PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

20 March 2001

(extract from Book 2)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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Languiller, Mr Telmo	Sunshine	ALP	Wilson, Mr Ronald Charles	Bennettswood	LP
Leigh, Mr Geoffrey Graeme	Mordialloc	LP	Wynne, Mr Richard William	Richmond	ALP

[1] Resigned 3 November 1999
[2] Elected 11 December 1999
[3] Resigned 12 April 2000
[4] Elected 13 May 2000

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TUESDAY, 20 MARCH 2001

Tuesday, 20 March 2001

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.06 p.m. and read the prayer.

DISTINGUISHED VISITORS

The SPEAKER — Order! It gives me great pleasure to welcome to the Victorian Parliament the members of a distinguished delegation from Somalia. They are Professor Abdura Hman Aden Ibrahim, Dr Elmi Farah Nur and Dr Abdulkadir Osman Yusuf. The delegation is in Australia to learn about parliamentary democracy. I welcome them and hope they find today's question time interesting.

ABSENCE OF MINISTER

The SPEAKER — Order! I wish to advise the house that I have been notified that the Attorney-General will not be in attendance during question time. I have been advised that the Premier will answer on all the ministerial responsibilities held by the Attorney-General.

QUESTIONS WITHOUT NOTICE

Business: ABS data

Ms ASHER (Brighton) — I refer the Treasurer to the Australian Bureau of Statistics (ABS) data on state business investment released today, which shows that Victorian business investment has declined in every quarter since the election of the Bracks Labor government. Will the Treasurer now admit that Labor's $100 million in business tax cuts will be too little, too late?

Mr BRUMBY (Treasurer) — The data to which the honourable member refers was released today and shows the figures for state capital works for the December 2000 quarter. Apparently there has been some misunderstanding by the honourable member for Brighton. The data is quarter on quarter, so it compares the December 2000 quarter with the September 2000 quarter.

Ms Asher interjected.

Mr BRUMBY — It shows a reduction from what was a peak figure in September 2000. If you compare the December 2000 figure with the December 1999 figure, you can see that private sector capital investment is actually up, not down.

Honourable members interjecting.

Mr BRUMBY — Despite the views put forward by the opposition and the uncertain national economic environment being created by the Howard government, a string of positive economic data for Victoria has come out over past months. The figures for housing show that Victoria's share of national building approvals is at a record high; motor vehicle registration figures show that Victoria's share of the national figures is at a record high level; and the employment data released last week shows that over the past year Victoria has had the fastest rate of employment growth of any state in Australia — 4.1 per cent! So despite the GST, the Ryan by-election result and the Howard government's shoot-from-the-hip economic policy, this state is doing well, and it has been referred to in a number of newspaper articles as the Silver Lining State.

Government members are proud of Victoria's positive economic performance. We do not know why the opposition keeps persisting in talking the state down when the government is trying to boost investment.

The most recent Access Economics report lists Victorian investment projects worth $22 billion that are already under construction or committed to. That is a lot of dollars — $22 billion is greater than the budget of the state of Victoria. The Victorian economy is proceeding well!

Victoria is the Silver Lining State. It has its nose ahead of most of the other states in terms of employment growth and growth in gross national product and state final demand, and the government is determined to keep it that way. The only threat to economic strength and growth in Victoria comes from the uncertain economic environment being created by Prime Minister Howard and Treasurer Costello.

Economy: performance

Ms BARKER (Oakleigh) — I refer the Premier to the difficulties facing the Australian economy and ask him to inform the house whether Victoria is managing to continue to achieve employment and investment growth in key sectors.

Mr BRACKS (Premier) — I thank the honourable member for Oakleigh for her question and her interest in this area. As the Treasurer has said, and to which the honourable member's question referred, a slowdown in the Australian economy was recorded in the last quarter, from which no state will be immune.

The slowdown has occurred as a result of percentage growth in the United States economy cooling to almost

zero, the GST biting into business confidence, and petrol prices continuing to affect business and consumer confidence. As the Treasurer indicated quite correctly in answer to a question from the shadow Treasurer, the Victorian economy has sound fundamentals that will lead it through this slowdown in the Australian economy.

Over the past two weeks reports in the business sections of the newspapers have suggested that Victoria is clearly the best prepared of any state in Australia for the downturn that is occurring in the Australian economy. One of the indicators referred to by the Treasurer is employment growth, which for the past month in Victoria was 4.1 per cent. Some 17 000 new jobs were created in Victoria in the last month alone!

If you compare state with state on the graph, you will find that Victoria is the only bright light for the Prime Minister to speak about — the only bright light! The only place that fuelled employment growth was Victoria. Some 17 000 new jobs were created in Victoria last month. It now has the second-lowest unemployment rate of any state — that is, 6.3 per cent — which is lower than the national rate of 6.9 per cent. For the 12-month period last year Victoria had half of the national job growth — a full 50 per cent. Some 90 000 of the 180 000 new jobs created in Australia were in Victoria.

Victoria is much better placed than any other state. The vibrant fundamentals of its economy are sound enough to cope with any downturn caused by federal government policies or any downturn in the economy of the United States.

The Treasurer referred to some of those positive figures. Victorian exports are up 20 per cent on last year. They have been fuelled not only by the low Australian dollar but are also up compared with other states. Not long ago Victoria's export performance was the second worst in the country — it is now the second best. An increase of 20 per cent in export outcome has occurred over the past year. Victoria has a diverse economy.

I advise the house of two major events that have happened in Victoria over the past two days. Firstly, yesterday I had the pleasure of launching a new Pricewaterhousecoopers tax assurance centre in Melbourne — a $10 million enterprise that will create 100 new jobs. Effectively Victoria has been picked as the corporate tax centre for the Asia–Pacific region. I am proud that that will happen in Melbourne, and I congratulate Pricewaterhousecoopers for working with the government towards that achievement.

Secondly, all members of the house — even probably opposition members — will congratulate BHP on its decision to join with Billiton, the biggest resource company in the world. It is a joint listing of the two companies and a recommended merger, which will result in $58 billion of capitalisation in the company's head office in Melbourne. The good news is that not only is the move a good one for BHP — and I congratulate the chief executive officer, Paul Anderson, and the board for taking that positive step in competition worldwide — but also that BHP chose Melbourne, Victoria, as the world headquarters for the biggest company in the world.

The government has worked to facilitate these new headquarters on the former Queen Victoria Hospital site with a new $600 million project. It is a great announcement for BHP. The building will be available in mid-2003 as the lease expires on the current BHP building. The new building will be purpose built. The head office of the biggest resource company in the world will be in Melbourne!

As I move around Victoria I hear people saying, 'Good on you, Premier' or 'Good on you, Treasurer' — 'Good on you for talking up the economy'. The only person currently not talking up the economy is the Prime Minister of Australia.

Honourable members interjecting.

The SPEAKER — Order! The house will come to order!

Honourable members interjecting.

The SPEAKER — Order! I ask opposition members to come to order. I ask the Premier to conclude his answer.

Mr BRACKS — In conclusion, the Prime Minister by his actions is talking down the economy.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Glen Waverley!

Mr BRACKS — Every policy decision the Prime Minister is taking is politically motivated. It is not good for the Australian economy and I urge him to forget the politics and return to the economic path.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Bentleigh!

Mr BRACKS — In summary, the fundamentals of the Victorian economy are sound and robust. They will carry the state through the downturn caused by two factors: the policies of the federal government and the downturn of the United States economy.

Hospitals: nurses agreement

Mr RYAN (Leader of the National Party) — My question is to the Minister for Health and Matters Maternal. I refer the minister to the current renegotiation of — —

The SPEAKER — Order! The Leader of the National Party shall address ministers by their correct titles.

Mr RYAN — I refer the Minister for Health to the current renegotiation of a pay deal with the nurses union. Will the minister guarantee country health services that the government will fully fund any cost increases arising from this process?

Mr THWAITES (Minister for Health) — I thank the honourable member for his question, and indicate that in his preliminary question he did, indeed, overstate my role. As the person concerned said today, this was another case of the ministerial adviser doing all the work and the minister taking the credit.

In relation to the question, the enterprise bargaining agreement with the nurses went before the commission last week. It ordered that the number of nurses to be employed was to be capped at 1300, which is the number the government initially indicated would be employed. The government is doing that. I also indicate to the honourable member that it is funding hospitals fully to employ those nurses.

Melbourne: electoral reform

Mrs MADDIGAN (Essendon) — Will the Minister for Local Government inform the house of the government's planned reforms of the electoral system for the City of Melbourne?

Mr CAMERON (Minister for Local Government) — Last December the government announced a fresh start for the City of Melbourne and said it wanted to have elections for the city during winter of this year. Following a period of mediation at the council it was clear that the arrangement would not last in the long term and that there needed to be a democratic solution, with earlier elections. In addition, structural changes were needed because the structure imposed by the previous government was inadequate.

Honourable members interjecting.

Mr CAMERON — Certainly Liberal members recognised that the structure they imposed was not acceptable. The government consulted with stakeholder groups across the City of Melbourne, taking into account the diversity of interests — residential, business, cultural and sporting — to determine the best structural arrangements that should apply as the process goes forward. I thank all the groups involved.

Many people wanted the direct election of a lord mayor. They believed that would help with stability, because councillors would not continually be jockeying for position. However, that of itself could create problems if the lord mayor were out on his or her own without the support of other councillors. To that end, the government worked through those issues, and I am pleased to advise the house that it will introduce legislation for a directly elected lord mayor and deputy lord mayor. In other words, to help bring about that team there will be a mayoral election for both positions, tied together on the one ticket.

In addition, a further seven councillors will be elected by proportional representation in the style of Senate elections. People will be able to vote above the line for a group or a team, or below the line, if that is what they want. That will help to bring councillors around the lord mayor and to bring about the stability we all want.

In addition, we want to encourage a better relationship between the state government and the capital city government, and there are provisions to help bring that about.

I have spoken with some interested groups this morning, and I am pleased to advise that the measure is supported by the Carlton Residents Association, by key business groups within the city such as the Melbourne Chamber of Commerce, the Victorian Employers Chamber of Commerce and Industry, the Australian Retailers Association, the Property Council of Australia, the Committee for Melbourne and the Central City Retailers, among many others.

We have put in place a structure. What is now important is that good people come forward to be good candidates and good councillors. Let the election begin!

Business: taxes

Ms ASHER (Brighton) — I refer the Treasurer to his statement that the Harvey *Review of State Business Taxes* is not a government report, and I ask: can the Treasurer inform the house why his department has spent $14 000 on a consultancy by Essential Media

Communications to do a media review for this so-called independent Harvey committee?

Mr BRUMBY (Treasurer) — I had trouble hearing. Would the honourable member repeat whether she said 14 million dollars or 14 thousand dollars?

Ms Asher interjected.

Mr BRUMBY — Fourteen thousand? It was $14 000! The Bracks government commissioned the Harvey review last year. The committee, including the former head of the Victorian Employers Chamber of Commerce and Industry, Nicole Feely, worked an extraordinary number of hours on that report for the best part of a year, without being remunerated. The committee presented to the government an independent report which is currently being considered and to which the government will respond at or by budget day on 14 May this year.

Dr Napthine interjected.

Mr BRUMBY — You're in no position to speak, Denis, are you? And it is not surprising that you haven't spoken today — no questions! Where are the questions?

The SPEAKER — Order! I ask the Leader of the Opposition not to invite interjections across the table, and I ask the Treasurer to cease responding to interjections.

Mr BRUMBY — The Harvey report is the first major review of the state business taxation system since 1983 — the first one in 18 years.

Ms Asher interjected.

Mr BRUMBY — I am happy to let the house know your views on land tax if you would like me to.

Ms Asher interjected.

Mr BRUMBY — The opposition has been circulating a fair amount of material about land tax and how the Harvey report makes certain recommendations about land tax, so I did some research on the views of the former Minister for Small Business on the issue of land tax. This is very instructive about the public and the people who are getting — —

Mr Ryan — On a point of order on the question of relevance, Mr Speaker, as I heard it the question related to an expenditure of $14 000 for the promotion of a report.

An honourable member interjected.

Mr Ryan — I understand the figure was $14 000.

The SPEAKER — Order! The Leader of the National Party, on his point of order.

Mr Ryan — Mr Speaker, I ask you to bring the minister back to the question and the relevant issues, as opposed to his debating the question.

The SPEAKER — Order! I do not uphold the point of order. However, I ask the house to remain silent so that the Treasurer's answer can be heard. I remind the Treasurer of his obligation to answer the question.

Mr BRUMBY — The question was about the Harvey report and, implicitly, about some of the report's recommendations on land tax. I did some research on the former Minister for Small Business and land tax. In 1997 the then minister was asked whether the Kennett government's:

> … changes to land tax mean that some small businesses will pay land tax for the first time because the tax threshold will be reduced from $200 000 to $85 000.

That brought 77 000 new land tax payers into the system. The then Minister for Small Business said:

> I am delighted to point out — —

Mr McArthur — On a point of order, Mr Speaker, I know the Treasurer is floundering, but I ask you to remind him of the rules of the house about debating the question.

The SPEAKER — Order! I do not uphold the point of order. The obligation of the Chair is to remind the Treasurer to be relevant in responding to the question; the Chair cannot direct him as to the way he must answer it. However, I remind the Treasurer that it is not proper to debate the question, and I ask him to come back to answering it.

Mr BRUMBY — I am bringing the answer to a close. In response to the fact that 77 000 new Victorians paid land tax for the first time, the then Minister for Small Business is reported as saying:

> I am delighted to point out to Mr Walpole that these land tax changes have a particular impact in favour of small business.

When householders get this sort of rubbish circulated by the Liberal Party, they should ask why it is that the deputy leader — —

Mr McArthur — On a point of order, Mr Speaker, you have already advised the Treasurer of the requirement not to debate the question. He is now clearly flouting your ruling.

The SPEAKER — Order! I uphold the point of order and ask the Treasurer to come back to answering the question.

Mr BRUMBY — I am happy to do that. The answer to the honourable member's question is that the $14 775 is disclosed on the web site of the Department of Treasury and Finance.

Drugs: family support

Ms OVERINGTON (Ballarat West) — I refer the Minister for Health to the important work the government is doing to help families deal with the impact of drug use on their lives. Will the minister inform the house of the latest action the government is taking to provide this critical support?

Mr THWAITES (Minister for Health) — I am pleased to advise that the government has established two major initiatives to help families cope with the tragedy of drug abuse. Today the government launched the Family Drug Helpline, which will provide telephone information, advice and counselling services for families with drug problems. This major initiative being implemented by the Bracks government will be a first in Australia by providing at the other end of the telephone line both experts in drug and alcohol issues and volunteers who have been through family drug-related tragedies themselves. I am pleased to announce — —

Mrs Peulich interjected.

The SPEAKER — Order! The honourable member for Bentleigh!

Mr THWAITES — I am pleased to announce that the service will operate for 24 hours per day.

Opposition members interjecting.

Mr THWAITES — I am glad to see the opposition is maintaining its bipartisan view in relation to drugs.

Mr Wilson interjected.

The SPEAKER — Order! The honourable member for Bennettswood!

Opposition members interjecting.

Mr THWAITES — Members opposite are saying, 'It's our idea'. Thank you. We all agree that what we are doing is a good thing. Well done to everyone!

However, let us acknowledge in particular the 35 volunteers who have already signed up with the service and who, from tonight, will be answering the telephone and helping the many families that are going through crises.

It was moving to hear Brenda Irwin say at the launch today that parents who have been through a drug or alcohol crisis with a family member will now be able to put something back into the community. That is what this initiative is all about. Drug and alcohol abuse is a community problem and cannot be solved by government alone.

Opposition members interjecting.

Mr THWAITES — Opposition members were invited to the launch, which was held in Queen's Hall and was open to everyone — but they were all at a party meeting doing I don't know what.

Dr Napthine interjected.

The SPEAKER — Order! The Deputy Leader of the Opposition!

Mr THWAITES — The other important part of the program is the Family Drug Help service, which aims to assist by setting up self-help groups for families affected by drug abuse. The aim is to establish the self-help groups in nine regions across the state to provide services that include strengthening links between families and drug treatment services, representing the views of families of drug users and liaising with the various treatment agencies.

The initiatives are part of this government's $77-million boost for drug programs, which I would have thought all honourable members would support. Family Drug Help is a positive program that will link families with drug treatment services and help with rehabilitation and prevention. I commend all those involved.

Human Services: consultancies

Dr NAPTHINE (Leader of the Opposition) — I ask the Minister for Health whether it is a fact that a $45 000 consultancy was awarded by his department to Bracks Labor mate, Mr Neil Pope, without its adhering to department policy that purchases between $15 000 and $100 000 require three written quotes.

Mr THWAITES (Minister for Health) — I thank the current Leader of the Opposition for that devastating question. All proper processes were followed in this case, as in all cases by this government.

On the point of consultancies, here we have an opposition that, when in government, wasted millions of dollars on consultancies. Since the Labor Party came to government the Department of Human Services has reduced the level of consultancies by more than 10 per cent across the board and has gone through the process.

The person concerned is highly skilled and is used by businesses around the state. Perhaps the Leader of the Opposition ought to concentrate on his own back.

Schools: funding

Ms DUNCAN (Gisborne) — I refer the Minister for Education to the substantial resources the government has invested in Victorian schools, and I ask: will the minister inform the house of the impact of this investment in terms of a better education for Victorian children?

Ms DELAHUNTY (Minister for Education) — I thank the honourable member for Gisborne for her question and her continuing interest in the opportunities for students.

When the Bracks government came to power Victoria was spending less per pupil than any other state or territory in the nation. When it came to education, the Kennett government was the Scrooge of the nation.

Since this government has come to power it has invested an extra $600 million in education, but the investment has been carefully targeted to the greatest need. We have added an extra 2000 new staff and we now have the best teacher–pupil ratio since coming to office. The investment is now starting to pay dividends.

Let us look at the investment in those crucial early learning years. This government has invested over $160 million over four years and has put on an extra 800 primary school teachers to start to bring down those ballooning class sizes it inherited. There has been a significant drop in the class sizes across the state. The projection for the year 2001 is now 22.4 students per class. When we came to government less than 18 months ago it was an average of 25.1.

This is not just about delivering on a political pledge — we said we would bring down the class sizes, and we are on track with the four-year plan — it is about improving student results. That is what parents want to hear.

Today I am pleased to announce to the house that in the past 12 months the year 3 reading levels have improved. We are now seeing more year 3 students reading at the national benchmark. The level has gone up from 86.2 per cent to 89 per cent. That is a significant increase, and that is what parents want to hear.

The class sizes are also coming down in years 3 to 6. We are now seeing an average of 25.6 — down from 26.2 — and an improvement in the year 5 reading levels. The number of year 5 students who are reading at or above the national benchmark has improved from 88 per cent — when we came to government — to 92 per cent this year.

Year 12 retention rates are also improving. We inherited an appalling situation, with young people not staying in school to complete their education or training. Already with our pathways and middle years investments we have seen retention rates — that is, those of young people staying on at school to complete their education — improve from 69.8 per cent in 1999 to 71.1 per cent in 2000.

This is value-added education. We are seeing a need, we are targeting the investment, and parents and students are now starting to see the dividends of that targeted investment and are voting with their feet. We have seen a restoration of confidence in public education, with an improvement in enrolments this year of 5000. The Bracks government is getting on with the job in education.

Human Services: consultancies

Dr NAPTHINE (Leader of the Opposition) — I again refer the Minister for Health to the $45 000 consultancy contract awarded by the Labor government to Neil Pope without proper process. Will the minister inform the house how many other consultancies have been awarded in his department without the proper process of obtaining three written quotations?

Mr THWAITES (Minister for Health) — The Leader of the Opposition is trying again, so perhaps I will inform him again. Under the previous government — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Mordialloc!

Mr THWAITES — They do not like to hear this! In the past year — —

Honourable members interjecting.

The SPEAKER — Order! I ask the Leader of the Opposition to cease interjecting. He has asked his

question. I ask the honourable member for Melton not to interject in that manner.

Mr THWAITES — Unlike the previous government, this government follows proper process. The opposition is so proper now, but the Leader of the Opposition sat at the cabinet table when a decision was made, for example, to award a $23 million contract, without advertising or tender, to Troughton, Swier and Associates. Today he is complaining today about amounts of $45 000, $13 000 and $14 000.

Mr Honeywood interjected.

Mr THWAITES — The honourable member for Warrandyte is yelling out! Was he involved in the awarding of the half a million dollar consultancies contract to Kevin Donnelly without a single tender?

Unlike the other side and the Leader of the Opposition this government does follow proper process.

Opposition members interjecting.

Mr THWAITES — Opposition members are laughing but the fact is that this government does follow proper process. My department has reduced the amount spent on consultancies considerably. It has a lot to be proud of. The Leader of the Opposition has very little to be proud of today, which is obviously why he has not wanted to ask the Premier a question. Where do his ratings stand next to those of the Premier? The answer is 10 per cent to 69 per cent. I would stick to your — —

Honourable members interjecting.

The SPEAKER — Order! Has the Deputy Premier concluded his answer?

Mr THWAITES — Yes, Mr Speaker.

Beaches: Port Phillip Bay

Ms LINDELL (Carrum) — Will the Minister for Environment and Conservation inform the house of the latest action the government is taking to protect Melbourne's beaches?

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable member for her question. Given the beautiful beaches in her electorate, it is an understandable one. I was expecting the question from the honourable member for Sandringham because he has been busy in the Sunday papers complaining about the lack of funding. I thought he might have been interested in facts, so I will give some to the house.

Honourable members interjecting.

The SPEAKER — Order! I ask the honourable members for Pakenham, Bentleigh and Berwick to cease interjecting. I cannot allow question time to continue with the current level of interjection.

Ms GARBUTT — I will place a few facts before the house to assist the honourable member for Sandringham. Under a $1.1 million program, the government has spent nearly half a million dollars so far on renourishment and risk management works on beaches. It might jog the honourable member's memory if I run through a few figures.

The government has spent $15 000 to have sand transferred to the southern end of Brighton beach.

Ms Asher interjected.

Ms GARBUTT — The Deputy Leader of the Liberal Party knows about it; it is funny that the honourable member for Sandringham does not.

The government has also spent $20 000 on maintenance works to the rock seawall west of Portsea Pier in the electorate of the honourable member for Dromana. Perhaps the honourable member needs to talk to the honourable member for Sandringham. He could also mention the $20 000 worth of works at Camerons Bight bike path at Blairgowrie beach.

Perhaps the honourable member for Sandringham could talk to his colleague the honourable member for Mornington about the $15 000 spent on stabilising a cliff at Tanti Creek in Mornington. The honourable member for Mornington could also tell him about the $30 000 spent to abate erosion at Marina Cove in Mornington.

To make a long story a bit shorter, I mention two final projects that might jog the memory of the honourable member for Sandringham. The government has spent $150 000 repairing the seawall damage at Black Rock, in the honourable member's own electorate. In case he has missed that one, I also mention the $25 000 — —

Mr Thompson interjected.

Ms GARBUTT — Perhaps this is an apology!

Mr Thompson — On a point of order, Mr Speaker, I was wondering whether the minister could clarify whether the Black Rock seawall works are the ones carried out before Christmas, which have since collapsed, or the new works that are being undertaken.

The SPEAKER — Order! I do not uphold the point of order. The honourable member cannot ask a further question or make a statement.

Ms GARBUTT — To jog the honourable member's memory further, I mention the $25 000 allocated for a geotechnical study of Red Bluff, also in his electorate. The honourable member for Sandringham has ignored $175 000 worth of works in his own electorate. I am surprised at that, and I would be happy to provide further details to him.

Unlike the approach of the previous government, this government's approach has been to plan works and set in place a framework to prioritise them. Part of the problem under the previous government was that it had absolutely no strategy. It carved up the Port of Melbourne Authority in 1995 and simply handed over all the beaches, all the assets and all the problems with no funding or strategic plan.

The first proposal, to dump it on local councils, was resisted and some funding appeared; however, it did nothing at all to ensure maintenance and a long-term framework.

Mr Rowe — On a point of order, Mr Speaker, apart from the fact that she did not mention Cranbourne, the minister has been reading for some time from a prepared speech. I ask that the minister make all such documents available to the house.

The SPEAKER — Order! Was the minister quoting from a document?

Ms GARBUTT — Honourable Speaker, I was referring to my notes, both handwritten and typed.

The SPEAKER — Order! I do not uphold the point of order.

Ms GARBUTT — Finally, I advise the house that last Friday I announced the launch of a $100 000 study, the Beaches at Risk study, which will identify beaches around Port Phillip Bay that are at risk of erosion. It will establish a planning framework for 15 years and prioritise the works required. It demonstrates the government's clear commitment to improving Victoria's beaches.

PETITIONS

The Clerk — I have received the following petitions for presentation to Parliament:

Warburton Highway: traffic lights

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

The humble petition of the undersigned citizens of the state of Victoria sheweth that the citizens of Woori Yallock request the government and the Minister for Transport urgently [to] provide funding for traffic lights at the intersection of Warburton Highway and the Koo Wee Rup–Healesville road, Woori Yallock. The citizens of Woori Yallock urge the Minister for Transport to provide pedestrian lights on Healesville–Koo Wee Rup road at the Woori Yallock shopping centre.

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

By Mrs FYFFE (Evelyn) (398 signatures)

Irabina Early Intervention Program

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

The humble petition of Irabina Parents Action Group and supporters sheweth [the] Autism Services Irabina Early Intervention Program, which provides services for families and their children who are diagnosed with autism spectrum disorder.

Lack of funding is causing chronic waiting list problems and denying children access to these services.

Your petitioners therefore pray that immediate emergency funding will be provided by the government to address the waiting list problem at [the] Autism Services Irabina Early Intervention Program and increased recurrent funding for servicing children within the program.

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

By Mrs ELLIOTT (Mooroolbark) (2057 signatures)

Corpus Christi

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

The humble petition of undersigned citizens of Victoria showeth that we oppose the play *Corpus Christi* because it is blasphemy against Jesus Christ. Your petitioners therefore pray that all public funding be removed from the Midsumma Festival of which *Corpus Christi* is a part.

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

By Mr LEIGH (Mordialloc) (5685 signatures)

Laid on table.

Ordered that petition presented by honourable member for Evelyn be considered next day on motion of Mrs FYFFE (Evelyn).

Ordered that petition presented by honourable member for Mooroolbark be considered next day on motion of Mrs ELLIOTT (Mooroolbark).

ROAD SAFETY COMMITTEE

Vehicle roadworthiness

Mr LANGDON (Ivanhoe) presented report, together with appendices and minutes of evidence.

Laid on table.

Ordered that report and appendices be printed.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 2

Ms GILLETT (Werribee) presented *Alert Digest* No. 2 of 2001 on:

Constitution (Supreme Court) Bill
Health Records Bill
Liquor Control Reform (Amendment) Bill
National Parks (Amendment) Bill
Prostitution Control (Proscribed Brothels) Bill
Transport Accident (Amendment) Bill
Water (Amendment) Bill

together with appendices.

Laid on table.

Ordered to be printed.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17D a lease by the Yarra Bend Park Trust

Drugs, Poisons and Controlled Substances Act 1981 — Documents pursuant to s 12H — Poisons Code:

Standard for the Uniform Scheduling of Drugs and Poisons No 15 Amendment No 3

Notice regarding the amendment, commencement and availability of the Poisons Code

Financial Management Act 1994 — Budget Sector — Quarterly Financial Report for the period ended 31 December 2000

Financial Management Act 1994 — Reports from the Minister for Health that he had received the 1999–2000 annual reports of the:

Chiropractors Registration Board of Victoria

Dental Board of Victoria

Interpretation of Legislation Act 1984:

Notice under s 32(4)(a)(iii) in relation to Amendment No 8 of the Building Code of Australia 1996

Murray-Darling Basin Commission — Report for the year 1999–2000

National Environment Protection Council — Report for the year 1999–2000

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

Alpine Resorts Planning Scheme — No C4

Ararat Planning Scheme — No C1

Ballarat Planning Scheme — Nos C7, C38

Banyule Planning Scheme — No C17

Bayside Planning Scheme — No C12

Casey Planning Scheme — No C31

Darebin Planning Scheme — No C23

Frankston Planning Scheme — Nos C6, C10

Glen Eira Planning Scheme — No C6

Golden Plains Planning Scheme — No C6

Greater Geelong Planning Scheme — Nos C2, C6, C24

Indigo Planning Scheme — Nos C5 Pt 2, C9

Manningham Planning Scheme — No C2

Maroondah Planning Scheme — No C10

Monash Planning Scheme — No C8

Moreland Planning Scheme — No C9

Mornington Peninsula Planning Scheme — No C50

Northern Grampians Planning Scheme — No C1

Whitehorse Planning Scheme No C11

Wodonga Planning Scheme — Nos C3, C4

Wyndham Planning Scheme — No C27

Statutory Rules under the following Acts:

Building Act 1993 — SR Nos 14, 15, 16

County Court Act 1958 — SR No 17

Health Act 1958 — SR No 13

Pathology Services Accreditation Act 1984 — SR Nos 11, 12

Tobacco Act 1987 — SR No 19

Subordinate Legislation Act 1994 — SR No 18

Subordinate Legislation Act 1994:

Ministers' exception certificates in relation to Statutory Rule Nos 17, 18

Ministers' exemption certificates in relation to Statutory Rule Nos 14, 19

Tattersall's — Financial Report for the year 1999–2000, together with an explanation for the delay in tabling

The following proclamations fixing operative dates were laid upon the Table by the Clerk pursuant to an Order of the House dated 3 November 1999:

Building (Legionella) Act 2000 — Section 9 and remaining provisions on 1 March 2001 (*Gazette G9*, 1 March 2001)

Children and Young Persons Act 1989 — Section 21(1) on 2 March 2001 (*Gazette G9*, 1 March 2001)

Children and Young Persons (Reciprocal Arrangements) Act 2000 — Remaining provisions except for s 7(4) on 2 March 2001 (*Gazette G9*, 1 March 2001)

Gambling Legislation (Miscellaneous Amendments) Act 2000 — Sections 4, 6, 7, 8, 44 and 45 on 1 March 2001 (*Gazette G9*, 1 March 2001)

Gaming No. 2 (Community Benefit) Act 2000 — Sections 21, 26, 28 and 29 on 1 March 2001 (*Gazette G9*, 1 March 2001)

Transport Accident (Amendment) Act 2000 — Section 12, ss 14(1), (2) and (4), and ss 16 and 30 on 1 March 2001 (*Gazette G9*, 1 March 2001)

University of Melbourne Land Act 2000 — Whole Act on 14 March 2001 (*Gazette G10*, 8 March 2001)

Victorian Curriculum and Assessment Authority Act 2000 — Provisions on 1 March 2001 (*Gazette G9*, 1 March 2001)

Victorian Qualifications Authority Act 2000 — Provisions (including the items in the schedules) on 1 March 2001 (*Gazette G9*, 1 March 2001).

APPROPRIATION MESSAGES

Messages read recommending appropriations for:

Constitution (Supreme Court) Bill
Water (Amendment) Bill.

CORPORATIONS (COMMONWEALTH POWERS) BILL

Introduction and first reading

Mr BRACKS (Premier), by leave, introduced a bill to refer certain matters relating to corporations and financial products and services to the Parliament of the Commonwealth for the purposes of section 51(xxxvii) of the Constitution of the Commonwealth, to amend section 85 of the Constitution Act 1975 and for other purposes.

Read first time.

JOINT SITTING OF PARLIAMENT

Drugs: education and prevention strategies

Mr BRACKS (Premier) — By leave, I move:

That so much of standing orders and sessional orders be suspended on Wednesday, 21 March 2001, so as to allow —

1. This house to invite Mr Neil Comrie, Dr David Penington, Dr Rob Moodie, Major David Brunt, Archbishop Pell, Professor Margaret Hamilton, Mr Andy Hamilton and Mr Peter Wearne to attend on the floor of the house on Wednesday, 21 March 2001, at 3.00 p.m. and address the house on drug education and prevention and to remain on the floor, save in the event of a division, until the conclusion of the period allowed for questions.

2. Mr Neil Comrie and Dr David Penington to attend on the floor of the house and address the house on drug education and prevention for a maximum of 20 minutes each.

3. Dr Rob Moodie, Major David Brunt, Archbishop Pell, Professor Margaret Hamilton, Mr Andy Hamilton and Mr Peter Wearne to attend on the floor of the house and address the house on drug education and prevention for a maximum of 5 minutes each.

4. At the conclusion of all such addresses, members of the Legislative Assembly and members of the Legislative Council be permitted to address questions to Mr Comrie, Dr Penington and the other expert advisers for a maximum period of 30 minutes.

5. Following the conclusion of any such questions:

   (a) the members of the Legislative Council shall retire to their chamber; and

   (b) there shall be debate on the motion 'That this house takes note of the addresses of Mr Neil Comrie, Dr David Penington and the other expert advisers'.

6. The Speaker to put the question at 10.00 p.m. (or sooner if there be no further debate) and the time limits for each member's speech, with the exception of the lead speakers from the government, opposition and third party, shall be 10 minutes. No amendment to the motion to be accepted by the Speaker.

7. After such question has been resolved:

   (a) if the question was put at 10.00 p.m. the Speaker shall forthwith propose the question 'That the house do now adjourn' in accordance with sessional order 5(2)(b);

   (b) if the question was put prior to 10.00 p.m. the house shall proceed, in accordance with sessional orders, with government business as set down on the notice paper.

8. The lower public gallery on the opposition side of the house be deemed to be part of the Legislative Assembly chamber for the duration of the addresses and questions

to provide additional accommodation for members of the Legislative Council.

9. The Speaker of the Legislative Assembly shall chair the addresses, questions and debate, and the conduct of the proceedings shall be in accordance with the standing orders of the Legislative Assembly.

Motion agreed to.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I move:

That, pursuant to sessional order 6(3), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 22 March 2001:

Health Records Bill

Land (Further Revocation of Reservations) Bill

Environment Protection (Liveable Neighbourhoods) Bill

Forestry Rights (Amendment) Bill

In speaking briefly to the motion I point out that in addition to this legislative program another bill will be dealt with by leave because of its urgency. An agreement across the chamber will add that fifth bill to the list of bills the Parliament will debate this week. Because of that, there is no need for it to be contained in this motion.

By way of explanation I may say that of course the address to the Parliament on Wednesday afternoon and the following debate on drugs will take extra time that was previously set aside for the legislative program. Because of those two additional facts the government is proposing to have only four bills on the government business program.

However, if debate on all those bills were completed, it would be the government's intention to proceed with another bill. More than likely it would be the Professional Boxing and Martial Arts Bill, subject to the available time that may be remaining.

Mr McARTHUR (Monbulk) — The Liberal Party will not be seeking to amend or oppose the government business program. Since about Friday of last week there has been considerable discussion on the program between the office of the Leader of the House and myself and members of the opposition. It is worth noting that during that time a very large number of changes have been made to what the government proposed. At one stage the relationships legislation was in and then it was out; at another stage other legislation was in and now it is out; then, lo and behold, late yesterday afternoon the shadow Attorney-General was first advised of the need for the urgent bill to be included.

Although the Liberal Party is willing to assist the government with the passage of this urgent legislation, I make the point that it would have appreciated more advance notice because it is complex legislation. It deals with a High Court decision and is required for the good management of both state and federal offices and programs now and in the future. Therefore it would have been sensible for government members to have made this information available to the shadow Attorney-General some time before close of business yesterday, preferably a week or two earlier.

Before government members say, 'Hang on, we didn't know about this any earlier', I point out that the New South Wales Parliament has also been asked by the Prime Minister's office to pass an urgent bill to deal with the same problem. The New South Wales Parliament dealt with the legislation two weeks ago. It is highly unlikely that the federal government made a request to the New South Wales government at a different time from the request it made to the Victorian government. Therefore I believe it is likely that the government has been in receipt of this request for several weeks but has simply not bothered to notify the opposition or to brief the shadow Attorney-General on the matter.

That is a pity, given that the government was and is seeking bipartisan support on the issue and is hoping for the support of the Liberal Party to have the legislation dealt with as a matter of urgency. The shadow Attorney-General has been busy on a range of issues in the past few weeks, and the only time it will be possible for the opposition's bills committee even to read the legislation, given that it did not arrive until late yesterday, is this afternoon. Nevertheless Liberal Party members anticipate being able to assist the government in dealing with the matter.

I ask the Leader of the House and the Premier in future circumstances such as these to urge their ministers to ensure that the appropriate opposition shadow ministers are properly advised and briefed so that this sort of hiccup does not arise.

Mr Batchelor interjected.

Mr McARTHUR — I welcome the interjection by the Leader of the House saying that that will be done in future. I appreciate that assurance, and I am sure all

ministers will take note of that statement from the Leader of the House and that the Liberal Party will receive that courtesy in future. Thank you very much, Minister — it is very sensible of you!

As the Leader of the House has mentioned, all of the time after question time tomorrow is likely to be taken up with discussion of the proposals for dealing with drugs to be put by the former Chief Commissioner of Police, Mr Comrie. The Liberal Party is happy to proceed in the spirit of bipartisan cooperation and looks forward to joining with government members in discussion on this issue. We hope there will be positive and real outcomes from the discussions and that they provide a genuine benefit for the community in dealing with the drug scourge.

I believe the legislation can be dealt with in the required time, and I am happy to provide opposition support to the government to enable it to manage the business program for the week and to deal with the issues that will be before the house.

Mr MAUGHAN (Rodney) — The National Party is happy to support the government's business program. I thank the Leader of the House for keeping National Party members informed on discussions. Like the honourable member for Monbulk, I also express concern that an important piece of legislation that will be dealt with this week is coming before the house today. The Leader of the National Party will speak on the legislation, but he has been given very little time to prepare. As the Leader of the House has pointed out, it is important legislation, and I believe the government had access to it much earlier than this week.

On behalf of the National Party I am happy to support the business program. It will be an interesting week. The drugs debate will take up a significant amount of the time of the house. It will be an important discussion on probably the most important topic currently before the community, and the National Party is more than happy to make time available for that discussion.

However, eight people addressing the house on any particular issue sets a new precedent. The National Party hopes that that does not happen as a matter of course. It is important that it be done on special occasions — and this is one of those times — but we must be careful that it is not done so frequently that it becomes almost routine.

The National Party supports the government business program but expresses concern that insufficient time has been given to allow it to prepare for the debate on this important legislation concerning the commonwealth and all other states. I reiterate the comments of the honourable member for Monbulk that New South Wales has already passed the legislation. Obviously it has known about it for some time, as have some of the other states. That poses the question: why did Victoria not know about it — and if it did, why was the information not given to the opposition parties?

Motion agreed to.

MEMBERS STATEMENTS

Prisons: witness protection

Mr WELLS (Wantirna) — I refer to a serious issue involving an apparent lack of protection for prisoners who act as witnesses against fellow prisoners accused of criminal offences. The case in question demonstrates the inability of the Minister for Corrections to resolve simple problems.

Recently a County Court trial collapsed when a prisoner, while acting as a prosecution chief witness, was intimidated by the accused, a fellow prisoner, when travelling to court. How did that happen? Both the witness and the accused were transported to court in the same van with only a partition separating them. On arrival, the witness refused to testify against the accused, and the court trial subsequently collapsed.

The incident occurred despite the Office of Public Prosecutions having given two separate warnings that the prisoners should remain separated. Worse still, the two prisoners were transported back to Port Phillip Prison, where they were kept in the same area. The witness was allegedly assaulted by the accused when they were left alone in the prison gymnasium.

Through his failure to ensure that prisoners who give evidence against other prisoners are adequately protected, real questions are raised as to the competency of the Minister for Corrections. This serious breach of witness protection procedures in the prison system should never have happened. Not only was the welfare of the prisoner at risk, but the judicial system was undermined. A criminal trial was aborted at a cost of many thousands of dollars.

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

Eritrean Festival

Mr LANGUILLER (Sunshine) — I inform the house that I represented Premier Bracks at the celebration of the first Eritrean Festival, held in

Melbourne. The festival highlighted the growing involvement of the Eritrean community in the multicultural life of Victoria and Australia. For many years the people of Eritrea endured an ongoing conflict, which resulted in the shattering of thousands of lives and which continues to be the reason for their displacement.

Although issues arising from international events are the responsibility of the commonwealth government, Victoria has its own responsibility to ethnic minority groups in meeting their essential settlement and welfare needs as they arrive. The Bracks Labor government is committed to meeting those needs. On behalf of the Premier I had the honour to welcome the Eritrean ambassador, Mr Tewolde Woldemikael, and a special guest — the Eritrean federal Minister for Health, Dr Saleh Meky.

The success of the festival was an important step in the direction of national unity and in promoting greater cooperation among the diverse ethnic minorities that constitute Australia. At the festival it was evident that when Australia is enhanced as a progressive multicultural society it grows stronger as a nation.

On behalf of Premier Bracks I extended congratulations to Dr Meky, the festival organisers and the many hundreds of Eritreans who attended the festival. I reassured them that religious and racial tolerance is a fundamental premise of Australia's multicultural and democratic society.

Cohuna Retirement Village

Mr MAUGHAN (Rodney) — The *Herald Sun* of 3 March contained a grossly inaccurate and misleading article by Fay Burstin entitled 'Raid after dim sims for a year'. The essence of the story was that the Cohuna Retirement Village had been raided by federal officials investigating claims that residents were malnourished and hungry after being fed dim sims and soup for 365 days in a row.

I visited the facility five days after the *Herald Sun* article and can report to the house that the story was both mischievous and misleading. There was no raid. Departmental officers had been invited to visit at any time. Dim sims were not served 365 days in a row but had been on the menu once in the previous 13 weeks.

Residents are offered a choice of two main courses at both lunch and dinner, their special needs are catered for and menus are changed every six weeks. I can personally attest to the high standard of care, the high level of satisfaction of the residents and the very strong community involvement in making Cohuna Retirement Village among the very best in Victoria.

The article was poorly researched, sensationalised, inaccurate and inflammatory, and does no credit to the *Herald Sun* or to the journalist concerned.

Aviation: hazard detection

Mr ROBINSON (Mitcham) — I place on the record my congratulations and I am sure the congratulations of all members of the house to the Melbourne company, Integrated Avionic Systems, and the CSIRO's Aspendale research staff for the development of the world's first airborne hazard detection technology system, which was unveiled at this year's Australian International Airshow at Avalon. This system detects volcanic ash, which is invisible to the naked eye, at very high altitudes. Volcanic ash is extremely damaging to aircraft at that altitude. Ten seconds exposure to ash can strip coatings from turbine fans and force engines to cut out. Over the past 30 years it is estimated that 90 jet aircraft have encountered volcanic ash. It is further estimated that Boeing 747s alone have suffered damage totalling some $80 million in that time.

The launch of the project was featured in last week's *New Scientist* magazine. An article which focuses international attention on this state and our scientific research efforts states:

> The detector has been a long time coming: the idea was hatched a decade ago … but it has only just become a reality. Costing A$100 000 … and no bigger than a thermos flask, CSIRO's detector should give pilots up to 10 minutes warning of an ash cloud — more than enough to take evasive action.

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

Millgrove: river camp

Mrs FYFFE (Evelyn) — I advise the house of an intolerable situation facing the residents of Millgrove. Millgrove is a very beautiful village on the banks of the Yarra River on the road to Warburton. For six long weeks residents have had to put up with the awful conditions created by a couple who, with their dogs, have camped on the banks of the river.

Although they are camped on Parks Victoria land the department has been completely hopeless in performing its duties. For six weeks Parks Victoria has known about this. The minister has known about it for five weeks because I sent a handwritten note to her senior adviser, yet there is total abrogation of their duties. The

people of Millgrove have had to put up with the rubbish, the smell, the noise, and the chopping down of trees. In every other part of the Shire of Yarra Ranges you must get a permit to chop down a tree. It can often take eight months before approval is given. If I were to pitch a tent anywhere in the state forest around Warburton without a permit or in a designated area, I would be moved on within 24 hours. If this had happened on the banks of the Yarra at Richmond or at Southbank, they would not have been allowed to stay there, but the people of Millgrove have had to put up with the smell, the noise, the pollution of the river banks and the river and the continuous accumulation of rubbish because the minister will not show leadership or make a decision. Her department will not act.

The couple has chosen to live in this way. They have built a humpy. They have all their tattered possessions there and they say they are not moving. It is an appalling situation and it must be dealt with now.

Geelong: gaming venue

Mr TREZISE (Geelong) — I raise an issue of great concern and relevance to the people of the Breakwater–Whittington area in the electorate of Geelong. Late last year a number of residents raised with me their concerns relating to a proposed gaming complex to be built at the Geelong racecourse. The residents have expressed concern that there are already two major complexes within 500 metres of the Geelong racecourse.

Due to these understandable concerns I embarked on a postal survey of nearly 1000 residents in the immediate area of the racecourse. The very simple question asked was, 'Do you support a gaming complex at the Geelong racecourse?'. Of the 1000 people who were surveyed, 170, or 19 per cent, replied. Of those, 24, or 14 per cent, were for the complex; and 146, or 86 per cent, were against it.

The overwhelming majority of the views were summed up by the following comment, which I quote: 'Having a third large pokie complex in Breakwater would not be good for the social and economic wellbeing of the area'.

An overwhelming majority of people in the area do not support a third complex in their neighbourhood. Therefore I will be using the information collected through the survey as input when the relevant authorities ask for public consultation if, and when, it is proposed that the complex go ahead.

Port Fairy Folk Festival

Mr VOGELS (Warrnambool) — Once again, and I quote directly from an article in the Warrnambool *Standard* of 17 March:

> The Port Fairy Folk Festival has confirmed its status as the no. 1 festival in south-west Victoria and as one of the top events on Australia's musical calendar.

This year three of my parliamentary colleagues came along to the Port Fairy Folk Festival — namely, the Honourable Bill Forwood, the honourable member for Evelyn, Christine Fyffe, and the honourable member for Frankston, Andrea McCall. It was good to see Christine do a little bit of busking while she was there.

It is conservatively estimated that the festival brings into the community some $30 million, most of which is spread around very good causes including schools and community centres.

Members of the Yambuk community also get together for the festival. They erect all the marquees on the day and later remove them, for which they receive a tidy sum of money that is distributed in the Yambuk community.

I return to quote from the *Standard*:

> The folkie has become an institution during the past 25 years and its future looks bright.

I congratulate the organisation committee for putting together this wonderful event every year.

Schools: Ballarat West

Ms OVERINGTON (Ballarat West) — I wish to place on record my congratulations to the schools in the electorate of Ballarat West, but before I do that I would like to comment on the statement of the honourable member for Warrnambool concerning the Port Fairy Folk Festival. Indeed, that is a fine festival, but I remind honourable members that the Ballarat Begonia Festival was held during the preceding 10 days and concluded on the same weekend. Of course, the Begonia festival is Victoria and Australia's premier festival.

Over the past few weeks I have had the privilege of attending a number of primary schools in my electorate to present leadership badges. The badges were presented to school captains, school house captains and student school council members. The schools I visited included Black Hill Primary School, Forest Street Primary School and Pleasant Street Primary School. This is the second year that I have had the privilege of attending the presentation. It was great to see all the

young children there. One of the things that impressed me was the processes followed to elect school captains, house captains and the student school council members — —

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

PCs for Kids

Mr PATERSON (South Barwon) — The Labor government has once again turned its back on regional Victoria. PCs for Kids is a charitable organisation in Geelong that refurbishes computers for disadvantaged children. It also supports a Bairnsdale group undertaking a similar project, Kids on Line, launched recently by the Premier.

At the launch Colin and Terresa Bayes of PCs for Kids were delighted that the Premier indicated his support for their project. However, last week they were shocked to learn that they had been shafted — that is their word — by this Labor government, with funding going to a Melbourne-based organisation, The Info Xchange.

A successful, regionally based, not-for-profit organisation, backed by Geelong Rotary, the Lions Club and many others has been deserted by the government, which pretends to support provincial Victoria. The truth, of course, is very different. It could not care less.

PCs for Kids was not even given a chance to apply for funding of more than $250 000. It has more than 30 000 disadvantaged children waiting for help, and it saddens me and should sadden all members of this house to see them being treated in this heartless way by the Bracks Labor government.

Zonta Club

Ms DUNCAN (Gisborne) — On International Women's Day I had the honour of attending the Zonta Club of Kyneton's annual International Women's Day dinner, which 50 to 60 women attended. The Minister for Aged Care, Bronwyn Pike, spoke to us on that evening and emphasised the positive ageing program currently supported by the government. It was an appropriate theme for Senior Citizens Week because it fits in with this week's activities.

I thank the Zonta Club of Kyneton for its continued support and encouragement of women, the fantastic services it provides and the encouragement and support the club gives to the community, and the resulting building of the community. I wish all senior citizens in the electorate of Gisborne and members of the Zonta Club of Kyneton a happy Senior Citizens Week and hope they will enjoy the many activities that are planned for the week, just as there were many activities that I attended on International Women's Day.

JOINT SITTING OF PARLIAMENT

Drugs: education and prevention strategies

Mr BRACKS (Premier) — I move:

> That this house invites members of the Legislative Council to join members of the Legislative Assembly in session following question time on the next day of sitting to hear an address by Mr Neil Comrie and other experts in the drug field outlining their proposals for a drug education and prevention program to protect Victoria's future generations from the drug scourge and to discuss proposals for a bipartisan program to deliver a better, safer drug education, prevention and diversion strategy.

Dr NAPTHINE (Leader of the Opposition) — I welcome the opportunity to second the motion and for both houses to hear from Mr Comrie and other expert speakers on drug education. I trust this debate will provide the house with a real opportunity to make some positive and significant progress on the key imperative of helping young people to be better informed and educated on drug issues and better able to say no to drugs as they continue through their adolescent years.

I congratulate those who assisted the Premier in drafting a very high quality and well written motion.

Mr MAUGHAN (Rodney) — The National Party supports the motion. As I said earlier, it is important that Parliament is being used to discuss this vital issue in a bipartisan way, and I hope as a result of this we will get a bipartisan decision.

I do not think the process has been helped by the government releasing comments on initiatives for drug reform. That could well have been left until after the joint sitting and after honourable members have had the opportunity to consider some of the points made at the joint sitting rather than before, which in some way is pre-empting what may come out of tomorrow's discussions. Nonetheless, I look forward to the joint sitting tomorrow and to the very important information that will be provided to honourable members of both houses and the community on the scourge of the nation — the explosion in the use of illicit drugs in the community.

Motion agreed to.

Ordered that message be sent to Council acquainting them with resolution.

The SPEAKER — Order! Before calling the next item of business I call the honourable member for Preston on a point of order.

Mr Leighton — Mr Speaker, my point of order relates to the sitting of a parliamentary subcommittee on Thursday. Following the adoption of the government business program, it is clear that the house will be sitting this Thursday. In fact that information was publicly available, and that has been the expectation for some time.

I refer you to a motion moved by the Minister for Transport and agreed to by the house on 29 February 2000 entitled 'Committee sittings'. The first part of the motion says:

> That leave be granted to:
>
> 1. the House, Library, and Printing committees to sit within the Parliament buildings during the sittings of either house of the Parliament, but not while either house is actually sitting.

That enabled the House Committee to meet on sitting days, which it was previously precluded from doing, but only while neither house was in session, which in practice meant that the House Committee could meet at lunchtimes.

Mr Speaker, as the chair of the House Committee you would be aware that it has frequently met during lunchtimes, as is fit and proper. However, the information technology subcommittee, which was established by the House Committee but which in my view is dysfunctional, has met far less frequently than it should have — and unfortunately on a number of occasions it has met while one or both houses have been sitting.

After a gap in meetings of four months members have received notification that the IT subcommittee is to sit between 11.00 a.m. and 12 midday this Thursday.

I ask you, firstly, to give a ruling on whether, in light of this motion, the same requirements apply to a subcommittee as apply to a full committee — in other words, that the motion would preclude the IT subcommittee from meeting at that time, when this house will be in session.

If you cannot rule accordingly, I ask you in your capacity as chair of the House Committee to take the appropriate action to have a subcommittee of a parliamentary committee under your control meet at another time.

It is a gross insult not only to this house but also to those members of the subcommittee who would wish to participate fully but who may be constrained from so doing because the house is sitting at that time.

Mr McArthur — On the point of order, Mr Speaker, the honourable member did not outline either to you or to the house whether he had attempted to deal with this matter within the confines of the House Committee. It may well be that the problem he is complaining of — if indeed it is a problem — can be dealt with by the House Committee itself. Perhaps that is the first recourse the honourable member could seek if he has been unable to resolve it satisfactorily within the subcommittee.

The SPEAKER — Order! In raising his point of order the honourable member for Preston referred to a motion of 29 February 2000, which set up the committee structure for this 54th Parliament.

He questioned whether meetings of the IT subcommittee of the House Committee have been properly conducted and whether Thursday's scheduled meeting is appropriately scheduled.

I indicate to the honourable member for Preston that the Chair will examine standing orders, as well as the motion appointing the committees, and report to the house further on this matter at a later stage.

However, I should note at this stage that every meeting of the House Committee has been held during lunchtime — between 1.00 p.m. and 2.00 p.m. — such meetings have been conducted in accordance with the rules. At the committee meetings a number of reports from informal IT subcommittee meetings have been brought to that committee for endorsement.

HEALTH RECORDS BILL

Second reading

Debate resumed from 23 November 2000; motion of Mr THWAITES (Minister for Health).

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the second reading of this bill requires to be passed by an absolute majority.

Mr DOYLE (Malvern) — In dealing with the Health Records Bill today we are dealing with a difficult and sometimes vexing area, not only of the law but also of legislation. Under present Australian

common law, ownership of any document vests in the creator of that document. For many years that has been a vexing and sometimes contentious area concerning who owns medical files and records, what use should be made of them and what control should be exercised over them.

The matter came to a head in 1995 when in its judgment in *Breen v. Williams* (1996) 186 CLR 71 the High Court made a definitive statement about the ownership of and access to medical records. I am glad to acknowledge that in my following comments I will not be quoting directly from but will certainly be referring passim to a publication by Freckelton and Petersen entitled *Controversies in Health Law*. The work was published in 1999 by the Federation Press and contains succinct and learned summation of *Breen v. Williams*. It is interesting that although ownership of documents was not contested in that case — it was not about ownership of the medical file — the High Court found that those records were the property of the doctor, both the physical documents and the intellectual property in them created by the doctor.

In deciding that vexed issue of ownership in 1995, the High Court looked at the commonwealth Copyright Act of 1968 and found that the statutory definition of a literary work was wide enough to capture the medical records and to define the doctor as the creator of that work. The rights decided on by the High Court included who had the right to deal with the documents, including who could refuse requests for access and copying. As honourable members can see, the legislation we are to deal with today has an immediate impact on what the High Court decided in 1995.

The High Court also considered access to those documents. Although ownership and access are different concepts, the access to and ownership of medical records must be interrelated because ownership brings certain legal rights and obligations that affect access. The court also had something to say about access to medical records generally. It ruled unanimously that under the common law a patient has no right to have access to documents in a medical file held by a medical practitioner in private practice. Honourable members will probably remember the case because it was quite a celebrated one and the facts are well known.

In the late 1970s the plaintiff consulted the defendant about breast implants with which she had had problems. They had been inserted one year before but by a different practitioner. The defendant performed an operation to compress the implants, and later I think a bilateral capsulotomy was also performed.

The plaintiff became involved in litigation against the manufacturer of the implants in the United States. She had the opportunity to join a global settlement offered by the manufacturer. To join that global settlement, the plaintiff had to file copies of her medical records to support her claim, so she sought access to the documents in the medical file held by the defendant. Again, it was not as simple as just refusing access. The defendant was prepared to grant access, as I recall, but only if the plaintiff released him from the threat of future litigation. The plaintiff refused to give that release and merely asserted a legal right to have access to the documents. There was no allegation of impropriety against the defendant. All that the plaintiff was asserting was the right of access to the defendant's medical file.

In claiming the existence of this right of access to a medical file, the plaintiff relied on four things — a proprietary right in the information; an implied term of the contract; a right arising as a result of the doctor-patient relationship; and perhaps of most interest to honourable members, an assertion of patients' general right to know about themselves.

The first claim was of a proprietary right in the information. The plaintiff was not claiming ownership of the documents but claiming property in the information and therefore a right to access the information or the documents containing it. The court disagreed with that. It found that the patient does not have any property in the information given to or acquired by a doctor in the course of or for the purpose of advising or treating a patient, that the doctor owns the documents prepared by him or her to assist in carrying out his or her professional duties, and that the duty of confidentiality owed to the patient does not give rise to any patient rights in the information. The legislation we will consider during this debate overturns that decision by the High Court.

The second ground on which the plaintiff relied was an implied term of contract. The plaintiff argued that a right to access records should be implied in the doctor-patient relationship. The court disagreed with that and relied on what were established legal principles regarding implying terms into contracts, which is a well-trodden area of the law. The court found that the doctor-patient relationship was contractual in nature but that the terms of the contract were to advise and treat and that a right to access medical records could not be implied into that contract because it was not necessary to give effect to the contract. Again, the legislation being debated today reverses that decision of the High Court.

The third ground was a right arising from the doctor-patient relationship where the plaintiff argued that the nature of that relationship was such that it gave rise to the patient's right to have access to medical records. To support that case the plaintiff relied on Canadian case law and the particular relationship between doctor and patient.

The court again did not uphold that ground. It held that there was no implied term in the doctor-patient contract that allowed patient access to medical records. The legislation will reverse that High Court decision.

Finally, and most interestingly because it is the one that in our hearts most of us would feel to be the case, there is the right to know. It was argued that an extension of the doctor's duty of care includes a duty to inform the patient. A movement in the law suggested that the patient had a general right to know — that is, a general interest in his or her own medical records that extended to a right. That would give the patient the right to access those records. The court rejected that as well and held that in Australia there was no general right to know.

I begin my general contribution with a reflection on that 1995 High Court case for the purposes of understanding that the legislation represents a reversal of the High Court's decision. I will explain why in some cases I believe the legislature is doing the right thing, but I will also evince some concerns with the way the government has gone about giving effect to its decision to reverse the 1995 decision in *Breen v. Williams*.

This is a very large and far-reaching bill. It contains about 137 clauses and amends no fewer than 22 acts of this Parliament, 10 of them health practitioner registration acts — the highest expression by which each profession is regulated through this Parliament by a board of registration. The bill's impact will be very far reaching.

Philosophically the bill attempts to reconcile two difficult concepts. The first is access to records and the second is protection of the privacy of health information because of its sensitivity. In my own heart I find support for both those worthy concepts. My difficulty lies in the execution the government has chosen through this bill. I will pick up some of those concerns in my contribution.

My first concern is the breadth of the definitions, in particular three that will form the heart of this legislation. The second-reading speech acknowledges that the legislation is extremely broad and talks about the scope of the bill over a number of pages. The second-reading speech has deliberately been cast as wide as possible. The definitions that give me trouble are the definitions of 'health information', 'health service' and 'health service provider'. My difficulty with the definitions is not in what they are, but in the fact that when they are read together the net that is cast by this legislation, the coverage implied and actuated by the bill, is so wide that it will cause grave confusion and in some cases distress in the wider community. I will go into that in some detail later, but I wish to flag that I think it comes back to the very general nature of those definitions and their interrelationship.

If the person in the street were told that this bill was about health records they would have in their minds hospitals, general practitioners, primary health care practitioners and a range of other health practitioners, but the effect of those three definitions, echoed in the second-reading speech, will be that the net will be cast over everything from the biggest insurance company in Australia down to the smallest kindergarten in rural and regional Victoria. The legislation will cover gyms, the police and local councils. It will cover every sporting club from the under-9s all the way through to the Geelong Football Club. It will cover universities, TAFEs and schools. One point that I will come to later is that it will also cover members of Parliament. I do not claim any special exemption from legislation for the member of Parliament, but the information that is passed to members of Parliament, sometimes by difficult, might I even say vexatious, constituents, can be of such sensitivity that we should be very careful before opening access to that information to members of the public. I will deal with that later.

My point remains that the reader of the title of the bill would reasonably assume that the bill is about health practitioners and health practitioners only. In fact, the net it casts will be society wide, and that is of concern.

We must always ask what we would do if we had to try to cast this sort of legislation to give effect to the principles the government wishes to enshrine in legislation and how we would go about catching that information. It is interesting that the way the government has gone about it is to catch agencies rather than the information itself. The generality of those three definitions has led us into some difficulties.

I now turn to a couple of the issues referred to in the second-reading speech. The first is on the second page, where the aim of the bill seems to be somewhat undermined by the generality of those three definitions. In the second-last paragraph on that page the minister states:

> It is … the view of the government that in the case of health information the legislative standards must be tailored to health information, and they should not be capable of variation through codes of practice.

I am not sure what that means. Does it mean that no registration board should promulgate a code of practice about health records because legislation has already prescribed how those health records must be treated? If so, it is a fairly obtuse way of saying so. However, on my reading of the second part of that paragraph — I hope I am not being deliberately difficult — it is hard to understand what the government means:

> In essence, the modification of general privacy principles has already been undertaken in the drafting of the health privacy principles contained in this bill. As such, further modification should not be required.

I am not sure what that means, in light of how those three definitions will operate.

The second-reading speech contains an unfortunate gratuitous swipe at the commonwealth government in the first part and later an acknowledgment that the bill is in line with commonwealth legislation, which seems to be both having its cake and eating it too. However, I will not dwell on that at any great length.

Interesting cases are made out in the second-reading speech, but as I read through it again the thing that struck me was the woolliness of thinking it evinced. I invite honourable members to think about what the following might mean to the community and the agencies that will have to abide by the proposed legislation:

> In sponsoring this bill and the Information Privacy Bill —

which is the companion piece, along with the Freedom of Information Bill —

> the government recognises, and is responding to, community concerns about the threat to privacy posed by the exponentially increasing capacity of modern technology.

What does that have to do with giving people access to their health records? The second-reading speech continues with a very pointed phrase:

> While new technology brings many benefits for individuals and the community as a whole, the potential exists for technology to be misused, and for people to suffer discrimination or other kinds of harm as a result.

Yes, good things can sometimes be bad; that is true. However, we are then told:

> Nowhere is this more evident than in the case of health information, particularly in light of the increase in the use of genetic tests to predict the likelihood of future illness.

This bill provides a regime for access to the very information that is already being asked for and held by insurance companies. The very reasoning of the bill, woolly though it is, seems to contradict not only what is currently happening in the community but what the bill will do when it becomes law. The thinking that runs through a lot of the second-reading speech seems a little woolly.

It is interesting that in a very long second-reading speech most of the concerns are flagged — I will raise a number of those — but not resolved. I would have thought the role of the second-reading speech is to interpret some of the difficult areas of the proposed legislation and inform Victorians about how the government intends it to operate in the real world.

I will not go through the health privacy principles as they seem to be sensible, well thought through and in line with what other jurisdictions have done in this area. With a couple of exceptions — in particular the length of time that records need to be kept, which I will raise later — they seem to be a reasonable set of principles.

The major provision of the bill, which seems a meritorious thought, is dealt with in the second-reading speech as follows:

> The bill will also amend the Freedom of Information Act to provide that, where there is a concern that access to certain health information poses a serious threat to the life or health of the applicant, the relevant procedure in division 3 of part 5 of the bill applies. An individual may seek a second opinion about the merits of that decision from a registered health service provider of their own nomination.

That major provision seems meritorious but is indicative of the confused thinking of the government. It is not the information that is dangerous, it is the way that information will be received by the applicant. In other words, information that may be harmless to one applicant may cause another to become suicidal.

That has nothing to do with the objective qualities of the information but with the subjective receptiveness of the recipient of the information, yet the bill seems, as its major theme, to deal with information and agencies rather than individuals. I do not offer that as some sort of condemnatory criticism, but it is indicative of the way a number of different concepts are thought about in a not altogether congruent way.

One thing that is not mentioned anywhere in the second-reading speech or in the legislation and needs to be considered is the state of mind and the actions or behaviour of the recipients of the information, because information may affect people differently. The person who has to give up the information will need to make

quite subjective judgments about what they are to give up and what they will need to refuse.

The part of the second-reading speech I read to the house echoes parts of the health registration legislation that talk about cases where there has been a determination by a registration board and provides that before a board gives that information to the practitioner, if the board thinks the practitioner would be harmed by the information the practitioner can nominate a third party to be almost a filter for the information.

In those circumstances, if you were a medical practitioner you would nominate another medical practitioner to look at the information and be a filter between the board's decision not to release that information or decision to you and your wanting to know what the board had determined. The provision seems to be an attempt to mirror that situation, but it will not work because there is an information asymmetry between the practitioner and the recipient — the member of the public who wants access to the files and the medical practitioner who says, 'These files will be dangerous, perhaps not to person X but to person Y'. Those subjective judgments and the fineness of judgment that will be required is nowhere addressed in the bill or in the second-reading speech.

I note with some concern the retrospectivity provisions in the bill. Normally the opposition finds any retrospective legislation anathema. Even if we believe things should be changed, we should draw a line in the sand and alter the state's laws so they are firmly fixed in one point in time and everybody moves forward from there. The bill does not do that because it reaches back in time in quite a profound way.

The way the government has sought to get around that principle that should be anathema to all legislators is through a mechanism that makes it not too offensive. It has said, 'You need only provide a summary of material that is retrospective'. The health services community is not entirely comfortable with that view, but neither is it up in arms about it. Although I do not think such a mechanism is a reasonable way of getting around what should be a firmly fixed principle I do not intend to make a song and dance about it, but it will give rise to difficulties in the field when deciding, particularly, when refusal of access or granting of access is to be determined by a practitioner. I will cover that aspect later.

I see the way the government has moved around the problem. Were the medical practitioner to allow the release of complete copies of retrospective records it would lead to open warfare with all the health professionals. The government has overcome that by cheating at the edges, and saying, 'We understand you do not like the principle, but what if we make it that you have to provide only a summary?'. That has quietened down the field somewhat.

But a summary in itself may present certain difficulties. Of its nature it will be unsatisfactory to both sides. On the one side the applicant will get a summary, in some cases, of something that has been a cause for them for 20, 30 or 40 years; they will get a summary of the medical history. On the other side, although they will get that medical information, their frame of mind will be, 'It is too brief'. They will ask, 'What has been left out?' because that is the nature of an applicant of that kind.

Then the applicant will think, 'What are my avenues of appeal against this summary?' — because by their nature many summaries will not provide comfort to people with longstanding concerns about their own files. Members need think only about retrospectivity and about what might be in the files of clients of mental health institutions to understand the sensitivity of the issues being dealt with.

On the other side, the practitioner who has to prepare the summary will think, 'This is burdensome and inappropriate'. After all, when deciding whether to release documents a practitioner reads through them and thinks, 'Yes, I will release them in their entirety' or 'No, I will refuse them' or 'I will release parts and will hold back other parts'. It is a once-only operation.

The intellectual endeavour of preparing a summary is far greater when dealing with records created now and in the future, because you need not only to read the files and decide what to release and what to refuse but also to undergo the separate intellectual act of summarising them to present them — and the summary needs to be accurate. In many ways a practitioner will think that the summary forced on him by the retrospectivity provisions is more burdensome than whatever he will do in the future. Although the government has tried to come up with a solution to the retrospectivity difficulty, on the one hand one party will think, 'Too brief, not enough, insufficient. What has been left out?', while on the other hand the other party will think, 'Burdensome, difficult, inappropriate and a lot of hard work'.

I now turn to a matter mentioned only briefly in the bill — that is, the notion of fees, which are of major concern. I will mention just one aspect of the fee structure now, which follows on from what I have said about the difficulty with providing retrospective

summaries and which I will talk about in some detail later on.

One inadequacy of the bill is that there is no fee for the practitioner who reads through all the files and then decides, on very good grounds, that he or she will refuse their release. If you look at where the most work is, you will see it is in that process. Having to go through the intellectual exercise of deciding not only whether what is in the medical files is dangerous to the recipient but also whether the files should be released may take a lot more time than a comparable process that allows their release. Yet the health professional, the gym, the school, the football club, the insurance company, the police, the member of Parliament and any of the others caught by this legislation who have spent all that time doing the difficult work required will be out of pocket and out of time — leaving an unsatisfied recipient, because it will be a matter of refusal. I will come back to those matters, particularly the avenues of appeal.

The proposed legislation gives unprecedented functions and powers to the Health Services Commissioner. It extends the role of the commissioner and his or her office two or threefold. One might predict that the provisions of this bill could become the major work of the Health Services Commissioner. Nowhere in the second-reading speech is there any suggestion that appropriate resources will be devoted to the Health Services Commissioner and her office so the work may be carried out appropriately — yet it is upon the shoulders of the Health Services Commissioner and her office that a lot of the work will fall. Although I welcome the beefing up of the role of the Health Services Commissioner, it is commendable — but naive — to think that the commissioner could do the work without a considerable injection of government resources.

Some aspects of the Health Services Commissioner's powers are cause for thought. For instance, after a conciliation process and an investigation of complaints, the Health Services Commissioner may make a ruling, after which a compliance notice may well be served. I note that the serving of a compliance notice means that five breaches have occurred within two years — which seems a remarkably precise guess at what is a reasonable amount of breaches. If you are not happy with that, you can still go off to the Victorian Civil and Administrative Tribunal (VCAT). It seems a remarkably cumbersome process, but I hope it works to the satisfaction of both health service providers and applicants.

This is important because, as the second-reading speech pointed out, the records that people are fighting over before the Health Services Commissioner or the Victorian Civil and Administrative Tribunal deal with some of the most confidential, vexatious and sensitive issues imaginable in society.

The section 85 statement is briefly described at the end of the second-reading speech, and it is an interesting description. I recall in the halcyon days when the Liberal Party was in government that every time there was a section 85 statement in a bill — —

An Opposition Member — Those good old days!

Mr DOYLE — Those good old days, indeed! I remember them well and I look forward to them again, but I do not think we will go down that track, thank you, colleagues. Suffice to say — —

Mr Haermeyer interjected.

Mr DOYLE — Our memory is sharp, I promise you. It is interesting that every time there was a section 85 statement in any piece of legislation, including bills agreed upon by both sides of the house — —

Mr Wilson — Uproar!

Mr DOYLE — I will take up the helpful interjection from the honourable member for Bennettswood to say there was uproar from the then Labor opposition about section 85 statements in the restriction of the jurisdiction of the Supreme Court. Many of the statements were minor or entirely reasonable, and all of the health professional registration acts contain a section 85 statement which provides — and this shows how basic it was — that if, for instance, the Medical Practice Board found that a medical practitioner should be struck off the roll, the practitioner could not take out an injunction for slander or libel against the board to prevent it from transmitting the decision to strike off a doctor to either the public or to other registration boards. That seems eminently sensible to me. We do not want some shonk who has been struck off being able to prevent the publication of his striking off by the simple means of getting an injunction. Every health practitioner act introduced by the former government had that provision, and I do not think anyone complained about it too much, although there was uproar from the then Labor opposition.

The Health Records Bill contains a real section 85 statement. It is not just one that is of note in passing; it is a fair dinkum section 85 statement. Clause 8 provides that nothing in the bill gives rise to any civil cause of

action or creates any legal right enforceable in a court or tribunal other than as specifically provided. Similarly, nothing in the bill is to be construed as giving rise to any criminal liability except to the extent expressly provided.

That may or may not be reasonable, but the truth is that if the Parliament is to rely on the government's explanation, that is all there is. It is a bald statement of the effect of the section 85 statement. The bill talks a little about rights and obligations and why they are needed, but a lengthy explanation of why that should be necessary should be before the house for something as serious as this real section 85 statement preventing civil and criminal actions and liability.

I am prepared to accept the bona fides of the advisers to the Department of Human Services on this issue, partly because I have a high regard for the public servants who worked on this bill, having worked with them on previous legislation. I will take it on trust, but as a layperson my initial question is: why should it not give rise to civil or criminal action if that is what the medical files reveal once someone is given access to them? Worse than that would be if the reverse were true, and this is the question I ask the government to take up, although I accept that it should not happen. I trust that the reverse is not true and that no-one could avoid criminal liability or civil action by the stratagem of releasing medical files to an applicant and then claiming that it was done under the act and therefore there is no civil or criminal liability. I trust that is not the case, but the reverse position is not made clear in the bill, and if it were the case it would be inappropriate. If there is a proper course of civil action or criminal liability it should not be obviated by using mechanisms such as the section 85 statement in the bill.

I have a number of wider concerns about the bill which I will mention briefly before going to the specifics of the legislation.

I have a query about the exemptions provided under the bill for the media. It is always interesting to look at the exemptions that are created, and there are exemptions in this bill for media reports. I would have thought the big issue of public interest versus privacy is played out nowhere worse than it is in the media. The media has made and continues to make a number of cases about public interest and why a report should be published, but the man in the street and legislators in this place often express distaste at some of the things reported in the media under the blanket of public interest. The media does not have anywhere near an acceptable record, yet an exemption for it is proposed in the bill. The media has a vested interest in presenting sensational, salacious, sensitive and confidential reports, because, regrettably, that sells newspapers and magazines and gets people watching the news and listening to the radio. Yet, we are asked to accept that the media is somehow able to balance the privacy versus the public interest arguments when reporting on this sensitive issue.

As one would expect of a member of this consultative and deeply caring opposition, I have consulted a number of organisations. I believe many organisations have also had productive conversations with the government. I have mentioned many issues they have raised in passing, and will refer to them again. I will quote from three sections of a letter I received from the Australian Medical Association (AMA) dated 19 February. The first section refers to a concern about the privacy principle in 6.1(c) of schedule 1. The association states:

> There is a concern that when an individual is engaged in or is contemplating legal proceedings the discovery and access provisions, which are controlled under court rules, should remain and not be overridden by the legislation.

On my reading of the bill that protection appears to be provided. I would have thought that if such a proceeding were afoot parts of the legislation would allow for the bill to be overridden, but the AMA has suggested that:

> The current wording of HPP 6.1(c) only prevents a person from relying on the access requirements if they are engaged in legal proceedings against the collecting organisation. This does not account for anticipated proceedings against the organisation, or anticipated or existing legal proceedings by the individual against others.

The point the association is making is that that may be all very well if we know that legal proceedings are afoot. Its point is: what if someone is contemplating legal proceedings and then uses the provisions of this act as a kind of quasi-discovery. As I said, I believe there are protections against that in the bill, but I suggest the government should note the AMA's suggestion that the wording of 6.1(c) of schedule 1 should become:

> … the information relates to existing or anticipated legal proceedings between the organisation or any other person or organisation and the individual and the information would not be accessible by the process of discovery or is subject to legal professional privilege.

That is interesting because the federal national privacy provisions use the terminology, 'anticipated legal proceedings'.

The second point the AMA raises concerns the privacy principle under 10.4 of schedule 1. The AMA's letter states:

> HPP 10.4 requires information to be retained in Victoria until it may be destroyed. In the case of information collected while a person is a child that information must be retained until the child attains the age of 25 years. This presents difficulties for practitioners who practise predominantly in areas involving children (eg paediatrics and obstetrics). Should that practitioner wish to relocate to another state that practitioner must then arrange for storage in Victoria for a period of up to 25 years. It submitted that this is potentially expensive and unnecessary. Practitioners should be given the opportunity to relocate files when they relocate, which is the current practice.

It seems to me that that is reasonable. Given the breadth of the bill, imagine the under-10 local football club collecting what is now determined under the bill as a health record. Would the club now have to keep those records until all its ex-players reach the age of 25? Obviously, that is not the intention of the bill, and we would not want that sort of triviality. Nevertheless, I think the point the AMA makes is true. I understand changes have been made, particularly in relation to deceased practitioners, but long periods of time, like the 25-year rule, should get a second look, particularly in relation to the type of practitioners the AMA mentions.

The third area the AMA raised, which is not new to the government, concerns privacy principle 10, about the legal representatives of deceased practitioners, who have to retain medical records for a period of no less than 7 years, or up to 25 years in the case of children. Often the legal representative is the widow or the widower of the deceased practitioner. The AMA makes the point:

> After an estate is administered the likelihood of successfully instituting litigation in respect of treatment provided by the deceased is negligible. An award against a deceased practitioner where his or her estate no longer exists is unenforceable. The need to retain records is therefore questionable.
>
> It is submitted that the minimum periods as set out in the bill should not apply to the records of a deceased practitioner. Either these periods should be amended so that records may be destroyed once the estate has been administered or two years after the practitioner's death (whichever is earlier).

That seems to be reasonable. The government has taken steps to examine that provision, for which I thank it.

I know that good legislation is not necessarily brought undone by an extreme example or anecdote, but in my discussions with colleagues and members of the community one hypothetical anecdote came up time and again, and it is relevant to this legislation. It revolves around the difficult concept of medical treatment of the competent child. It is a question of when somebody can seek medical treatment or a surgical intervention off their own bat without permission or approval from their parents and without telling their parents. The notion of the competent child is important in such a case.

It is possible for a person to have a Medicare card at 16, which is one benchmark, but many families would still regard a 16-year-old living at home as a minor under their parental control and would be disturbed if legislation set up a schism in their family because it said those people were not to be treated in any other way except as an autonomous individual in society. Many people would object to that and say that the fabric of their family was such that a 16-year-old living under their roof was under their parental guidance and control and would need to seek approval for certain treatments.

Recently a colleague brought to me a regrettable case that centred around the notion of the competent child. As sometimes these things do, it centred around the termination of the pregnancy of a 14-year-old girl. That termination was carried out as a day procedure, without counselling, and the girl was put on public transport to go back home. It became a difficult case because as a competent child making that decision it was arguable she was able to seek that treatment without the approval or the knowledge of her parents.

I argue that the legislation is fuzzy around that idea of a competent child and the guardian or parent of the child. There are extensive definitions of what is a guardian or a parent. It is a question not only of who has control over and access to the medical records of the child and of when the privacy of the child must be protected, which is important, but also of whether the family still has control over access to records?

I do not wish to be alarmist — it is an anecdotal and hypothetical example — but if a young, albeit competent, child is put together with a difficult issue like a family breakdown or a contentious issue like the termination of a pregnancy, the whole question of access to medical records — who gets them, when they are to be released and to whom — becomes most vexatious. Parliament has to think about not only what will be debated today but what will happen to people in the field when the legislation becomes law.

I have some concerns about that particular area. I do not have an answer. I am not trying to be all wise because I can see both sides of the argument. On one side there is the argument that children have inalienable autonomous rights and there are some things that parents do not

have a right to know about their children but equally I can see another side with an argument that in some cases parents must have a right to know things about their children. The bill is treading the ground between those two very difficult areas in society.

I could speak for a long time but in deference to the procedures of the house I will not — although some might say I have been speaking a long time already.

I will not go on at great length about my concerns about the reversal of the application of section 85, which I have mentioned.

Honourable members interjecting.

Mr DOYLE — I thank my colleagues for their encouragement but I will not go on about that. However, it is worth considering the three definitions in the bill that cause me some difficulty as they will cause great problems. I remind honourable members that the house is considering how people will gain access to information.

It is interesting to consider in what order the house should treat the three definitions of health information, health service, and health service provider. My suggestion is that we start with health service because we need to define what it is that someone is having delivered to them. Then we can define whoever does that to them as the health service provider and the record generated as the health service information. My suggestion is that we deal with them in that order. That is the general notion I have been talking about.

I will not read the whole definition of health service, just the part that will broaden the definition:

> "health service" means —
>
> (a) an activity performed in relation to an individual that is intended or claimed (expressly or otherwise) by the individual or the organisation performing it —
>
> (i) to assess, maintain or improve the individual's health …

I hope I am not drawing too long a bow and after some thought I do not think I am. 'Assessment' really means some sort of comment or judgment or opinion expressed about or in relation to an individual that has something to do with their health by the person who has provided a health service. Obviously a medical practitioner does things such as diagnosing individual illness, injury, or disability or provides palliative or aged care services. The very broad and general definition is an activity to an individual by which an individual assesses their health. That makes someone a health service provider.

I very much wish to meet the person who drew up the definition of 'health service provider'. I will read the whole definition and I challenge members to follow this closely:

> … "health service provider" means an organisation that provides a health service in Victoria to the extent that it provides such a service but does not include a health service provider, or a class of health service provider, that is prescribed as an exempt health service provider for the purposes of this act generally or for the purposes of specified provisions of this act or to the extent that it is prescribed as an exempt health service provider.

That definition takes 10 lines to say that a health service provider is a provider of health services unless they are exempt. Health service of course is the important part — you simply become a provider — hence the second part of the definition.

The third definition, 'health information', is the interesting one. It defines the record that will be generated to which people will apply for access. It is defined as:

> (a) information or an opinion about —
>
> (i) the physical, mental or psychological health (at any time) of an individual …

Then it refers to all sorts of other things, including:

> (iii) an individual's expressed wishes about the future provision of health services to him or her; or
>
> (iv) a health service provided, or to be provided to an individual …

In other words it is so broad that it covers anything to do with a person's health. As I said, if those three definitions are put together, the bill covers almost every agency in our society.

As I said, the bill covers the largest insurance company to the smallest kindergarten. That may well be what the government intends, but I believe it will have consequences that I will come to later.

I will not talk about news media, which I mentioned earlier; I simply raise some concerns about the fact that the media is not always its own best friend or best judge of public interest versus privacy principles. We should all be concerned about part 2 of the bill, which deals with its application. It is an area about which I believe the government needs to think carefully.

Division 1 of part 2 refers to public sector organisations, and it is to that issue that I wish to

address my comments. The bill applies to a minister, a parliamentary secretary, including the Parliamentary Secretary of the Cabinet, a member of the Victorian Parliament, a council, and the police force of Victoria. I understand the government's wish that there should not be special groups that are automatically exempted from the legislation. However, I turn to clause 16, which relates to the freedom of information amendment. Clause 16(a)(ii) seems to exempt most of what a minister does. So although ministers are directly named in clause 10, they seem to be more or less completely exempted by clause 16(a)(ii). However, I shall leave aside for the moment the issue of 'a minister'.

With reference to a member of the Parliament of Victoria it is interesting to note what may well be hypothetical. From time to time all honourable members have had people in their offices who perhaps suffer from mental illnesses, are certainly overwrought and who may be vexatious, litigious, frivolous or even dangerous. Often these people front our offices after writing to us. What member of Parliament has not had the 300 closely handwritten pages of case history dropped on to the desk with a request that something be done about our judicial and coronial systems because of a terrible injustice?

Invariably as members of Parliament we generate sometimes quite detailed records of interview with those sorts of constituents for protection. My contention is that those records under this act are caught as health records, yet I also argue that they are the sort of thing that should not be released to the public. In saying that I am making a differentiation between members of Parliament and medical practitioners. People might ask, 'Why one group and not the other?'. In answer to that I say that a medical practitioner is clinically trained and knows that people who present come from a certain diagnostic group. Parliamentarians do not know. Also, parliamentarians tend to see people at the end of the line.

Every member has dealt with people who are frustrated or disappointed by the police or the judicial, parliamentary, democratic, administrative or bureaucratic systems, and those people come to parliamentarians as a last resort. Sometimes they are in considerable distress and sometimes they pose a threat. Last week I had an example of such a case, and I am sure every member in the house has had occasion to ring the police to obtain advice on how to proceed with a person who has just walked in the door. I argue that the office of a member of Parliament puts us at some risk. I am unsure of the wisdom of including members of Parliament in the bill.

On a lighter note, I recall that in my first term I had an excellent electorate officer, Mrs Beverley Menzies. I consider Mrs Menzies to be a friend and regard her very fondly. I recall a client of the mental health system coming into my office. Beverley was in the office on her own at the front desk, and in those days there was no security. The constituent got agitated and at one point picked up a chair in the waiting room and held it over his head in a threatening gesture to Beverley. I will not give away her age, but she was certainly in her sixties.

She was alone in the electorate office at the time. When she reported the matter I asked, 'What did you do?'. In her usual unflappable way she had fixed the problem by making an appointment for the constituent to see me at 9 o'clock the next morning. As soon as the appointment was confirmed he put down the chair and went happily away. I congratulated her for the way she handled the situation.

On a serious note, a member of Parliament is in a special situation. Some of the more distasteful applications, letters and interviews that we conduct may well fall under the legislation, and I am sure they are not meant to. Similarly, councils and councillors may have those problems. I understand it would be an aim of the government to extend it to councils. I make no further comment except to say that I hope councils are prepared and have systems in place to deal with the issue.

I take issue with the provisions applying to the police force. When a court or tribunal is referred to, other provisions quite properly protect the proceedings of a court or tribunal. However, the police force is difficult. In a day's work police officers are called upon to go into all sorts of areas and deal with difficult domestic and other situations. Again, one should hate to think that the records of a policeman or those kept at a police station could be accessed through this bill in a way they could not be accessed under other ways such as freedom of information. I hope FOI provisions can overrule the proposals so that information cannot be released if there is any danger. However, the police force should be well apprised of the situation so that inappropriate material is not released inadvertently, which has happened from time to time under the Freedom of Information Act.

An additional act under which someone makes application would not automatically trigger an understanding in a member of the police force or a council that the FOI act also plays some part in the release of information and may well overrule the provisions of this bill.

I have referred to councils and councillors, members of Parliament and police officers as people who need particular protection in some instances, and to where the wisdom of application of this bill is not altogether convincing.

Part 3 of the bill refers to privacy of health information. Clause 21 directs organisations to comply with the health privacy principles. An organisational compliance is covered under subclauses (1) to (7) of clause 21. The opposition has no problem with the principle outlined. However, the definition of 'health service provider' as was argued earlier is so broad that an organisation may not know that it is subject to these health privacy principles. They may not understand that they will be caught by the act, which covers everything from the local kindergarten, the local sporting club, the council, the police force, the local gym — anything you can name can be caught by this provision.

The opposition asks what the government is doing to advise all of these grateful organisations about this brave new world of access and compliance. It would be a pity if an organisation failed to comply simply because it did not know it was caught by the act. I suspect many organisations will fall into that category.

I turn now to the access provisions, which are important. The right of access is broad, and is set out in clause 25. It is the refusal of access that needs more work. Clause 26 provides that no access can be given where threat of life or health of an individual or any other person is at risk. How that will be judged is the difficulty. Is it too stringent a test? For someone to decide a person's life is at risk is a difficult and weighty decision.

If we are trying to balance public interest against the harm that may occur by release of material which is harmful, the test in the act should be softer. The Australian Medical Association and a range of other professional organisations have suggested a test that does not go to the seriousness of endangering life. Rather, it goes to one where a judgment can be made about the harm that that information may cause.

I understand the difficulty of drawing those lines. It can be abused and pushed out so that access is refused under almost any ground. I believe there is enough goodwill in the health community to ensure that that will not happen, but I would rather see information which is harmful protected. This seems to me to put the high-jump bar too high for refusal of access, but again I would ask the government to take it up. It is not something I wish to dwell on more than I have already done in my introductory comments, particularly about it not being the information that is harmful or dangerous but the way the information is received by particular individuals.

I also referred to the process of refusing and how a person acting on what they think are reasonable grounds for refusal may in fact create the most work an organisation has to do, but there will be no redress under the fee structure.

I will now speak a little about fees, to which I said I would come back. If my reading is correct, there are three actions, if you like, only two of which can attract costs. Unlike the FOI act, there is no cost for applying for the information. The cost comes when a decision is made to allow someone to view the material, to have a summary of the material or to have a copy of the material. My difficulty with that is that clause 32 says they can charge a fee, but the fee cannot be more than the maximum fee that has been prescribed for the manner of access. The difficulty is that maximum fees will be set, but they may not be in line with the cost recovery the organisation has to go through. An organisation may go through an enormous amount of work, and people in this Parliament know the FOI sections of departments are getting larger and ever more busy. The cost to the government of FOI is enormous, and that is just in searching and collation. Yet we are going to ask private institutions to do that but not allow them to charge full cost recovery. That seems to me to be wrong. It also seems to be wrong that if someone does all that work and can demonstrate the work they have done, but has to refuse access, they have no right to claim a fee.

The third area that seems to me to be difficult is where someone has also requested an explanation of the record. That is going to be particularly problematic. I understand the government is making some moves towards trying to restrict the cost to individuals who apply, but I suggest there are very large differences. If a thoracic surgeon is sitting down to explain his surgical notes to which access has been gained under access to medical records, the cost per hour is going to be remarkably different from the cost for the volunteer treasurer or secretary of the local kindergarten. But in one example the burden will fall upon the applicant, and it will be a huge cost because of the hourly rate of that particular health service provider. In the other example the burden will fall upon somebody who is probably a volunteer, who will have to give up time to go through the records for an applicant who has requested an explanation. At what rate do they charge — their normal job rate or their volunteer rate?

The fee structure seems to me to need a lot more work. I understand the government is trying to balance access with the equity that is required, but in those examples, especially the vexatious, difficult or complex ones, large costs will be incurred and they may not be recouped. That is unfair on the people who will be providing access to these records.

I turn now to division 3, clause 37, which is about the offer to discuss health information. I discussed this earlier. It contains a lengthy proposal under which it seems some sort of parallel practitioner or individual may be nominated by a health service provider to receive the information, and the provider may include in or attach to the notice of refusal an offer to discuss the health information with an individual, or to have it discussed with the individual by the nominated party.

It might be the fault of my reading of the clause, but I am not sure where it fits in. Is it a refusal, so that you do not charge for the person who sits down and explains it? Or is it a refusal, but because you are sitting down to explain why it is being refused you can charge for that explanation? It seems a cumbersome provision and it was a difficult area for me to work through, albeit the hour was reasonably late when I read it.

The administrative procedures are interesting. Again, I regard this as a remarkable piece of drafting. One example of the blindingly obvious, and my criticism is not of the intent of the bill but of the way it has been given expression, is the clause that deals with the lapsing of the nomination of a health service provider. Clause 40(1)(b) states that the nomination of a health service provider lapses if the nominated health service provider dies. I should have thought that would be reasonably obvious. Even if the subclause were left out, I suggest it would be difficult to try to force that health service provider to continue to be the nominated agent. I am not sure why the government would have in black-letter law something as blindingly obvious as death being a reason for someone no longer being nominated.

If I thought that provision dealt with the blindingly obvious, just when I thought I was getting the hang of this legislation I turned the page to find clause 42(4). I defy anyone to explain to me what it means — and I am delighted by the irony of the opening phrase:

> For the avoidance of doubt it is declared that the act of forming an opinion in the exercise by a nominated health service provider of a function under sub-section (1)(c) is not an interference with the privacy of the individual to whom the information relates.

If that subclause is supposed to help me avoid doubt, it has been signally unsuccessful. Interestingly, in such a complex piece of legislation within a couple of pages we have two wonderful examples of the blindingly obvious and the obscure.

I turn to a slightly more difficult part of the bill. It raises a constitutional issue that I think is open to question. Clause 44(2) covers situations where contracts will be wholly or partly outside Victoria. It states:

> Sub-section (1) applies to a contract, whether or not the individual is a party to the contract, made after the commencement of this section and —
>
> (a) the contract is made in Victoria; or
>
> (b) the contract has been, or is to be, performed wholly or partly in Victoria; or
>
> (c) the individual is present or resides in Victoria when the contract is made.

However, subclause (3) states:

> For the purposes of this section, it is immaterial whether —
>
> (a) the health service was provided in Victoria; or
>
> (b) the health information is kept or located in Victoria.

In other words, it does not matter whether or not the service is provided in or the information is held in Victoria. I am sure I understand the point that the government is getting at, which I presume is that the patient or the doctor is Victorian and is therefore caught by the legislation.

The legislative power of this Parliament is explained simply under part II, division 1, section 16 of the Constitution Act:

> The Parliament shall have power to make laws in and for Victoria in all cases whatsoever.

Our powers stop at our borders. On an initial, and I admit facile, reading of it this clause seems to me to be potentially in contravention of that part of our constitution.

We may not like it, but we cannot control things outside Victoria and it is not enough for us to say it is immaterial that the health services are provided or the information is kept or located in Victoria.

The honourable member for Rodney and I have discussed the vexatious issues between Echuca and Moama. We know that services are often provided in New South Wales by Victorian providers, for which this government is never adequately compensated by the New South Wales Labor government. That is what

we expect from a retrograde Labor government. The same thing happens along the border at Albury-Wodonga and a range of other places. This provision can only affect what happens in Victoria; it cannot extend beyond our borders. I would be interested in an explanation that demonstrates to me that it does not attempt to make laws outside Victoria.

I mentioned before that there are many provisions relating to the role of the Health Services Commissioner, but in the interests of time and the goodwill of the Parliament I will not go over the entirety of my concerns about the commissioner's role. Suffice it to say that the bill extends her role into realms unknown, and she will need to be appropriately resourced by government. The Health Services Commissioner has not had these duties before, and to do the job properly she will need to be adequately supported. I would argue that should be happening now.

I refer now to the power of the Victorian Civil and Administrative Tribunal. VCAT is the final arbiter on disagreements between the applicant and a health service provider. If people have been through all the processes, including the Health Services Commissioner, then the matter will finish up before VCAT. I refer the house to some of the powers VCAT is being given under clause 78. I know VCAT is a diverse body; its president is a Supreme Court judge and its members have the status of County Court judges. I seek from the government an assurance that if the two provisions in clause 78 are to be imposed by the tribunal a presidential or at least a vice-presidential member of the tribunal will sit on the case. I ask honourable members to listen to the powers VCAT is being given in this area. Clause 78(1)(a)(iii) provides for:

> … an order that the respondent perform or carry out any reasonable act or course of conduct to redress any loss or damage suffered by the complainant, including injury to the complainant's feelings or humiliation suffered by the complainant, by reason of the act or practice the subject of the complaint.

In some of the highest courts of the land this notion of redress and damage, and especially such emotive terms as humiliation, have been the subject of most litigious and difficult case law; yet here Parliament is expected to believe VCAT can go to the minds of the applicant and the provider, make a judgment about levels of humiliation and require acts to be performed that will somehow assuage that humiliation. That is a serious matter.

The second provision I refer to is also extremely bald. Clause 78(1)(a)(iv) provides that VCAT may make:

> an order that the complainant is entitled to a specified amount, not exceeding $100 000, by way of compensation for any loss or damage suffered by the complainant, including injury to the complainant's feelings or humiliation suffered by the complainant, by reason of the act or practice the subject of the complaint.

I know magistrates courts have the power to deal with matters up to $100 000. I understand in the normal course of determinations by the courts that $100 000 may not be seen to be an excessively large amount, but at VCAT it is. If an order of that magnitude were to be made one would hope it would be made either by the presidential or vice-presidential members of the tribunal, because it is a serious order.

Clause 90 is a strange provision. Its rather amazing heading is 'Secrecy'. I do not recall seeing that word in any act, but apparently secrecy is something to be considered in this legislation. I suggest that the provision concerns not secrecy but confidentiality. It says that someone who has been the Health Services Commissioner, an employee of the commissioner, an acting Health Services Commissioner or a delegate of the commissioner should not make a record of, disclose or relate the affairs of any individual acquired in their normal duties to the outside world unless it is necessary to do so for a couple of specific exemptions, and then it says the penalty for breaching the provision is 60 penalty units.

It goes on to talk about secrecy in a number of situations. It is rather odd terminology, but I would have thought that a fine of more than $6000 should apply to someone who breaches the high trust of an office like that. If we are serious about this being sensitive and delicate information, someone who blatantly misuses it and breaches the trust of high office should be sacked for a start. That seems basic to me. If they breach the trust of their employment to that extent, sack them! I mention that in passing.

Another curious clause that goes to the reach of the act is clause 95, which relates to deceased individuals. It applies to an individual who has been dead for 30 years, so far as it is reasonably capable of doing so, in the same way that it applies to an individual who is not deceased. It will be hard to judge what is good faith in that circumstance — and as I said, the clause says, by way of escape, 'so far as it is reasonably capable of doing so'. But in whose judgment will that be, who will have the records of individuals who have been dead for more than 25 years, and what can be made of them?

While it is probably meritorious that people should have access to records, including those of the deceased, in some cases the reach and the execution of the bill will make its application almost nightmarish.

It is of concern that this bill amends 22 acts, 12 of which are not connected with health and 12 of which are health practitioner acts. It reaches into every element of our health and social systems. Whether it will do so in a way that is wise and will deliver an admirable pair of philosophies — to give people access to records and protect the privacy of health information — is yet to be seen.

We should be entirely aware that what we are doing is overturning the 1995 High Court decision. That is within the power of this Parliament, but that High Court decision was made in good faith by eminent jurists following a difficult case, and it has stood since then. If we are to overturn it we need to ensure we do so in a way that is entirely appropriate and which gives satisfaction to those who seek access to their medical records, because we on this side support that principle of access to medical records.

On the other hand we also believe this information is sensitive and should be protected in a responsible way. The bill also has a go at doing that.

My third point, which highlights my concern that two very good ideas have been given poor expression by a very cumbersome bureaucratic bill, is that the onus to provide that should not outweigh the benefit gained by releasing those records. I believe some aspects of the bill and the way in which it is drafted place an intolerable burden not just on health practitioners but on a wide range of institutions, agencies and individuals who will not know that they have been caught by legislation. It is incumbent on government to go out in good faith and educate all of those organisations about their responsibilities.

Opposition members certainly do not oppose the bill because, as I said, it is of worthy intent. The wider community has for a long time been expecting government to provide access to medical records, and the opposition is glad to join in support of that principle. Our concerns relate only to expression of the principle through the bill. Although we have raised a number of questions about the bill, we would be keen to see it pass through the house. We have not provided or proposed amendments to it, and we do not intend to oppose it.

However, the government should not think its work on the bill is complete. It should not breathe a sigh of relief that the bill has passed through this house unscathed and then go about its business hoping that somehow the bill will work to deliver what is promised in the wider community. I suggest the real hard work for this government starts now, and it starts in taking those excellent principles of privacy and access to records and making them a reality in the wider community, making it easy for people to understand what their rights are and to comply with those rights by providing that information and making information about the obligations of this bill clear to all. If the government does that, the legislation will be a positive step forward for our state. If it does not do that hard work, and if it leaves it in this bureaucratic tangle, what it has visited on the people of Victoria is just a hoax. It is rhetoric without action. I trust that will not be the case.

Mr MAUGHAN (Rodney) — It is a pleasure to follow the honourable member for Malvern and to listen to his insightful comments on health care issues. He made some positive suggestions about what can be done with the proposed legislation.

The Health Records Bill is essentially about, firstly, protecting the privacy of health records and providing people with a right to access their health records. It is fair to say that many people for very sound and logical reasons want to access their personal health records and have not always been able to do that. As has already been mentioned in debate, the High Court judgment of 1996 found that patients of private doctors did not have a legally enforceable right to obtain a copy of their medical records. The bill attempts to overcome that impediment.

The purpose of the bill is to establish a regime for the protection of health information held by health service providers and other organisations. It will give individuals an enforceable right of access to health information and establish privacy standards for health information.

On the surface, the bill is a simple piece of legislation. Although the concept is simple, it is far more complex to implement it. In practice the proposed legislation has far-reaching implications. It reaches into all sections of the community, and it does so retrospectively. Time after time in debate I have heard honourable members rail against retrospective legislation. Some of the bill's provisions reach back many years.

The bill amends 22 separate acts covering a wide variety of fields. It affects not just health care providers and medical practitioners but also a wide range of community organisations.

The bill applies only to Victoria. In his excellent contribution the honourable member for Malvern referred to the cross-border issues that bedevil us in places such as Echuca–Moama, Albury-Wodonga and Wentworth–Mildura. I imagine the legislation will create more anomalies with mental health medical records than those we have at the moment. More difficulties will be created between the states because undoubtedly the bill's provisions are different from New South Wales or South Australian legislation.

The legislation is not simple. The retrospectivity provided by the bill with regard to records held by health service providers and practitioners, as well as deceased medical practitioners, creates a minefield. Who will maintain those records, where will they be stored, and who is responsible for them?

Before I refer to the legislation I will touch on a couple of issues raised by the honourable member for Malvern. I refer to his concept of a competent child. The rights of the family versus the rights of the child concern many people in the community. It is a minefield. I support the rights of individuals to make their own decisions and to be in control of their own lives, as do most honourable members. However, the difficulty is found in just where that takes place. Where do the responsibilities of the family cease, and where does the child become a capable adult, able to make his or her own decisions, in many cases with lifelong consequences? The rights of the child have to be balanced against the rights of the family.

I refer to the subject of fees for practitioners, particularly when practitioners refuse information. An enormous amount of time can be spent by practitioners on research and in deciding whether they will provide information or not. I understand the current legislation does not provide recompense for the work done by those practitioners. That needs to be addressed. The obvious solution is to provide for that expenditure of time and effort by increasing the cost of services to other patients. I believe in user-pays systems. Given that there will be vexatious people looking for an enormous amount of material, there could be extensive costs involved in researching records and in deciding whether to provide information.

I have a strong feeling that at some time in the future we will revisit the legislation. The bill contains a lot of detail, and many things will be sorted out. However, many things will be unclear, and I am sure that over the next two, three and five years difficulties will be created that will require us to revisit the legislation.

In many ways the bill is complex and wide ranging because the health industry, which is covered by the legislation in its broadest sense, is a complex and wide-ranging industry. About one-third of the Victorian government's expenditure is taken up by health-related activities. In another sense it is a life and death activity. Health is important to us all. It embraces the public and the private sectors, as well as a wide range of professions and occupations, including specialists, community health services, mental health services and general practitioners.

It is fair to say that trends in health care are leading to a greater continuity of care between services. Patients are moving between practitioners on the one hand and various service providers on the other. For optimum patient care it is important that those health records move around with the patient. I commend the part of the legislation that facilitates the moving around of a patient's records from one practitioner to another and from one health service provider to another so that the practitioner or service has full access to all of a patient's records and can make the best judgment at the time.

As things stand, a range of different professions and providers who deal with an individual will have information about that individual, some of which will be common to all of them and some of which will be specific to a provider. Given the information technology that is available it is not just possible but desirable for the delivery of the best health care that a patient's full medical records move around with him.

It is important to stress that health information is private, personal and sensitive. It should be jealously guarded and not made available for people to make mischief with. The privacy of that information must be protected, particularly because with the huge advances in technology it can be spread around very quickly. If that information is spread around it can cause a great deal of harm to the individuals concerned. However, I do not want to overemphasise that side of it; I want to be positive and emphasise the great benefits to be gained from information technology in delivering better quality health care. This legislation has the difficult task of striking a balance between protecting privacy and using technology for the better care of patients.

The bill considerably strengthens the individual's right to access their medical records and health information. That is a two-edged sword. Many people, myself included, want to be fully informed on all aspects of their health so they can make informed judgments on their health care and discuss with their medical practitioners and health providers the procedures and practices they want to overcome whatever difficulties

they have or enhance their standard of health. People want to be fully informed of all the details they need to make those important choices. Whether it be surgery, diet or a change in lifestyle, it is important to have that information. In my case I would argue — as would many others in theirs — that it is my body and therefore my decision as to what I do with it. Therefore the information held by health service providers and medical practitioners is my information, which I should have access to so I can make an informed decision about my individual health care. I believe I am entitled to that information.

On the other hand, the full disclosure of health care information can pose a serious threat to some people, including their peace of mind, their health and in some cases their lives. The honourable member for Malvern related an incident he dealt with during the week, and we all deal with these sorts of problems from time to time. I am dealing with one now, where the release of information could lead to the loss of life. There are very good reasons why not all information should be released to everybody who wants it.

Division 3 of part 5 of the bill provides for the refusal of access to information on the grounds that it could have an unreasonable impact on the privacy of an individual or to protect a person at risk.

The bill applies to traditional medical records, genetic information and mental health records. Clause 3 contains definitions for a wide range of information, some of which is complex — for example, the definition of 'health service'. Clause 3 also refers to 'organisations' as broadly defined and to health service providers, such as pharmacists.

Schedule 1 on page 127 sets out the health privacy principles in complex and convoluted detail. Principle 2, for example, which starts at page 130 and runs for nearly five pages, could be stated in much simpler and clearer language that the average layperson could understand. That is not only my view; the Victorian Healthcare Association also made similar criticisms in the letter it sent to various honourable members who had written to it for advice.

Schedule 1 sets out what is required for consent, what is necessary in the public interest and what is required for research. It also contains strict guidelines dealing with the provision of information for research purposes, including its collection, use, disclosure, security and retention; access to information; the rights of individuals to correct information they believe is not correct; and the ability to transfer information to another provider or practitioner.

The bill amends section 141 of the Health Services Act to ensure that it is not an offence for public hospitals to share information through an electronic system for the purpose of the treatment of a patient wherever and whenever that patient presents. That is an important aspect of the proposed legislation that I fully support.

The National Party does not oppose the bill because it believes it enhances the individual's right to make informed health care decisions and because it is supported by the Victorian Healthcare Association. The VHA essentially supports the legislation, but in its letter it makes some pertinent comments:

> [It] does not believe it is appropriate to limit clinicians access to the common client record within the one organisation. It would not be practicable for agencies to provide continuous care for patients/clients if clinicians do not have access to the client's full medical record. The imposition of procedures which limit the ability to share information within the one organisation are likely to impose significant costs in administrating multiple health records.
>
> However, VHA believes it is appropriate to give the client control in respect of use and disclosure of information where organisation(s) and/or private practitioner(s) join together to provide integrated services for an episode of care.
>
> …
>
> VHA believes that there needs to be common definitions across the health sector, whether the agencies/practitioners are delivering an acute or primary health care service.
>
> The definition of 'treating team' referring to a particular episode of diagnosis, care or treatment should also be used for community-based health care services such as primary care partnerships.

The Victorian Healthcare Association supports the proposed legislation. The National Party believes the bill will provide a mechanism for ensuring that health providers have a complete medical history of their patients and that it should apply to all information collected after passage of the bill.

I will have no problems with the provision once the bill has passed. My concern is about the bill's retrospectivity. Information collected prior to the passage of the bill will be included in the information that can be released, but I am concerned that practitioners have had no notice of the retrospective nature of the legislation; otherwise, they could accordingly have made their records available over the past 12 months or so.

I also express concern about the additional costs to be imposed on health care providers and practitioners and the need for the undoubted benefits of the legislation versus its costs to be constantly monitored. The bill certainly permits organisations to charge fees for the

provision of information, although it will prescribe maximum limits. I am not sure how that will happen over time as costs increase and as the prescribed maximum becomes no longer relevant. I presume that figure will need to be changed by regulation.

My final point is that the second-reading speech contains a section 85 statement. When the government was in opposition it constantly railed against the government of the day when it included section 85 statements in legislation.

Mr Nardella interjected.

Mr MAUGHAN — Why, then, are you including a section 85 statement? I happen to think it makes good sense, as it did in the days of the former government. I have no problem with section 85 statements, but when the government was in opposition the honourable member for Melton was one who used to scream and shout every time a section 85 statement was made. He criticised the former government every time, as though there was something intrinsically wrong with a section 85 statement. Now that the Labor Party is in government it is only too happy, for the right reason, to make those statements.

Mr Delahunty — Hypocritical!

Mr MAUGHAN — Yes, hypocritical is the correct word. I conclude by pointing out that the government and the minister are now regularly doing what they previously had criticised the former government for doing. As the honourable member for Wimmera says, the government is acting hypocritically.

The National Party does not oppose the bill, but I suggest the government take note of the sensible comments made by the honourable member for Malvern and listen to the sentiments of the Victorian Healthcare Association.

Mr VINEY (Frankston East) — I thank the honourable members for Rodney and Malvern for their contributions. I am always amazed when members of the National Party use the word 'hypocritical' with straight faces, but I shall resist the temptation to make further political points.

As Parliamentary Secretary for Human Services I usually respond to the contributions of the honourable member for Malvern. So that I can do so I usually attempt to take brief notes of the honourable member's contributions. Today he spent about 90 minutes going in minute detail through the various elements of the bill. I show honourable members my notes! The honourable member's contribution to the debate concerned such minor detail that I can respond to almost nothing of substance during my short contribution.

It is interesting and instructive that the only substantive point the honourable member for Malvern made was about his concern that the bill does not exempt members of Parliament. Shortly I will respond to some of the concerns he expressed.

The honourable members for Malvern and Rodney commented about the complexity of the Health Records Bill. It is a complex bill, given that this is the first time Victoria has had a scheme to regulate the collection and handling of health information.

The bill enhances the rights of health service consumers in two major ways. Firstly, it provides an enforceable right of access to health information in the private sector; and secondly, it establishes mandatory privacy principles.

Giving individuals an enforceable right of access to health information that is held in the private sector is important for a number of reasons. Both public and private sector providers need to be bound by uniform privacy standards. Currently individuals can apply for their health information from public sector agencies such as public hospitals but not from private service providers. Many patients use both sectors in seeking treatment for chronic conditions and should be able to access their health records from both.

For many years the Health Services Commissioner has received a number of complaints from patients who have been denied access to their health records by private practitioners. Currently the commissioner can seek to conciliate a complaint and assist a patient to obtain their information. However, at the end of the day the decision rests entirely with the practitioner. This bill will address these issues by ensuring that the right of access to health information held by both public and private health service providers is subject to a number of grounds for exemption.

The second component of the bill deals with mandatory privacy principles. The bill establishes principles that are to apply to personal health information held in both the public and private sectors. The privacy principles are designed to give individuals certainty about the manner in which their health information is collected, used, disclosed and stored. The principles establish that the collection process is to be transparent and accountable, generally requiring a patient's consent. In general, the use and disclosure of health information are permitted for the purpose for which the health information was collected or otherwise with the consent

of the person to whom it relates. The health data should be stored in an accurate, complete and up-to-date manner and be retained for about seven years. They are the key elements of the privacy principles.

The honourable member for Malvern raised concerns about the principles applying to members of Parliament. The government has considered at length the issues concerning the exemption of MPs and believes that, as a matter of principle, they should not be exempt from the principles of this — —

Mr Steggall interjected.

Mr VINEY — I would ask the Acting Speaker to assist me, but he is engaged in another conversation. It is an instructive situation!

Honourable members interjecting.

Mr VINEY — I will push on. The Deputy Leader of the National Party is clearly not interested in matters relating to the privacy of people's health information and the importance of the non-exemption of members of Parliament. The general principle that health information should be protected from misuse is one the government wishes to see covered by this legislation, and there are insufficient grounds to justify exempting members of Parliament using and misusing that information.

The Scrutiny of Acts and Regulations Committee is to make recommendations for a privacy code for members of the Victorian Parliament, giving due regard to a number of factors including the nature of work undertaken by members in different capacities and the developments in privacy legislation and existing legislation.

The Health Records Bill proposes to establish standards for the handling of personal health information in Victoria and will apply to members of Parliament. I assure honourable members that the government intends to provide them with guidelines to assist them in the carrying out of their important duties as mentioned by the honourable members for Malvern and Rodney.

The guidelines will help honourable members to understand the difference between what is regarded as legitimate health information and other matters of public policy information that they may wish to use. For example, if a constituent wrote to an MP voicing concerns about a public hospital system as a result of their experience and was concerned because they believed they were not treated satisfactorily at a visit to a particular hospital, the component of the information relating to their health information would be subject to the bill. The fact that the person was treated at a hospital and the nature of the treatment could not be used by the MP for any purpose other than replying or pursuing the matter with the responsible minister or hospital or any other purpose to which the constituent agreed. If the MP wished to record the interest of the constituent in general health policy and funding for future reference, that would be acceptable.

That is the kind of information that will be contained in the guidelines following the work of the Scrutiny of Acts and Regulations Committee and the work to be done by the Health Services Commissioner.

The bill has been through an extensive consultation process involving the receipt of over 60 submissions. They represented a diverse range of perspectives, including those of consumers of health services, privacy advocates, health service providers, other organisations that handle health information and a number of public bodies. The submissions reveal a high level of commitment to privacy and an appreciation of the complex issues. They included the need to balance adequately the difference between the protection of privacy and the goal of protecting public interest by not impeding the ability of providers to engage in appropriate quality assurance activities. Such quality assurance activities conducted in a sensitive manner are essential to reduce the rate of adverse events in the health care system. The submissions also included the need for a thorough education process to enable individuals and organisations to become familiar with the new laws. Only in this way will the purpose of the legislation be achieved.

The bill contains effective enforcement mechanisms conferring a number of powers on the Health Services Commissioner. In previous speeches honourable members have raised issues about implementation. These issues will be substantially addressed through the making of regulations, particularly in the consultations involved in making them and in the work of the Health Services Commissioner in developing the guidelines.

Honourable members previously raised a number of issues about fees. There is adequate provision in the legislation for fees and appropriate compensation for some costs involved.

Although I recognise there will be an impact in costs and time on highly paid medical professionals, they are ethically obligated to conduct their business in particular ways and to do the appropriate follow-up with their patients. They should not regard the new requirements in the legislation as a terrible impost but

rather as part of their normal ethical requirements to operate in accordance with the desires of the community as expressed through a decision of Parliament.

The guidelines will be particularly important. Considerable work will need be done by the Health Services Commissioner and other people in the health sector to ensure that the intention of the legislation is achieved through the guidelines. As I said, the consultation process on those guidelines will be extensive. I accept the comments made earlier that they will have a vital part in ensuring that the legislation is successful.

I commend the Minister for Health for following through on a clear commitment to ensure that people in the community have a right to access their health records and that such records are protected against misuse by commercial and other interests. The government's action should alleviate the concerns of people in the community whose personal and private information is held by medical practitioners. I thank the honourable members for Malvern and Rodney for indicating that the Liberal and National parties will not be opposing the legislation. I commend the bill to the house.

Mrs SHARDEY (Caulfield) — In beginning my contribution to the debate on the Health Records Bill, I repeat that the Liberal Party will not oppose the bill, but it reserves the right to raise some concerns.

I congratulate the honourable member for Malvern on his fine contribution to the debate. I was amazed that the honourable member for Frankston East made comments that denigrated the contribution. Perhaps he made them because he believed he was not equal to the task of attaining that high level of debate. The honourable member for Malvern made a fine contribution and showed he is capable of the necessary task of going into the fine detail of legislation. This place should always be about contributions of excellence and not contributions of mediocrity.

Firstly, I will make some general comments about the bill and summarise some of the important points made by the honourable member for Malvern. He pointed out that the bill overturns the 1995 High Court decision in *Breen v. Williams*, which did not uphold the notion that a patient owns their own medical records. The bill also overturns the concept that a patient does not have a right of access to their medical records. The bill is broad ranging and amends some 22 acts.

As the honourable member for Malvern pointed out, it reconciles access to medical records on the one hand and the protection of privacy on the other. Some members have suggested that the protection of privacy could have been dealt with in the privacy bill that the house recently passed, which covered only the public sector. If that bill had covered the private sector, this legislation would not have needed to have separate privacy principles.

We should be mindful of the fact that the federal government passed privacy legislation in December last year and that therefore some of the principles will overlap. The honourable member for Malvern referred to the definitions of 'health information', including definitions of 'health service' and 'service provider'?

Given my relationship with the medical profession — which some members would know the nature of — I believe it is not concerned about the concept that an individual should have access to their medical records. However, the profession is concerned about the retrospectivity of the bill and about the work involved in putting together past records that may cover lengthy periods. Some patients, in particular elderly patients, may have been with their doctors for 30, 40 or sometimes 50 years, and if required those medical practitioners would have to spend considerable time putting together summaries of their patients' records.

At the end of the day the medical practitioner may come to the view that imparting much of that information may be detrimental to the health and wellbeing of the patient. As has been suggested, the medical practitioner might not receive the basic rate of payment for the collation and summary of that material.

Another area of concern to some members of the medical profession is the requirement to provide an explanation of medical records, which can be technical. As a layperson it is sometimes difficult to understand the terminology being used, and often complex conditions are difficult to explain to patients. If a patient is not happy with or does not understand the explanation, they may seek to lay a complaint about it. We should accept that there are complexities that make it difficult to give simple explanations. That is not to say that patients are not capable of understanding a number of complex concepts, but sometimes those concepts are beyond their understanding because they do not have the necessary training.

I hope that providing access to medical information in such legislation will not encourage society to become more litigious. There is always a concern that that could happen. The United States of America has become a

highly litigious society. Matters relating to past care are often used as a means by which action can be taken.

The honourable member for Malvern raised concern about us becoming a litigious society. He referred to the impact of clause 85, which implies that, despite having gained access to their medical records, a patient or other person would not be able to pursue a criminal or civil action. We should be assured that there is some balance in this issue, because following an examination of their medical records a person may become aware of a situation that leads them to seek to take some civil or criminal action. I do not believe this Parliament would seek to deny a person that natural right, and therefore the matter will need to be examined in another place or by the government.

One would also hope that, in recording a patient's history, any health provider would not do so with a view to self-protection — that is, that the record will include what will be useful for any doctor or carer treating that patient in the future. In other words, it is hoped the legislation will not prevent a practitioner recording in a professional way so that the record will be of assistance to a person later.

On the fee charged, it is understood that the collation of the material and the drawing up of the summary is an area that will attract a maximum rate to be set by regulation. I am told that the further explanation by any health provider of a person's medical history will be charged for at the rate of that profession. That raises the question of whether the charges will be able to be made under the Medicare agreement. I suggest that if the government has not had consultation with the federal government about a charge being able to be made under a scheduled fee, there may be problems with this area of the legislation.

If a charge is not a Medicare rebate, individuals will have to pay the additional fee. Then it becomes a matter of access. Honourable members will be aware that not everyone in the community will be able to afford to pay the fee a professional — perhaps a specialist — would of necessity charge for providing a medical record. Therefore older people, particularly pensioners, would be denied the right of access that other members of the community would have. That issue would be of concern to those groups.

A large number of aged care services fall within the net cast by the definition of health care provider. Perhaps that is appropriate, but some issues need to be addressed. Some residential care facilities such as nursing homes, hostels, supported residential services — services provided to the elderly by local government, particularly under the home and community care program — adult day care centres and the services offered by carers are in the public sector and therefore are under the FOI jurisdiction, while others are in the not-for-profit and private sectors and therefore are subject to the provisions of the bill.

My particular concern is about nursing homes and hostels, which currently fall under the federal government law, having been extracted out of state government legislation a couple of years ago. Honourable members are aware that, in order to abide by the federal legislation, operators of nursing homes and hostels have undergone an accreditation process. That long process has demanded considerable resources and attention to detail. Now residential care facilities have a complex obligation. They must have care plans notated for each of their residents, and much of their work in caring for their residents is related to keeping appropriate records about the level of care, the administration and control of medication and so on.

There may be an impost with the bill in terms of further demands being imposed on those providing services in aged care facilities. That demand could be from the residents or the result of a request from a relative who holds an enduring power of attorney for information about the medical records held by that facility.

The residential care facility provides the information and explains it, and under this bill it can then lay a charge for that action. The federal act covers the fees nursing homes are able to charge patients. The federal government subsidises nursing homes and hostels. Therefore the question needs to be asked whether this state law will in some way contravene the federal law as it relates to residential care facilities, the funding of those facilities and the amounts they can charge residents or their families for the operation of those facilities. I would be interested to know if the state government has held talks with the federal Minister for Aged Care about its capacity — —

Ms Pike interjected.

Mrs SHARDEY — I understand you actually bowl up and see her, so I am sure you have had the opportunity. It relates to the legality of what is being proposed in the bill. If that communication has not taken place perhaps there is a problem with residents or their families being able to access information.

Supported residential services (SRS) are regulated under the state Health Services Act. The previous government passed amendments to that act to provide additional responsibilities for the managers of SRS,

particularly with regard to duty of care and the administration of medication. The highest proportion of residents supported in SRS accommodation are pensioners, and they pay most of their pension to those services for their accommodation and care. If people are seeking access to their medical records, which are held by the owners and operators of such services, or if a relative is seeking access to medical records and a charge is levied for that service, there may be problems with residents being able to pay for that service. It is an issue of access given that the highest proportion of residents are on pensions and most of those pensions are paid to the service. The government needs to examine the issue to ensure that residents in SRS are not disadvantaged under the bill with regard to access to their medical records.

The final area I turn to relating to aged care, the provision of services and the effect of the bill is services provided under the home and community care program. The program is funded by both the federal and state governments so in a sense it is under dual jurisdiction. There is an agreement between the federal and state governments about the funding of the services provided under that program.

Local government and other providers supply these services, predominantly for the elderly — although not exclusively — and by their very nature they would collect much information about the health records of each individual service user or consumer.

Under the home and community care agreement with the commonwealth government it is appropriate that the government address the issue of charging fees for the provision of these health services, including whether that falls within the agreement on this legislation between the commonwealth and state governments. We are dealing with elderly people, usually on fixed or limited incomes, who wish to access their medical records. If that does not fall within the agreement, they may also face a problem.

Although issues of concern have been raised, the opposition does not oppose the legislation. Neither the medical profession nor the Liberal Party seeks to deny people access to their medical information where appropriate, and many conditions and exemptions are laid down in the bill to cover that issue. However, there are important issues of access and legal jurisdiction relating to the issue of fees. I thank the house for its understanding.

Mr TREZISE (Geelong) — I support the Health Records Bill for many reasons. Several speakers have referred to there being no more important personal information than an individual's health records. There have been ongoing discussions in the community over many years on the rights of people to access their health records.

Apart from people with vested interests, I have not met anyone who argues against people having access to their own records. From a patient's perspective not too many would disagree with the intention and the content of the bill. I congratulate the Minister for Health and his department on introducing this important legislation.

We are talking not only about the rights of patients to access their files but also about the privacy of such information. Given the fast-moving progress of information and health technology over recent years, the privacy of people's files has become increasingly important.

In my experience, elderly people in particular are becoming increasingly alarmed about where their records are, where they are going and why they may be going there. In some cases those concerns are justified. The trend is increasingly towards private companies — generally large multinational health and pharmaceutical companies — placing profits and competitive advantage before the health of people.

One need only look at the position South Africa faces in dealing with its AIDS and HIV epidemics. Multinational pharmaceutical companies are preventing people from using cheaper generic drugs rather than prohibitively expensive products, thus causing them to suffer.

One need also only look at the private companies that are unravelling people's genes, not so much in pursuit of better health as in pursuit of the almighty dollar. We are seeing a major shift in health care towards the private sector, which combined with 21st century information technology is causing people to be justifiably concerned about the privacy of their health records.

With ever-increasing health technology and what it can reveal about one's individual health and potential health problems there is also concern about discrimination that might apply to the wider community — for example, in workplaces. Therefore, as I have said, this is an important bill, and I believe it will be welcomed by the vast majority of, if not all, Victorians.

The bill traverses both the public and private health sectors, and it is quite obvious why there is a need for a bill like this to cover both sectors. In seeking treatment a patient may visit both private and public health organisations. For example, an individual may visit a

GP, who would essentially be in the private sector, and then perhaps a pathologist, who may be working through a public hospital. Information being recorded and held by both the public and private health sectors needs to be covered by the same consistent legislation.

It is important that patients' health records are managed in line with the principles set out in schedule 1 to the bill. If they are not, their management would be deemed to be an interference with the privacy of the individual. The health privacy principles that apply to management and handling include such requirements as the collection of records being part of a process that is accountable and transparent, disclosure being permissible only with the consent of the person to whom the record relates and data being accurate and complete.

From those few examples one can see that the bill makes extensive provision concerning the way organisations manage health records and the rights of individuals in dealing with those organisations. I believe this legislation is well overdue. It is legislation whose time has come and which will be widely commended.

A draft of the bill was released to the wider community and positive feedback was received by the government. No doubt the legislation has been finetuned to reflect concerns that were raised during that process. As I said, the bill has community support, and I commend the minister and his department on the work they have completed and wish the bill a speedy passage through Parliament.

Mr WILSON (Bennettswood) — I welcome the opportunity to join the debate on the Health Records Bill. The government tells us that the aims of the bill are to give individuals a legally enforceable right of access to their own health information which is contained in records held in the private sector and to establish health privacy principles that will apply to personal health information collected, used and held in both the public and the private sectors. We have also been told by the government that this bill is a companion to the Information Privacy Act, which passed this Parliament in the spring session of 2000.

The broad policy behind this legislation is to give consumers certainty about the manner in which information is collected, used, disclosed and stored. The bill before the house is most important because health information is, as suggested by the minister in his second-reading speech, arguably the most sensitive category of personal information that exists about an individual.

The shadow Minister for Health, the honourable member for Malvern, has given a clear and concise summary of the opposition's concerns with regard to the bill before the house. I do not wish to take up the time of the house by repeating those concerns. However, I did hear the shadow minister mention the new and extended role of the Health Services Commissioner. The shadow minister correctly observed that the bill gives the Health Services Commissioner unprecedented new powers and duties.

I am sure that all honourable members would have the greatest confidence in the Office of the Health Services Commissioner. Certainly, the current Health Services Commissioner has unquestioned bipartisan support, but this bill will quickly result in a resourcing issue for her office.

In my time as chief of staff to the previous health minister, I was constantly aware of the workload on the commissioner and her office. That workload has not diminished and the resources remain limited, and the government is aware of that. I take the shadow minister's point that this bill will significantly increase the workload and responsibility of the commissioner. Unfortunately, nowhere in the second-reading speech is there an acknowledgment or pledge that resources will be allocated to the Health Services Commissioner to cover the new costs and burdens.

The government is therefore on notice that passage of this bill will place a whole new burden on the Office of the Health Services Commissioner. The government must be ready and willing to open its purse strings accordingly to aid and assist the Office of the Health Services Commissioner.

Similarly, as outlined by the shadow Minister for Health, other organisations and agencies will be affected. I note that the Freedom of Information Act will continue to regulate individuals' access to their own health records where they are held by the public sector — for example, by public hospitals and government departments.

I am aware of the current workload that befalls public hospitals with the maintenance and management of health records. Already the workloads of administrative divisions of public hospitals are stretched and new freedom of information provisions in the bill will make their workloads even greater. I hope the government responds with an appropriate increase in resources to those public hospitals.

The bill may also lead to a significant increase in the workload of the Victorian Civil and Administrative

Tribunal. I trust that when he returns to duties the Attorney-General will give urgent consideration to this issue.

In conclusion, I congratulate the honourable members for Malvern, Rodney and Caulfield on their valuable contributions. While we on this side of the house do not oppose the legislation we are concerned that this 152-page bill falls somewhat short of the mark.

Mr SAVAGE (Mildura) — I am not sure whether it is required of me, but I declare a possible pecuniary interest in this legislation on the basis that I have a spouse who is a practising general practitioner and there may be some financial impact in the future.

I support the bill in its present form and congratulate the Minister for Health for some of the changes that have been enacted in the past couple of months which diminish some of the onerous responsibilities and implications to the medical profession and other medical service providers.

As a consequence of the introduction of the bill last year I wrote to all members of the medical profession in Mildura. I asked questions such as, 'Are you concerned about the access to your records by patients?', 'Do you believe there should be limits on the access to results and personal notes?', 'Retrospectivity will be limited to a summary of the patient's file; are you in favour of this?' and 'What fee structure do you believe should apply to record access, including the retrospectivity aspect?'. I received a number of replies on those issues that gave me some guidance.

The previous arrangements for medical records have been on a rather ad hoc basis. If a doctor has been subpoenaed to court all records have to be provided. If a patient changes their doctor, the records are usually transferred directly to the other doctor at the patient's request. As I understand, results are always given to patients on the basis that they accompany some explanation because they are not always drafted in terms the layman can understand.

The comments of some members of the medical profession in my electorate were interesting and positive. Generally, there was no great aversion to providing information to patients. I refer honourable members to some of the responses I received from medical practitioners. One such doctor states:

> I am sure that the majority of medical practitioners, including myself, have no concern in regard to information relating to the contract between themselves and the specific patient.

The doctor went on to say he would have some concern if that information was shared with other people, presumably the legal profession. Another medical professional states:

> I don't mind patients having limited access (in the form of summaries) to health records. Full access will have doubtful benefits and possibly harmful results.

Another medical professional states:

> I believe patients should have access to all notes of their own or dependants with the exception of information that is in the doctor's opinion harmful to them.

That concern is covered in one of the provisions in the bill. The medical professional also states:

> Retrospectivity doesn't worry me.

One negative response I received — it is the right of any person to express a view — was from a medical practitioner who states:

> I consider the provisions for medical patient access to medical records to undermine my right to private property and am therefore resolutely opposed to it. This right was clearly affirmed by the unanimous verdict of six High Court judges in the case of Breen and Williams, 1998.

I received a wide range of views, but the overall response was that retrospectivity did not have many implications for them. When the bill comes into effect records should be kept in a way that meets that requirement.

The provisions regarding the keeping of records was of some concern to medical practitioners and me on the basis that the records for an adult have to be kept for 7 years while the requirement for children was 25 years. The bill was not clear as to how those records would be kept if a person ceases to be a general practitioner, retires or dies. Initially it was thought that perhaps the estate may have to maintain the records for a lengthy period. I am pleased to advise the house that the advice from the minister is that currently there is no statutory requirement to keep records but you would on the basis of potential legal implications. Under the bill, if a general practitioner ceases to become a medical provider there is no requirement to maintain records; if he decides to move within Victoria records would be required to be retained; if he moves interstate there is no duty to retain records; if the practitioner retires there is no duty to retain records; and if the practitioner dies there is no duty on the executor or administrator of the estate to retain those records. The minister's response provided a satisfactory outcome for those people who were concerned about it.

The bill requires a fair amount of measured analysis and sensitivity because of the types of outcomes that are being sought. I have no doubt the bill will markedly affect the sorts of records doctors keep on patients. It may diminish the standard and quantity of material kept on the basis of possible legal implications. A good example of the current difficulties faced by the medical profession is that of litigation. Previously in Mildura a number of general practitioners performed obstetrics, gynaecology and childbirth, but now not one doctor is undertaking those practices. That has diminished the service delivery to the community and is not a desirable outcome. I hope this legislation is applied in a way that respects the needs of the medical profession and other medical providers and takes into consideration the sensitivities of patients.

In conclusion, I thank the doctors who replied to me for their assistance, in particular, Drs Harrison, Fleming, Chambers, Webster, Fox, Dowty, Soward, Marrows, Schneider, Chambers, Barker and McEvedy. I commend the bill to the house.

Ms McCALL (Frankston) — I will be brief because other members of the house would like to make a contribution. Although there is no need for most of us to make lengthy contributions due to the erudite contribution of the honourable member for Malvern, I would like to raise a number of issues as a result of research I have done in my own electorate about the issues behind the bill.

The opposition does not oppose the bill, but it expresses concerns about the potential use or misuse of information. The first question I would ask is why in the overall requirement do people need to have access to their medical records. I acknowledge that certain people seek to find parts of their medical records, such as a diagnosis or an opinion, but I have concerns about a blanket, clear access at the discretion of the individual. I come from the old school of thought. I would rather not read the bad news before I find it out, so I would rather not know what is in my medical records.

A number of doctors in the Frankston electorate raised the issue of medical discretion concerning something called a placebo. Most honourable members would be well aware of what a placebo is. I have an article from the magazine supplement of the *Australian*, which I am happy to table. It states in part:

> Placebo (which originates from the Latin word for 'I will please'…

It is a recognised course of action in the medical profession for not giving you medicine but making you believe that you are in receipt of medicine that in the end will remedy your problem. One of the concerns the doctors raised was that in an environment in which everybody of any medical persuasion at all prescribes at the drop of a hat for any disease, placebos are used effectively. Their concern is how the use of placebos for the very best of reasons can be written into medical records when in the future individuals may seek access to those medical records. I would hate to see what is a perfectly acceptable way of helping an individual overcome an illness become an issue under the bill.

I am not suggesting that people have their legs cut off if that is not needed, but the article further states:

> Research on a range of psychosomatic disorders, including pain control, sleep problems and asthma, confirms the link between placebo efficacy and expectancy.

Perhaps honourable members should not ignore that. I would hate to see that flexibility in the medical profession no longer allowed.

The other area I will touch on is the broad definition of a health service provider, to which the honourable member for Malvern referred. I am a trained human resources manager. Psychological counselling was part of my training. In the course I undertook we were counselled ourselves, but we were also taught the skill to counsel others. One of the things a personnel manager in a large organisation may do when interviewing someone is to make a judgment — in other words, form an opinion — on a personnel matter that may then be placed on someone's file. Most of us do not have photographic memories, and it may mean that the notes we make on the file may be used later in the course of our work to assist us in making a judgment or forming an opinion.

There is a concern among those in personnel management — human resources practitioners — that suddenly those pieces of information may be able to be accessed and misconstrued or misunderstood. I therefore urge the government that whereas this bill has general support within the community, and the opposition understands that general support, at the same time we should be careful about those issues. In the past some members of the medical profession were concerned about human resources practitioners becoming bush doctors. Bush lawyers are three a penny, and it was feared some people could suddenly become bush doctors. It was thought such people without a medical qualification would, because they believed they knew better, challenge the diagnoses of medical practitioners and the views written in their files.

We have to be careful that we do not attack the professions, themselves, because we would all acknowledge that the professionals are the experts in their field. Whereas in principle the bill has some fine ideals behind it, I urge the government to bear in mind that although it is always in principle that a piece of legislation is passed, it is in practice that one sees whether it works.

Mr NARDELLA (Melton) — I support the Health Records Bill. I too want to praise the honourable member for Malvern, who gave a strong and tough speech. He has shown that he is a tough and forceful speaker. He has some leadership potential, which he may show in the very near future! Along with honourable members on the other side, I wish to thank the honourable member for Malvern for his contribution to the bill. It was fantastic — and I cannot say much more than that!

The bill is about empowering consumers. It is also about giving consumers access to their medical records, regardless of the settings in which they are held, and about allowing consumers to utilise those records for their personal needs or other needs as they see fit, such as in a genetic sense, if that is where we are heading in the future. It is also about maintaining the privacy of those records, keeping them from people who should not have access to them. The privacy provisions are extremely important.

The bill has the support of all parties, and rightly so, given the instances that honourable members have highlighted, where legitimate access has been denied because of precedents arising from common-law practices right up to the High Court. In essence the bill recognises what should be put in place to give consumers as individuals access to their records.

It is interesting to read some of the principles in the legislation concerning access to records. In part they talk about responsibilities and about the restrictions that are necessary to make sure the legislation works and, more importantly, to protect people from themselves while protecting others in the course of their disclosing and providing access to medical records.

One of the areas this legislation will be able to deal with is the confidentiality of DNA material. We have not heard the last of DNA. Advancements in that area are continuing at a massive rate, and organisations such as insurance companies are becoming involved. In that regard, it was great to see one of those insurance companies hit the wall. They can be such terrific organisations, but the fact that they can misuse information for their own benefit is a real concern.

I again praise the honourable member for Malvern for his fantastic, far-sighted and brilliant speech, and I wish him all the best with his future leadership aspirations.

Mr KOTSIRAS (Bulleen) — I welcome the opportunity to speak on the Health Records Bill because I support the general thrust of the bill. However, as the shadow Minister for Health said, it has some problems. The honourable member for Malvern gave a precise and succinct explanation of the bill. I was not surprised when the honourable member for Frankston East said he could not comment on what the honourable member for Malvern said, because the honourable member for Frankston East supports what was said but did not have the courage to say so during his speech.

The purpose of the bill is to govern the distribution of health information by protecting the privacy of an individual's health information; to provide the individual with the right to access their health information, and to provide a framework to resolve any complaints. The bill complements the Information Privacy Bill which has already been passed by the Parliament.

Historically, records have been thought to belong to the doctor or to the hospital and not the patient. It is understood that allowing unrestricted access to records may not be in the best interests of patients. In 1996 this issue came to a head in the High Court judgment of *Breen v. Williams*. I refer to an article by Amanda Wynne headed 'Privacy and health records in Victoria' which stated that:

> In 1996 the High Court in *Breen v. Williams* stated that patients of private doctors did not have an enforceable right to have a copy of their medical record. The High Court indicated that they considered the issue of whether or not patients have an enforceable right to medical records was a matter for government, not the courts.

Currently, a person can access health records held by public health institutions via freedom of information (FOI) applications. The bill will enable a person to access their health records from both the public and private sector.

In 1995, the then federal Minister for Health said about access to medical records:

> Access will ensure patients are better informed about their health, improve the level of trust in doctor-patient relationships, and help improve the standard and accuracy of record keeping.

I support those sentiments because some years ago someone came to me because a doctor had refused to give her her health documents. She was going overseas

and wanted a copy of them. I spoke to the doctor but unfortunately he was not prepared to hand them over.

However, as the honourable member for Malvern said, there are a number of concerns about the bill. A person can request a copy of the documents from a public or private institution, but at no cost. A doctor will have to spend hours going through the records and deciding whether they are exempt under the Health Records Act. Who will pay the doctor for the hours of work he has to put into that exercise? Costs will be incurred if the provider decides to give a summary. Again, who will cover the costs? Costs will be incurred if the provider decides to provide all the records, and costs will be incurred if the patient decides to sit down with someone to have the records explained. Who will pay those costs? How much will the fees be, and will there be a full cost recovery?

The term 'health services' as used in the bill is very broad. The second-reading speech states that:

> Examples of non-health service providers include health insurers with insured persons' records, employers with health information of their employees, schools with vaccination records and fitness gymnasiums with health charts about their customers.

As the honourable member for Malvern said, it could apply also to members of Parliament. I have no problem with that, but people have to be made aware of the situation.

Under the bill a patient may complain to the Health Services Commissioner or, eventually, to the Victorian Civil and Administrative Tribunal. Will there be resources for the commissioner to carry out this work? Every time I speak to an FOI officer I am told they do not have the resources to provide the information, even though the Attorney-General says the resources are there.

Sitting suspended 6.30 p.m. until 8.02 p.m.

Mr KOTSIRAS — Before the suspension of the sitting for dinner I was saying that I hoped the Health Services Commissioner would be given extra resources and funding to ensure that she does her work, because the government is full of rhetoric when it comes to freedom of information.

The Attorney-General has issued a memo stating that:

> Principal officers must also ensure that adequate resources are available to fulfil their agency's obligations under the FOI act.

However, at times when I have put in a freedom of information request I have received a response saying:

> To retrieve, photocopy and examine these documents in order to determine their relevancy to your request in its present form would substantially and unreasonably divert the resources of this department from its other operations …

I hope this Labor government has learnt to put its rhetoric into practice and to give the commissioner the appropriate resources she needs to carry out her work.

Debate adjourned on motion of Ms BEATTIE (Tullamarine).

Debate adjourned until later this day.

PERSONAL EXPLANATION

Mr BRUMBY (Treasurer) — I seek leave to make a short personal explanation. During question time today in answer to a question from the honourable member for Brighton — —

An opposition member interjected.

The SPEAKER — Order! Leave is not required.

Mr BRUMBY — I informed the house that — —

An opposition member interjected.

The SPEAKER — Order! A personal explanation can be made at any time with the agreement of the Chair.

Mr BRUMBY — During question time today in answer to a question from the honourable member for Brighton regarding the business tax review I informed the house that a contract for $14 775 was on the Department of Treasury and Finance web site. In fact, that contract is not on the web site but is listed in information provided by the Department of Treasury and Finance to the honourable member for Bennettswood on 19 February 2001 in response to a freedom of information request.

Mr Doyle — On a point of order, Mr Speaker, I seek clarification of an error made by the Treasurer and ask why the contract was not on the web site when he claimed it was.

Mr Holding interjected.

The SPEAKER — Order! The honourable member for Springvale!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Malvern and the Minister for Post Compulsory Education, Training and Employment!

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Malvern and the honourable member for Tullamarine!

Mr Doyle interjected.

The SPEAKER — Order! I ask the honourable member for Malvern to show respect for the Chair while he is on his feet; otherwise I will deal with him under sessional order 10.

I do not uphold the point of order. As I indicated, a personal explanation can be made in the house on the proviso that it has been cleared with the Speaker and it is at the changeover of business.

CORPORATIONS (COMMONWEALTH POWERS) BILL

Second reading

Mr BRACKS (Premier) — I move:

That this bill be now read a second time.

The Corporations (Commonwealth Powers) Bill forms part of a package of corporations bills which follows historic negotiations between the commonwealth and the states to place the national scheme for corporate regulation on a secure constitutional foundation. The bill reflects the commitment of the Victorian government to achieving an effective, uniform system of corporate regulation across Australia. To understand this bill and the package of corporations law bills, it is necessary to consider the history of corporate regulation in Australia over the last 20 years.

In Australia the development of an effective system of corporate regulation has been complicated by our federal system of government. The states and territories are sovereign entities possessing the powers and ability to make their own laws, and for many years different requirements relating to corporate regulation existed in each state and territory.

From July 1982 corporate regulation in Australia was based on a cooperative scheme between the states, the Northern Territory and the commonwealth, where substantially uniform legislation applied to all jurisdictions. However, towards the end of the decade emerging problems in the operation of the cooperative scheme meant that the scheme was no longer an effective means of ensuring corporate regulation in a uniform and consistent manner suitable for a changing commercial environment. There were also concerns about the need for more effective national enforcement of the corporate regulatory regime.

This lack of legislative and administrative uniformity, combined with different regulators in the states and territories, was also hampering supervision of the share markets and thus investor protection. To remedy these emerging problems, a new national scheme for the regulation of corporations, companies and securities was devised and it commenced operation on 1 January 1991.

The current national scheme is based on the substantive commonwealth law which applies in the Australian Capital Territory, known as the Corporations Law. This law, as in force from time to time, is applied in each state and the Northern Territory. In Victoria the relevant legislation is the Corporations (Victoria) Act 1990.

In order to create a national scheme certain commonwealth features were added to the arrangements, such as the enforcement of Corporations Law offences by the Australian Securities and Investments Commission (ASIC), the Australian Federal Police (AFP) and the commonwealth Director of Public Prosecutions.

Also, the Federal Court was given power to hear matters arising under the Corporations Law of each state by a cross-vesting scheme contained in the corporations acts of the commonwealth and the states. The current scheme is underpinned by heads of agreement, which were agreed on 29 June 1990, and a supplementary agreement, the Corporations Agreement.

The Corporations Agreement, which is an intergovernmental agreement, was formally signed by the states, the Northern Territory and the commonwealth in September 1997

The agreement establishes the Ministerial Council for Corporations (MINCO), which is constituted by the relevant commonwealth, state and territory ministers responsible for the national scheme law, as the primary forum where all matters relating to corporations, securities and corporate governance are discussed and voted on. The Corporations Agreement sets out the functions, objectives and voting arrangements relating to the administration of the Corporations Law of the ministerial council.

The current scheme to all intents and purposes operates on a seamless, national footing. ASIC administers the Corporations Law through regional offices in each jurisdiction. The scheme has worked remarkably well. The parties to the Corporations Agreement have, in

general, complied with its spirit and letter, and there has been little discord between the states and the commonwealth about the operation of the Corporations Law in Australia.

However, recent legal challenges and decisions of the High Court of Australia have cast doubt on the constitutional framework, which supports the Corporations Law. The difficulties associated with the current system of corporate regulation have been identified by the High Court in two significant cases. The first case was decided in June 1999. In *re Wakim: ex parte McNally* the High Court held by majority that chapter III of the commonwealth constitution does not permit state jurisdiction to be conferred on federal courts. Effectively, this decision removed the jurisdiction of the federal court in most states and territories to resolve Corporations Law matters, unless cases fell within the court's accrued jurisdiction or in certain other circumstances, and it denied litigants a choice of forum for the resolution of such disputes.

The second case was the *Queen v. Hughes*, decided in May 2000. There the High Court held that the conferral of a power coupled with a duty on a commonwealth officer or authority by a state law must be referable to a commonwealth head of power. This means that if a commonwealth authority, such as the Director of Public Prosecutions or ASIC, has a duty under the Corporations Law, that duty must be supported by a head of power in the commonwealth constitution.

This decision casts doubt on the ability of commonwealth agencies to exercise some functions under the Corporations Law.

These decisions of the High Court prompted the Standing Committee of Attorneys-General and the Ministerial Council for Corporations to meet to resolve the problems facing the national Corporations Law scheme.

On 25 August 2000 commonwealth, state and territory ministers reached an historic agreement in principle in Melbourne, whereby states would refer to the commonwealth Parliament the power to enact the Corporations Law as a commonwealth law and to make amendments to that law subject to the terms of the Corporations Agreement.

On 30 November 2000, the honourable Attorney-General for New South Wales introduced the Corporations (Commonwealth Powers) Bill.

That bill was tabled in the NSW Legislative Assembly following extensive negotiations among the states and the commonwealth, culminating in a joint meeting of the Ministerial Council for Corporations and the Standing Committee of Attorneys-General held in Sydney on 28 November. At that meeting the state ministers agreed unanimously on the terms of that bill, and supported its introduction into the New South Wales Parliament. Following the introduction of the bill in New South Wales, further negotiations took place, and on 21 December 2000 representatives of the Victorian, New South Wales and commonwealth governments met to resolve outstanding issues. Their discussions turned on the inclusion of specific provisions in the Corporations (Commonwealth Powers) Bill to proscribe the use of the referral for industrial relations purposes.

It was agreed at that meeting that clauses 5 and 6 of the New South Wales Corporations (Commonwealth Powers) Bill 2000 would be removed from the bill and that, instead, an objects clause would be included in the bill to provide that the proposed act was not intended to enable the making of a law pursuant to the amendment reference with the sole, or a main underlying purpose or object of regulating industrial relations. The bill before the house gives effect to that agreement.

The bill reflects the commitment of the Victorian government to ensuring that the uncertainty that now prevails in the business community over the future of corporate regulation in Australia is resolved as quickly as possible. The Corporations (Commonwealth Powers) Bill firstly enables the commonwealth Parliament to enact the proposed Corporations Bill and the Australian Securities and Investments Commission Bill, in the form of the bills that were tabled in the New South Wales Parliament on 7 March 2001, as commonwealth laws. A copy of the commonwealth bills, which constitute the tabled text for the purposes of this bill, is available in the parliamentary library for use by members.

Secondly, it enables the commonwealth to amend those laws, or regulations made under them, in the future, as long as the amendments are confined to the matters of corporate regulation, the formation of corporations, and the regulation of financial products and services, but only to the extent of making express amendments to the bills referred to the commonwealth Parliament. This is called the 'amendment reference'. It should be noted that the omission of the old clauses 5 and 6 of the New South Wales bill introduced late last year in no way affects the proper construction of the amendment reference and, in particular, the concept of corporate regulation.

The bill provides in clause 1(2) that the act is not intended to allow for laws to be made pursuant to the

amendment reference with the sole or main underlying purpose or object of regulating industrial relations matters. This exclusion is to ensure that the commonwealth cannot use the referred powers to legislate in the area of industrial relations or to override state laws dealing with industrial relations.

The bill provides that the reference of power is to terminate five years after the commonwealth corporations legislation commences or at an earlier time by proclamation. The term of the referral can also be extended beyond five years by proclamation. The states have agreed to give the referral for only five years because the referral of power by the states to the commonwealth is not a permanent solution to the problems of the current scheme. At the request of ministers, the commonwealth has given a firm undertaking to examine long-term solutions to address the problems arising from the decisions of the High Court in Wakim and Hughes, including constitutional change. Those problems affect a number of intergovernmental legislative schemes. The states now look to the commonwealth to explore options for constitutional amendment thoroughly and expeditiously, through the Standing Committee of Attorneys-General.

It is anticipated that a decision will be made well before the expiry of the five-year period about the holding of a referendum on this matter.

The states can terminate the referral earlier, by proclamation, if, for example, the commonwealth Parliament makes amendments to the new Corporations Act which go beyond what was envisaged when the referral was made, such as in the area of the environment. The bill also provides for the termination of the power of the commonwealth to amend the referred laws, by proclamation. However, if only the amendment reference is terminated, the effect of the Commonwealth Corporations Bill is that the state would cease to be part of the new scheme unless all of the states also revoke the reference, giving six months notice of their intention to do so.

This underlines the importance of the corporations agreement, which will govern the scope of the referral. The corporations agreement is an intergovernmental agreement and in formal terms is not legally binding. However, the states place great weight on it, and have agreed to refer powers in the terms of the bill before the house on the understanding that the commonwealth will abide by both the spirit and the letter of the agreement.

As I have indicated, the agreement will contain specific provisions to prevent the use of the referred powers for the purpose of regulating industrial relations, the environment or any other subject unanimously determined by the referring states. It will also ensure that the states are consulted about any amendments made to the commonwealth Corporations Act, and where the commonwealth does not have existing constitutional power, that the states will vote on whether to approve or oppose the amendments. In addition, the agreement preserves the rights of the states to make laws that modify the operation of the Corporations Act in relation to their own activities, such as, for example, the regulation of state bodies corporate. The terms of the agreement are still being negotiated among governments, but it is anticipated that the remaining matters will be resolved in the near future.

I understand that the Prime Minister will write to other state premiers, asking them to arrange for bills in similar terms to this bill and the Corporations (Commonwealth Powers) Bill 2001 (New South Wales) to be considered by state parliaments around Australia. It is then envisaged that the commonwealth Parliament will enact the Corporations Bill (commonwealth) and the Australian Securities and Investments Commission Bill (commonwealth), using the powers conferred on it by this bill and its counterparts in other states, so that the new scheme can commence as soon as possible.

Honourable members will appreciate that a number of consequential and transitional amendments to state legislation will need to be dealt with before the new scheme commences, and I anticipate that separate bills for this purpose will be introduced before the commencement of the new scheme. The Corporations (Commonwealth Powers) Bill, related state legislation and the enactment by the commonwealth Parliament of the Corporations Bill (Commonwealth) and the Australian Securities and Investments Commission Bill (commonwealth) will, with the enactment of similar legislation in all other states, ensure that our national system of corporate regulation is placed on a sound constitutional foundation and reinforce Australia's reputation as a dynamic commercial centre in the Asia–Pacific region.

I commend the bill to the house.

Debate adjourned on motion of Mr DOYLE (Malvern).

Debate adjourned until next day.

LAND (FURTHER REVOCATION OF RESERVATIONS) BILL

Second reading

Debate resumed from 26 October 2000; motion of Ms GARBUTT (Minister for Environment and Conservation).

Mr THOMPSON (Sandringham) — The bill is a perfunctory one which, nevertheless, undertakes some important work. It relates to land located at Barwon Heads, Ballarat and proximate to the Charles Grimes Bridge in Melbourne that is to be transferred from the Crown to private interests. I am honoured to lead the debate on behalf of the opposition.

I comment firstly on the Charles Grimes Bridge and its importance to the City of Melbourne. The bridge was named after Charles Grimes who, perhaps unbeknown to some honourable members, was the first person to survey the coastline of Port Phillip Bay in 1803. The Keilor Historical Society referred to the importance of his contribution to Victoria in its review of his work in 1978.

At a time of concerns about French attitudes to Australia and their wider aspirations in relation to Port Phillip Bay, Governor King in Sydney ordered Grimes to survey the coastline of Port Phillip. With Lieutenant Charles Robbins he set out in the *Cumberland* on the first survey of the coastline of Port Phillip Bay.

A number of interesting comments are recorded in relation to his work. Some 180 years later, a number of remarks were made at the opening of the bridge, which had been constructed by the former Country Roads Board. Sir Brian Murray, the then Governor, quoted extracts from the journal kept by one of Grimes's party, a gardener named James Flemming:

> Wednesday, 2 February 1803
>
> Came to a salt lagoon about a mile long and a quarter of a mile wide; had not entrance to the sea. Soon afterwards came to a large river (the Yarra): went up it about a mile when we turned back and waited for the boat to take us on board. The ground is swamp on one side and high on the other. Saw many swans, pelicans and ducks.

The diary also records:

> Tuesday, 8 February 1803
>
> Sowed some seed by the natives' hut, where we slept. Continued our course up the river; the land high; rocks by the side of the river; it is a freestone, the strata on edge. Came to a fall (Dights Falls) where we could not get the boat over.

That was 32 years before the settlement of Melbourne by Batman and Fawkner. The journal further notes:

> The most eligible place for a settlement that I have seen is on the Freshwater River (Yarra Yarra). In several places there are small tracts of good land, but they are without wood and water. I have every reason to think that there is not often so great a scarcity of water as at present from the appearance of the herbage. The country in general is excellent pasture and thin of timber, which is mostly low and crooked. In most places there is fine clay for bricks and abundance of stone. I am of the opinion that the timber is better both in quality and size further up the country.

It is notable that Matthew Flinders relied on the work of Grimes and in 1814 commented on it in his publication *Voyage to Terra Australis*.

The excellent work undertaken today by the historical societies in the region is important, because they have seen the significance of noting the contribution of early explorers to Port Phillip and the work they undertook, which enabled effective surveys to be done. Ironically, the settlement that took place under Lieutenant Collins at Blairgowrie, near Sorrento, did not have the benefit of Grimes's survey of the bay, in which he noted that the best spot for a settlement was, effectively, by the Yarra River.

The bill regularises the landholding of the current bridge. It was noted last year that a new bridge had been built, but unfortunately it appeared that it was built at the wrong location. The project strayed from the original design, and an area of 2.7 metres wide and 32 metres long encroached on neighbouring land leased by a private company. The firm contracted to carry out the work was Walter Constructions.

Effectively, the Charles Grimes Bridge, which replaced the Johnson Street Bridge on the lower Yarra, was constructed in the wrong spot, necessitating a payment of $80 000 to the lessee over whose land equipment was required to be located and a further $270 000 by way of direct payment for the land adjacent to the site of the original bridge. At the time the bridge was carrying some 70 000 vehicles a day, principally from Ballarat, Bendigo and the western suburbs. Following completion of the Bolte Bridge it is understood the volume of traffic may have diminished to a degree.

At the time the first mistake was realised there were attempts to ascertain whether Vicroads could amend the plans sufficiently. However, it was too late because it would have added to the cost of the project and caused unacceptable delays at a time when the bridge provided an important linkage and gateway to the city of Melbourne, as it does today.

The importance of an effective freeway system is not to be underestimated in improving Melbourne's effectiveness as the transport hub of the east coast of Australia as goods are freighted to the port, and in facilitating the free movement of traffic from the western side of Melbourne to the east.

Originally Port Phillip, as it was noted at the outset, was named Port King after Governor King, who was the person who gave Grimes his original commission to set off on foot to carry out a survey around the coastline of Port Phillip. However, upon establishing that the bay had been named after him, he elected to name it after Governor Phillip, under whom he had served in earlier years.

Next I shall comment on the land that was owned by the Old Colonists Association of Ballaarat, which endeavoured to provide for needy miners in the Ballarat region between 1852 and 1855. The association acquired land within that region and built a meeting place which was also its head office. In addition it acquired land on which it developed a number of units that had a Crown land interest.

The object of the bill is to transfer the land from the Crown for sale and intended acquisition by the old colonists association. The association was established by miners and prominent citizens in Ballarat to assist those who fell on hard times — people who had come out to the diggings but found that life was not so prosperous for them.

Mr Perton interjected.

Mr THOMPSON — The honourable member for Doncaster indicates by interjection that in those days they were young colonists! I point out that, according to notes provided by the association, although it was established principally for the benefit of miners who were on the diggings between 1852 and 1855, in 1883 the organisation was assisted by middle-aged miners and prominent citizens to help those who had fallen on hard times.

A hall was completed in 1889 as a meeting place for members and the administration centre for philanthropic work. The old colonists association is one of the most unusual and oldest philanthropic associations in Australia. On a marble plaque at the top of the stairway are listed the names of members under the year in which they died. There are apparently some 800 names on the plaque, and descendants come from all over Australia to research their family histories and to find their forebears' names.

I understand there may be a number of members of this chamber whose forebears held membership and who themselves hold membership of the Old Colonists Association of Ballaarat. The association continues to assist the aged and needy by providing low rental housing in 33 cottages at Charles Anderson Grove and 6 units in Ascot Street, Ballarat, and it works as a non-profit entity. It is worth noting also the outstanding work undertaken from time to time by not-for-profit organisations. In Australia today a large number of organisations continue to work on a voluntary and philanthropic basis.

The object of the bill is to enable land to be excised from Crown ownership, to facilitate the philanthropic work of the old colonists in Ballarat and to further their objectives in providing suitable housing. The land may have appreciated considerably in value since it was first utilised by the association. There is some open space at the back of the area that has prospects for further development and will certainly advance the cause of that organisation.

In earlier years other legislation has been introduced into this chamber to further the work of the old colonists. In its original Crown grant a restriction was placed upon the association's title, which limited the extent to which it could borrow against its landholdings.

This chamber undertook good work to remove that encumbrance on the title to enable the old colonists association to mortgage the land so it could more effectively utilise its resources and further its objectives.

A third element in the bill concerns the Barwon Heads Golf Club, an historic club on the Victorian coastline. The clubhouse, which was established in the early part of the century, was ideally located. A segment of the land was owned by the Crown. At one point there was a land swap, whereby some more attractive coastal land was transferred to the golf course and land transferred by the golf club to the community for a coastal park.

Negotiations have now been conducted with the department and the club to provide a legal right of access to property owners who have properties in the adjoining Stephens Parade.

The course has fulfilled an important role in the history of the Barwon Heads coastal community. It is an important recreational resource and a tourist asset for that district. A number of members of this chamber have assisted in facilitating the legislation, including the

honourable members for Barwon Heads and Bellarine, both fine sportsmen in their own right.

I will share one brief story with the chamber about a game of cricket played at the Melbourne Cricket Ground last Friday week. It involves the honourable member for Bellarine and a former Prime Minister of Australia. The honourable member for Bellarine clean bowled the former Prime Minister, who served this nation between 1983 and 1991, or thereabouts. I introduce that anecdote to show the keen sporting ability of honourable members in that precinct.

I note the importance of effectively utilising land throughout Victoria for a multitude of purposes. In Victoria some outstanding work was undertaken by the former Land Conservation Council, which was established in 1970 by a former Liberal government. The achievements of that time include the establishment of the Conservation Trust and the Environment Protection Authority, great measures that involved innovation and foresight. The establishment of the EPA involved the development of visionary legislation that was used as a model for regulating the use of land, air and water, as well as supervising and monitoring their quality. Those are examples of the range of initiatives within the province of government.

The bill deals with the development of the Charles Grimes Bridge in the Lower Yarra area; the reallocation of land at Barwon Heads, which concerns the reversal of land ownership — some in the hands of the state and some in the hands of the Barwon Heads Golf Club — to achieve a more effective outcome for club users; and the work undertaken in Ballarat involving the old colonists association.

I am pleased not only to contribute to the debate but to articulate the background of the legislation and to note the outstanding work done in land management in Victoria. Another feature of that management is the percentage of the coastline that is in public ownership. As it relates to the Barwon Heads land, one can ascertain the effective work involved in having a strip of land in public ownership that provides free access to Victoria's coastline.

Reference was made in the chamber earlier today to important management aspects of Victoria's 264 kilometres of coastline on Port Phillip Bay, including managing the movement of sand along the coastline and ensuring the safety of people walking along the top of and at the base of cliffs. A tragic event occurred 11 years ago in Beaumaris when a young fellow who was walking near the base of a cliff was killed when he was buried in sand as a result of the unforeseen collapse of the cliff face. It is important that the government have strategic plans in place for the management of its assets to ensure that the community has the opportunity to enjoy Victoria's national and state parks, and other recreational areas.

Bill Borthwick, a former conservation minister, regarded as one of his great achievements the gradation of parks to ensure that Victoria's major parks such as those at Wilsons Promontory, Mount Buffalo and Wyperfeld, which are among the great assets of the state, were not, to use his words, 'loved to death', but were managed in an appropriate way.

While on the one hand the bill has been described as perfunctory, on the other hand it will enable a number of local organisations to fulfil and further their principal objectives. It will enable the old colonists association to continue its philanthropic work and the Barwon Heads Golf Club to give its members and visitors to the region access to a fine golf course. It will also give the local Barwon Heads residents appropriate road access to their dwellings, which as a result of some inadvertent planning in earlier years has not been provided.

Finally, the bill will correct an error caused by the erroneous alignment of the Charles Grimes Bridge when its construction to replace the Johnson Street Bridge was not properly undertaken. I would be interested to know whether the state of Victoria will be able to recover the outstanding costs it was required to contribute — that is, the $80 000 paid to the lessee at the time and the $270 000 paid to acquire the land.

I am pleased to support the bill on behalf of the opposition.

Mr KILGOUR (Shepparton) — I support the Land (Further Revocation of Reservations) Bill, which provides for the revocation of reservations over three parcels of land — one at Ballarat, one at Barwon Heads and one at the Docklands — and which also involves a Crown grant affecting one of those parcels.

The National Party believes the bill is necessary to provide for the revocation of the land in question. However, the name of the bill could be changed to the Embarrassment Bill, because there is no doubt that these parcels of land are the cause of great embarrassment, not for the government — which is what some government members look as though they thought I was going to say — but for various people who have had to have the bill introduced.

The first of two causes of embarrassment involves the 90 square metres of public purposes reserve adjacent to the Charles Grimes Bridge which was duplicated as

part of the Docklands development. Those who have been going to watch the football or whatever at the Colonial Stadium will have seen the great improvement in the movement of traffic on the Charles Grimes Bridge since that duplication. However, as a part of that development the bridge was constructed under a non-conforming contract, which is a nice way of saying the builder made a blue! The builder constructed the bridge outside the area within which it should have been constructed, and it has therefore taken up land that it should not have taken up. The eastern side of the structure has encroached on the adjoining reserve, and as it was established that a redesign of the bridge would lead to substantial additional costs and time delays, it is necessary to make an amendment to the piece of land the bridge has been erected on.

The government has sought and been given an assurance by Vicroads that it will take all necessary steps to recover from the contractor the cost of the land acquisition and all other related costs. I am not sure whether Vicroads or someone else failed to notice that the bridge was being constructed in the wrong area, but it has happened and there is a need to pass this bill to ensure that the reservation is corrected.

A parcel of land that is not a cause of embarrassment is the 4 hectares at Ballarat, which was reserved as the site for an asylum for indigent members of the Old Colonists Association of Ballaarat. I will not call the honourable member for Ballarat West an old colonist — —

An opposition member interjected.

Mr KILGOUR — She may be very proud to be called an old colonist, but I am sure the honourable member for Ballarat West has come across some of the old colonists.

Ms Overington interjected.

Mr KILGOUR — The honourable member for Ballarat West informs me she is, in fact, a member of the old colonists association. I am not sure whether 'old' is the operative word, but she is certainly a member of the Old Colonists Association of Ballaarat. The land was reserved in 1929 and vests in the trustees of the association, which was incorporated by virtue of a restricted Crown grant. It is a benevolent organisation, as has been mentioned by the honourable member for Sandringham, and was established in Ballarat after the gold rush to honour the enterprise and energy of the early settlers and assist the elderly and indigent old colonists, their widows and descendants. The association has applied to purchase the site to further its benevolent activities and the site has been assessed as having no public land value to warrant the retention of the Crown estate. The National Party supports the transfer of that land to the association.

The honourable member for South Barwon would know well the third piece of land, and so too would the honourable member for Bellarine, who has on many occasions played golf at the Barwon Heads Golf Club. It is a very nice course indeed. I have also played golf there and I understand that a number of members of Parliament have held a golf competition on the course. The 4462 square metre portion of public purpose reserve adjoining the Barwon Heads Golf Club at the end of Golf Links Road in Barwon Heads is the second cause of embarrassment. A formed road on the reserve currently provides access to a housing estate at Stephens Parade, and the road also encroaches on the land of the Barwon Heads Golf Club. However, as it is not a formally proclaimed road there is no legal access to Stephens Parade and the housing estate is essentially landlocked.

It is the cause of tremendous embarrassment for the local municipality that that was allowed to happen. Parliament must now revoke that reservation of land to enable the people living on the housing estate to drive to and from their houses on a formally proclaimed road.

I certainly support the honourable member for South Barwon in his efforts to ensure that these people were looked after and that the government took the matter on board. People in the housing estate will forever thank the honourable member for ensuring that they could drive to and from their homes. I am sure the Barwon Heads Golf Club would also be happy to have the situation resolved.

The National Party supports the bill. I am sure that all those involved with the three parcels of land will be pleased to see the passage of the bill through the house.

Mr HOWARD (Ballarat East) — I am pleased to speak on the Land (Further Revocation of Reservations) Bill which, as we have heard, will enable the revocation of three reservations of Crown land around the state, an act the government has embarked upon because of some identified problems with previous land boundary alignments — in the case, at least, of the Barwon Heads Golf Club area and the area adjacent to the Charles Grimes Bridge.

Let me take the house through the three areas of land and the reasons for the necessity to bring about the revocation of their Crown reservations. I will start with

the Ballarat land, since it is land with which I am familiar and an area which I travel past regularly.

Mr Perton interjected.

Mr HOWARD — Gee whiz! Some people are ignorant about the comments they make when they interject. I wish they would get some facts right.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Doncaster!

Mr HOWARD — As I regularly go along Gillies Street, I pass the land which is subject to this particular revocation. It contains the Charles Anderson Grove cottages, which were constructed by the Old Colonists Association of Ballaarat to provide housing for some of its older members who were in need of housing. As members are aware, the old colonists association is a club in Ballarat with a great history of providing support for local people with identified needs following the early gold rush days.

The old colonists association has a colourful history. Its main building in Lydiard Street, Ballarat, is a very fine historic building in which many significant events are held to remind people of the great history of Ballarat. One of the events held in the old colonists association building at least once a year, in December, relates to the Eureka Stockade commemoration, and sometimes other mid-year functions are held there to recognise the Eureka event. People attending those occasions have included patrons of the Eureka Trust — both Malcolm Fraser and Gough Whitlam have attended. In their addresses speakers at the old colonists association have regularly illuminated people about the history of the Eureka Stockade and many aspects of the great history of Ballarat. The association also provides an opportunity for the members to meet regularly each week, share camaraderie, and raise further funds to support people in need in Ballarat.

The old colonists association does a great job, is a significant part of the history, and has been able to continue, adapt and flourish in Ballarat. With the sale of the land that was associated with the former Lakeside Psychiatric Hospital the association recognised that it needed to have security of the land on which it had right of occupancy, so it applied to the government to have the land upon which the cottages stand brought under its ownership. This piece of legislation will enable the old colonists association to own the land upon which the cottages it built many years ago stand and therefore have more adequate control over the ongoing development of the site. I am certainly very pleased to support this part of the bill.

Not far from where I grew up in Geelong and where my parents still live is the Barwon Heads Golf Club. It is an excellent piece of land and, as the honourable member for Bellarine is clearly aware, the Barwon Heads Golf Club is a great club. It is regularly visited by wallabies, which sometimes present challenges to the golfers.

Mr Spry interjected.

Mr HOWARD — Harry Cook, who was the club manager for many years, told me there were wallabies there, but I am prepared to concede that maybe it is just bunnies like the honourable member for Bellarine who hop across the course and present a challenge for the golfers!

As we have heard from previous speakers, an identified problem has been associated with the Stephens Parade housing development adjacent to the Barwon Heads Golf Club. When the road issue was looked at it was found that the road is not a proclaimed road and that part of it runs across land presently owned by the golf club. There was a need for a sensible arrangement to be entered into between the club and Land Victoria to see how the challenge could be overcome. I am pleased to see that with the sensible actions of Land Victoria and the Barwon Heads Golf Club a suitable resolution has been reached. The part of the bill that deals with the land will enable that to take place so the residents of Stephens Parade will be able to formally and reliably have access through to their houses. I am pleased that sensible negotiations have taken place to enable the people in the Barwon Heads area to be confident about their future.

The third parcel of land identified within the proposed legislation is a very different kettle of fish. It relates to the Charles Grimes Bridge and, as we have heard, a very embarrassing issue that arose in its construction — that is, that after the plans were drawn up and the early part of the construction had started it was realised that the bridge was not built on the Crown land it was supposed to be built on but was built partly on private land.

That caused many complications. It was possible for the government to have forced the constructors of the Charles Grimes Bridge to change their plans and go back onto the proposed alignment. However, that would have been very costly and caused the loss of a great deal of time in the construction of the bridge.

Some degree of commonsense has prevailed in that it has now been determined that it is appropriate to revoke that parcel of Crown land to enable it to be passed on to the private owners who would have otherwise lost land.

I understand the government has advised Vicroads that it should take all possible actions to ensure that the contractors who were responsible for the error are required to cover the necessary costs to ensure that recompense can be made and that the mistake can be corrected in a reasonable manner.

Certainly now that it has been completed the Charles Grimes Bridge provides a much improved entry area for people who wish to enter the city area from the south-west, and is very useful for those going to Colonial Stadium or other areas of the Docklands. However, the government was somewhat disappointed with what it found with the contracts that were entered into by the former government for the reconstruction of the Tullamarine Freeway and the City Link project. Although it would be useful to allow traffic to flow after it comes across the Grimes bridge into the city and the Docklands precinct and to head directly north–south to the west of the Docklands stadium, which would suit many travellers and help to reduce traffic flows into the city, unfortunately because of the poor way the contract between the former government and City Link was drawn up, if the government were to make that road open to the public it would be required to pay costs.

It is a great disappointment that members of the public cannot have the full benefits of the Charles Grimes Bridge in the form of the traffic flows that could be generated as a result of its construction.

I am pleased to support the bill. It is a commonsense measure. It demonstrates that the government is prepared to work to solve problems and that Land Victoria is able to act soundly to revoke land reservations where necessary and in circumstances where communities can benefit as a result. Although three relatively small amounts of Crown land are involved, the bill will enable land to be used more practically by the community in the future. As I said, I am pleased to support the bill. I trust it will have a speedy passage.

Mr PATERSON (South Barwon) — At the outset I must declare an interest. I am a member of the Barwon Heads Golf Club, although given the number of times I play, I do not think I have a handicap at the course. Nevertheless, one day I will return to the course — and perhaps get a few lessons from the honourable member for Bellarine, who as everyone in the chamber knows is a very competent golfer.

The land swap in Barwon Heads had its genesis more than a decade ago, when safety along the track through the golf course increasingly become an issue as the years went by. I suppose decades ago the track through the golf course was used less than it was before certain recent events closed the road, and that traffic was not much of a problem. As time went by and cars became more numerous and faster the problems associated with traffic along the track through the golf course became significant. When I became a member of Parliament in 1992 the issue had been the subject of considerable debate. It has taken until now, during which time there has been a change of government, for the matter to be brought to some sort of conclusion.

One of the first issues to be resolved was what was to be done about the track through the golf course. History shows that the track wandered on and off Crown land — some of it was on private land owned by the golf club and some of it was on Crown land, where it should have been. When people in the town debated it there were views on both sides of the issue of whether in the main the track should be closed to traffic, except for traffic destined for the golf club and the now much-talked-about Stephens Parade, which has not previously received as much publicity as it has in the chamber tonight. There are not many houses in Stephens Parade!

The decision ultimately reached was to close a section of the road, which would prevent traffic going through the golf course track onto 13th Beach Road. While there was some passion in the debate among many in the town as to whether it was a good idea, in the end commonsense prevailed and the track was closed, so that it did not go through to 13th Beach Road but was left open for traffic accessing the golf course and Stephens Parade. More importantly for the town, it remained open for pedestrians and cyclists so they could still take a leisurely trip through the golf course to get to the beach. Now vehicles have to go around the town and past the caravan park to get through to 13th Beach Road.

In the early 1990s there was some debate among a handful of people about whether the golf club was just attempting to better its position by arriving at that solution. As the debate continued it was acknowledged that the arrangement was a commonsense solution for traffic management in the town. While there is no question that it was pushed by the golf club, certainly the local council, the City of Greater Geelong, saw the merits of the plan and supported it from the outset. The local councillor indicated his strong support. The bill clarifies the plan that has evolved over the past decade. As I said, it brings to a conclusion the closure to cars of the track to 13th Beach Road, with pedestrians and cyclists still being allowed through.

The Barwon Heads Golf Club is no stranger to the house. Indeed from time to time acts of Parliament have been passed to deal with situations that have arisen in the area. I am indebted to the honourable member for Sandringham, who has undertaken significant research into the Barwon Heads Golf Club. Perhaps he wishes to be put up for membership.

Honourable members interjecting.

Mr PATERSON — For the record, I jest about the wishes of the honourable member for Sandringham. He has directed my attention to an act of Parliament that was passed in September 1960. For decades the first six fine holes of the golf course were on Crown land and the golf club owned a significant portion of land at the other end of Barwon Heads, where the Village Park is now. In 1960 it was agreed that those two pieces of land be swapped. The land now known as the Village Park, or the 58 acres — and I am happy to say that in *Hansard* of 1960 it appears as the 58 acres — was considered to be a suitable land swap. I note that *Hansard* records the relative values of the two pieces of land. The land that was to be surrendered by the golf club was valued at £13 000 and the land where the first six holes are positioned was valued at £7400 — and inflation would have taken care of that over the past 40 years! Unfortunately, *Hansard* does not note what consideration was given either way for the swap.

Back in 1960, the people of the town clearly had a lot of discussion about the plan, as they have had about the most recent plan. *Hansard* notes that it was supported by practically every organisation in the town, including the South Barwon Shire Council, which does not exist any more; the Barwon Heads Lions Club, which certainly does, with Ocean Grove; the Barwon Heads RSL, and that certainly is still there; the progress association, which still lives; the Barwon Country Women's Association, which unfortunately has fallen by the wayside; the Barwon Heads Infant Welfare Committee, and certainly there is a maternal and child health centre there now; and the Barwon Heads branch of the Australian Labor Party. Regrettably for supporters of the ALP that branch is now defunct.

Honourable members interjecting.

Mr PATERSON — The list continues with the Barwon Heads Football Club — and the Seagulls are going from strength to strength. The state school is still there, although I am not sure whether the mothers club still exists. The Barwon Heads Red Cross Society is still going strong, and the fire brigade is certainly still there. I note the interjection in *Hansard*, and it was later confirmed that the local branch of the Liberal and Country parties supported the exchange. While the term 'Country Party' is no longer current, the Liberal Party branch in Barwon Heads is still very much alive and going from strength to strength.

The bill indicates the significant history that attaches to the Barwon Heads Golf Club. It refers to the instrument of the original reservation, which dates back to an order in council of 25 October 1880 — a long time ago.

The golf club, which has a marvellous history in the Geelong region, has had very few professionals for one good reason. One of the professionals was employed for 56 years, which was a long time. His name was Bud Russell, who has now passed away. He was brought over from Scotland when he was 19 years old by Stanley Melbourne Bruce, a former Prime Minister of Australia. Mr Russell retired not long ago at the age of 75, and was much loved in the town.

The bill deals with the practical issues affecting the Crown land at the Barwon Heads Golf Club. It is a pleasure to speak on the bill and support it.

Mr HELPER (Ripon) — It gives me pleasure to support the Land (Further Revocation of Reservations) Bill. I will restrict my comments to clause 4, which provides for the revocation of the reservation and Crown grant over land at Ballarat. The land is currently set aside for an asylum for indigent members of the Old Colonists Association of Ballaarat. What a grand-sounding purpose!

Reading through the clause I knew straight away that the motives of the Old Colonists Association of Ballaarat would be pure, because it is a fine association. However, I was not 100 per cent sure of what 'indigent' meant. The trusty thesaurus of — —

Mr Leigh — You're a schoolteacher!

Mr HELPER — No, I was not a schoolteacher, I was in small business.

The trusty thesaurus in the current version of Microsoft Word provides a number of meanings of 'indigent', such as poor, needy, impoverished, poverty stricken, penniless and destitute. The meaning that most explains the word is 'impecunious', which is a quaint way of describing what the old colonists association is doing with some cottages on that piece of land.

In summary, the grand-sounding clause allows the old colonists association to have control over land on which it has cottages for needy families. What finer motive could there be? Currently the association does not have control over the land, and the bill facilitates the change.

The club is located in Lydiard Street, Ballarat. Those honourable members, myself included, who have had the opportunity to visit the club would agree that it is housed in a magnificent building and is a worthwhile and lively community organisation. The building and the club facilities are historic, and the association's purposes are treasured by the people of Ballarat. I was planning to join the association some time ago — —

Mr Leigh interjected.

Mr HELPER — That is, if they were so kind as to admit me to their august organisation. Regrettably, thus far I have procrastinated. However, in a way that is fortunate because I do not have any conflict of interest!

I commend the honourable members for Ballarat West and Ballarat East for their ongoing support of the old colonists association. The honourable member for Ballarat West has been working hard with the association to resolve the land issue. I commend the bill to the house and wish it a speedy passage.

Mr SPRY (Bellarine) — At the outset I wish to declare an indirect pecuniary interest in the Land (Further Revocation of Reservations) Bill. I am a member of the Barwon Heads Golf Club — and by a strange coincidence I am wearing a tie that is similar to that club's tie, which is beside the point. However, I defer to my colleague the honourable member for South Barwon, in whose electorate the club is situated.

I am grateful for the bipartisan approach taken by the house, particularly on the Barwon Heads issue. It was interesting to listen to the comments of the honourable member for Ballarat East, who extolled the virtues of the wallabies on the Barwon Heads golf course. I remind him that the last time wallabies graced the golf club land was probably when William Buckley was a boy! The honourable member was probably thinking of Anglesea Golf Club.

Despite that minor inaccuracy I am grateful to him for his remarks, because this bill concerns not only the Barwon Heads Golf Club in particular but also the general issue of safety. I have an intimate knowledge of that issue, because my wife, Robin, was a committee member of the Barwon Heads Golf Club for some years. I know she and other members of the club agonised over the safety issues pertaining to golfers' enjoyment of the club's facilities. In moving from the clubhouse to the first tee and the pro shop they had to cross the road that is the subject of this bill, and in doing so they were in danger — to use the vernacular — of being skittled by enthusiastic motorists heading along Golf Links Road to the popular 13th Beach Surf Lifesaving Club. So I am intimately aware of the danger that posed to the golfers, which is why I am so enthusiastic about the passage of the bill.

The bill is important because it affords protection not only against vehicles but also against other golfers! I would be derelict in my duty if I did not recount to the house an incident that occurred when a number of members of Parliament took part in a bipartisan event at the Barwon Heads Golf Club. My colleague the honourable member for Kew let one go across the road to which I have referred. It was a mighty drive that travelled along a remarkable parabolic trajectory as it headed from the 7th tee, landing not more than 10 feet from the green. Sadly, the ball did not fall at the 7th green but completely cleared the club house and landed very close to the 18th. The bill makes allowance for those sorts of wayward shots by wayward golfers. It will protect golfers and vehicles alike, because drivers will be able to take note of the conditions and slow down if necessary to avoid such dangers.

A number of people who have been involved with the Barwon Heads Golf Club, particularly its past presidents, will be delighted to see this bill come to fruition. The issue has occupied the thoughts of golfers and Barwon Heads townspeople alike for a long time. I speak of such luminaries as Miller Lowe, Noel Ritchie, Peter Motteram and the current incumbent, Ross Bradfield. It would be a red-letter day for those people, although I do not see any of them in the gallery this evening. They have worked hard to achieve this result.

Essentially, the bill is a safety measure. As a member of the club I will be pleased to see the bill pass through the house. If these provisions had not been introduced and the problem had gone on for much longer, people would have been grievously injured.

Mr SEITZ (Keilor) — I support the Land (Further Revocation of Reservations) Bill. Most honourable members feel good about and talk in support of this bill because it saves community groups and organisations much agony. I was a councillor of the former City of Keilor, which faced a similar situation. That created much difficulty, strain and stress for many people. The old Keilor municipal town hall was built on Crown land, but a year later it was discovered that the council did not have title to the land. It caused a great deal of embarrassment for all the council officers and bureaucrats concerned. I remember how we as elected councillors felt about ratepayers' money being spent on the property.

The situation required the government and the minister of the day to bring in an amendment similar to the one

before us. I commend the minister for her action, particularly as it involves community groups.

Some of them have been oversights on the part of planners. I am bewildered that in this day and age these oversights can still happen. Both the former government and the Cain government spent a lot of money in locating and mapping all Crown land and creating a database. Over the years land such as swampland in which no-one was interested has become valuable land and its use has changed. Much of this land was in country areas and people did not know who held the freehold. To the best of my knowledge a large database containing that information is available and held by government departments. Planners should not be let off lightly. The passage of the bill will help community groups, but planners should note that it should not become a routine matter because of sloppiness in their own work.

The Charles Grimes Bridge is only a recent happening. Although the contractor or some other person or company cannot be blamed, someone was responsible for supervising the project! Were proper procedures not followed because of the former government's haste in doing the job? Those things concern the government because in the end it is the taxpayers who must meet the bill.

The Land (Further Revocation of Reservations) Bill is a public interest bill. The people who benefit from its provisions will also receive a monetary benefit as they will not have to pay for the passage of the bill and associated costs caused by errors made by the golf club, the council or whoever issued the permit in those days. These things require to be put on public record as there is always a cost to the taxpayer when errors are made. Careless public servants and people with responsibility for administering these situations should be more careful in the future.

I am sure that in the future bills will need to be passed to correct errors made before modern databases and record keeping were available and boundaries and titles used the Torrens system, all of which caused confusion. With Australia's modern system of preparing and recording titles, which is the best in the world, these situations should no longer occur. People should examine up-to-date government archives and do their homework before authorising planning permits, rezoning properties or changing the use of land. It may be reclaimed land or land that looks like a bit of bush and someone thinks it is nature and part of their farm or estate and it goes with the sale; it may be land left by someone in their will and held in trust which is then discovered to be public land.

When you travel through Victoria you often see some odd parcels of land that have returned to bushland because no-one has cared for them. When the matter is investigated it is found to be land forgotten by family members, some of which has been reclaimed by local government because of rates arrears or some of which has returned to Crown land.

I commend the bill to the house. Although it will be passed it should be remembered that costs to taxpayers are always involved when errors are made. I wish success to those who benefit from the bill and congratulate them that they will have safe grounds and title to their properties. It is good that an issue messed up by someone in the past will be resolved.

Mr SMITH (Glen Waverley) — The Land (Further Revocation of Reservations) Bill is an interesting one that has the support of both sides of the house. It refers to reservations at Barwon Heads, land in Ballarat — the old colonists association — and the Charles Grimes Bridge.

In 1973 the *History of Barwon Heads Golf Club* was published, and it is interesting to have some background on the club. It was established in 1907 and in 1910 it purchased land about 1 kilometre north of its present site, and on it a flat nine-hole links was laid out. A painting of the original modest clubhouse is hanging in the club museum.

In 1920 land which now constitutes the present links to the west of Golf Links Road was purchased and laid out for the club by Vic East, the then Royal Melbourne club professional. Unlike today, the land was quite treeless and much effort was put into developing it.

At the annual general meeting on 15 December 1922 the committee was authorised to plan for the erection of a suitable clubhouse. Part of the authority to the architects states:

> The buildings are to be of the nature of a country club to accommodate both sexes and the cost not to exceed $12 000.

You would hardly build an outhouse for that amount in the current climate! The clubhouse, which was officially opened in 1924, received glowing reports in the press.

The next part of the bill deals with the Old Colonists Association of Ballaarat land. An extract from *Hansard* of 1903 states:

> The old colonists association was started for the purpose of assisting in sickness the old colonists of Victoria. Unfortunately for the association, when it had the ground given to it by the government, there was a clause inserted in

> the grant which prevented the trustees from mortgaging their property. It was necessary for the committee of management of the Old Colonists Association [of] Ballaarat, to get an advance, and in order to do so they desired to mortgage the property. But they were unable to do that, for the reason I have explained, and, consequently, the gentleman who had advanced the money asked a higher rate of interest than would have had to be paid if the committee could have gone into the open market.

The third part of the bill, which is very interesting, concerns the Charles Grimes Bridge. I thought the house would be interested to listen to an extract from the *Journal of Exploration of Port Phillip.* It records events from February 1803 as follows:

> Tuesday, 8 February 1803
>
> Sowed some seeds by the natives' hut, where we slept. Continued our course up the river; the land high; rocks by the side of the river; it is a freestone, the strata on edge. Came to a fall, where we could not get the boat over. We went inland a little way. It is stony, about six inches black stiff soil, white clay at bottom. Mr Robbins got up a tree; saw it to be gently rising hills, clothed with trees, for 10 or 15 miles.

Mr Plowman — This is fascinating stuff!

Mr SMITH — I thought you would find it to be so. I am fascinated that the honourable member for Benambra would interject in such a way! Like his colleague the honourable member for Bellarine, with whom he went to kindergarten and who is a lifelong friend — —

The DEPUTY SPEAKER — Order! We will have no reflections on honourable members in the house!

Mr SMITH — I am just letting him know that if he wants to interject we can remember — —

An honourable member interjected.

Mr SMITH — This is where the Yarra River was discovered. It is interesting, because when the current bridge was put up in 1999 it was discovered to be 2.7 metres by 32 metres out of alignment. Tonight we are trying to regularise an unfortunate part of the survey that went wrong.

The bridge is part of Melbourne's heritage and something we all treasure. By supporting the bill we are ensuring that we regularise and put right something that was done many years ago.

Like other speakers before me, it gives me great pleasure to support the bill and wish it a speedy passage.

Ms GARBUTT (Minister for Environment and Conservation) — I thank the honourable members for Sandringham, Shepparton, Ballarat West, South Barwon, Bellarine, Ripon, Glen Waverley and Keilor for their contributions to the debate on the Land (Further Revocation of Reservations) Bill.

This is a simple bill on which there appears to be little substantial difference between the parties. It revokes the reservations on three pieces of land at Barwon Heads, Ballarat and South Melbourne — specifically, the Charles Grimes Bridge.

While we have heard a lot of history and some general discussion about the areas involved, there appears to have been no debate on whether we should revoke these reservations and make them available for other purposes, as outlined in the bill. I again thank honourable members for their contributions.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

HEALTH RECORDS BILL

Second reading

Debate resumed from earlier this day; motion of Mr THWAITES (Minister for Health).

Ms BEATTIE (Tullamarine) — The purpose of the Health Records Bill is to promote the fair and responsible handling of information by protecting the privacy of individuals and the health information that is held in the public and the private sector, providing individuals with a right of access to health records in the public sector, and establishing an accessible framework for the resolution of complaints about the handling of health information.

Unlike the Information Privacy Act, which deals with the privacy of information in the public sector other than health information, this bill covers health information relevant to both the private and the public sectors. It does not make provision for the development by organisations of approved codes of conduct as an alternative to applying the principles prescribed in the act.

An important aspect of the bill is who it covers — for instance, health insurance employers, schools and gymnasiums. Honourable members may remember some time ago an item on one of the television programs — I am not sure whether it was *A Current*

Affair — about a weight loss centre that actually closed and left all of its records in the laneway. People were obviously very distressed about those records with all their personal information being left in the laneway because their lives could have been endangered had those records and personal details fallen into the wrong hands.

This bill is important. People are entitled to have their own health records, and I am sure the Minister for Health will have a record of events that transpired in the ministerial car last night! He will keep those records as they should be kept. The health minister is truly a hands-on health minister!

In the limited time available all aspects of the bill have been covered well, and I share the wish of the honourable member for Caulfield that the debate be of an excellent standard. I hope opposition members can achieve that standard very soon when they are over their party room troubles. I commend the bill to the house.

Mr DELAHUNTY (Wimmera) — I am pleased to speak on the bill in the short period that I have. I note with interest that the purpose of the bill is to protect the health information held by the health service providers and also to create an enforceable right to access health information. My colleague the honourable member for Rodney has outlined some of the concerns of the National Party, and I will cover a few of those. As we all know it is a far-reaching bill, covering 152 pages. The Fair Employment Bill is 183 pages, so obviously it is in that parameter.

The scope of the bill is very broad. I speak on behalf of the Wimmera electorate when I say that the cost to country providers is a concern. With the limited health budget a cost will be involved for all service providers, which is particularly worrying for country areas where providers are hard to get. There is also concern over the cost of recovery for other private providers.

I am particularly concerned about people who live, as I do, along the South Australian border. The bill applies only to Victoria, and with people moving interstate the government must look at that provision.

Concern has also been raised by hospitals about duplication between the FOI act and this legislation and duplication between the role of the health commissioner and the Victorian Civil and Administrative Tribunal. There is also concern raised by the Scrutiny of Acts and Regulations Committee about the retrospectivity of the legislation. However, given that the bill is supported by health care groups I, along with my National Party colleagues, am not opposed to this bill, even though we have some concerns about it.

Mr THWAITES (Minister for Health) — I thank all honourable members who have taken part in the debate. The bill fulfils a key element of the government's election commitments regarding health policy, and it gives consumers a right of access to their health records, even those that are held by private sector organisations. The extension of the right of access beyond the public sector is very important. It will rectify a major disparity between the rights of persons who receive treatment from public health care agencies and those who receive services from private practitioners or private bodies.

Although it is critical for consumers it is also a major development for the private sector. As was the case when the Freedom of Information Act was introduced some 20 years ago, private organisations that hold health information will have to become familiar with applying a new law. That will involve assessing the current information-handling practices to ensure compliance with health privacy principles. It will also require the development of skills to comply with the access regime. I acknowledge that there will be a period of adjustment. It is important to ensure organisations are given adequate support to fulfil their new duties. Consumers will also need to be assisted in understanding the nature of the rights created under the bill.

A key role of the Health Services Commissioner will be to ensure that adequate educational material is available to consumers and health service providers and others covered by the legislation. This information will need to explain how the health privacy principles and access regime apply to them. I understand that the commissioner is mindful of the importance of this task and is keen to make education a high priority.

It will also be necessary for regulations to be made by the Governor in Council to fix the maximum level of a number of fees that may be charged by organisations when they provide access. This includes the maximum fees for providing a copy or summary of health information.

A regulatory impact statement process will be undertaken regarding the making of these regulations. It will set out the draft regulations. It will also canvass the financial and non-financial benefits and costs associated with the different options for setting fees. Before the regulatory impact statement is prepared consultation will occur to ensure that the regulatory impact statement adequately takes into account the variety of

situations in which health information is handled and the diverse nature of health records. It will be necessary for the regulations to strike a balance between allowing adequate cost recovery for health providers and not setting fees that are prohibitive for applicants. The regulations will be made only after full consideration is given to submissions received.

Finally, I thank all of those who contributed to the preparation of the bill, those in the Department of Human Services who worked over a long period in its preparation and the Health Services Commissioner, who has also played a very important advisory role. The government appreciates the time and effort involved in such a consultation process and the value of the advice provided.

The SPEAKER — Order! As the required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975 I am of the opinion that the second reading of the bill requires to be passed by an absolute majority. I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1

Mrs ELLIOTT (Mooroolbark) — The opposition does not oppose the bill. However, maternal and child health centres, preschools, child-care centres, juvenile justice centres and services for those with disabilities, both day and residential, will be caught by the provisions of the bill.

I ask the Minister for Health whether such organisations have been informed that they will be caught by the provisions of the bill. Are there procedures in place for proper records to be kept, and who will reimburse them for the costs incurred, particularly organisations such as juvenile justice centres where inmates may have HIV status, be drug users, or suffer from hepatitis C or B?

Compiling longstanding records of maternal and child health centres would involve staff in efforts of collation, and people may seek information many years after they were attendants or patients at such organisations. I ask the Minister for Health for an assurance that those organisations will be properly funded to enable them to deliver this service to their clients.

The ACTING CHAIRMAN (Mr Plowman) — Order! Given the time, will the minister be erudite and succinct?

Mr THWAITES (Minister for Health) — Yes, I will be. The information on the medical background the honourable member has referred to in those various organisations will already be kept. Most of the organisations would already be subject to the Freedom of Information Act so they would be fairly well prepared for this type of legislation. The legislation will have probably a greater effect on private sector organisations.

However, the key change that will affect them all is that in general the organisation must use the information it has only for the purpose for which it was disclosed. That is an important issue, and there will need to be an education campaign throughout the community and in those organisations to ensure people know that. It is not a terribly complex issue, but an important one nevertheless. I believe it is the sort of thing that with goodwill and cooperation we will be able to achieve.

Dr DEAN (Berwick) — My concern relates to medical practitioners who fear that as a result of the legislation their private notes will have to be revealed, where to do so will cause difficulties for both them and the patient. If practitioners do not release their notes, the health commissioner may examine the notes and force them to be revealed. What protection do those medical practitioners have?

Mr THWAITES (Minister for Health) — Different provisions apply to historic records and prospective records, acknowledging that for historic records comments may have been made by practitioners that they do not want revealed and did not expect to be revealed. For historic records there is a provision only for a summary of the therapeutic aspects of the record.

In relation to prospective records, the medical profession is well aware of the legislation. The departmental officers and I have had extensive discussions with the Australian Medical Association about the legislation, and a number of changes were made to it after those discussions. The legislation has its genesis in a draft bill which was released and then amended, and subsequently the new legislation was introduced.

The legislation contains a provision that the information does not need to be disclosed if to do so would put the

health of any person at risk. That is the issue the honourable member has raised, so there is a protection there if someone's health is at risk.

Mr WELLS (Wantirna) — The police write up reports on the incidents they attend, in particular domestic violence, rape, bashings and many other crimes against the person. In all cases the police would write down comments on the welfare or wellbeing of the victim, and in some cases of the offender. Given the types of reports that police write up, at what point does the police force become a health service provider under the act?

Mr THWAITES (Minister for Health) — The police force does not become a health service provider under the act but, like other organisations, the police force is governed by provisions of the act and the health privacy principles that apply. As with kindergartens and other organisations, Victoria Police is already subject to freedom of information legislation. Clause 16 provides that the access regime set out in principle 6 and part 5 of the bill will not apply to documents that are subject to the FOI act. Any request for access to information contained in documents of the Victoria Police will continue to be dealt with under the provisions of the FOI act. The exemptions under that act, which were drafted to accommodate specific issues involved with public administration, including law enforcement, will continue to govern access. If there are law enforcement issues the exemptions under the FOI act will continue to apply.

The other health privacy principles will apply. The Department of Human Services consulted extensively with the Victoria Police during the preparation of the bill to ensure that it was satisfactory and would not hinder the performance of law enforcement functions. A number of the matters that the honourable member has raised are not necessarily health matters but are matters that the police deal with in the ordinary course of their business and will not be covered. However, if there are health matters subject to the exemption I referred to before relating to freedom of information, the police, like everyone else, will be expected to handle them in a manner consistent with the reason for which they got the information.

Mr BAILLIEU (Hawthorn) — I ask the minister to clarify the application of the bill to TAFE (technical and further education) colleges, universities and particularly student unions and the records pertaining to staff and students that those institutions hold, especially about the capacity of students and staff, exemptions, special considerations, assistance that they may require, or personal conditions, and in particular to sports unions and sports clubs operated by those student unions.

I also ask the minister about the application of the bill to gaming venues, gaming operators, the Crown Casino and the Victorian Casino and Gaming Authority in terms of individuals with gambling problems. In both areas — the TAFE institutes and the gaming venues and operators — what funding is available to the public institutions for storage and record keeping and what information program has been or is to be undertaken to inform those providers of their obligations?

Mr THWAITES (Minister for Health) — The honourable member has raised a number of different issues. I advise him that there seems to be some misapprehension about the effect of the bill. It will not generally require universities, schools or TAFE colleges to keep information that they do not already have. The bill is about ensuring that when organisations, whether they are private or public, have information about a person's health, they deal with it according to proper health privacy principles. The provisions of the act which ensure that in general that information is used only for the purpose for which it was acquired will govern those schools.

However, I agree with the honourable member that it is important that schools and TAFE bodies are fully aware of the effects of the legislation. The Health Services Commissioner will be discussing what is required with the Department of Education, Employment and Training and key organisations such as the Association of Independent Schools, the Catholic Education Office and the tertiary education sector. It is likely that kids will be prepared with fairly simple information for handing to schools, TAFE colleges and other organisations.

In relation to gaming operators and venues, I cannot imagine that they would have health information. If they do it would be minimal. As with other organisations, they would be expected to handle it according to health privacy principles.

The ACTING CHAIRMAN (Mr Plowman) — Order! Pursuant to sessional orders I have to interrupt business and report progress.

Progress reported.

Debate interrupted pursuant to sessional orders.

Sitting continued on motion of Mr BATCHELOR (Minister for Transport).

Committee

Resumed from earlier this day; further discussion of clause 1.

Mrs SHARDEY (Caulfield) — Given that residential aged care facilities legally fall within federal jurisdiction as health providers, has the state government negotiated with the federal government to ensure that residential aged care facilities can charge a fee for the provision of health records to residents of such facilities or their relatives who are legally entitled to ask for such records?

Mr THWAITES (Minister for Health) — I am a little confused by the honourable member's point. The legislation is able to apply to all organisations, whether they be nursing homes or private sector organisations, and a problem would occur only if there were an inconsistency with federal legislation. There is no inconsistency in this case, so — —

Mrs Shardey interjected.

Mr THWAITES — The honourable member interjects that the commonwealth government controls the funding and is charging the fees. It controls the funding of the centres, but it does not control the ability of the state to treat those organisations like other organisations. Just as with private sector and other organisations, those centres can charge fees unless the state legislation is deemed to be inconsistent with federal legislation, and I do not believe that is so. I am not a constitutional lawyer, but I believe on its face there is nothing in the bill to indicate inconsistency.

Those organisations are governed by a whole raft of state laws, whether it be the Crimes Act, the traffic act or anything else. I do not think the issue the honourable member has raised is of great relevance.

Mr WILSON (Bennettswood) — I refer the minister to clauses that extend and expand the powers of the Health Services Commissioner, and I ask: will additional resources be made available to allow the Health Services Commissioner to satisfy the new requirements?

Mr THWAITES (Minister for Health) — Obviously the Health Services Commissioner will be playing a key role in relation to this bill, and the government will ensure that the commissioner is adequately resourced. It will ensure that the whole process to be adopted around the proposed legislation is properly covered and that adequate educational and training materials are provided.

Mr BAILLIEU (Hawthorn) — I further ask the minister about the application of the bill to sporting clubs in particular, the records they hold and the duration of record keeping they will be obliged to undertake, be they junior or professional sporting clubs.

Mr THWAITES (Minister for Health) — My understanding is that sporting clubs would not be health service providers, therefore the provisions about those — —

Mr Baillieu interjected.

Mr THWAITES — I will be happy to come back to the honourable member on that point. My understanding is that those sporting clubs would not be required to provide records because they are not health service providers.

Mr BAILLIEU (Hawthorn) — Mr Acting Chairman — —

The ACTING CHAIRMAN (Mr Plowman) — Order! The honourable member has spoken twice on the one clause and cannot speak a third time.

Mr DELAHUNTY (Wimmera) — In relation to concerns I raised about cost recovery, particularly given the limited health budget for most rural hospitals, I ask whether the minister has looked into the issue of time costs for doctors in particular and costs for hospitals and other health providers under the bill.

Mr THWAITES (Minister for Health) — Hospitals are already subject to the Freedom of Information Act so they are well used to this type of regime, and it will not cost them any more. Medical practitioners are part of the regime, which is why we have put in place a fee-setting arrangement based upon a reasonable fee. We have had extensive discussions with the Australian Medical Association.

The honourable member for Mildura has raised concerns about that issue, to which we have responded. We believe there is now in place a reasonable balance between the benefits to the public and consumers on the one hand and the cost to the health service providers on the other. The system will be going through a proper regulatory impact statement process, which will ensure that people have a full say, and in that way it will be very fair.

The advice I have received on the sporting clubs point is that it applies only for as long as they need to hold the information.

Mr Baillieu interjected.

Mr THWAITES — No, if they do not need to retain that information and they are closed or whatever else, they do not have to retain it.

Clause agreed to; clauses 2 to 137 agreed to; schedule agreed to.

Reported to house without amendment.

Report adopted.

Third reading

The ACTING SPEAKER (Mr Savage) — Order! As a required statement of intention has been made pursuant to section 85(5)(c) of the Constitution Act 1975, I am of the opinion that the third reading of this bill requires to be passed by an absolute majority. As there are not 45 members present, I ask the Clerk to ring the bells.

Bells rung.

Members having assembled in chamber:

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr BATCHELOR (Minister for Transport).

ADJOURNMENT

Mr BATCHELOR (Minister for Transport) — I move:

That the house do now adjourn.

Police: Bellarine Peninsula

Mr SPRY (Bellarine) — I raise for the attention of the Minister for Police and Emergency Services the issue of police resources on the Bellarine Peninsula, which has occupied media attention in the past few days. In the lead-up to the last election Labor was relentless in its criticism of law and order issues on the peninsula, but nothing has changed. If anything, crime rates have escalated.

Confusion reigns about the government's plans for a 24-hour police station on the peninsula. Currently 20 or so police officers man four stations, but a 24-hour station, which the minister has vehemently declared will be fully manned, will absorb a minimum of 34 officers. The question on the mind of every person on the Bellarine Peninsula is: what will be the future of the four stations on the peninsula — namely, Drysdale, Ocean Grove, Portarlington and Queenscliff? How can they remain open, as per the minister's commitment, which is reported in *Hansard* of 14 December 1999, if a 24-hour police station means that total police officer numbers on the peninsula will increase from approximately 20 to 50? Constituents of the Bellarine electorate ask the minister to come clean and demonstrate the Bracks Labor government's declared commitment to openness and transparency.

I ask the minister to explain tonight what will happen to police officer deployment on the Bellarine Peninsula, and specifically how officer numbers in each of the existing police stations on the peninsula — Drysdale, Ocean Grove, Portarlington, and Queenscliff — will be affected.

Seniors: Ballarat

Ms OVERINGTON (Ballarat West) — I ask the Minister for Aged Care to take action to ensure that older people in the Ballarat electorates gain greater acknowledgment for their contributions to their communities and to the Victorian community as a whole.

Much of what Victorians feel proud of today is the direct result of the hard work and valuable contributions of the older members of our community. The 1996 census revealed that 15 816 people in the City of Ballarat — 21 per cent of the population — were 55 or older. That is amazing. It means that almost a quarter of the population of the City of Ballarat is 55 or older. Glancing around this chamber, I suggest that, apart from the honourable member for Bendigo East and perhaps the honourable member for Springvale, we are all heading in the direction of reaching 55 years of age, when, if we are no longer in this place, we will be entitled to our Seniors Card and be able to join our local senior citizens clubs.

The unfortunate thing in all this is that many older people feel they are not being acknowledged and thanked for the contributions they have made to the position Victoria is in today — it is the result of their hard work and efforts of the past. It is extremely important that we acknowledge in more ways than just words the contributions of these people to the society we live in. That is why I am keen for the minister to ensure that the Bracks Labor government pays special attention to the older members of the Ballarat community, who fought the hard battles before our time. Unless society acknowledges the fact that the

older people in the community have done the hard slog and brought the state to the position it is in today, it will be the sadder for it.

We parliamentarians must acknowledge the contribution of older Victorians, particularly as this week is Senior Citizens Week. Don't honourable members think each and every one of us needs to attend — —

Honourable members interjecting.

Ms OVERINGTON — How many senior citizens functions have you attended? I have attended a number, and on Sunday I will attend the final senior citizens concert. The Tuesday and Wednesday of the Begonia festival is made available — —

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

Gaming: taxes

Mr RYAN (Leader of the National Party) — I raise for the consideration of the Treasurer the content of the Harvey report on business taxation, particularly that component of it which concerns the proposal for a $4000 levy per machine on the 30 000 gaming machines in Victoria to raise $120 million. I call on the Treasurer to reject that proposal now, for a number of reasons.

The first is that, as the report says, the proposal is not intended to combat addiction and will not have any effect on demand. On the face of it, demand will be maintained.

Secondly, ironically, if the tax is imposed the prospect is that the machines will need to be used with more regularity to make up the amount of money that will be taken out of the system by the proposal.

Thirdly, there are some 60 000 shareholders of Tabcorp, and about 30 000 of them are Victorians. I am already receiving correspondence from numbers of them expressing concerns about what this will mean to the long-term investment they have made in Tabcorp, in good faith and in the belief that the rules that were written at the time of their investment would be maintained. This is a discriminatory tax, and they are the concerns the mums and dads, if you like, are putting to me.

Fourthly, the implementation of this proposal would wipe something in the order of $500 million plus from the value of Tabcorp, which in turn would have a massive impact on the value of the company. Capital markets are watching this with much interest. There is also the issue of the $28 million of dividends which would be lost to shareholders through the implementation of this proposal. All of this would be in circumstances where the government has already taken an extra $10 million by the application of the $333 per machine amendment, which was made late last year.

Next there is the question of sovereign risk. Investors, not only in Victoria and Australia but globally, are concerned about this because it represents a significant change in the rules part of the way through a process. The government recognised that risk when it developed its policy on the privatisation of the electricity industry and identified the need to maintain the position that prevailed as at the date of the election instead of trying to change it.

My next point is that, as the Harvey report indicates, the $120 million is not necessary to deliver the tax cuts.

Finally, there will be an impact on venue operators, such as the Sale Greyhound Club in my area, which has raised with me great concerns about this.

I ask the Treasurer to kill off the uncertainty that prevails in relation to this recommendation. It is causing great disquiet in financial markets and in the community generally, particularly among the mums and dads who are investors in Victoria. The Treasurer owes it to these people to get rid of this proposal.

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

Rural Victoria: optical services

Ms ALLEN (Benalla) — I raise a matter for the attention of the Minister for Aged Care. The electorate of Benalla includes a significant number of older people, many of whom are on limited incomes and find the cost of obtaining necessary spectacles and eye care beyond their financial means.

Fortunately the Victorian Eyecare Scheme assists with the provision of eye care and glasses to financially disadvantaged individuals. However, my constituents have raised with me the fact that people in country Victoria are unable to gain access to subsidised multifocal lenses through the scheme, even though people in metropolitan Melbourne are able to do so.

This anomaly in accessing multifocal lenses seems unfair and discriminates against country Victorians who are financially disadvantaged. Will the minister tell the house what action is being taken to ensure that disadvantaged people in the Benalla electorate gain the

same access to multifocal lenses as their Melbourne cousins?

Human Services: consultancies

Mr WILSON (Bennettswood) — I raise a matter for the attention of the Minister for Health. I ask him to instruct the Department of Human Services to comply with government policy, which requires all purchases between $15 000 and $100 000 to be preceded by three quotes before the awarding of a contract.

I refer to the awarding of a consultancy to Neil Pope and Associates to advise on industrial matters facing the government and the department, and in particular industrial issues between the government and the Australian Nurses Federation.

I refer to documentation received under freedom of information, which reveals that the government awarded a contract to Neil Pope, a former minister in the Cain–Kirner government, without three quotes being sought. In June 2000 a file note written by Mr Lance Wallace, the director of the resources division in the Department of Human Services, attempted to explain the anomaly by claiming that:

> Departmental policy is that purchases between $15 000–$100 000 require three written quotes unless it is inexpedient or impractical.
>
> It was considered that it was inexpedient and impractical to obtain three quotes in this case due to the urgent and specialist nature of the advice sought.

However, the department obviously did not know much about Neil Pope and Associates. In a memorandum dated 5 June 2000 it expressed complete ignorance of the value and worth of Neil Pope and Associates as a consultant. Points 3 to 6 of that memorandum are telling:

> 3. The proposed contract is endorsed as generally suitable for the purpose intended based on the information provided to this unit subject to the following amendments.
>
> 4. If Neil Pope and Associates is a corporate entity then the consultant's execution block at the bottom of page 2 is satisfactory. If a seal is not going to be affixed, then you should amend the execution block to provide for an authorised representative to sign for and on behalf of the company.
>
> 5. However, if Neil Pope and Associates is a business name only then you should amend the consultant's execution block to read: 'SIGNED by Neil Pope trading as Neil Pope and Associates'.
>
> 6. If Mr Pope is in partnership with others, the appropriate execution block could read: 'SIGNED by Neil Pope for and on behalf of the partners trading as Neil Pope and Associates'.

Finally the jobs-for-the-boys element of the contract is proven by an internal email dated 16 October 2000, which reveals that Mr Pope had complained about not receiving prompt payment. It states:

> On 29/9/2000 I sent an invoice to accounts payable for Neil Pope and Associates for an amount of $26 812.50, Mr Pope has called to advise he has not yet received payment. Could you please advise when this will be paid?

In an email response on the same day a departmental officer offers a clear statement of who matters in the government. It states:

> Will be in tomorrow night's cheque run.
>
> Have had words with my staff member concerned.

The government is all about spin and jobs for the boys.

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

Dandenong North: community outreach project

Mr LENDERS (Dandenong North) — I direct the Treasurer's attention to the wonderful community outreach project run by the Uniting Church in Dandenong North. The project runs an opportunity shop in Menzies Avenue, not far from my electorate office.

Through a dedicated committee ably led by Max Oldmeadow, the op-shop last year raised $25 973 for worthy community projects in my electorate. Since 1981 the Dandenong North Uniting Church community outreach project has raised a total of $480 772 through work in the op-shop. The committee is a wonderful group, led by Max Oldmeadow and including Joy Whan, Doug Whan, Marj Smith, Kathy Batten, Ruth Kowarzik and Ruth Saunders. However, they are a beleaguered group. Mr Doug Whan, the treasurer of the church, has had to fill out two business activity statements to pay $4 in goods and services tax to the federal Treasury.

The action I seek from the Treasurer in his capacity as the minister responsible for the infamous intergovernment agreement on the goods and services tax is to put pressure on the federal government to deal with the problem.

Honourable members know what voters in the federal electorate of Ryan think of the goods and services tax and the business activity statement. They also know

what the small businesses who responded to the Victorian Automobile Chamber of Commerce survey on the impact of the business activity statement think of them.

I seek decisive action from the Treasurer, not only in letting the federal government know what the Victorian government thinks but also in requiring it to explain why the voluntary workers for the Dandenong North Uniting Church community outreach project, who day by day go to their opportunity shop to raise $480 772 for good works, must fill in two business activity statements and pay $4 in goods and services tax.

Water: farm dams

Mr McARTHUR (Monbulk) — I raise for the attention of the Minister for Environment and Conservation a matter concerning the South Eastern Growers Network, which is a group representing 67 horticultural growers and businesses in the Cranbourne area. The network employs about 1000 staff and produces approximately $100 million worth of produce every year. I seek an assurance that the minister will meet with this group to discuss the concerns they have about the security of their water supply and water management strategies.

Many of these farms depend on run-off water and pumping water from drains that run through or pass by their properties. Generally, they do not pump from streams or have dams on waterways. I hope the minister takes into account the fact that most of the drains they pump for water are flood prevention or flood mitigation works that discharge stormwater into either Port Phillip Bay or Western Port Bay. In effect, the farmers are making use of a stormwater collection mechanism. I point out to the minister that their pumping program reduces both the nutrient and sediment loading going into those bays. The Port Phillip Catchment and Land Protection Board made a number of recommendations on reducing nutrient loading in Western Port Bay in a strategic report released about two and a half years ago.

The growers argue that the drains they pump for water have little environmental values as water courses and that their use of water from those drains reduces demand on reticulated supplies and ground water. They are concerned that any change to the existing water use patterns could threaten their enterprises, along with thousands of jobs and $100 million worth of produce every year.

Will the minister assure the house and the growers of the South Eastern Growers Network that she will meet and consult directly with them prior to making a decision or authorising any change to their existing water use entitlements?

Housing: Richmond

Mr WYNNE (Richmond) — I direct to the attention of the Minister for Housing a matter concerning the Richmond electorate, which includes a broad cross-section of society, with extremes of wealth and poverty. Some of my constituents who live on the margins of society experience episodes of homelessness and difficulty in maintaining stable and affordable accommodation.

The Minister for Housing has a difficult task ahead of her to rebuild the public housing stock that was neglected over the seven years of the former government, to the point where some of it, particularly in the Elizabeth Street area of the electorate, is structurally unstable and will have to be demolished. That is the legacy of the former government, and the minister faces a great challenge.

In particular, I raise with the minister the issue of home and community care funding. People who experience recurring homelessness are among the most disadvantaged in the community. They frequently suffer poor health, yet they are reluctant to make use of health and community services. The last annual report on health status prepared by the Department of Health and Community Services reveals a sad story. It shows that people living in the Richmond electorate are among the poorest in Victoria. The life expectancy of men is five years lower than the national average, and for women it is approximately three years lower. The figures, which are extremely disturbing, are particularly relevant to the homeless and alienated. Those people need outreach assistance to encourage them to use health services. Some people also need assistance with many of the tasks of daily living, such as cooking, shopping and personal care.

I understand that the home and community care program provides a range of services for frail or disabled people in the community. Recently the minister announced that additional government funds would be made available for the program. I ask the minister to advise me of the action she is taking to target home and community care services for homeless people living in insecure housing in the Richmond electorate and to say how those services will benefit from the additional funding.

Toxic waste: Lyndhurst

Mr LEIGH (Mordialloc) — In raising a matter for the attention of the Minister for Environment and Conservation, I call on her to come into the house. As a result of a decision made by the Labor Party in 1998, at the end of this year 70 000 tonnes of toxic material — the majority of the toxic waste produced in Melbourne — will be moved along roads from the northern and western suburbs to the south-eastern suburbs. According to the waste management people, that will involve a minimum of 17 000 trucks travelling along roads such as the Princes Highway through Dandenong, the Monash Freeway and the Nepean Highway. Because of the Labor Party's sell-out of the south-eastern suburbs in 1998, which the Treasurer knew about from local Labor members, the region is about to become the toxic dumping ground of Melbourne.

A government member interjected.

Mr LEIGH — It is not about what we are doing, it is about what you are going to do. The Labor Party, including the honourable member for Dandenong North, sold out the south-eastern suburbs. The result is that people living in the south-east will get those contaminants, no matter what happens.

The Minister for Environment and Conservation has said, 'We will not have any new sites'. But the council that was controlled by the honourable member for Dandenong North secretly agreed in 1998 to an increase in the height of the Lyndhurst facility — and now the intention is to expand it. If the government wants to keep it in the north, there is a site on Crown land opposite the Tullamarine toxic tip. The Minister for Environment and Conservation knows full well that Cleanaway has sought to gain control of that land for a buffer zone.

Mr Holding — On a point of order, Mr Acting Speaker, I have listened carefully to the contribution of the honourable member for Mordialloc. He has not sought any action by the minister. He is required by standing orders to seek action.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member has not yet spoken for 2 minutes and has time to ask for action.

Mr LEIGH — I seek an assurance from the minister that she and the Labor Party will not agree to the expansion of the facility at Lyndhurst and that they will ensure that a site in the northern suburbs is created. People like the honourable members for Springvale and Dandenong North have sold out the community as a result of their actions, and they should hang their heads in shame.

You need only read the front pages of our local newspapers to realise that the community has woken up to the fact that the Labor Party has sold out the south-eastern suburbs of Melbourne. It is a disgrace, and the minister should back off and ensure that the facility goes where it deserves — that is, in the north.

Housing: western suburbs homeless

Mr LANGUILLER (Sunshine) — I refer the Minister for Housing to the plight of the young homeless in the western suburbs. I seek specific direction from her to ascertain what action she will take to address the affordability issue for young people, especially those who are unable to access public housing.

By way of background, in this house last year the minister advised me of action she was taking to address the issue of homelessness in the western suburbs. I was heartened to hear that a range of schemes would be undertaken to address the concerns of families, in particular her commitment to a new crisis accommodation service to provide responses for 10 families at any time. However, I remain concerned that there are still too many young homeless people in Victoria, particularly in the western suburbs. They are the young kids of working men and women and kids related to our families and friends of ours, who should not be homeless in our society.

The recent rental report produced by the Office of Housing for the September 2000 quarter indicates that median rents for one-bedroom flats in the western metropolitan region rose by up to 12 per cent over the preceding year. Young people who are living independently have often sought this type of accommodation in the private market, but it is becoming increasing unaffordable.

As you would know, Honourable Acting Speaker, young people are homeless for a variety of reasons. Data confirms that it may be because of family conflict, much of which is of a personal nature, but society also needs to address and take responsibility for social and cultural matters. At times young people come to the city and suburbs from regional and rural Victoria to study. For a variety of financial reasons they are unable to find housing. Young workers come to the western suburbs to find jobs, and many of them are precluded from accessing private housing and rental because of their ages and/or incomes. I am delighted that the

government will address the issue of affordable housing for young people.

Beaches: Port Phillip Bay

Mr THOMPSON (Sandringham) — I refer the Minister for Environment and Conservation to several locations around Port Phillip Bay where the beaches have become seriously eroded. The government has advised that $100 000 will be spent on an inquiry into the matter. However, a good proportion of that sum could be saved if $1.40 were spent on a weekend newspaper to find out which sites on Port Phillip Bay require attention, not in 3, 6 or 12 months but immediately.

Several hundred cubic metres of sand have been washed away from the beach at a site in Sandringham north of the Red Bluff Hotel car park. The level of the beach has dropped by some 2 metres in the past six weeks and the cliff face is being undercut on a daily basis. What may have cost $100 000 for rectification work six months ago will now cost many thousands of dollars more today. As each week passes without the problem being addressed by shoring up the base of the cliffs and proposing remedial works to level the cliffs off at an angle that will minimise the likelihood of erosion and collapse, the situation becomes worse.

I ask the minister to immediately make an officer of her department available and, together with her department, to develop a strategy in concert with the local council to prevent the further erosion of the cliff face at Sandringham and at other locations around Port Phillip Bay.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Ivanhoe has 1 minute 20 seconds.

Neighbourhood houses: Rosanna

Mr LANGDON (Ivanhoe) — I ask the Minister for Community Services to advise what action she has taken to meet the government's policy commitment to provide additional funds to neighbourhood houses for information technology development. I ask this because the Rosanna fire station community house is in my electorate. It is a good community house which has been there for some time and which has an outstanding committee and an outstanding record of service. The additional funds will assist not only the Rosanna community house but other community houses in my electorate and surrounding areas.

I ask the minister to inform the house of any additional funding that has been provided for new technology in new neighbourhood houses as well as the increased funding for existing houses.

Mr Leigh — On a point of order, Mr Acting Speaker, I have been going through the list of opposition and government members who have raised matters in the debate. Following the formation of the Bracks government you, Sir, clearly stated that you believed better standards should be applied to the Parliament — —

Government members interjecting.

Mr Leigh — The point of order is that, except for the Minister for Police and Emergency Services, there are issues — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Mordialloc should take his seat.

Government members interjecting.

Mr Leigh — They are all answering. They are your ministers. Where are they?

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Mordialloc knows better than to raise such points of order. They reflect on the Chair and are becoming tiresome.

Responses

Ms PIKE (Minister for Housing) — It is Senior Citizens Week and therefore timely that the honourable member for Ballarat West should raise an important issue about the community's recognition of the contribution of older people. There are lots of terrific events happening right across the state. It is a wonderful celebration for older people and an opportunity for all of us to thank them for their contributions to Victorian society.

This year the government has taken a number of steps to improve Senior Citizens Week. Grants have been increased by 10 per cent to ensure that Victorians across the state have an opportunity to benefit from the week. The government committed nearly $50 000 to 47 projects in rural areas, which is an increase of 13 per cent on last year, and $40 000 for 31 projects in metropolitan areas.

The government has widened the group of people included in Senior Citizens Week: $17 000 was committed to 44 ethnic organisations and the City of Ballarat received an encouragement grant of $1400 towards this year's celebration.

Not only are terrific events happening in Melbourne — and they are being attended by country people — but also many smaller activities are taking place in rural communities. On Sunday, after launching Senior Citizens Week in Melbourne at a multicultural concert attended by about 2000 people, I was delighted to have the opportunity of joining celebrations in Wangaratta.

Free transport that is accessed by elderly people in the metropolitan area is one of the features of Senior Citizens Week. In the past there have been problems with the amount of transport available for country people who wish to visit Melbourne. The government has increased coach services to enable people to travel to Melbourne from Albury, Wodonga, Wangaratta, Benalla, Swan Hill, Sale, Lakes Entrance and Bairnsdale.

This year's Senior Citizens Week has so far been successful. I remind the house that it is the largest event on the Victorian calendar. Every year some 350 000 seniors in our community are recognised and acknowledged and are out and about enjoying life.

The honourable member for Benalla raised the important issue of equity of access to the benefits of the Victorian Eyecare Scheme. This fantastic program was established in 1985 by the Cain Labor government to provide subsidised eye care and glasses for financially disadvantaged Victorians. Last year 29 000 people living in regional and rural Victoria and 35 000 people living in metropolitan Melbourne were supported by the scheme. Many optometrists and ophthalmologists participate in it. However, as the honourable member indicated, until recently rural Victorians were not able to share one of the benefits enjoyed by people in the metropolitan area — that is, access to multifocal lenses. Nowadays they are commonly called progressive power lenses, and they significantly benefit a person's eyesight. The government has provided an additional $50 000 in funding to the Victorian Eyecare Scheme so that multifocal lenses are now available right across Victoria. People in the rural and regional community are not disadvantaged.

The honourable member for Richmond raised the issue of home and community care (HACC) funding in his electorate. It is very good news that the Bracks government has put $41 million of additional funding into HACC above the growth funding that is normally available. The bad news is that as yet the federal aged care minister has refused to match this funding, and Victorians are being denied $63 million they should have access to.

Nevertheless, the Victorian government has gone ahead. Recently I announced a funding boost for this year of $8.3 million of state-only money, which includes $5.6 million to expand services and $2.7 million to support one-off projects. The government identified special areas where people were missing out. One of the groups to receive priority access to these resources is homeless people and people in insecure accommodation. Funding to 34 separate projects will boost the government's services to support this particular group of people.

Of this amount, the Outreach Victoria agency will receive an extra $64 000 on a recurrent basis to provide a service. This is not asking people to come to that service; it is an outreach service for people who do not normally access the kinds of support offered by the HACC program. I am proud that the government has targeted these special needy groups, because in the past some members of them have not been able to access mainstream HACC services. The government knows that when those people can get access to these much-needed services their health vastly improves and they have a better quality of life. It has been an important program.

Finally, again the honourable member for Sunshine raised with me the issue of homelessness in the western suburbs, and noted that for the September 2000 quarter median rents in the western metropolitan region have risen by 12 per cent. Therefore affordability is an issue confronting low-income Victorians. Data collected by the Office of Housing indicates that many young people under 24 years of age, and particularly those under 20 who are not able to live at home for a range of reasons, struggle to find accommodation in the private rental market. Maybe it is related to income, but it is not always just that. Young people face a lot of prejudice, including perceptions about their reliability and their lack of tenancy history.

A major response by the government to the housing needs of young people has been the transitional housing program. It is estimated that over a 12-month period 3200 young people are assisted with crisis accommodation, and about 3500 of these are in the transitional program.

Although these programs are to be applauded, a lot of work remains to be done. Through the Victorian homelessness strategy the government is looking at addressing the needs of these people in a practical way. We have recently removed the restrictions on young people seeking access to general public housing, which they were not accessing before. Now, along with others, young people can apply for public housing through the

recurring homelessness segment of the segmented waiting list.

We believe the previous government's policy of denying people under 18 years the capacity to access public housing in their own right was discriminatory. That is why the restriction has been removed. We believe that will help us to assist a lot more young people as they seek accommodation, particularly those in our community with special needs, whom we should be most concerned to support.

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Bellarine referred to the government's commitment to a 24-hour police station on the Bellarine Peninsula. In so doing he also raised the future of the Drysdale, Portarlington and Queenscliff police stations. The government's commitment to the 24-hour station at Bellarine is unequivocal. That commitment was made in the run-up to the last election. We are in the process of acquiring property for the station, and that commitment will be delivered.

Under its strategic facilities development plan, the previous government proposed the closure of the Drysdale, Portarlington and Queenscliff police stations. I am pleased to say those closures are off the drawing board.

I must say thank you to Mrs Carbines, an honourable member for Geelong Province in another place, who led the campaign against the closure of those police stations and arduously campaigned for a 24-hour police station to service the Bellarine Peninsula. She has done a fabulous job. I am glad to see that the honourable member for Bellarine has suddenly joined the chorus, because he was a little silent during the seven years of the Kennett government. Along with all the other lickspittles, he sat in this place with his foot or his thumb in his mouth. He certainly never said anything against the proposed closure of the Drysdale, Portarlington or Queenscliff stations or anything in favour of a 24-hour station on the Bellarine Peninsula.

I am certain that in the foreseeable future I will be going down to Bellarine to open a new 24-hour police station. The honourable member for Bellarine will be invited, as will Mrs Carbines in another place — and I certainly acknowledge the role that she has played.

Mr Spry — On a point of order on the question of relevance, Mr Acting Speaker, I noticed that when this matter was raised with him the minister was sitting on the back bench with a vacant expression on his face.

The ACTING SPEAKER (Mr Savage) — Order! What is the point of order?

Mr Spry — It is a question of relevance. He has missed the relevance of the matter entirely, which was about providing the resource numbers at each of the police stations. I ask you — —

The ACTING SPEAKER (Mr Savage) — Order! The honourable member is repeating the issue he raised. I do not uphold that point of order.

Mr HAERMEYER — I certainly welcome the honourable member's new-found enthusiasm for policing on the Bellarine Peninsula. I am sure that Mrs Carbines in the other place also welcomes the fact that she now has a new voice joining the chorus, if somewhat belatedly.

The honourable member asks how these police stations will be resourced. Again, during the seven years of the Kennett government — and in particular during the last three, when the police force was being reduced by 800 through a process of deliberate attrition — the honourable member for Bellarine sat in this place and said absolutely nothing. Like all of them his tongue was black with Jeff Kennett's boot polish. His mouth was full of nugget, so I can understand why he had nothing to say!

It is simple to explain how these police stations will be filled — by employing 800 additional police. It may be a novel concept for the honourable member for Bellarine, but it has to do with police numbers — the sort of thing Labor was talking about in 1996, 1997, 1998 and 1999. But he was not listening. He had his boot in his mouth!

The Drysdale, Portarlington and Queenscliff stations are not under threat of closure as they were under the Kennett government. Yes, we will provide a 24-hour police station in Bellarine; and yes, all of those police stations will be appropriately staffed.

Ms GARBUTT (Minister for Environment and Conservation) — The honourable member for Monbulk raised with me an issue about water allocations, including use and efficiency measures that he says have been raised with him by members of the South Eastern Growers Network, whom he asked me to meet.

As coincidence would have it, the honourable member is out of touch. I spent Friday evening with growers from around that area and the Mornington Peninsula and helped launch their successful Enviroveg program. It is a cleaner production program run by the Environment Protection Authority and sponsored by

the Vegetable Growers Association of Victoria. That successful program demonstrates their commitment to the environment. I again congratulate them on their commitment, which will produce good results through an environmental management system that will reduce the amount of nutrients running into the bays.

During the evening I toured the farm and looked at the irrigation system and irrigation dams. I talked extensively with the growers about water efficiency issues, irrigation issues and the farm dams review committee inquiry. The honourable member is way behind the times. I am astonished that he has raised this issue, because when it comes to the farm dams inquiry he has been absolutely silent — he has been missing in action! I am sure the National Party is surprised as well.

The review committee has taken hundreds of submissions, gone to meetings and done presentations. We have had a huge feedback.

Mr McArthur interjected.

Ms GARBUTT — It hurts, doesn't it? I know the growers have made submissions on the farm dams issue and I am expecting that report shortly.

The honourable member for Sandringham also has been missing and needs to pay attention. I answered his concerns during question time. In case the honourable member missed it, I announced a $100 000 strategic plan to develop a planning process for the next 15 years to attend to renourishment and risk management of Melbourne's beaches. I also pointed out that the government has a $1.1 million program for beach renourishment and risk management, and has spent around $400 000 to $500 000. I refer the honourable member to my answer today. He should listen more carefully.

The honourable member for Mordialloc made outrageous comments about toxic dumps. It is clear that the government has made a major commitment to having no new hazardous waste landfill sites and has put in place a state-of-the-art policy to implement that decision and established an inquiry to find sites for soil recycling centres to take the pressure off existing landfills.

Mr Leigh — On a point of order, Mr Acting Speaker, I was not talking about a new site. The minister is clearly misrepresenting me.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member knows that that is a substantive motion.

Mr Leigh — I am talking about an existing site the government intends to extend, and it is an outrage.

The ACTING SPEAKER (Mr Savage) — Order! Will the honourable member for Mordialloc take his seat! The honourable member well knows that that is a substantive motion, and he is not to use the house in that way.

Ms GARBUTT — The honourable member has been scaremongering in the most outrageous fashion in his own electorate. There is no new application for a new landfill site. The rumours seem to have been started by the honourable member himself.

Mr Leigh interjected.

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Mordialloc will cease interjecting across the table.

Ms GARBUTT — It is disgraceful that he is prepared to scare his own community. His statements are full of ifs and buts; there is nothing in them. There is no new application for a new landfill site. The honourable member has been spreading rumours and stirring up and frightening people himself, and it is disgraceful. The honourable member was a member of the previous government whose answer was to try to ram toxic dumps down the throats of communities across Victoria.

The government can categorically say that any application for an increase in height or anything else at the existing landfill will go through an independent watchdog, the Environment Protection Authority.

Mr Leigh interjected.

Ms GARBUTT — I hope the honourable member is not suggesting that I interfere with the independence of the EPA, because he should know that under this government the EPA is strong and independent and will make its decisions accordingly.

Ms CAMPBELL (Minister for Community Services) — I am pleased to inform the honourable member for Ivanhoe and his constituents who use the Rosanna fire station that over a three-year period the Bracks government is proudly delivering its $6.5 million increase in funding to neighbourhood houses in the 2001–02 budget. An additional 76 neighbourhood houses have received funding under the Bracks Labor government, and 103 have received additional funding, which is in sharp contrast to the miserable allocation under the former Kennett government.

As part of that $6.5 million rollout of funds, more than $500 000 has been allocated to the important area of information technology (IT), which is essential for neighbourhood houses. Under the previous government many of the houses were unable to afford computer packages, software, Internet connections and associated training. The Bracks government is proud to lead the state in information technology and neighbourhood houses and it has rolled out this implementation strategy to make 194 more computer packages and Internet connections available to neighbourhood houses.

The delivery of packages to the houses occurred over February and March and training sessions have also begun across the state. As honourable members know, it is extremely important to have strong information technology links in neighbourhood houses, which will result in more coordinated services with the Department of Human Services, other service providers, and the sector.

I am pleased to say that the government is a leader in IT and a leader in neighbourhood houses, and has combined the two to ensure that 194 more houses are linked to the Internet.

Mr BRUMBY (Treasurer) — The honourable member for Dandenong North raised the matter of the Uniting Church in Dandenong North and the community outreach project headed by Mr Max Oldmeadow. The outreach project has raised $25 000 for needy families and charities in the past year and almost half a million dollars since 1981, particularly through the op-shop but also through a range of other activities. All of us in public life are grateful for the efforts of voluntary organisations, particularly for the churches that do so much to help our communities and those in need.

The honourable member for Dandenong North referred to how beleaguered the Uniting Church was because of the impact of the goods and services tax and said that it had had to complete two business activity statements (BAS) and send off a total of $4 in GST payments to the federal government. The honourable member asked what action we could take. Obviously the state government does not run, operate, or manage and is not in any way directly associated with the goods and services tax. For every dollar that Victorians pay it gets back just 83 cents. It will be 2008 before Victoria breaks even under the goods and services tax.

One of the big impacts of the GST has been on voluntary organisations and small businesses. We run into many people who are spending half or all of their Sundays filling out forms for the GST. This case shows the absurdity of the taxation system and the BAS, and I can assure the honourable member for Dandenong North that I will be bringing this particular case to the attention of the federal Treasurer, Mr Costello, to highlight the absurdity of it. Here is a voluntary organisation putting in its time to raise money for needy groups, and it has to spend an inordinate amount of that time filling out forms and cutting through red tape to send off a cheque for $4 to the federal government. It is a disgrace, and I will be writing to the federal government about it.

While we are on the matter of tax, the Leader of the National Party raised with me the Harvey report and the recommendation about taxation on the gaming industry. I think a comment may have been made by interjection during the debate, but the gaming industry, gaming tax rates and gaming machines seem to be a particular obsession of the National Party, particularly the owner of the National Party, the federal member for Gippsland, Mr Peter McGauran, who has had some publicity recently about his hotel and gaming machines.

As I have pointed out publicly and to the house, the Harvey report is an independent review. The committee included such people as the former chief executive officer of the Victorian Employers Chamber of Commerce and Industry, Nicole Feely. It was asked to provide an independent report to the government.

Unlike the former government, which used to keep reports of this type hidden from the Parliament and the public, never to be released, the Bracks government believes the public interest was served by releasing that report and allowing public comment on it. I repeat that it is an independent report that has not been endorsed by the government, and that the government will make its response on or before the state budget of 15 May.

The honourable member has expressed a view and I have listened to it. As Treasurer I have also met with most of the representatives of the gaming industry — Tabcorp, Crown and Tattersalls — who have put to me their views about the proposal. I listened carefully and will take those views into account in the government's final consideration of the report.

When the state government receives a report from an independent committee, let's not get into the business of having the opposition implicitly arguing that when you get a review of this type you should not allow the public or the Parliament to see it or comment on it, that it should be kept secret — as the federal Treasurer did with the Ralph report — and that the public should not have the right to see the report until the government has

announced its response to it. The government has a commitment to transparency and accountability, so it has released the report for public comment. As I said when the report was released, some would say many of the recommendations are contentious and controversial and there will be debate about them. The government welcomes that debate, but let us make it an honest debate.

The final matter was raised by the honourable member for Bennettswood. Talk about new members of Parliament setting off in the wrong direction! I will give the honourable member a bit of advice: trawl back — —

Mr Wilson interjected.

Mr BRUMBY — You need a fair bit of advice! The honourable member should trawl back through the volumes of *Hansard* published during the time of the former government if he wants to learn about consultancies and contractors, about how the system was rorted and about how the public purse was blown out by poor management, poor execution of contracts and a huge blow-out in contracts and consultancies. He should have a look at the former Kennett government's actions! He will find examples of contracts of more than $20 million being signed over without any advertised tender process — dozens of them!

There was never any openness or transparency under the former government, but the Bracks government has provided that significant contracts and consultancies — those in excess of $100 000 — should be listed on government web sites.

An opposition member interjected.

Mr BRUMBY — They are listed on the web site. You can get every tender in my department over $100 000 off the web site.

Mr Wilson interjected.

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

Mr BRUMBY — As the Minister for Health said earlier, the number of consultancies in his department has been reduced by more than 10 per cent, yet the honourable member for Bennettswood has the gall to stand up in this place — —

Mr Leigh interjected.

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

Mr BRUMBY — The honourable member for Bennettswood has the gall to refer to a $45 000 consultancy when the state budget is $20 billion! The government has cleaned up the process. It has slashed the level of consultancies and contractors, which are down by 10 per cent in the Department of Human Services. If the honourable member for Bennettswood wants to take a bit of advice, he should read *Hansard* and see the disgraceful performance of the former Kennett government in this area.

Motion agreed to.

House adjourned 11.14 p.m.