay awake, we have already done that. So let us have the opposition members, who were so eager to have me acknowledge the federal government's contribution to the Geelong road, acknowledge their federal counterparts in relation to the Geelong ring-road. Their silence is deafening. They should put their money where their mouths are — it will never happen!

Let us get back to the bill that is before the house tonight — that is, the Planning and Environment (Port of Melbourne) Bill. This bill seeks to amend two acts: the Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996. The aim of this bill is to facilitate planning for the port of Melbourne area and to provide for the minister to prepare and approve a new planning scheme for the port of Melbourne.

Most of the port, as we have already heard tonight, is in four local government areas: the City of Hobsons Bay, the City of Port Phillip, the City of Maribyrnong and the City of Melbourne. When local government in this state was totally restructured in 1995 the land that forms the port of Melbourne was divided into four, each part being included in one of those municipalities. However, the port of Melbourne area was not included in the new planning schemes that each of these four municipalities subsequently prepared, and it remained in its entirety under its old planning scheme, which was formed under the 1988 act.

The bill before us allows a new planning scheme to be prepared for the port of Melbourne. Once this is done it will complete the program of converting all schemes to the Victorian planning provisions format. It will also allow for the port of Melbourne planning scheme to be online and thereby provide greater access to planning information.

The important thing about this bill is that it has received widespread support amongst all the stakeholders. We have consulted appropriately with each of the

municipalities involved — the cities of Hobsons Bay, Port Phillip, Maribyrnong and Melbourne — and they have expressed support for the bill. This has also been the case with the new Port of Melbourne Corporation, which was an initiative of the Bracks government earlier this year; it is totally behind the bill. The new planning scheme will be developed upon passage of the bill in consultation with each of the four municipalities and with the Port of Melbourne Corporation.

The bill is very simple, but it is very important. It is important because it will provide the planning framework necessary for the future development of the port of Melbourne. The vision for the port of Melbourne is that it will be developed in an economically, socially and environmentally sustainable manner. As such, I commend the bill to the house.

Hon. R. H. BOWDEN (South Eastern) — The importance of trade to Australia is absolutely enormous. From time to time in different respected organisation's magazines we read that Australia's economic influence in the world is ranking at either 21, 16, 15 or so forth in total size. The latest indication is that in pure world trading terms Australia's trading pattern and the Australian economy is the 14th largest in the world. Victoria is a major contributor to that economic strength and the part Australia plays in the world economic scene.

Indeed, traditional manufacturing which is centred in this state has been, still is and will remain very important because of the technology, infrastructure and community talents that Victoria possesses and continues to encourage.

It is an interesting commentary on the patterns of world trade that up until the present time, as vessels have continued to grow in size, weight, speed and capability, the port of Melbourne has been able to accept those vessels with their increased size and capability without any real difficulty. As a community we have had to make investments in wharfage, channels and so forth, and all that is well known.

It is a very interesting fact that during the immediate years ahead we will see much larger vessels arriving off our coast — or they are scheduled for arrival into the Australian area. These vessels are known as post-Panamax. A typical vessel that arrives in Australia at the present time could carry up to 2500 equivalent 20-foot containers or maybe a lightly loaded larger vessel could carry 4000 equivalent 20-foot containers, but there are vessels at sea tonight on various international container routes that carry 8800 equivalent 20-foot containers. There are ships under construction

right now that will carry 10 000-plus 20-foot containers.

That is a challenge for not only the government of Victoria but for the Australian nation as a whole. Victoria is required to play its part within our nation. This state is not just a state of this nation — it is part of the great nation of Australia. We have to be mindful at all times that if we get it wrong, all of us across the entire length and breadth of this state and country will pay a very real economic price.

In my opinion the bill is a sensible bill. It is supportable. It makes progressive changes to the administration of planning so that as the development of the necessary infrastructure comes into play, the legal, the planning and the governmental agencies are able to efficiently and effectively play their part in the necessary investment in and the physical provision of the necessary infrastructure to provide the necessary works to engage the port of Melbourne through the Port of Melbourne Corporation and make sure that the efficient loading and unloading of containerised traffic in particular takes place.

The history of the planning covering the port of Melbourne area is detailed within the second-reading speech, and I do not wish to take much time to go into that. It is clearly covered in the bill. The key clauses that give this bill sensible effect are clauses 9, 10 and 11. Clause 1 sets out the purposes of the bill which are:

- (a) to amend the Planning and Environment Act 1987 to facilitate planning for the port of Melbourne; and
- (b) to amend the Planning and Environment (Planning Schemes) Act 1996 to provide for the preparation under that act of a new planning scheme for the port of Melbourne.

Clause 9 makes it clear that municipal councils with districts within the port of Melbourne area are not to plan for the port of Melbourne area, which is the focus and responsibility of the minister. Clause 10 clarifies that further and indicates that the minister may prepare a planning scheme for the port of Melbourne area.

To make certain that decisions that have been made in the past are not jeopardised through legal challenge and court proceedings, clause 11 limits the jurisdiction of the Supreme Court as detailed in the bill. This will make certain there is no cause for concern over contracts now being carried out and will ensure that commercial and industrial decisions requiring substantial financial investments can continue to be made without any invalidity under legal mechanisms as these important planning changes take place.

The bill is desirable and will give the minister the ability to make a new planning scheme that will cover not just the areas the port of Melbourne needs covered from an infrastructure point of view, but areas of water. The port of Melbourne can be considered for planning purposes as a continuous area and will not be vague in terms of what is on the water and what is on the land. That is specifically covered in the bill.

Given that more than 40 per cent of the container traffic of Australia goes through the port of Melbourne, members of this Parliament, particularly this house, it being a house of review, have to take this bill very seriously just as we take all bills seriously because we are facilitating the provision of an enormous economic asset. We are required to ensure that planning is both efficient and easy to understand. The last thing we need is a lack of confidence at this crucial time when industry is facing major challenges, given the type of vessels that will soon be accommodated in this area. I am pleased to see aspects of the bill. I have carefully studied the clauses in the bill to ensure they are clear and unambiguous, and I am pleased to say that on my reading they are just that.

The changes set out in the bill will still require that planning schemes developed by the Minister for Planning in the other house, having received the authority after the passage of this bill, follow the statutory planning mechanisms in place. The community will be involved and asked to comment and participate, if required. Nothing in the bill is against the principles of communication and sensible planning.

The minister will be required to follow the amendment process if amendments are required. The Governor in Council can make arrangements to accept or release portions of land, and the mechanism by which that is to be done is clearly defined in the bill. In summary, it is important that as the transference of responsibility moves from the present arrangement to the provisions in this bill, there is a need to make sure there are no legal gaps and the assignment of responsibility is clear. As was said a few minutes ago, we are not dealing with a light-hearted issue but over time with potentially billions of dollars of national and state infrastructure — and we have to get it right. The last thing we need is ambiguities. The second-reading speech and the bill itself cover those issues to a great degree.

There is a requirement to consult with councils, and the Port of Melbourne Corporation will be a good corporate citizen in being responsible for making sure that its activities are sensible and support what occurs in the community at large. The provisions of the bill are timely and is necessary to make sure the urgent

decisions that will occur in the year ahead as to what is to be done with channels and other physical aspects of the port of Melbourne will be facilitated, as will the administration of planning in the port of Melbourne.

The bill is helpful, and the legal profession should be able to understand that the intention of Parliament is to say to it that this is clear legislation. The Parliament desires to change the planning responsibilities to those covered by the bill. There are important levels of confidence and huge financial investments involved, and Parliament is trying to provide to the industry, the shippers, producers and exporters of Australia a clear planning proposal. We expect the infrastructure for this vital port will continue to develop along sound lines.

Ms ROMANES (Melbourne) — The bill before the house puts forward amendments to two acts: the Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996. The purpose of the amendments is to establish the administrative machinery to enable the implementation of a new planning scheme for the port of Melbourne area.

The new planning scheme will be used to achieve an integrated approach to planning for the port of Melbourne and to facilitate planning for the whole of the area designated as the port of Melbourne. The intention of the amendments is to provide a framework, planning format and controls which are consistent with local planning schemes that cover the rest of Victoria. We will no longer be dealing with two sets of planning provisions but with one set of provisions under Victorian planning provisions and thus will be achieving consistency of planning, decision making and policies across the state.

The Minister for Planning in the other place, Mary Delahunty, in her second-reading speech set out the history of the planning controls over the port of Melbourne that related to the neighbouring municipalities. It has been a bit of an in-out relationship over a period of time. While desiring to achieve a more integrated and consistent approach with other planning formats in the state, it was not seen as an appropriate technical solution to include the port of Melbourne in the municipal planning schemes of the councils that abut the port of Melbourne.

Therefore the provisions outlined in the bill before the house this evening make only the changes necessary to enable a new planning scheme for the port of Melbourne. They leave the responsibility for preparation of the new planning scheme to the Minister for Planning. The minister has the powers to achieve

this outcome administratively. While she cannot include a municipal strategic statement, it is possible under the proposed new planning scheme to provide for and include a strategic statement, which will be the tool through which a more integrated approach to and facilitation of planning for the whole of the port of Melbourne is to be achieved.

Other speakers have referred to the fact that it is very important that good strategic planning be done to map out the directions for the future for the port of Melbourne because, as has been mentioned, it is the largest container port in Australia. It is supported by good road links and a rail system which is reasserting its potential. It is of great importance to the Victorian economy: how effectively the port of Melbourne operates will affect most industries and many activities within the economy of the state overall. In fact the strength of the port of Melbourne is one of the key competitive strengths of our state economy.

I want to go back very briefly to the work that was done by the former Minister for Ports, Ms Candy Broad. When she was the Minister for Ports she commissioned a review of the port of Melbourne and the changes that had happened under the restructure of the port system in the middle 1990s under the former Kennett government when there were moves to privatise the ports throughout Victoria. Candy Broad commissioned a review of those changes and restructure, and of the future needs of the port of Melbourne and other ports throughout Victoria. That review was headed by Professor Bill Russell, and there was broad consultation with a whole range of stakeholders who have an interest in the future of the ports of this state.

We need to go back to look at what happened as a result of the restructure and privatisation of the middle 1990s. Indeed there were some benefits that came out of those changes. The shippers, for example, because of the cost controls that were introduced by the former government did pay reduced wharfage rates. Although other costs subsequently rose, particularly road-related costs to bring costs of the port pretty much up to what has to be paid around the country, certainly there were short-term benefits in terms of savings. There were also benefits to the purchasers of the privatised assets, but a little like with the privatisation of the public transport sector there were some major disadvantages.

The port of Melbourne was a bit battered by the restructure put in place by the former government. In fact, the way that was handled divided responsibility for the sea channels and the managing of the port of Melbourne and left it with neither the charter nor the capacity to plan, finance and undertake the strategic

development that is needed to secure the vibrant and competitive future of the port in the face of the fierce competition that is currently being waged by the Sydney, Brisbane and Adelaide ports.

That fragmentation of functions and division of responsibilities under the former government was a major setback. The strict price controls led to a position that meant that limited capital was available to the port, and public investment also fell away. Critical investments to increase channel capacity and the redesign and reconstruction of the port-to-land transport hub in the Dynon-Swanson area had not been effectively progressed. They were outcomes that Professor Russell described in his report, and there were major difficulties that he highlighted as a result of the review of those changes under the former government.

Since being elected in 1999 the Bracks Labor government has been trying to rectify a lot of the problems left by the former government and to rectify the range of makeshift solutions that it had perpetrated. One of the recommendations of the Russell review in 2001, which was called *The Next Wave of Port Reform in Victoria*, was that the state should develop and work to a statewide port strategy, dovetailed with its freight, logistics and metropolitan strategies. The bill before the house is a move in that direction. It will facilitate and provide the wherewithal to do the strategic planning work and to coordinate with the freight and logistics strategies of the government and the metropolitan strategy.

As a government we have been active in a whole range of areas relating to the port of Melbourne over the last four years. The bill before the house is one example. In the autumn sitting of this Parliament we dealt with the Port Services (Port of Melbourne Reform) Bill 2003, which reformed the port services and incorporated the responsibilities for managing the waters and land uses of the port of Melbourne together under the Port of Melbourne Corporation. That was a very important move to bring the governance of the port of Melbourne and the responsibilities for the channels at the port back together again. The government has been active in achieving that single integrated port authority in order to provide the capacity for strategic planning, public investment in landside or waterside assets and explicit safety and environmental responsibilities, as recommended by Professor Russell in his report.

I also remind the house that the Bracks Labor government has invested considerable resources in restoring public transport — the rail freight links — between the port and the rail system in order to move

towards the achievement of the government's objective of 30 per cent of container freight going onto rail by 2010.

In summary, this is another important milestone in terms of rectifying some of the mistakes of the past and getting on with the job of reforming and addressing the needs of the port of Melbourne. It is very clear that the former government stuffed up as far as the changes it introduced to the port of Melbourne. This government has been steadily and consistently moving to make it effective and to retain its position as the leading port in Australia over the last few years.

Hon. B. N. ATKINSON (Koonung) — The port of Melbourne is one of the most important areas of infrastructure for the state of Victoria. It is a very significant area in terms of economic activity in Victoria, and we need to ensure that the port functions flexibly to meet new trends in shipping, containerisation, export, goods handling and so forth — many of the topic areas that were discussed by the Honourable Ron Bowden in his contribution.

This legislation will ensure that the port of Melbourne is controlled by a planning scheme that recognises the unique position of the port and its importance to the economic prosperity of Victoria. This legislation will ensure that the port of Melbourne is able to have some jurisdiction over its own destiny and the development opportunities that might prevail in the port outside those interests of the four municipalities that have territorial involvement in what we designate as the port of Melbourne area — the cities of Melbourne, Port Phillip, Maribyrnong and Hobsons Bay.

Each of those cities clearly has a significant interest in the area that is part of their municipality and is shared with the port of Melbourne area. Each of those municipalities has a significant responsibility to ensure the amenities of its areas are maintained as far as its residents are concerned, and particularly to ensure that the transport links to the port of Melbourne, which in many cases traverse municipal districts, are not creating an adverse amenity position for the residents and business ratepayers of those municipalities.

As I read this legislation I would not believe it is the government's intention — I would certainly hope it is not the government's intention — to reduce the amenity that is available to residents of those four municipalities, or to trespass on the amenity of those businesses that are within the port of Melbourne district that go about their commercial interests within that district. I accept that this legislation is proposed in a context of trying to establish the port of Melbourne as a

district that needs to have some planning autonomy and flexibility in the way it goes about developing the port in the best interests of all Victoria. I have every confidence in this legislation, and clearly the Liberal Party does not oppose it. It is important legislation.

I have great confidence in local government generally, but I believe that when it comes to a major piece of infrastructure such as the port of Melbourne it is important to view that infrastructure in the context of what is best for all Victoria. Certainly the authorities that have the responsibility for and carriage of this legislation need to be mindful of the amenity rights of the people who live in the four municipalities of Hobsons Bay, Melbourne, Port Phillip and Maribyrnong. But as the Honourable Ron Bowden mentioned, they also need to take into account some of the trends in international shipping, cargo handling and so forth. They need to take into account where this industry is going and to ensure that the port of Melbourne continues to perform its very important role as one of the gateways to Victorian industry.

As the Liberal Party spokesperson on small business I am very mindful of the need to ensure that every opportunity is taken to open up opportunities for small businesses to become involved in export markets wherever possible and to expand their interests and commercial opportunities to develop new markets overseas. Invariably for most of those businesses it means the use of the port of Melbourne as a gateway to world opportunities. While we might see the new railway line through to Darwin and some developments in ports around Australia provide new options for some businesses to create those export market opportunities overseas, there is no doubt that the port of Melbourne is already very significant and continues to be a very significant gateway to world markets.

From a small business point of view we need to ensure that there is flexibility and that the port of Melbourne is able to embrace the needs of those businesses that I represent in the small business sector — and indeed businesses right across the board — so that we are able to take up the opportunities of export markets and address the needs of the shipping industry as it moves towards the larger vessels which the Honourable Ron Bowden talked about; so that we are able to look at new technology that is developed in the shipping industry and in the management of ports; so that we are able to ensure that the port of Melbourne really works to its optimum as a port; and so that the port is able to efficiently and effectively move cargo into Australia and, more importantly, to export the products of a very significant and vital manufacturing hub here in Victoria.

I am very keen to ensure that, notwithstanding the fact that I have a respect for local government, the local government authorities involved who have territory in what has been designated as the port of Melbourne area have the best interests of Victoria as much as their own municipalities at heart. Obviously with four different municipalities involved in an area and in economic activities such as those carried on in the port you will inevitably have conflicting interests between those municipalities.

However, I believe that in the context of this legislation their interests will be taken into account — they will still have an opportunity to comment on proposals that come before the planning authority; they will still have an opportunity to vigorously represent the interests of their residents and ratepayers, those people they represent in their respective municipalities — but that there will be some cohesion in terms of the planning decisions that are made on behalf of the port of Melbourne, recognising that this port is part of the infrastructure of Victoria as a whole and not simply part of a local municipal district.

There is no doubt that the port of Melbourne is already the largest container port in Australia. It is a very significant port in terms of the considerable range of goods that are exported from Victoria — and I am talking about everything from fast-moving consumer goods right through to the automobile industry, which clearly relies on the efficiency of the port of Melbourne to deliver its export product to the world.

This is an absolutely crucial gateway for Melbourne and Victoria to world markets. We need to make sure that the port is in a position to be flexible and to move with the needs of a changing marketplace. The Honourable Ron Bowden touched on the fact that we need to understand the changes in shipping trends in terms of different types of vessels, different types of handling procedures, different practices in handling of goods and so forth. We need to understand all that and to make sure that the planning process is there to ensure we are able to address that as a state. This bill simply removes some of the territorial power involved in that.

I have great confidence that the bill does not remove the opportunity of the four municipalities whose territory crosses over the port of Melbourne district to vigorously represent the interests of their ratepayers and those people within their municipal districts who have an interest in the function of the port, but it certainly provides greater cohesion in terms of the decision-making processes. It ensures that the port of Melbourne will remain the pre-eminent port in southern Australia, and hopefully within Australia as a nation,

and it gives us an opportunity to continue to develop export markets throughout the world using the port of Melbourne as a gateway.

I hope the legislation will be used in a constructive way by the government. The opposition puts some trust in the fact that the legislation is designed to achieve the flexibility, proactive position and opportunities for Australian industry that I have described, and I hope the government uses it in that respect.

I am happy to support the legislation because it is important legislation. I do not believe any municipalities will be adversely affected, but I certainly know that the small business sector I represent will be encouraged by the fact that the legislation provides an opportunity to ensure that the port of Melbourne continues to provide opportunities for it to export goods and services into international markets and provides an opportunity for us to ensure that the port of Melbourne continues to be the pre-eminent port in Australia. I commend the bill to the house.

Hon. J. A. VOGELS (Western) — I am pleased to make a small contribution on the Planning and Environment (Port of Melbourne) Bill. The legislation will amend the Planning and Environment Act 1987 and the Planning and Environment (Planning Schemes) Act 1996 to allow the creation of a new planning scheme for the port of Melbourne. The bill is intended to prohibit local councils from preparing planning schemes in that area. A number of members who have contributed to the debate have already named the four councils involved that have a huge interest in what happens around the port of Melbourne.

The bill removes the need for the port of Melbourne planning scheme to include a municipal statement, which is another issue that local councils would not be happy with because they believe the port of Melbourne will be treated differently.

The bill allows for adjustments to add or delete land from the area, which is important. The importance of the port of Melbourne to the state of Victoria cannot be overestimated. About a month or two ago members of Parliament visited the port of Melbourne and went on a cruise of Port Phillip Bay, hosted by the Port of Melbourne Corporation and Patricks. We were given a clear understanding of the importance of the port to not only Victoria but the whole of Australia. We heard about the pressures to upgrade and reconfigure the port to retain its competitive industry.

At present the port of Melbourne is the largest container port in Australia and accounts for 38 per cent of the

country's shipping movements. The port is centrally located, which is its biggest advantage for the state. There is also a huge influx of imports from Tasmania and elsewhere which are eventually exported from the port of Melbourne because it is centrally located.

My having a dairy farming background I am proud to say that dairy products make up the largest single export item sent from the port of Melbourne. About 2400 tonnes of dairy product goes out of the port of Melbourne every day. Victoria hopes to be exporting about \$12 billion worth of food exports by 2010. That produce will come from rural and regional Victoria, which is another example of why the port of Melbourne is so important not only to Melbourne but the whole of Victoria and the regions surrounding it.

While at the port on our tour we heard about the possible expansion of rail access and the future incorporation of the fish market so that the port would be extended to Footscray Road. The bill needs to be flexible because things change rapidly, especially when you are dealing with exports and imports. A planning scheme must be in place to deal with such issues when they arise.

While we were sailing around Port Phillip Bay we were told that the new container ships that will be coming to Australia to service the port of Melbourne will be much larger than the current ships, and each will probably carry 150 000 containers. Because of that the channel through the Port Phillip Bay Heads will need to be deepened. That will be a huge issue at some future date for Parliament. Currently the container ships that come through the Heads need about 11.5 metres draught and are basically scraping the bottom. The new-age container ships now being built will need about 14 metres draught, so how they will get in and out of Port Phillip Bay without deepening the channel at the Heads will be a huge issue.

Because of the importance of the port of Melbourne to the state that matter will have to be addressed at a future date. I have no doubt that environment effects statements are now being undertaken to ensure that if that takes place, the environment will not be damaged.

Other speakers have already mentioned the huge importance of the port of Melbourne not only to the city of Melbourne but the whole of Victoria and the Australian economy. I understand that many exports that go out of the port of Melbourne come not only from Victoria but from other states; they are shipped to and then exported from the port of Melbourne.

The port of Melbourne is unique because it is basically situated in the centre of Melbourne. Some 60 per cent of imports are disbursed within a 25 kilometre radius of the port. People have said that the port should be moved to Hastings or wherever, but it makes economic sense to leave it where it is if 60 per cent of the imports that arrive in Melbourne are delivered within a 25 kilometre radius of the port.

Having a planning scheme which is up to date and consistent with the provisions of surrounding councils is also important. There are parking lots for containers, and local councils around the port of Melbourne should be fully aware of what is happening and be fully consulted.

What is of concern to me is that when I go home of a Thursday night after the sitting of Parliament I go through the port of Melbourne area and see the huge development happening at Docklands, with huge residential buildings going up. Some of those flats or units will probably cost \$600 000 or \$700 000 each. It concerns me that in 5 or 10 years time the people who have paid that money will then decide they do not want to be overlooking cranes and container ships and will start objecting about the port. I think they should realise that the port is a port. We saw it happen in the 1970s and 1980s with Essendon Airport and then when Tullamarine was built. The people of Tullamarine now do not want an airport out there because it makes a bit of noise and they want to move it further out. It concerns me when I see these skyscrapers going up at Docklands.

Hon. J. M. Madden interjected.

Hon. J. A. VOGELS — Good luck to them!

The port of Melbourne is the most important bit of infrastructure in the state of Victoria. That is where the economic drivers that keep the state going lead from.

These issues need to be resolved. Usually I would be standing up here saying I was dead against the government having a planning scheme for an area which is different from the surrounding councils because I am a great believer in local government, but on this issue I believe the port of Melbourne is more important than some of the council issues surrounding it. I support the bill. I wish it a speedy passage. I understand the importance of the port of Melbourne.

Motion agreed to.

Read second time.

Third reading

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

That the bill be now read a third time.

I wish to thank the following members for their contributions: the Honourables David Davis, Barry Bishop, Ron Bowden, Bruce Atkinson and John Vogels and Ms Romanes and Mrs Carbines.

The PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

The PRESIDENT — Order! I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. In order that I may ascertain whether the required majority has been attained, I ask those members who are in favour of the question to stand where they are.

Required number of members having risen:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

VICTORIAN QUALIFICATIONS AUTHORITY (AMENDMENT) BILL

Introduction and first reading

Received from Assembly.

**Read first time on motion of
Hon. T. C. THEOPHANOUS** (Minister for Energy Industries).

ADJOURNMENT

Mr LENDERS (Minister for Finance) — I move:

That the house do now adjourn.

Tourism: convention centre

Hon. ANDREA COOTE (Monash) — My question is directed to the Minister for Tourism in another place. I refer to the recent comments by John

Button, chairman of the Victorian Tourism Industry Council, on the need for the Bracks government to quickly establish a world-class convention centre in Melbourne. Mr Button said:

We have slipped badly behind regional competitors in recent years.

In fact Melbourne has slipped from 2nd in the world for attracting conferences in 1999 to 15th in 2003. In July 2003 Sydney hosted a total of 40 national and international conventions, and Melbourne hosted only 28. This equates to a loss to the Victorian economy in the vicinity of at least \$230 million per year.

A lack of conference facilities with seating for 5000 people in Melbourne is causing Victoria to lose millions of dollars a year in the conference and tourism market. The government is conducting a feasibility study on the construction of a 5000-seat conference facility. I ask the Minister for Tourism: what is the completion date for the feasibility study and when will a decision be made on whether to proceed with this facility?

Students: truancy

Hon. C. D. HIRSH (Silvan) — I want to raise a matter for the attention of the Minister for Education and Training in another place. It concerns an appalling and draconian policy proposed by the opposition to deal with students' non-attendance at school. I want the minister to ensure that Victorian parents are made aware that the Bracks government has no intention whatsoever of implementing the policy proposed by the member for Doncaster in the other place. His policy of either fining parents or docking their social security payments if their children miss school is appalling and demonstrates a complete lack of understanding of the issue on the part of the opposition's education spokesperson.

Some children set off for school in the morning but do not arrive, and the parents do not know about this until such time as they are notified by the school. The majority of children are not actually wagging — they are suffering from a condition called school refusal. This is a complex condition where the child does not want to go to school because of fear of failure, fear of being bullied or fear of not having friends or because of feeling that they do not belong or feeling that they are not getting along with a teacher. It is a complex, very real issue.

I have worked with many children, parents and families where children are suffering from school refusal. These children, who often refuse point blank to go to school,

may also be suffering from separation anxiety — being afraid to be away from parents, fearing losing a parent or thinking that something bad may happen to the parent while they are away. This can often happen if there is illness or conflict at home or the child has had an experience of death. From time to time even the death of a pet can cause a child such fear of leaving home — —

Honourable members interjecting.

Hon. Andrew Brideson — On a point of order, President — —

The PRESIDENT — Order! I ask Mr Brideson to wait a moment. I take this opportunity to ask members who want to have conversations to leave the chamber. I am sure honourable members are interested in Ms Hirsh's adjournment matter. The minister at the table wants to hear, and Hansard wants to record her contribution. I ask members to desist in their conversations and interjections. The Honourable Andrew Brideson, on a point of order.

Hon. Andrew Brideson — On a point of order, President, I ask you to rule this presentation out of order. I do not believe the honourable member is following the guidelines you issued last week. She has only at this stage asked the minister to ensure something — and I do not believe that is specific enough — and she is debating the opposition policy.

The PRESIDENT — Order! The honourable member has 35 seconds to pose her question to the Minister for Energy Industries, who is at the table, in line with my ruling. As I indicated to members the other night, if a member does not get the question out in time, the adjournment matter will be ruled out. If the question is not posed in line with the guidelines, it will be ruled out. The member still has 35 seconds to pose her question. I will make a decision at the conclusion of it.

Hon. C. D. HIRSH — Thank you, President. I already asked that the minister ensure that Victorian parents are aware that this is not our policy. I want the minister to assure the Victorian community that the government does not — —

Hon. Bill Forwood — On the point of order, President, in line with your guidelines, the phrase just used by the Honourable Carolyn Hirsh absolutely falls outside the guidelines you issued the other day, and therefore she is out of order.

Hon. T. C. Theophanous — On the point of order, President, I recognise that there is a fine line on some occasions. I have read your guidelines, which state as I recollect that a member cannot ask for a minister to continue doing what they are currently doing. The member has not asked for that to occur. The member has asked that the minister ensure that Victorian parents are made aware of a particular policy and position. That means there needs to be an action taken by the minister, whether it be a public action or some form of publicity or something of that nature. Nevertheless an action is required, and the minister has been asked to ensure that Victorian parents are made aware of a particular government position. I think the matter therefore should be ruled in order.

The PRESIDENT — Order! I am still not prepared to rule on the adjournment matter the member has raised. The member still has 23 seconds to fulfil the guidelines I have established. When the member has concluded her contribution, I will make an assessment of whether it falls within the guidelines.

Hon. C. D. HIRSH — Thank you, President. I want the minister to make sure she is in touch with and in contact as soon as possible with parents of children in Victorian schools to ensure that the complex problem and painful issues that many parents have to go through are not part of government policy and never will be. She needs to let parents know the government will not — —

The PRESIDENT — Order! The member's time has expired. Since there were a number of points of order raised, I will rule on it. The adjournment matter Ms Hirsh has raised is within the guidelines I set out.

Water: conservation rebate

Hon. D. KOCH (Western) — My question is for the Minister for Water in the other place, and it deals with the discriminatory rebates for water-saving products. On 1 October this year the government launched the second phase of its Water Smart Homes and Gardens rebate scheme intended to give Victorians the chance to make water and financial savings inside the home. These incentives are supposed to encourage people to save water in their homes and gardens and, by buying certain water-saving products, to receive rebates. I understand and support the government in its commitment of \$10 million over the next four years to provide a means and an incentive for Victorians to save money and conserve future water resources.

The Water Smart Homes and Gardens rebate scheme provides residential customers with rebates on their

water bills for purchasing water-saving devices and services so that they can reduce their water consumption. The rebate scheme is administered by the Victorian urban water authorities on behalf of the government, in partnership with the Department of Sustainability and Environment. While I applaud the government for providing incentives to Victorians to purchase water-saving devices, I am more than appalled that these incentives are not available to Victorians living in small rural communities or on farms which are not connected to reticulated water or serviced by reticulated water authorities.

Only residential customers with supplied reticulated water and accounts with urban water retailers are eligible for rebates under this very worthy scheme. The state government's Department of Sustainability and Environment is responsible for setting the rules for this rebate scheme, but in its wisdom it has decreed that only those who are connected are eligible for any of the well-supported rebates. This openly discriminates against all Victorians living outside regulated water domains in small rural towns as well as farming communities. Will the minister guarantee that all Victorians are given access to the Water Smart Homes and Gardens rebate scheme and not penalise those in communities outside reticulated water authorities, which is currently the case?

Employment: government initiatives

Mr SCHEFFER (Monash) — I raise a matter for the attention of the Minister for Employment and Youth Affairs in another place. Earlier this month the minister provided information on the government's \$155 million Jobs for Victoria initiative, as announced in the May 2003 state budget. The minister announced that Victoria has recorded the lowest rate of unemployment of any Australian state — down to 5.2 per cent for September.

I request that the minister supply me with information that draws the connection between Victoria's low unemployment levels and the range of policy measures contained in Jobs for Victoria. What is it that makes the difference in Victoria? The minister explained that the programs contained in Jobs for Victoria aim to increase the participation of people in their community and in their work. It aims to assist young people to find paid work experience, training and qualifications leading to lasting work. The program helps communities to meet future skill and employment needs to support industry growth. All this is in the purpose of Victorian Communities: that employment programs should be integrated so as to support individuals in their communities.

The Australian Bureau of Statistics web site shows that unemployment levels in other Australian states range from 5.6 per cent in New South Wales to 6.7 per cent in Tasmania. Interestingly, New South Wales, South Australia and Western Australia showed a slight increase in unemployment from last month. Victoria's unemployment rate is not only the lowest of the states, it is also well down on the national average of 5.8 per cent, as it has been for more than three years. I understand that in Victoria employment has increased by 2.1 per cent or 50 000 jobs since September and nearly 200 000 jobs since the election of the Bracks government in 1999 — an increase of 8.7 per cent. The 40 consecutive months of sustained improvement in job creation in Victoria — —

Hon. Bill Forwood — On a point of order, I put it to you, President, that what we have heard so far from Mr Scheffer is a set speech canvassing widely a number of issues related to employment, not just in Victoria but in other states, which have nothing to do with the jurisdiction here. I put it to you, President, that this is not a situation that falls inside the guidelines.

Hon. T. C. Theophanous — On the point of order, President, what we have heard from Mr Scheffer is not a set speech but a good speech. I put it to the member opposite that that is what is of concern. The fact is that, as I have been hearing the member, he has been succinctly developing his argument in relation to a request for information from the minister about the Jobs for Victoria program. In outlining his request for information in relation to that program he has also outlined the success of that program relative to other states, which he is entitled to do. I put it to you, President, that there is absolutely no point of order as put by the honourable member opposite.

The PRESIDENT — Order! The member has fulfilled the requirement about asking for action from the minister. However, I draw the member's attention to the four-stage process that I outlined, one of the stages being to give a brief résumé of the facts, which the member has done. I emphasise the word 'brief'. The member has a minute to go, but I ask him to bear in mind my comments in my ruling about a brief résumé of the facts and not go on for too much longer with respect to the facts, because then he would be outside my guidelines on the area of being brief.

The member has raised facts, which he is entitled to do; he has made a request of the minister, which he is entitled to do; but I remind the member that when he is referring to facts his résumé should be brief and not extensive. I do not uphold the point of order. I ask the member to continue, bearing in mind my comments.

Mr SCHEFFER — I am seeking to draw a parallel between those elements of the Jobs for Victoria program that the government believes will be successful and the facts of the statistics that indicate that success. I am contrasting it with the federal patterns in order to ask the minister to explain how that works.

In conclusion I request that the minister provide me with comparative data that contrasts the impact of the federal and Victorian government programs on reducing unemployment.

Consumer affairs: Gainsborough Industries

Hon. B. N. ATKINSON (Koonung) — I wish to raise a matter with the Minister for Consumer Affairs. I advise the house that I have something of an interest in the matter in that my son has achieved a court settlement in regard to it. As the court settlement has been finalised I believe it is my prerogative to raise this issue. Given the circumstances I would not have raised this issue had I not been concerned that it is an ongoing one and concerns possible injury to a great many other people if it is not addressed.

I raise with the minister the need to investigate the production of doorknobs by Gainsborough Industries, an American parent company of a subsidiary here in Australia. It manufactures doorknobs, which in some cases are promoted as porcelain doorknobs. This particular company has suffered an extraordinary number of legal claims from a range of people who have been injured because of the malfunction of its products, and a number of legal claims on the products have been made before the courts right around Australia.

The doorknob product that is sold in Australia was the subject of a recall in the United States in 1995, but the same or a very similar product continues to be marketed in Australia. My concern is that the product is defective — the doorknobs shatter and cause injury to people — and that a significant number of claims associated with the malfunction of these doorknobs are before the courts. They are marketed as porcelain, but I am not sure that in all cases they actually are porcelain doorknobs.

I believe the Minister for Consumer Affairs ought to investigate whether these doorknobs are safe and whether they ought to be subject to a recall or subject to some sort of Australian standard review to ensure that they do the job they are expected to do or are promoted as doing. A good many people who have been injured by these doorknobs have taken cases to court. I am more interested in making sure that there are

no further claims against this company because of the malfunction of their product.

The PRESIDENT — Order! On a point of clarification, I think when the honourable member made his opening comment to the minister he referred to the Minister for Small Business. I assume he meant the Minister for Consumer Affairs.

Hon. B. N. ATKINSON — I said, ‘Minister for Consumer Affairs’.

The PRESIDENT — Order! I just wanted to ensure that the record was right. I made a note ‘Minister for Small Business’ and assumed it should have been ‘Minister for Consumer Affairs’. It is; and that is fine.

Hon. B. N. ATKINSON — I believe I said ‘consumer affairs’, and certainly that is the minister I would direct the matter to.

Housing: Ballarat

Ms HADDEN (Ballarat) — I raise with the Minister for Housing an issue to do with the availability and affordability of public housing for low-income people in my electorate.

On Friday, 10 October, along with the minister, I attended the official opening of 37 Webster Street, Ballarat, which is a redeveloped 1956 former school boarding house to accommodate 15 tenants in individual, self-contained rooms which have an open lounge, sitting-bedroom area, a separate bathroom and a kitchen. There are also two flats specifically designed for disabled people. The residents are both men and women aged from their mid-20s to their mid-50s.

The building at 37 Webster Street is a two-storey building which has been thoughtfully renovated, developed and landscaped, and the exterior is painted in heritage colours to blend in with the historic Webster Street precinct. Importantly the design features energy-saving initiatives, including a front-loading washing machine in the laundry.

In 2002 I had the benefit of viewing the building in its original state and was shown by the proposed managers, Centacare Australia, the plans for redevelopment to accommodate single low-income earners. The transformation is remarkable. It is a great credit to the architects and builders, and of course to Centacare for its vision and commitment to the needy in our community. I therefore ask the minister to advise of any other such public housing initiatives planned for Ballarat and how these will specifically benefit low-income and public housing tenants.

Prisons: capacity

Hon. R. DALLA-RIVA (East Yarra) — I raise with the Minister for Corrections in the other place the issue of the capacity of the government to develop additional jail facilities for the current prison population. I refer to page 246 of the 2003 Public Accounts and Estimates Committee report, where the minister referred to the fact that there were additional jail facilities such as the Dame Phyllis Frost Centre, HM Prison Ararat, the Fulham Correctional Centre, HM Prison Dhurringile and an additional two at HM Barwon Prison, where 50 bed relocatables were being placed in those facilities to deal with the number of prisoner increases.

A recent Australian Bureau of Statistics report showed that as at 30 June 2003 there were about 3800 prisoners, a significant number of whom are being placed into temporary accommodation despite the original design capacity for the prison population. I query how the minister is dealing with the fact that a huge number of prisoners are being placed in portable jails. Are these prisoners being placed in bunk beds and the like? The action I seek from the Minister for Corrections is an answer to my query about the capacity of the jail system.

Sport and recreation: multicultural participation

Hon. KAYE DARVENIZA (Melbourne West) — I wish to raise a matter for the attention of the Minister for Sport and Recreation. The issue concerns the minister’s recent launch of a multicultural sports resource kit, which is a most welcome announcement aimed at assisting the state sporting associations to increase the participation in sports of people from culturally and linguistically diverse (CALD) backgrounds and to enhance the capacity of sporting clubs to be more inclusive.

The action I seek is for the minister to have his department take the necessary steps to ensure that the CALD community in my electorate of Melbourne West is aware of this important government initiative and has every opportunity to increase its participation in all levels of sport. Victoria is a richly diverse state, and Melbourne West is one of the most culturally and linguistically diverse areas in Victoria. Over 43.5 per cent of Victorians were born overseas or have at least one parent born overseas. Traditionally people from CALD backgrounds have been under-represented in sports participation. This is particularly the case for young women from CALD backgrounds.

I congratulate the minister on his commitment to enhance sporting opportunities for people from CALD backgrounds not only through this recent announcement but also by supporting significant Tolerance Through Sport initiatives, including the Bouncing Racism Out of Sports toleration education project, which was implemented by Football Victoria and modified for adoption by Cricket Victoria and Netball Victoria.

Hon. Bill Forwood — On a point of order, President, I missed what the request was.

Hon. KAYE DARVENIZA — Mr Forwood should really pay attention because my request was very clear, and I made it very early on. I said that the action I seek from the minister is for him to have his department take the necessary steps to ensure that the culturally and linguistically diverse community in my electorate of Melbourne West is aware of this important government initiative. I earlier set out what that government initiative was. The member probably was not paying attention to that either.

Hon. Bill Forwood interjected.

The PRESIDENT — Order! It was almost a point of clarification. I do not think the point of order needs a ruling; it has been clarified.

Drivers licences: motor trikes

Hon. P. R. HALL (Gippsland) — Tonight I wish to raise a matter for the attention of the Minister for Transport in another place, and it concerns the licence requirement to drive motor trikes in Victoria. Motor trikes are three-wheeled machines. The modern trikes have characteristics that make them more like motor cars than motorbikes. They drive like cars and have gearsticks on the left-hand side just like motor vehicles, perhaps with the exception that they are steered by handlebars rather than steering wheels.

In New South Wales you can drive most types of motor trikes if you have a motor vehicle licence, but that is not the case in Victoria. To drive a motor trike in Victoria you are required to have a motorbike licence. A constituent of mine, Mr Peter Merigan of Callignee, wants to drive a motor trike, but he neither has a motorbike licence nor does he want to spend the time on a two-wheeled machine to obtain a motorbike licence. He would have some physical difficulty doing so because of an impairment that prevents him from getting onto a motorbike and therefore spending the necessary time obtaining a motorbike licence. I think he

has a case, and I seek some direction from the Minister for Transport.

There is commonsense in having national uniformity with respect to licence requirements for different types of motor vehicles. If it is good enough for New South Wales people to be qualified to drive motor trikes by using motor car licences, then the same should apply in Victoria.

Mr Merigan wrote to Vicroads on 20 May this year and got a response on 30 May. I congratulate Vicroads for a quick turnaround with its correspondence; it is quicker than we get from a lot of government ministers! In part the response said:

... Victoria is seeking a review of the current position regarding the registration and licensing of trikes at the national level.

My request to the Minister for Transport is to ask whether Victoria was successful in having a national review undertaken. If so, when did it commence, when is it expected to finish and what opportunities are there for public input into that review?

State Emergency Service: Casey unit

Hon. G. K. RICH-PHILLIPS (Eumemmerring) — I wish to raise a matter for the attention of the Premier. It relates to the provision of a State Emergency Service (SES) unit for the City of Casey and the government's actions with respect to that. There is a reason for raising the matter with the Premier. Just to recap, the City of Casey is the fastest growing municipality in the state of Victoria, with around 80 families a week moving into the area. The City of Casey is a rather large area geographically: the top end is dominated by residential development and the bottom end comprises largely rural areas.

The municipality has been desiring government support for an SES unit for quite some time. It seeks a capital contribution towards the establishment of a SES unit on the basis that the municipality will provide the recurrent funding. That funding has a lot of support within the municipality. In October 2001 the City of Casey wrote to the Minister for Police and Emergency Services in another place seeking his support for the provision of such an SES unit.

In November 2002 the City of Casey again wrote to the Minister for Police and Emergency Services seeking his support for a State Emergency Service unit in the city. In February this year I raised the issue in the house for the attention of the Minister for Police and Emergency Services. It is reprehensible that more than two years

after the City of Casey first raised the issue with the Minister for Police and Emergency Services, followed by a letter more than 12 months later and more than eight months after I raised the issue in the house, neither the City of Casey nor I have received any response from the minister about the provision of an SES unit for the city. It is either gross incompetence or sheer arrogance on the part of the minister. He is treating the people of the City of Casey with contempt in not responding for over two years.

Hon. T. C. Theophanous — On a point of order, President, the member is clearly debating the issue and is making comments about a minister in another place which are inappropriate to make in this house. I ask that you, President, draw him back to your guidelines and ask him to ask a question or sit down.

Hon. P. R. Hall — On the point of order, President, I point out that I do not believe the Chair can possibly rule the comments by Mr Rich-Phillips about the minister as being derogatory when the previous speaker in this adjournment debate made similar remarks in exactly the same context about the shadow education minister. Those remarks were not ruled out of order, and neither should Mr Rich-Phillips's comments be.

The PRESIDENT — Order! I do not think the minister asked the honourable member to withdraw his comments, he asked that he be directed to conclude his contribution. The member has 45 seconds remaining to pose his question. I think he is almost through it or about to conclude. I ask the member to conclude his remarks in the time remaining.

Hon. G. K. RICH-PHILLIPS — I thank Minister Theophanous for his help in how to address an adjournment issue. I would like assistance from the Premier in obtaining a response from the Minister for Police and Emergency Services for the City of Casey so this issue can be addressed.

Workcover: claim review

Hon. BILL FORWOOD (Templestowe) — I raise an issue for the Minister for Workcover in the other place, the Honourable Rob Hulls, concerning an injured worker, Chris Alifragis, who wrote to me in these terms:

I am writing this letter to you in despair as I have come to the end of the road with a problem I am facing with a Workcover agent — namely, Cambridge insurance.

I have enclosed a letter that I wrote to Honourable Rob Hulls and also his reply telling him of the problems I have come up against with the insurance, and to my disbelief after waiting nearly three months for a reply he did not address none of the

problems I raised to him whatsoever regarding the insurance and he only advised me on issues that I already was aware.

Cambridge has acted unfairly to my claim and I have all evidence to show that they are not treating workers the way the government has set out.

I am in no position to go to court. I have a young family with two young kids and I am not putting my house on the line for lawyers and their costs.

No-one should be treated the way I have been treated, and I am pleading to you to see what can be done to have my payments reinstated as of 19 March 2003.

I have come to a conclusion that everyone is working against an injured worker and in return they are milking the system making money while the worker has nothing.

I make the point that Mr Alifragis is still in receipt of medical benefits assistance in relation to his injury. His dispute relates to the fact that Cambridge does not believe that he has been trying hard enough to get back to work. He pointed out to me a number of instances where the evidence led by Cambridge was incorrect. He was disappointed with the response he got from the Minister for Workcover and seeks something other than the advice he has been given both by the minister and the Victorian Workcover Authority, that he should go to court. He seeks a review of what has occurred to date, particularly in relation to Cambridge.

The Victorian Workcover Authority states in its letter to Mr Alifragis:

We also advise that you have exhausted your avenues of interval review.

Here is a guy who is still in receipt of medical benefits payments in relation to the injury but has had his payments stopped because people do not think he is trying hard enough, and he is told that the only remedy he has is to go to court. He does not have the capacity to go to court. He has been to see the no-win, no-fee lawyers, who want \$2000 up front to cover their disbursements. It seems to me he is caught in a catch-22 situation. I wonder whether either the Workcover authority or the minister would be prepared to again look at this case. I believe it is a genuine case, and I would like someone to have another look at it.

Sunraysia Institute of TAFE: department closure

Hon. B. W. BISHOP (North Western) — My adjournment issue is directed to the Minister for Education and Training in the other place. In July the students enrolled in the Sunraysia Institute of TAFE clothing department were dismayed to be told that there had been a decision to close the department. A number

of these students attempted to have the decision reviewed and overturned. They met with the minister during her visit to Mildura on 28 July and made their case to her. The minister gave an undertaking that her department would explore options for the students to complete their certificates.

I also add that the students have been polite and courteous at all times and have researched their subject very well. They are an absolute credit to the community in the way they have been strong advocates for their issue. The students were distressed to receive correspondence from the minister which states that other options are quickly running out for the completion of the certificate. The only option being offered is to have the Adult Community and Further Education Council for the Loddon Mallee region take over the course on a fee-for-service basis, which would prove financially prohibitive for many of the students.

In September 2003 my colleague Peter Walsh, the member for Swan Hill in the other place, tabled a petition gathered by the students which recorded 606 signatures for the department to keep functioning. I would have tabled the petition in this place, but the decision was made to table it in the house where the minister sits. It is clear the government has a low priority for clothing, millinery and fashion courses, which makes it almost impossible for the Sunraysia Institute of TAFE to continue the course, as it could lose its student contact hours from its allocation. I must say this is a community as well as a training issue. I ask the minister, as the education year draws to a close, what — if any — options students of the clothing, design and production certificate have to finish their chosen field of education.

Responses

Hon. T. C. THEOPHANOUS (Minister for Energy Industries) — The Honourable Andrea Coote asked me to pass on a request to Minister Pandazopoulos in the other place regarding the plenary hall she referred to in her question, and I will do that for her.

The Honourable Carolyn Hirsh asked me to pass on an issue to the Minister for Education and Training in the other place regarding whether students should be punished in some way or fined as suggested by an opposition member. I am very happy to pass that request to the Minister for Education and Training for reply to the member.

The Honourable David Koch raised an issue for the Minister for Water in the other house asking for all Victorians to get access to the water rebate scheme for

water-saving devices. I am happy to pass that on to the relevant minister for response.

Mr Scheffer raised with the Minister for Education Services in the other place comparative information regarding the Jobs for Victoria program and its impact on levels of unemployment vis a vis the impact of other programs, either federal or interstate. I will pass that on to the minister.

The Honourable Bruce Atkinson raised an issue for the Minister for Consumer Affairs concerning doorknobs produced by a company called Gainsborough — a very large company. I was interested to hear the request, having just purchased doorknobs from Gainsborough myself. Fortunately, mine are not porcelain but are supposed to be brass, so I hope they are. I will pass his request on to the Minister for Consumer Affairs for response.

Ms Hadden raised an issue for the Minister for Housing which had to do with a housing redevelopment in Webster Street, and I will pass that request on to the minister.

Mr Dalla-Riva raised an issue for the Minister for Corrections in the other place in relation to prison facilities, and in particular the temporary beds and portables that are in play. I will pass that request on for response.

Ms Darveniza raised an issue in relation to multicultural sports and indicated a number of sports facilities which are designed to promote the culturally and linguistically diverse community, or CALD, in Victoria. CALD is the new term that replaces non-English-speaking background, for those who did not know. I will pass that request on to the relevant minister.

Mr Hall raised an issue for the Minister for Transport in the other place in relation to motor trikes. This is an interesting question. Having been a motorbike rider at one time in my youth, I have never ridden a motor trike. I can see the point that the honourable member is making, and I will pass on his request to the minister for response.

An honourable member interjected.

Hon. T. C. THEOPHANOUS — It was a Norton 500!

An Honourable Member — Show us your leathers!

Hon. T. C. THEOPHANOUS — I am thinking about responding to that only so that it will go in the record.

Mr Rich-Phillip's request was to the Premier, and I will pass that on in relation to the Minister for Police and Emergency Services in the other place and the State Emergency Service unit.

Mr Forwood raised an issue for the Minister for Workcover in the other place, Rob Hulls, in relation to a particular worker in the Workcover system. He said the worker had exhausted all the avenues available to him for review and his last available avenue appeared to be the courts. He has asked for it to be looked at again. I will pass that request on, although I cannot help but comment on the supreme irony of the number of times I was on the other side making an enormous number of such requests during the time of the previous government.

Mr Bishop asked a question for the Minister for Education and Training in the other place in relation to students completing certificates in Mildura, and I will pass that on to the relevant minister for response.

Motion agreed to.

House adjourned at 10.44 p.m.