PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

7 December 1999

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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

[1] Resigned 3 November 1999

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TUESDAY, 7 DECEMBER 1999

Tuesday, 7 December 1999

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.05 p.m. and read the prayer.

QUESTIONS WITHOUT NOTICE

ALP: fundraising dinner

Dr NAPTHINE (Leader of the Opposition) — Given that invitations to the Labor Party's $1000-a-head fundraising dinner were sent to staff of government statutory authorities, can the Premier advise the house whether any taxpayers' money was used to pay for those seats?

Mr BRACKS (Premier) — Before I answer the question, I can advise the house that it was a very successful night. It met every expectation of the Labor Party. More than 800 business people were there. It was a successful occasion — building a partnership between the new government and business — that was all about proper dialogue. I assure the Leader of the Opposition that no taxpayers' funds were used. It was a private occasion paid for privately.

Latrobe Valley energy park

Mr MAXFIELD (Narracan) — Can the Premier inform the house of progress on plans to set up an energy park in the Latrobe Valley?

Mr BRACKS (Premier) — Today, accompanied by members of Parliament from both sides of the house, I had the honour of launching a three-year economic renewal and marketing campaign, Latrobe — A New Energy, to revitalise the Latrobe Valley. The campaign, which is an initiative of the La Trobe Shire Council, is a major push to attract and develop new industry, jobs and investment, and restore local confidence. It has been a tough decade, as all honourable members from the Latrobe Valley would know. The community continues to play an important role in the economy of this state, as it has historically.

Unlike Newcastle, which received massive federal and state government assistance for adjustments in the past, the Latrobe Valley was abandoned by the Kennett government during a major employment and confidence crisis in the region. The Kennett government, it should be remembered, made more than $20 billion in privatisation sales of electricity assets, but the benefits of that restructuring did not accrue to the Latrobe region, and no restructuring or assistance was put in place. As most honourable members know, the region lost 6000 jobs over the last decade, and more than double that figure indirectly. In the face of such massive dislocation and neglect this region of Victoria has shown great resilience in getting on the front foot and taking action into its own hands.

The La Trobe shire has recognised the need to provide new initiatives for industries to build on the existing basis in the energy industries. As part of the new Labor government's commitment to pursuing major investment in regional Victoria the government is committing, from the Regional Infrastructure Development Fund, $2 million for a major new energy park in the Latrobe Valley.

It should be noted that the support was part of Labor's election platform and would be welcomed by honourable members. The honourable member for Gippsland South is nodding. The park will be a great boon for the region. It is a huge undertaking and has the potential to generate some $3 billion of economic activity, 1000 direct jobs and some 5000 indirect jobs. It is an exciting project and will be an Australian first. The creation of a dedicated energy park outside the state grid will enable Victoria to offer the cheapest power source in Australia. A reduction in electricity transport costs will enable new industries access to electricity some 20 to 40 per cent cheaper than that provided on the current grid — a major incentive for industry to grow in the new park.

I am pleased the government has been able to do what it said it would do — work in partnership with the council to deliver on its programs, in this case a new energy park to revitalise the Latrobe Valley so new industries will grow. The government is pleased to work in partnership with the council to achieve that.

ALP: fundraising dinner

Dr NAPTHINE (Leader of the Opposition) — Given the Premier's promise to lead an open, honest and accountable government, will he now undertake to table a list of every employee and board member of state government statutory authorities who attended the Labor Party's $1000-a-head political fundraiser so the community will be assured that no taxpayers' funds were involved or used in the purchase of tickets for the dinner?

Mr BRACKS (Premier) — Mr Speaker, it would be more relevant for the grand prix tent, which was taxpayer funded and which has been the subject of an FOI claim for the past two years. It is more important for the hypocritical opposition to come clean on those things than it is — —

Honourable members interjecting.

The SPEAKER — Order!

Mr BRACKS — As I have mentioned publicly previously, this is a matter for the businesspeople involved. They want respected their right to not have lists produced. The government will not produce the lists in the future.

Dr Napthine — On a point of order, Mr Speaker, I understand the Premier is now espousing the government's secrecy policy, but the question was quite clear.

Government members interjecting.

The SPEAKER — Order! I ask government benches to come to order. The Leader of the Opposition is entitled to put his point of order.

Dr Napthine — The point of order is to do with relevance. The question was related to state government statutory authorities and whether the Premier would table a list of staff and board members of state government statutory authorities, who are the responsibility of the state, who attended the dinner at taxpayers' expense.

The SPEAKER — Order! A point of order does not entitle the Leader of the Opposition or any other member to restate the question. The Premier was responding to the question posed by the Leader of the Opposition, and I will continue to hear him.

Mr BRACKS — Mr Speaker, if the opposition Leader had been listening he would have had my answer. The answer is no.

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Doncaster! I remind the house that when the Speaker is on his feet all members shall remain silent. I will not tolerate such behaviour from the Leader of the Opposition, the honourable member for Doncaster or the Leader of the National Party. The house will come to order!

Planning: medium-density development

Mr CARLI (Coburg) — Will the Minister for Planning advise what action the government has taken to provide for increased local government and community participation in the development of medium-density housing?

The SPEAKER — Order! Was the question to the Premier?

Mr CARLI — To the Minister for Planning.

Honourable members interjecting.

The SPEAKER — Order! Will the house come to order! I ask the house to come to order for the final time before starting to use sessional order 10. The Chair is having difficulty hearing the honourable member for Coburg. I ask him to repeat his question.

Mr CARLI — I ask the Minister for Planning what action the government has taken to provide for increased local government and community participation in the development of medium-density housing.

Mr THWAITES (Minister for Planning) — One of the first tasks of the Bracks government has been to try to restore confidence in the planning system in Victoria. During the past seven years there was ad hoc and inconsistent planning that took councils and the community out of the equation. The government plans to put planning back into a framework where councils and communities have a real and strategic say in the way planning is done.

Ms Asher interjected.

Mr THWAITES — I am trying to talk over the squawking honourable member for Brighton. It is very difficult. The councils of Victoria have indicated — —

Honourable members interjecting.

Ms Asher interjected.

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

Mr THWAITES — The councils of Victoria have indicated that they wish to have a real say over medium-density planning. One of their key concerns has been the so-called 7-kilometre rule, a system that provides arbitrary rules that are different if a municipality happens to be within seven kilometres of the GPO. Today I have written to councils and advised them that should they wish to write to me seeking a variation of their planning scheme, and the variation is based on proper strategic planning, I will agree and amend the scheme to replace the arbitrary rules with more sensible rules.

I have also indicated to councils outside the 7-kilometre radius, including the Whitehorse council, that if they write to me indicating they wish to change their planning scheme so that a planning permit will be required for a detached dwelling on land with an area of

more than 300 square metres but less than 500 square metres, a permit will be required. I am sure many honourable members opposite will support that action, including the honourable member for Glen Waverley and the honourable member Forest Hill, because councils in their electorates have urged the government strongly to take that course. It will mean that local councils and local communities will have a proper say in medium-density development. The current *Good Design Guide* has had its day. It is now time to have a new guide. That is what the Bracks government will deliver. It will give councils the say they deserve.

I am pleased that the mayor of Whitehorse has today congratulated the government on the action it is taking. I might say — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Doncaster!

Mr THWAITES — To make the honourable member for Doncaster happy, I have also written to the mayor of Boroondara, whom I am sure will be pleased — —

Honourable members interjecting.

Mr Richardson — On a point of order, Mr Speaker, relating to the reference to the mayor of Whitehorse: is it the same person who was the candidate for the Labor Party at the last election?

Honourable members interjecting.

The SPEAKER — Order! The house will come to order. The honourable member for Mordialloc will cease interjecting and laughing while the Speaker is on his feet. I will not warn him again.

There is no point of order. The honourable member for Forest Hill went close to having his point of order ruled as being frivolous.

Mr THWAITES — Can I respond to the point of order, Mr Speaker?

The SPEAKER — Order! The Chair has already ruled that there is no point of order. I ask the minister not to respond to it.

Mr THWAITES — I will not respond to the point of order, but I will point out as part of my answer that I am pleased to advise the house that in addition to writing to the mayor of Whitehorse, I have also today written to the mayor of Boroondara, Cr Loreto Davey, who I understand was a Liberal candidate for preselection for Burwood. I am sure she is equally pleased with what the government is doing.

Perhaps honourable members opposite will adopt what Cr Loreto Davey has been saying about medium-density planning rather than adopt the comments that have been made by the Liberal candidate for Burwood, who made it a habit to seek special deals from the former Minister for Planning and Local Government to get developments on her property.

Honourable members interjecting.

Mr THWAITES — That is a fact. You don't like it!

Next week I will be making a further statement about planning in Victoria that will emphasise the Bracks government's commitment to conserving Victoria's neighbourhoods and ensuring that proper planning takes place and that local councils and communities have a proper say in it.

Burwood: by-election

Dr DEAN (Berwick) — I refer the Attorney-General to legal opinion from senior legal counsel that under section 98 of the Equal Opportunity Act every time he, the Premier and anyone else hands out the current Labor how-to-vote card in the Burwood by-election they are breaking Victorian law by discriminating against unemployed Victorians who do not belong to unions, and I ask — —

Mr Batchelor — On a point of order, Mr Speaker — —

The SPEAKER — Order! I will hear the honourable member for Thomastown on a point of order immediately after the Chair has heard the question.

Dr DEAN — Given that the Attorney-General has the power and the duty to take action to prevent breaches of Victorian law, will he now take action to stop the Labor Party breaking Victorian law or will he continue to bow to union pressure?

Mr Batchelor — On a point of order, Mr Speaker, the honourable member for Berwick referred in his question to legal advice and quoted from a document. I ask him to table the document.

Dr DEAN — I am happy to table the opinion. In fact, I will give it to you now.

The SPEAKER — Order! The document has been made available to the house.

Mr HULLS (Attorney-General) — As those who have been members of this place for some time will recall, some time ago an incident occurred in relation to KNF Advertising that the then opposition alleged was a gross breach of the law. The then opposition obtained legal advice from QCs to the effect that the former Premier had broken the law and breached the constitution. When that legal advice was tabled, the former government advised the then opposition that it was totally inappropriate to be acting on such legal advice. The then government decided that it was not appropriate to proceed on legal advice that was simply tabled by the opposition. That was back then.

Dr Dean — On a point of order relating to relevance, Mr Speaker, the question was simple. It concerns an action by the Attorney-General relating to advice that has now been tendered. It is not appropriate for him to be discussing previous advice and the actions of a previous government, which he appears to be saying should have done something. It is up to the Attorney-General, having received the advice and being in government, to do something about the legal opinion.

The SPEAKER — Order! The Chair was listening intently to the Attorney-General's opening remarks. I ask him to come to the crux of the question asked by the honourable member for Berwick.

Mr HULLS — The point I am making is that legal advice is obtained daily on a whole range of matters. I fully recall obtaining some legal advice not long ago in relation to the gross abuse — it was described as possible theft — of credit cards! That was referred to the former Attorney-General — —

The SPEAKER — Order! The question does not allow the Attorney-General to canvass in his answer all the legal opinions that may have been obtained over a period. I ask him to answer the question posed by the honourable member for Berwick.

Mr HULLS — I certainly was not about to canvass all the legal opinions that were received when we were in opposition — just the top six! I was going to go over only the top six pieces of advice — on the Audit Act, credit cards, KNF — —

The SPEAKER — Order! Unless the Attorney-General's answer becomes relevant, I will cease to hear him.

Mr HULLS — I assure the house that the government's actions will be consistent with what has occurred in the past. I say to the shadow Attorney-General what was said to me when I was shadow Attorney-General — and I know it is a hard role, and I know no-one takes him seriously. If he believes he has legal advice, then good luck to him. Act on it!

Rail: Hillside trains

Mr LANGDON (Ivanhoe) — Will the Minister for Transport inform the house of any plans to upgrade rail services in Melbourne's eastern and northern suburbs?

Mr BATCHELOR (Minister for Transport) — I thank the honourable member for Ivanhoe for his question. I assure him and other honourable members that the Bracks government is committed to improving rail services for commuters in Melbourne's middle and outer suburbs. I advise the house that this morning, together with Hillside Trains, I announced that there will be a significant upgrading of morning and evening services on four metropolitan rail lines — the important Belgrave and Lilydale lines, the Glen Waverley line, the Epping line and the Hurstbridge line.

Dr Napthine interjected.

Mr BATCHELOR — Hillside is doing a good job, and I said that this morning. Those improvements will result in an extra 18 services to and from the city each weekday, including 8 new express train services.

I have never been against express trains and additional services to the outer suburbs. The government is getting on with the job and is delivering extra services. It is committed to working with the private transport operators to increase public transport patronage, and to reduce car usage and congestion in and around Melbourne. A key element in making public transport a more attractive option is to increase the frequency and reduce the travel times of commuter trips. The government's' announcement today of Hillside's initiative will help to achieve that, particularly for commuters in the outer suburbs.

As I said, it is a good initiative from Hillside — for example, on the Belgrave and Lilydale lines there will be an extra morning service and five extra evening services, including two new express services. The Belgrave and Lilydale lines are the busiest in Melbourne. The additional services will help meet the existing demand for more services and make public transport a more attractive option in Melbourne's eastern suburbs. I am sure all honourable members will join with me in congratulating Hillside on its initiative.

Over the next four years the Bracks government will work with all private operators to introduce its election policy commitments to upgrade public transport services across Victoria. That will include the

construction of a third track between Blackburn and Mitcham to allow for new flier or express services, again on the Belgrave and Lilydale lines, which will reduce travel times to the city by around 5 minutes. The Bracks government is getting on with the job in transport. It is upgrading and improving public transport services.

Mr Leigh interjected.

Mr BATCHELOR — If the shadow minister for Transport does not know about it, I recommend that he read the timetable to see the extra services that are provided for. I am happy to table that for the shadow minister. If he is not interested, I can assure him that plenty of people in the outer eastern suburbs are interested. Unlike the previous government, the Bracks government has a balanced and efficient transport policy that addresses both the needs of motorists and public transport customers through properly costed and funded program initiatives.

Vocational education and training: registered organisations

Mr BAILLIEU (Hawthorn) — I refer the Minister for Post Compulsory Education, Training and Employment to a meeting held on 3 December of more than 70 representatives of registered training organisations where it was unanimously agreed that her freeze on apprentice training numbers for RTOs had been introduced without warning or consultation and represented a significant threat to employment. Will the minister now respond to that meeting's unanimous call for a moratorium on the freeze?

Ms KOSKY (Minister for Post Compulsory Education, Training and Employment) — A moratorium on a freeze, that is interesting — the honourable member for Hawthorn is also interesting. Let me make it clear why the government has had to freeze user choice for a 12-month period. The previous government was out of control in the provision of training. It was not concerned about the sustainability or the quality of the system. That is made clear in a recent submission from Group Training Australia, a well-recognised organisation that provides group training, to a current Senate inquiry into the quality of the training system in Australia. The submission states:

> The rapid growth in RTO numbers poses serious concerns about quality standards, and the commonality of outcomes across the entire VET system.

That is why the government has had to make changes to the system. That is why it has pushed the pause button on growth — and it is only growth — in the private system. There will be growth in the number of apprentices and traineeships.

It is also worth mentioning that the National Council for Vocational Education and Research 1999 national survey of employer views on vocational education and training — which the previous minister quoted on many occasions — published in November, shows that Victorian employer satisfaction with the vocational education and training system has declined markedly since 1997. Victoria now ranks as the second lowest of all Australian states in employer satisfaction. The government has implemented the freeze for 12 months to review and remedy the mess left by the previous government.

Schools: funding

Mr HOLDING (Springvale) — Will the Minister for Education detail to the house what action the government is taking to fund capital improvements in Victorian schools?

Dr Napthine interjected.

The SPEAKER — Order! The Leader of the Opposition!

Mr Seitz — He is not interested in education.

The SPEAKER — Order! The honourable member for Keilor!

Honourable members interjecting.

The SPEAKER — Order! I ask the house to come to order.

Ms DELAHUNTY (Minister for Education) — I thank the honourable member for Springvale for his question — he is a welcome new addition to the Parliament. The smartest governments around the world and the country are investing in quality education for all citizens. Under a Bracks Labor government quality education means respect, resources and facilities. In addition to the $50 million the government has already announced for the year 2000 global budgets for welfare support in secondary schools, smaller class sizes in primary schools, special learning needs funding, which will cater for 60 per cent rather than 40 per cent of students, and shared specialist teachers in rural schools, I am pleased to announce that the Bracks government is further investing in educational infrastructure.

Today the government announced that $60 million would be made available for school upgrades. More

than 60 schools across the state can now go ahead and plan for almost $60 million worth of major works as part of a comprehensive capital works program for Victorian government schools. The Department of Education will arrange a master plan for schools, if one has not already been completed, and construction of those projects in schools is likely to begin within the next two financial years. That is wonderful news for school communities. They can start to plan now for much needed upgrades and facilities.

The Bracks government is committed to ensuring all Victorian students have an equal opportunity to access a world-class education system. Access and availability to new facilities will no longer be restricted or dependent totally on the local community's ability to raise funds. Some schools have been waiting a long time for the upgrades.

Mr Holding interjected.

Ms DELAHUNTY — A long time, as the honourable member for Springvale says. Mr Speaker, you will recall that every night during the adjournment debate members of the opposition have raised issues about school upgrades in their electorates. The government will help them out.

In the electorate represented by the Leader of the Opposition, Portland Secondary College will receive $1.9 million. The government will help him out. In the electorate of South Gippsland, the South Gippsland Secondary College will receive $2.9 million for stage 1 of a redevelopment. The Bracks Labor government does not play favourites. It has allocated $800 000 for the St Albans Meadows Primary School, in a Labor-held electorate. The capital works program will improve the learning environment for tens of thousands of Victorian students. The project covers a range of works, including new classrooms, new libraries, gymnasiums — —

Mr Honeywood — On a point of order, Mr Speaker, the minister is reading from copious notes. I ask that she table the document to which she is referring.

Mr Thwaites — On the point of order, Mr Speaker, there is no point of order regarding reading from copious notes. The minister is referring to notes and she can table them if she wishes, but she is not obliged to.

The SPEAKER — Order! Will the minister inform the Chair whether she is quoting from a document?

Ms DELAHUNTY — I am referring to copious handwritten notes.

The SPEAKER — Order! The house knows well that members may quote from their own notes. There is no point of order.

Ms DELAHUNTY — I will check my notes to see if there are any school upgrades for the Warrandyte electorate, if that is what the honourable member is interested in. As I was saying, the projects cover gymnasiums, specialist music rooms and science and technology wings. The announcement of $60 million of major projects is in addition to the $51.6 million worth of major projects already in the advanced stages of planning for 45 schools across Victoria.

Mr McNamara interjected.

The SPEAKER — Order! I ask the Leader of the National Party to cease interjecting, particularly while leaning over the table.

Mr McNamara — On a point of order, Mr Speaker, you previously ruled that the minister was reading from handwritten notes. She is clearly reading from a typed document. On that basis I ask you to rule that the document be tabled.

The SPEAKER — Order! The Chair can see that the minister is referring to either handwritten or typed notes.

Honourable members interjecting.

The SPEAKER — Order! I warn the honourable members for Bentleigh and Cranbourne that if there is one more offence while the Speaker is on his feet they will find themselves outside the chamber under sessional order 10.

On the point of order, the minister was quoting from notes and will continue to he heard so long as she is relevant to the issue of capital expenditure.

Ms DELAHUNTY — The opposition does not want to hear good news about education! There is something in their Tory hearts that makes spending millions of dollars on education offensive to them. Just to make you happy, Pat, here is a list of upgrades — you'll enjoy it.

The SPEAKER — Order! I similarly ask the Minister for Education to address the Chair. I also ask her to address the Leader of the National Party by his correct title, not by his Christian name.

Ms DELAHUNTY — The $60 million commitment is on top of the government pledge to spend an additional $30 million to address the

maintenance backlog in government schools. That is good news for school communities because they now can plan to upgrade their schools in the knowledge that the Labor government will support them with facilities, resources, teachers and respect for the value of public education.

Vocational education and training: registered organisations

Mr BAILLIEU (Hawthorn) — I refer the Minister for Post Compulsory Education, Training and Employment to her answer during question time last Tuesday regarding the freeze on apprenticeship training on registered training organisations (RTOs). Does she stand by her incorrect statement that similar freezes on apprenticeship training for those organisations have been imposed in Western Australia, New South Wales, Queensland and Tasmania?

Ms KOSKY (Minister for Post Compulsory Education, Training and Employment) — The previous freeze referred to was in Western Australia, Queensland and New South Wales, where similar concerns were experienced to those in Victoria. The honourable member for Hawthorn can refer to my previous response to the house.

Melbourne–Geelong road: upgrade

Mr TREZISE (Geelong) — Will the Minister for Transport inform the house of the progress of the vitally important upgrade of the Geelong freeway?

Mr BATCHELOR (Minister for Transport) — As honourable members would be aware, earlier this morning there was another tragic incident on the Geelong freeway involving the loss of three lives. The tragedy again highlights the urgency for the complete reconstruction of the inadequate facility. The state and federal governments will jointly fund the $237 million total cost of the works that need to be carried out. The Bracks Labor government will get the crucial work undertaken with the urgency it deserves. It will seek to work with the federal government to achieve an appropriate outcome.

Tenders have been finalised for the first section of works from Corio to Lara and it is hoped work will commence next month. The Maltby bypass section has been put out to tender and it is hoped that work will commence in March or April next year. The two remaining sections — the Lara to Werribee section, where today's tragic accident occurred, and the section from Werribee to the Western Ring Road — will be put out to tender in late January and it is hoped that work will commence in the middle of next year.

The government plans to have the total reconstruction of the Geelong Road completed by July 2002. Works will include widening the road to four lanes in each direction between the Western Ring Road and Werribee and widening the road to three lanes in each direction between Werribee and Geelong. Importantly, wherever the median is less than 15 metres in width median barriers will be included, as will wide, sealed shoulders on both sides of each carriageway over the full length of the project.

Let me assure all honourable members, upon whichever benches they sit, this project is a major commitment of the new government and it will deliver it.

In the meantime, the government wants to see all motorists make it through the busy Christmas holiday period and asks them to use extreme care while using Geelong Road.

The SPEAKER — Order! The time for questions without notice has expired. The minimum number of questions has been asked and answered.

DISTINGUISHED VISITOR

The SPEAKER — Order! I inform the house that Mr Frank Crean, a former Deputy Prime Minister, is visiting Parliament today. On behalf of all members of the Legislative Assembly, I make him welcome.

PETITION

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

Dairy industry: deregulation

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 Victorian dairy farmers have not been fully informed of the dramatic effects of the proposed deregulation; and

that at this point in time the majority of dairy farmers want an opportunity to vote on the issue; and

that the decision for changes within the market-milk sector and domestic market support are in fact for Victorian dairy farmers, as owners, to decide and not for any other sector of the industry; and

that this petition will give all Victorian dairy farmers the opportunity to decide their own future.

And your petitioners therefore pray:

that the Victorian government will place a hold on changes to the dairy industry so that a more beneficial proposal can be put in place by 1 July 2000. This will then ensure that the market-milk premium remains in the hands of Victorian dairy farmers.

By Mr MAXFIELD (Narracan) (2732 signatures)

PAPERS

Laid on table by Clerk:

Bairnsdale Regional Health Service — Report for the year 1998–99

Building Act 1993:

Building Code of Australia 1996 — Amendment No 5

Notice of making the Amendment (*Government Gazette No G48, 2 December 1999*)

Minister's exemption certificate under s 9(1) of the *Subordinate Legislation Act 1994*

Colac Community Health Services — Report for the year 1998–99

East Grampians Health Service — Report for the year 1998–99

Financial Management Act 1994:

Reports from the Minister for Health that he had received the 1998–99 Annual Report of the:

Beaufort and Skipton Health Service

Coleraine and District Hospital

Dunmunkle Health Services

Far East Gippsland Health and Support Service

Hesse Rural Health Service

Lorne Community Hospital

Moyne Health Services

Omeo District Hospital

South Gippsland Hospital

Terang and Mortlake Health Service

The Otway Health and Community Services

Timboon and District Healthcare Service

Yarram and District Health Service

Gippsland Southern Health Service — Report for the year 1998–99

Planning and Environment Act 1987 — Amendment No 109 to the Upper Yarra Valley and Dandenong Ranges Regional Strategy Plan (two papers)

Planning and Environment Act 1987:

Notice of approval of the new Darebin Planning Scheme

Notice of approval of amendment to Greater Geelong Planning Scheme

Stawell District Hospital — Report for the year 1998–99

Victorian Relief Committee — Report for the year 1998–99, together with an explanation for the delay in tabling

Warrnambool and District Base Hospital — Report for the year 1998–99

West Gippsland Healthcare Group — Report for the year 1998–99

Wimmera Health Care Group — Report for the year 1998–99.

ROYAL ASSENT

Message read advising royal assent to:

Essential Services (Year 2000) Bill
Health Practitioners (Special Events Exemption) Bill
Legal Practice (Amendment) Bill

APPROPRIATION MESSAGE

Message read recommending appropriation for Police Regulation (Amendment) Bill.

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, 9 December 1999:

Freedom of Information (Miscellaneous Amendment) Bill

Federal Courts (State Jurisdiction) Bill

Public Prosecutions (Amendment) Bill

Melbourne Sports and Aquatic Centre (Amendment) Bill

Motion agreed to.

MEMBERS STATEMENTS

Rail: ALP commitment

Mr RYAN (Gippsland South) — At the close of debate on the Regional Infrastructure Development Fund Bill last Thursday, the Minister for State and Regional Development invited me to release a letter that I recently wrote to the Honourable Peter McGauran. I now do so. I will read it into *Hansard*. The letter is dated 29 November, and apart from the salutations it reads:

> I seek your urgent advice and assistance in relation to an issue which is a central plank within the Labor program.
>
> Legislation to be passed this week in the Victorian Parliament will see the establishment of the much vaunted Rural Infrastructure Fund. I have first response on behalf of the opposition parties.
>
> A central plank of the use of the fund is the proposal by the government to standardise the rail freight gauge across Victoria. The intention is to contribute $40 million to this initiative — which I must say I strongly support if it can be undertaken.
>
> My query is as to whether the federal funding which is said to be available to match this initiative is in fact in the bag.
>
> I wonder could I trouble you to make appropriate inquiries of whomever might be responsible so that I can address the issue at the time I am on my feet. My present expectation is that this will come on for debate during the course of Wednesday afternoon this week.
>
> Anything you can glean for me by then would be most appreciated. Obviously if I can have a note about it, it is so much the better.

It is in response to that letter that I received signed correspondence from the federal Minister for Transport and Regional Services, John Anderson, confirming that there is no federal funding for this initiative, and rather than indulging himself with those outbursts — —

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

Ken's Bus

Mr LENDERS (Dandenong North) — I wish to draw the attention of the house to a wonderful service in my electorate called Ken's Bus. The Ken's Bus service is a community project that has been established by Grenda's Bus Lines, the Order of St Lazarus, the Dandenong Community Health Centre, Visycares Youth Centre and a number of other organisations in the City of Greater Dandenong.

The purpose of the service is to provide an after-hours information and referral service for young people who are homeless or are at risk of becoming homeless. There is a great need for the service in the City of Greater Dandenong. Ken's Bus pulls up to various locations three nights a week. It has on board a nurse, a needle exchange, a youth worker, a solicitor and a bus driver assistant. It is a tribute to Sarah Hayes and the team that runs Ken's Bus that three nights a week the voluntary community organisation, with the support of a number of key agencies, operates a service that provides a place for homeless youth. It is staffed by a team of more than 50 volunteers, who give of their time and professional expertise to meet a considerable community need.

I have been along to the bus on a number of occasions. It is a great service. I commend it to the attention of the house.

Creekstraddler exhibition

Mr ASHLEY (Bayswater) — I take this occasion to compliment the Rotary Club of Bayswater for its great work in supporting the Creekstraddler art and technology exhibition that takes place annually in my electorate. Creekstraddler emerged from an idea I had five years ago to showcase the artistic skills and talents of young people at the three secondary colleges in the Bayswater electorate.

The Rotary Club of Bayswater not only sponsors four of the awards given each year, but its members provide and install the screens on which the two-dimensional art and photography entries are hung for judging and display. It would be impossible to stage this significant event in the calendar of local secondary colleges without the dedication of members of the Rotary Club of Bayswater.

I also place on record my appreciation of the sponsorship of the exhibition by *Leader* newspapers and Swinburne University of Technology. Their involvement has expanded judging categories to include three-dimensional artwork — technology and artistic dimensions — and journalism. Creekstraddler is enthusiastically supported by all three secondary colleges. On behalf of this year's entrants and award winners I extend thanks to the staff and communities of the three schools for their commitment and the many hours of work unstintingly given to ensuring their pupils' creations receive public recognition and acclaim.

Frankston aquatic centre

Mr VINEY (Frankston East) — I inform honourable members of an exciting project currently

being investigated by the City of Frankston and I congratulate the council on its foresight in providing a much-needed aquatic centre in the City of Frankston.

The City of Frankston has a population of some 110 000, estimated to grow to some 133 000 by the year 2011. The facility is expected to service a population of 170 000.

Under the former government Victorians saw an overindulgence of those sorts of facilities in central Melbourne. The Honourable Cameron Boardman in another place has spoken against the project, saying it is premature, which is extraordinary — it is not premature, but long overdue. If the Honourable Cameron Boardman could remember where he voted he may be able to remember why the Frankston community needs such a facility!

I congratulate the Deputy Mayor of the City of Frankston, Cr Mark Conroy, who demonstrated great vision and was the lone voice saying the facility was needed. His foresight was confirmed by an independent feasibility study that has shown it to be not only important and viable but a vital project for Frankston and the whole peninsula.

Burwood: Labor candidate

Mr ROWE (Cranbourne) — I refer to the hypocrisy of the Australian Labor Party regarding Mr Bob Stensholt, its candidate in the coming by-election for the electorate of Burwood. The ALP calls for full personal accountability, honesty and disclosure. However, day after day the public is discovering huge gaps and discrepancies in the curriculum vitae of Bob Stensholt.

Today it was found that Mr Stensholt had omitted a significant part of his life's history. The many years he spent as a member of the Sacred Heart Brothers does not appear in his CV. After seven years of total commitment to the order he now claims that the lifestyle was not for him. Why was such a significant part of his life left out of his CV? Seven years is a long time in a person's life and the omission is glaring. It lies at the heart of the constituency's right to know exactly who they are voting for. Surely one would be proud and happy to say one had served for so long in a religious order.

What else is Mr Stensholt not telling the people of Burwood about his past? He is happy to say he spent time at Warrnambool Secondary College, so why will he not say he also spent seven years in a religious order? He is happy to say he ran a $1.5 billion budget at the Australian Agency for International Development (Ausaid) but when the commonwealth Auditor-General raised serious concerns about the handling of Ausaid's finances he ran away.

The Labor Party is hell-bent on talking about what others have done; it is now time for both the party and Bob Stensholt to come clean.

Bairnsdale Ambulance Auxiliary

Mr INGRAM (Gippsland East) — I wish to inform honourable members of a fine example of rural community spirit in my electorate. I particularly want to thank the ladies of the Bairnsdale Ambulance Auxiliary who have worked so hard to make the project an outstanding success for the community of Bairnsdale and the surrounding rural areas.

The Bairnsdale Ambulance Auxiliary was established in 1955. It has a strong and vibrant membership with some foundation members still working for the auxiliary. Through the wonderful work and commitment of the auxiliary a new ambulance station is soon to be built in Bairnsdale. A new site has been purchased at a cost of $190 000 with some $250 000 remaining in the bank account. The sale of the current ambulance station will raise the total to some $500 000. The money has been raised through volunteer work in conjunction with goods donated by the local community to the auxiliary's opportunity shop.

I take this chance to thank both past and present members of the Bairnsdale Ambulance Auxiliary for their enthusiastic and outstanding contribution to Bairnsdale and the surrounding areas over the past 45 years.

Schools: Napoleons and Buninyong

Mr HOWARD (Ballarat East) — Over recent weeks I have had the pleasure of visiting many schools in my electorate and today I wish to speak about two of those schools — Napoleons and Buninyong primary schools. When I visited those schools I had the pleasure of speaking with the principals, school council presidents, staff and students. I have learned much about the schools' programs and facilities in which they operate.

I have been impressed by the enthusiasm and dedication of the staff and school communities. They provide an excellent range of learning opportunities and maintain a very happy, positive spirit among their students.

Napoleons Primary School is basically rural-based and operates in aged facilities. The original school building

is old and the majority of classes work in portable classrooms that are in a degraded condition. A master plan is being drawn up for the rebuilding of the whole school on a new site close by. I look forward to working with the school to see those plans become a reality.

Buninyong Primary School has had several improvements to its facilities in recent years but many students still work in portable classrooms.

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

Students: truancy

Mrs PEULICH (Bentleigh) — I wish to draw the attention of the house to phone calls I received this morning from upset parents concerned that their children — legitimately missing school due to illness — may be seen as truants as a result of the manner in which the missing class data has been used and published in today's *Age* newspaper.

Truancy is the absence of children of compulsory school age — under 15 years — from school without legitimate reason. I call on the Minister for Education to release all the data in the possession of the Office of Schools Review gathered via the schools triennial reviews — instigated by the former coalition government — to ensure a full and open investigation and informed community debate on truancy.

The release of the information would establish an accurate picture, as opposed to an alarmist picture, of the problems and trends of truancy and therefore allow a genuine and meaningful community response to the problem of truancy. It would also assist in determining which clusters of schools should be funded under the Assault on Truancy project. The data would add significantly to a meaningful investigation of the community problem.

John Daffey

Mr MILDENHALL (Footscray) — I congratulate Mr John Daffey, who has been elected president of the Pharmaceutical Society of Australia. He has been vice-president of the society for the past two years, and has operated a pharmacy in the heart of Nicholson Street, Footscray, since 1972. Mr Daffey is a responsible prominent local business proprietor who has participated in difficult contemporary issues such as needle exchange and drug issues in the Footscray community. He is a compassionate and informed person who is well suited to the high office to which he has been elected. He is a credit to his profession and has a positive impact on the local community. The citizens of Footscray wish him well and congratulate him on his recent appointment.

Orchard Grove Primary School

Mr WILSON (Bennettswood) — As we near the end of the school year I raise for the attention of the house the management and movement of portable classrooms within Victoria's government education system. Honourable members will be aware that we are about to go through the annual allocation and reallocation process before the commencement of the 2000 school year. I fully appreciate that the government and Education Victoria are dealing with a limited and valuable commodity and that demand exceeds supply.

Each decision on the allocation and reallocation of portable classrooms must be based on the latest available data, particularly enrolment projections, and made in full consultation with the affected school communities.

In the electorate of Bennettswood, I am aware that Orchard Grove Primary School in Blackburn South will lose portable classrooms over the coming Christmas break. Concerned parents have contacted me claiming that the removal of the classrooms will cause great inconvenience, particularly with the teaching of English as a second language. Enrolments at Orchard Grove Primary School continue to increase. Recent construction of new housing has enabled additional families with school-age children to locate to Blackburn South. The high cost of removing the portables and resupplying them within a couple of years must be avoided. I have written to the minister on the matter and eagerly await her response.

Gisborne aircraft accident

Ms DUNCAN (Gisborne) — No doubt colleagues will be aware of the tragic light aircraft accident last Wednesday in Gisborne which took the lives of four young people: Glen Tisdale, aged 21; Sean Bysouth, aged 18; Jodie Thomas, aged 16; and David Kemp, aged 19. The loss had a profound effect on the community and I feel for the emergency workers who attended the crash site. While the community grieves for the loss of these lives my heartfelt sympathies go to the families and friends of the young people.

I respectfully ask the house to observe my remaining time standing in silence to commemorate the loss of the people who have been taken so tragically.

Honourable members stood in silence.

FREEDOM OF INFORMATION (MISCELLANEOUS AMENDMENTS) BILL

Government amendments circulated by Mr HULLS (Attorney-General) pursuant to sessional orders.

Opposition amendments circulated by Dr DEAN (Berwick) pursuant to sessional orders.

Second reading

Debate resumed from 11 November; motion of Mr CAMERON (Minister for Local Government).

Dr DEAN (Berwick) — It is with pleasure that I take the opportunity to speak on freedom of information (FOI) in general, and I will certainly have something to say about the amendments circulated by the government and the opposition amendments I have also had circulated.

Before I say why I believe it is important for the opposition to set its sails on a freedom-of-information position, I direct attention to the fact that at least two of the government amendments circulated as house amendments — and I have not looked to see whether there are more — are absolutely identical to the amendments circulated by the opposition.

There are two reasons for that. The first is a conversation I had with the Independents about those amendments; and the second is my delivery of the opposition's amendments, out of courtesy, to the Attorney-General yesterday.

I am pleased he has decided to accept the carefully considered amendments the opposition supplied to him, although I must say it is not surprising that this Attorney-General has quickly turned them into house amendments of his own rather than having the grace to say to the opposition, 'Yes, we accept your amendments'.

The opposition, when in government, never received amendments that it surreptitiously made its own, because no amendments proffered by the opposition were ever remotely useful to the legislation. But I say to the Attorney-General that if he needs any further help on other bills, he should not hesitate to ask. I also say to him that it was a little ungracious to take the amendments of the opposition, surreptitiously make house amendments of an identical nature, and then circulate them as his own.

Honourable members interjecting.

Dr DEAN — I gave them to him on Friday, and the Independents spoke to him prior to that time. If the Attorney-General wants to tell the house he did not adopt as house amendments the amendments delivered to him on Friday by the Independents, let him do so.

I am willing to listen and will certainly be keen to hear that. But given the nature of the amendments, the fact that the identical amendments have been moved makes it clear that the Attorney-General decided to put them in as house amendments of his own rather than have them included as opposition amendments to the bill. That says a lot about the attitude of the Attorney-General and his approach to this place.

The opposition is pleased that its amendments have been coveted and taken on board by the government. The amendments will improve the operation of the bill. It is important for the opposition to discuss not only the amendments but also the broader notion of freedom of information and FOI legislation. Over time there has been a campaign by a number of people, particularly those now in government, to extend their images and impressions of the former government. It is clear that they were false images and misrepresentations of that government's view on FOI. More importantly, the opposition, now led by Dr Napthine, wants to clearly put on the record its position on freedom of information.

Firstly, I will comment generally on the relationship between government, information and confidentiality. Governments try to separately deal with those three cocktail ingredients to ensure that their interests are looked after appropriately, that information is spread to those in the community who need to know it, and that people's confidentiality is protected. It is trite to say that information in today's world is central. Honourable members understand that; they know we are going through an information revolution. Some people say the quantity of information is overwhelming and soon we will be de-informing ourselves because the quantity of information that we are receiving at any one time is simply too great.

However, the tools of progress are not only information, but also the dissemination and storing of that information. It is that which has led to the extraordinary revolution in technology now being experienced.

Where does that leave government? The relationship between government and the information boom is interesting and evolving. I say it is evolving because I believe there are many who think that before freedom of information acts were introduced there was no position in law on how governments should treat information they received. Nothing could be further

from the truth. Well before any FOI act came on the scene the courts were already fashioning principles relating to information and how governments should deal with it. Equity courts had spent a great deal of time grappling with the problem of, or conflict between, information given to government and the need for the community to know what the government had stored in its information banks.

Most people probably know something about the law of confidential information. It has been around a long time — since the 18th century — and I will refer to cases on the issue. In *Queensberry v. Shebbeare* in 1758, Shebbeare wanted to publish a history of King Charles I but was prevented from doing so because it was confidential information. In *Percival v. Phipps*, also in the 18th century, Phipps wanted to disclose Percival's poems, but the courts of equity said, 'No, you cannot do it.'.

The free flow of information is not that free. Confidences apply to information, particularly the way in which it is received. In *Pope v. Curl* in 1741, Swift wanted to publish personal letters that Pope had sent to him. It would have been fabulous for Swift to have been able to publish them because they were literally literary masterpieces. However, the court of equity said, 'No, you cannot', because of the rule that where information is received in confidential terms it should not be able to be distributed.

The protection-of-information issue has a colourful history in the courts. In the famous case involving the Duchess and Duke of Argyle, the Duke wanted to reveal marital confidences expressed to him by the Duchess on the pillow because they would have been of great interest to the population. The court said, 'No, the Duchess may have whispered all sorts of wonderful things to you on the pillow of the marriage bed. You may have the information, Duke, but you cannot tell anyone else about it. You cannot publish it. You cannot disseminate it'. The point I am making is that for the past 200 years the courts have fashioned distinct and complex rules about information.

What about information that is received by a government? That clearly cannot be seen in the same way as information exchanged between two private citizens. The courts had a great deal to say about the matter prior to the introduction of the FOI acts. We in this country should be proud that the leading case which set the principles for what governments could and could not do with information was the 1980 High Court case of *Commonwealth v. Fairfax*. The fabulous judgments delivered in that case by Justices Mason and Stephen turned around the whole notion of confidentiality and information in governments. The judgments picked up and put together old English cases and set principles for all time.

The judges ruled that information being exchanged in confidential circumstances between two private citizens should not be able to be revealed, but that when governments have such information, the onus of proof is effectively turned around 100 per cent. They said the rule that equity and common law would promote was that if a government receives information it should disclose it unless it can come up with a reason why in the public interest it should not be disclosed. They put on different glasses and absolutely reversed the onus of proof for information held in government hands. Information in private hands cannot be released unless there is a reason in the public interest for its release because it is given privately in confidence. However, unless a government can come up with a reason why in the public interest information should not be released, such information must be released. That sets the tenor for the difference between information that comes into private hands and information that comes into public hands — and the principle has been around for a long time.

Many people have had a great deal to say about the concept. It was not only in the Fairfax case that the notion of reversing the onus of proof regarding information in government hands was determined, and what was said in a number of other prior cases is also important. Those prior cases had a slightly different slant on government information, exposing an evolution in thinking about government information that is still proceeding today. The judges in *Commonwealth v. Fairfax* said a government has to release information unless there is some prejudice to the business of government or it would amount to a breach of confidence.

Judgments in cases of the 1960s and 1970s, such as *Conway v. Rimmer* and *Jonathan v. Cape*, referred to people wanting the government to release information, going to the courts and coming up with different principles. They said there was a need for candour in government, and called it the candour-in-government principle. They said, 'We should not require governments to release information, because if we do then public servants will not use candour when talking to their ministers and proffering information; they will be so worried that it might be released they will remain quiet'.

Another principle that today seems almost extraordinary was, however, a principle that as late as the 1960s and 1970s in cases in equity and common

law judges in England were propounding in relation to government information. The principle was that government information should not be released because it might expose the government to unfounded criticism. If you think about the attitude to government information today, Mr Speaker, you can see that any notion that government information should not be released because it might expose the government to unfounded criticism is totally out of place. The evolution of the thinking in the courts and the law about government information can be seen in the Fairfax case.

The thinking started with the adoption by the courts of the old-fashioned notion that governments were supreme and could keep information to themselves because if that did not happen public servants might not give advice with candour or might be criticised. The Fairfax case effectively threw that notion out the window and said that governments must release information. The judges in that case said that the possibility of a government's sustaining criticism was not a reason for it to not release information. In fact they said that was the very reason why information should be released and that if a government had done something inappropriate, criticism ought to follow because people in the community should hear about it. It was all about democracy.

This Freedom of Information Act has a fascinating history. Something in the order of four bills were introduced by the Thompson government before the act was passed. The last bill was introduced by Haddon Storey in the Legislative Council, I think in December 1992.

Mr Smith — In 1981.

Dr DEAN — Was it 1981? I cannot quite remember the date.

He presented what was, on examination, a fabulous bill into which an enormous amount of work had gone. It was the culmination of the previous bills that had been introduced by the Thompson government. If one compares the Haddon Storey bill with the one John Cain eventually introduced, which became the Freedom of Information Act, it is clear that the Cain government picked up great slabs of Mr Storey's bill and changed a number of other things that would otherwise not have been enacted.

It is important to recognise the evolution that has taken place not only in the thinking on the law on government information, which has become more open, but in freedom of information legislation itself. The amendments the house is now considering are part of that process. Several issues have arisen along that evolutionary line, and a consideration of the way things are going reveals issues that the legislation will have to address if Victoria is to remain at the head of the evolution in freedom of information in government.

In considering where Victoria now stands on freedom of information, I refer to Laurie Dalton's article entitled 'FOI — the irony of the information age'. I will read some of what he has to say about freedom of information, which I believe is important in understanding why we are on this evolutionary trip.

I will titillate the minds of honourable members by stating that the evolution in freedom of information mirrors and parallels the evolution democracy is going through.

In his article Laurie Dalton states:

> Australians live under a democratic system of government, the foundation of which is the Australian constitution. The theory goes that our right to vote in the government of our choice is enshrined in that document, thereby guaranteeing that the political power and the responsibility is in our hands.
>
> The ideal of participatory democracy requires that each person has a right to participate in the governance of a society. Australians have that right at both the ballot box and in the freedom to communicate with politicians, government officers and other citizens. But are the ballot box and the right to express our views sufficient in themselves to ensure our ability to participate in the democratic process?
>
> Whether we have the ability to exercise that right in practice depends to a large extent on the knowledge which we have in our possession about the governmental decision-making process and the substantive decisions which have been or are being made. We cannot seek to change government decisions and policies unless we first know what those decisions and policies are.
>
> While this may be self-evident, the real issues arise when determining the relative importance of the availability of information about government as against other legitimate interests which support non-disclosure of the same information. Consequently the difficulty occurs in relation to determining where the fine line should be drawn for exemptions from the obligations of disclosure set out in our commonwealth and state freedom of information legislation. In the author's opinion it is dangerous and naive to leave it to the executive government and bureaucrats alone to determine where that fine line is drawn.

If one looks back to the time when only the privileged few had access to courts, when parliaments were run by people who were not necessarily representative of the population and when power resided only in governments, despite the fact that the system was called parliamentary democracy, one can see how democracy has evolved and communities have become empowered. In particular, one can see how the engine of participation and the educational levels of citizens,

which have increased exponentially, have driven the evolution of democracy to a point where people are having a greater say in the way their institutions operate — including Parliament and the courts.

I will use the courts as an example — I am a lawyer, so I know a bit about them. Why is the Victorian court system clogged? Why is it that the community is constantly short-funded on legal aid? Is it because the requirement for legal aid is diminishing? Not at all! Legal aid has expanded enormously since it started, and the reason is simple: more people want to exercise more of their legal rights in the courts. People no longer say, 'Unless I own a Rolls Royce I am not entitled to go to court'. That change in attitude is happening not just from the ground up, where people are saying, 'I now feel more empowered. I feel I have the right to go to court and have my rights determined'; it is also happening from the top down.

Democracy is driving more tribunals and the enacting of more laws on people's rights — and the fair trading legislation on misleading and deceptive conduct is a good example. As soon as that legislation was enacted it became clear that a section of the community had more rights. In this way the courts provide an example of the direction democracy is taking. It is clear that more people are exercising their rights by standing up and saying, 'I don't regard myself as being in a class system. I want to have a say!'.

That is having an obvious impact on freedom of information in government. Everybody knows that knowledge is power; and anyone who wants to have a share in the democratic process knows that he or she must have that knowledge. It is as simple as that.

There are some famous quotes from a number of people about that concept. I will quote one of them, purely because I am a great fan of his. The man is now dead, but I was his associate for 12 months and he taught me a great deal. Whenever I get the opportunity to quote something he has written, I usually do, because he was a magnificent fellow. His name was Sir Reginald Smithers. In a piece he wrote for the foreword of a book, he said:

> Every schoolboy learns that knowledge is power. He soon realises, however, that knowledge is only acquired by the expenditure of much effort or money or both and that there is virtue in such expenditure only to the extent that it can be used for profit or transferred, to a greater or lesser extent, to another in commerce. But knowledge has an unusual characteristic in the hands of he who has it, in that, after he has transferred it to another, he still retains it. And that other may transfer it to another and still retain it himself and so on ad infinitum.
>
> The value in knowledge rests largely in that it may be transferred to another who wants it, but at the same time, it depends on strict limitation of the circle of those admitted to it.

In other words, knowledge has a fabulous and unique quality — it gives power to those who obtain it. That is why it is necessary to obtain it — and if, once you have it, you transfer it to others, you give them power, too.

The honourable member for Doncaster will speak as part of the opposition's response to the bill. Although I have not spoken to him, I will bet pounds to pence that he will argue that the combination of new technology and the increased desire for the release of information has accelerated the process 100 per cent. I believe he will talk about the next stage of evolution in freedom of information. He will ask why, if the technology to provide the information is available, it is not accessible. Why is the citizen not able to go to his or her computer and simply access the information without having to put up with the fuss and bother associated with the current processes?

I do not want to steal the honourable member's thunder, so I will not say any more about it except to predict that in 10 years time our children will look at the Freedom of Information Act in the same way as we look at a T-model Ford. They will say, 'This is a totally archaic piece of legislation. It is amazing that they had to abide by all those rules and regulations just to get information from government'.

The opposition has a talented team. I will leave it to the honourable member for Doncaster to explain that. He is acknowledged by both sides of the house as having great expertise in technology and the use of information.

Given that honourable members acknowledge that information should be released if citizens are to participate in democracy and obtain the portion of power to which they are entitled, as power disseminates from central structures why do governments involve themselves in all sorts of processes to prevent that from happening? It does not take an Einstein to work it out. The release of information comes with a political threat. The first fear of any government is that when information is released its opponents will misuse or misrepresent the information or politically harm the government. That may be a justifiable fear but it is entirely overrated.

A government is also afraid of unfounded criticism — and that was the fear in the 1970s and 1960s with the case of Conway to which I referred. A minister has a department and a department probably has agencies

attached to it. A minister cannot check every decision that is made by his or her department or by every person employed by the agency on a minute-by-minute basis. Therefore, departments and agencies will make mistakes.

Mr Smith — They are only human.

Dr DEAN — They are only human. The fear is that if the information is released, the mistake will be found out and there will be a political threat to the government. All governments like to control things, and they are afraid there will be loss of control. It happens on both sides of the house. I am sure the Labor government would say that the opposition, when in government, tried to control information. It is the same with all governments.

I again refer to the article by Laurie Dalton on administrative FOI. It is not the political FOI issues that cause political trouble. It is FOI that really matters, the FOI applications by private citizens who want to know what an agency did about them. FOI is about the ground level of administration. Politicians may get a great kick out of the political stuff at the top, but the important FOI issues are for the citizens below. At page 849 Mr Dalton refers to governments protecting themselves and states:

> For example, it is commonplace for government agencies to 'forget' their obligations to comply with the statutory time limits. Inordinate delays of several months occur as documents are either 'lost' or 'misplaced'. This practice became a real concern in Victoria in the mid-1980s. The then shadow Minister for Health, Mark Birrell, complained at a Law Institute seminar that the health department had misplaced for five and a half months a request he had lodged in relation to the practices of a community health centre. The Ombudsman … wrote to Mr Birrell saying the delay was unreasonable and it was 'difficult to understand why such an inordinate delay could occur in processing documents which had already been identified and I can only assume the matter was put aside and forgotten for a considerable period of time'.

I will not put this on a political basis because the government will be able to put forward examples of the same thing happening. I refer to an example involving a current member of the house. An FOI application was lodged during the time of the former Cain government. The application was resisted by the then government and the matter went to the Supreme Court. The honourable member basically put his house on the line to fight that case through the courts because the Cain government resisted giving the information up until the Supreme Court said it had to be released. Luckily the honourable member was awarded costs.

I am trying to tell opposition members who have only been here since 1992, or who have only just thought about the issue, to remember there was a government before the Kennett government. All governments have probably been overzealous in their control of information because they fear something may be released that need not be. I will refer to those fears, particularly those concerned with administrative errors that are uncovered under FOI. As the revolution of information continues, another party running alongside the revolution is the media. It is plugged into it, as are so many other elements of our modern community.

With the recent media growth, such as television, the Internet and the printed media, the public is becoming more mature. I use the word 'mature' because if I say that members of the public's mistrust of the media has grown and they are becoming critical of the media, the media may think the honourable member for Berwick is just picking on it. The avalanche of material now being thrown at individuals every time they turn their computers on, particularly through the Internet, is influencing people's thoughts about the media in a big way. They are becoming more mature and more critical.

There is an upside for governments in FOI, which is that when an administrative error is found and the opposition, whichever side it happens to be at the time, makes a political issue about it, members of the public treat it with a fair degree of cynicism. Unless they have worked out that it is the sort of error they should bring home to the government, they do not form an opinion. I believe all politicians tend to overreact to this fear about the release of errors that occur because of FOI.

Some upsides of FOI for governments should be remembered now and again and repeated. Firstly, a government can uncover problems before it is too late. A little embarrassment to a government because of an administrative fault can be fixed without too much trouble before somewhere down the track it turns out to be a calamity such as Tricontinental. The problem can be fixed before it becomes a political problem. Secondly, FOI keeps everybody on their toes. That is not a bad thing. It makes everybody think they should make information accurate and not look as if they have tried to cut corners in case FOI brings them down. It is a barrier to corruption. Governments should think about that because they can get so involved in their day-to-day political battles that they get a bit close to the action. They should climb about 20 foot up a ladder and look down on themselves to see how they are working within society.

Also, if governments resist the release of documentation, it can backfire — for example, I refer to the casino matter that was run for years as an FOI by

the former opposition. The former government consistently said it had confidential financial obligations about the material and would not release it. The Labor opposition decided there must be something to hide so it went in even harder. The Bracks government decided to hold a royal commission on the casino documents. When it received the documents and examined them, there was not — —

Mr Pandazopoulos interjected.

Dr DEAN — The government is trawling the documents. When it looked at the documents — and I stand to be corrected over time but we will wait and see — it found nothing that either had not already been mentioned by the government in answers to questions or was completely inappropriate.

The idea of holding a royal commission and withholding information will backfire if nothing is found — it will blow up. Governments and oppositions need to regard freedom of information positively in the sense that it is useful. They ought not over-react to governments controlling information for the reasons I have suggested.

If the government decides that it is not worth spending $2 million on a royal commission into the casino, it will be a lesson for the opposition and the government about the whole freedom of information issue. As I said earlier, in this evolutionary stage of freedom of information legislation we must determine the grounds for a government to legitimately say that it will not release certain information. Given that I have already said the release of information and the empowerment of individuals in the community is part of the democratic and evolutionary process and that it will continue to occur, how do we decide what documents should be restricted to government? It is a public-interest question. The public interest about whether a document ought to be released relates back to the equity courts which say that government information should always be released. One must ask: what are the public reasons for not releasing information?

In determining the public interest a court must consider a number of things. If the information is generated by government as part of its own processes, the public interest factor related to the disclosure of information is reduced significantly. If the information is self-generating and is not coming from individuals, the public interest factor increases. If the information is volunteered by a third party to the government, the public interest question alters, because it raises the question of the rights of the third party. It is a matter of confidentiality. Was the information given to the government confidentially? In the future one might ask whether the government has an obligation to say to third parties that if people ask for information it is obliged to give it to them. Most third parties would say, 'Fine, it does not bother me'. In many cases a third party will give personal information to the government, but he or she is never told that the information may be released, because the government may feel it has to release the information to the public. The third party can rightly say, 'Hang on, you never told me that if I gave that information to you my neighbour down the street will know about it'. It is important for honourable members to consider that issue in this evolutionary process of freedom of information.

A separate question is the information that is compulsorily acquired. If a government says, 'I am using the power of legislation to say to you that you must give me that personal private document', there is a separate question as to whether it should be released. The individual has had no say in whether that information should be released and the public issue factor swings towards a careful consideration as to whether a compulsorily acquired document ought to be released.

The public interest provisions in the legislation are simple. In 10 years time our children will say they are archaic. The provisions deal with personal privacy, commercial privacy, confidentiality and the workings of government. They are the reasons why governments say they will not release certain information.

I turn to documents relating to the workings of government and the effect the release of those documents may have on public servants. We have some way to go on that issue. The workings of government are not as important as they are often made to be, but the commercial and personal privacy issues are important matters because alongside the evolution of democracy that is driving the evolution of freedom of information there is another issue that is becoming more important — personal privacy. It is one of the other elements that is undergoing evolutionary change and will impact on freedom of information significantly. It is the sleeper that we will have to consider closely.

The first action of a dictator in attempting to prevent the evolution of democracy, the empowerment of individuals and so on, is to strip individual privacy — it is the Big Brother approach. How can people participate in democracy if they are being manipulated? By removing the individual's privacy, the dictator is able to manipulate him. The dictator, or whoever it happens to be, has a lot of information and will use it to

target messages to you or interfere with your freedoms in a way that will manipulate the way you respond to whatever is being attempted.

One of the most important aspects of democracy is to protect the privacy of people and their capacity to have information that empowers them. I refer the house to an article by Moira Paterson — and I do so because she is a highly respected author, a personal friend and because the article is very important — which states:

> Freedom of information legislation involves balancing interests between the general right of access and the protection of both essential public interests and the private and business affairs of individuals …
>
> the public interest in disclosure inherent in the objectives of the legislation and the public interest in protecting the personal privacy of individuals within the community. The only aspect of interpretation which has remained contentious is the extent, if any, to which it is appropriate to consider the identity of an applicant and the reasons for which access is sought in evaluating the competing interests. The adoption of a balancing approach is consistent with that taken by the United States Supreme Court in relation to Exemption 6 of the United States Freedom of Information Act, a provision on which section 41 was loosely modelled and with the recent judgment of Lockhart J. … in *Colakovski v. Australian Telecommunications Commission* in which he stated:
>
> > What is unreasonable disclosure of information for the purposes of section 41(1) must have as its core public interest considerations. The exemptions necessary to the protection of 'personal affairs' … and 'business or professional affairs'… are themselves, in my opinion, public interest considerations.

Legislation which is designed to increase participation but which actually increases mistrust of government and decreases personal privacy takes us backwards. The Australian Law Reform Commission has said that freedom of information and privacy legislation should be amended to ensure the continued smooth operation of the overlap between the two acts and the clarification of the intersection of the two acts in respect of third-party personal information.

That is the point I wish to make. We are on an interesting journey through the issue of freedom of information held in government hands. It is a 50-year journey that started with the courts being protective of governments, and then saying, 'No, you should release information unless someone says it is not in the public interest'. Why not? The next step was freedom of information legislation and the many attempts to get it right. The Honourable Haddon Storey's bill was largely accepted.

Now we come to the present and to the questions of privacy, the freedom of information in government hands and how to advance democracy the next step.

There is a stark difference, probably a philosophical difference, between the Labor Party and the coalition on privacy. The right of individuals to operate without disadvantage or interference, including their capacity to protect themselves to the fullest extent, is an essential tenet of our philosophy. The coalition has said that on many occasions. I have no doubt the Labor Party would also say it is very important, but I believe the Labor Party puts great emphasis on the community as a whole and how it operates. If it were necessary to restrict the individual for the sake of the wider community members of the Labor Party would say, 'Yes, this is something that should be done'. You can see the difference of emphasis between the parties on the issue of the protection of people's privacy and the government's releasing personal information.

There is no reason for people to get angry or upset about differences of opinion or emphasis. Thank God we have different political philosophies and people who want to argue important issues from different points of view. It is, however, disappointing when the parties turn to bitterness and political aggression. Logical discussion of issues goes out the window at that point.

I agree with Moira Paterson that we must get the balance right if we are to promote democracy and the proper evolution of the Freedom of Information Act. Section 33 of the act already has a form of balance in that it protects personal information and uses the word 'reasonable'. That word is the key, because it can be used in decisions where public interest considerations should apply to the release of information and it can be used in discussions about whether to empower communities rather than protect an individual's rights. The section does not, however, give the courts an idea of how reasonableness should be determined.

That is not the case in section 34(2), which deals with commercial information, but it still does not define what is reasonable. Indeed, the fact that the word 'reasonable' does not appear in that subsection is one of the problems of the commercial information area. Section 34(2) merely states that certain factors are to be considered. We should put the word 'reasonable' into that provision and give some indication of how to determine 'reasonableness' in relation to personal information.

Section 34(2) also deals with some of the matters I mentioned before. We should take into account whether information is government-generated or not, whether it was compulsorily acquired, whether there was a confidential obligation attached to the information when it was given, and whether it will excise a wrongdoing.

As Moira Paterson's article states, there are a whole series of other things that could be included. It will be worth looking at those in the future as the legislation evolves. The government is, at this very moment, considering further amendments to the Freedom of Information Act, and Mark Dreyfus of counsel is looking at those matters. I hope the government will be able to bring some changes to bear.

Now to the hub of the issue. I have spoken in general terms about the commitment of the opposition to the evolution of democracy — the empowerment of individuals — and therefore the evolution of this bill. The opposition agrees with the amendments that expand commercial confidentiality and the amendments that deal with a number of other matters that make the legislation better for the community and make it easier for community members to get information.

The amendments relating to privacy remove part IIIA of the act and replace it with proposed new section 33, which deals with personal information. Those amendments exemplify the point I am making by exposing the difference between the parties on the question of personal privacy — namely, that the opposition has a greater commitment to privacy than the Labor Party has. The compromise it has worked out is not a compromise at all. Instead, its proposed new provisions open up the possibility of abuse of personal privacy in the Freedom of Information Act.

We know that part III was put in after the Coulston case occurred, and we probably all know the facts of the Coulston case. The nurses' names were released by the tribunal. Some people think it is an example of an FOI officer getting it wrong.

It is not an example of an FOI officer getting it wrong, although it exposes the fact that allowing FOI officers to make decisions on personal privacy issues will leave the process open to difficulties. It also exposes the fact that the nurses never knew their names were being released. The problem is that the matter went through the FOI office and Victorian Civil and Administrative Tribunal (VCAT) and a decision was made without the nurses' knowledge.

Section 33 of the principal act provides that people who will be affected by the release of personal information should be advised. The fact that the nurses were not advised exposes the inadequacy of giving the task to an FOI officer. A FOI officer may have had years of experience or he or she may have just been given the job as the most junior clerk in the agency. Under the principal act matters are returned to the FOI officer for him or her to make a decision. Following that process meant that the situation for the nurses became worse. After the tribunal had gone through the process the honourable member for Frankston East decided he would also get into the act, so he wrote a letter to the hospital asking for the information. He also decided to put in an FOI request for the information so that it was subject to all the hoo-ha. That case exposes how the principal act can be totally misused, and I am pleased that the honourable member for Frankston East backed down very quickly when the nurses told him to get lost, and so he should have.

Under part III of the principal act a burden was placed on the agency or the government to remove personal identification information from documents. There is no doubt that the process was laborious and took up a lot of time, but the argument put forward by the coalition when it was in government is that ensuring that personal privacy is protected is worth the extra resources needed for the process. Part III of the act provides that if a person wants access to individual information he or she should go to the VCAT for a decision to be made by an independent judicial officer. In 90 per cent of the applications the applicants do not require identification information about the bureaucrat, such as his or her address, but rather such information as an analysis of a case or the details of a contract made between the different parties in, for example, a property transaction. Because in 90 per cent of cases no application is made to the tribunal personal information is usually protected — in other words, there is no gratuitous giving up of personal information.

The other great thing about part IIIA of the principal act is that an application would be made to the tribunal and it would decide that the third parties concerned needed to be notified. It was then up to the minister or the agency to notify those people. Although it might be argued by some that an obligation for them to be notified was in place under section 33 of the act, the difference is that the notification was under the control of the tribunal. If a minister returned to the tribunal and claimed that an attempt was made to contact the people concerned but they did not respond, an independent judicial officer of the VCAT could say that the minister had not tried hard enough, that other people could be contacted or that the process would not go ahead until the minister had returned with information that satisfied the tribunal that the act had been complied with. That was the beauty of the act. The act orientated decision making towards the privacy of the individual.

I know the interjections from government members will be that everyone should be given access to information as part of the democratic process. I agree that people should have access to information as part of the

democratic process, but I do not agree that information should gratuitously be given if it affects someone's privacy. That is what the situation was.

The opposition will not oppose the amendments circulated in the name of the Attorney-General. I gave the Attorney-General the amendments I thought were appropriate on Friday, and he also received amendments from the Independents. At the time, rather than saying the government would accept the amendments, the Attorney-General put forward two house amendments that were framed in exactly the same terms. He did that because he did not want to say the opposition's amendments were good amendments and that the government would accept them. He could not bring himself to do that, so he put forward the amendments in a sneaky way. The opposition does not care about that. The amendments should be passed because they are good amendments. However, my integrity in putting forward amendments to the Attorney-General before time, which I believed was appropriate, has meant that my conversations with the Independents will be inhibited.

If the amendment proposed by the opposition is not passed matters will be taken away from the VCAT and given to an FOI officer, so the person who will be deciding whether or not it is practically appropriate to contact people about the release of personal information or whether or not the information is personal will be an FOI officer, who may have been given the job yesterday and who may be one of the most junior clerks in the agency. That is the very thing the opposition did not want to happen. The onus of deciding whether or not the information should be released is no longer on the applicant, it is now on the government. The opposition believes the onus should be on the applicant. If personal information is going to be released, the person concerned should be notified so that he or she is able to object to its release. The applicant should then be required to say why he or she needs the information.

That is our view of privacy. The amendment in the bill does not do that at all. It effectively says the freedom of information officer will make the decision and that that is what went wrong in the Coulston case — the FOI officer did not contact the nurses and as a result of the decision the nurses never got to know what had happened.

The amendments proposed are an indication of the difference between the view of the government and that of the opposition on personal privacy. The government moved an amendment taking away the role of the Victorian Civil and Administrative Tribunal and replacing it with FOI. However, the explanatory memorandum to the bill explains that proposed section 2A inserted by clause 6 states that the FOI officer:

> … when considering whether disclosure of information in relation to the personal affairs of any person would be unreasonable, may take into account, in addition to any other matters, whether disclosure would, or would be reasonably likely to, endanger the life or physical safety of any person.

Unfortunately the amendment states the officer 'may' take this into account. It was the first indication to the opposition that the officer may or may not take personal safety into account.

The amendment proposed by the opposition provides that the officer must consider this aspect. It is a simple difference but it represents a difference in attitude, approach and philosophy.

The opposition also considered that more than physical safety is endangered, and more than life and physical safety should be taken into account. Information on other matters, if released, would have a deliberate and damaging effect — for instance, in the case of information being released to a stalker against whom someone has taken out an injunction; or in the case of privacy issues relating to reputation, where damage will result if personal details such as an address are released. The amendment in the bill does not pick that up at all. It is the government's show. It has moved the amendment and the opposition will not oppose it except for making the amendment to the word 'may' so that the officer must consider it.

The amendment exposes a difference between the government and the opposition. In other states, the privacy matter is taken more seriously: in Queensland access to information is denied unless notification is given. The wording about notification of third parties in most acts is stronger. If it is practicable, most acts use words to ensure there will be a strong tendency to inform the person. It is up to legislators to use any words they wish to pressure an agency or minister to notify the third party. The key is that citizens ought to be told if personal privacy rights are affected, so it is a good idea to spend resources on it.

As I said previously, part of the evolution of democracy is privacy, and money has to be spent to ensure it and it has to be taken seriously. In future, when the government looks at the act or when the opposition is back in government — as I hope it will be — it will ensure a stronger approach is taken to ensuring that private individuals are notified of the release of information before it happens.

An honourable member interjected.

Dr DEAN — The commonwealth law also emphasises notification of private individuals.

Another area is cabinet documents. The opposition has no difficulty with the amendment proposed to deal with cabinet documents. However, it is a matter of imagery or illusion — and I will tell the house why. The former opposition spent a great deal of time hammering that point because it was part of its overall desire to paint a picture about the Kennett government — whether it be true or not. Again and again the former opposition fired that piece of ammunition and built it into something which it surely was not.

The amendment relating to cabinet documents simply removes the provision whereby a document which was considered by cabinet also had the imprimatur of the exemption. It was argued that documents that went before cabinet were too great an exemption, and the opposition is happy to see that go for the reasons that I have already put and for the reasons that it is important for us to make our stand here. The Napthine opposition believes it is important that that point be made. It is important to remember that any government that wants to ensure a document is not seen by Parliament or the community can simply turn it into a cabinet submission. It can take any document, rework it as a cabinet submission and put it before cabinet. Honourable members should not be under any illusion that the removal of that provision will somehow change the world in relation to governments not giving up information.

The point can be made on a philosophical ground and the former government absorbed any criticism made as a consequence of its being there. We believed it was economically appropriate for it to be there — but honourable members should not talk nonsense about its being a calamitous change to what could or could not go to cabinet. Any government — and certainly this government — that wishes to turn a document to be considered by cabinet into a document that has a cabinet exemption simply makes it a cabinet submission. It sounds good, it looks good, and it is an issue which one can pound the desk on. I have no doubt the government will pound the desk on this one, but let us be under no illusion as to the substance of the change.

I turn to commercial confidentiality, a subject about which I have spoken in the past. The bill proposes that documents of a financial and commercial nature will not have automatic exemption under the commercial confidentiality provision. Honourable members might suggest it is important that financial and commercial documents not be part of an exemption, and that for an exemption to be given some detriment to the corporation should be proven. But again the point is totally and absolutely illusory, because there is an absolute exemption for trade secrets.

Perhaps government members would say there is very little I know a lot about, but one thing no-one can say I do not know a lot about is the law of trade secrets. I have lived with trade secrets up to my neck for the past 15 years. I wrote the book on trade secrets, and if it is a bad book I cop it! I can tell honourable members what a trade secret is because the Freedom of Information Act accepts the common-law definition of trade secrets. A trade secret is any commercial information not in the public domain. Something called ‘relative secrecy’ in trade secrets means it can be known by the people in the public so long as it is not relatively known and it classifies as a trade secret. In fact, a trade secret can have absolutely no commercial value whatsoever. It can be the tiniest piece of information that an organisation or company has. Whether it is of value or not, it is something that we have, it is our information, and it enjoys what is called relative secrecy.

Any financial and commercial information of a corporation which is its own and which is not known absolutely by the public — if it were known absolutely by the public it would not be wanting to get an exemption for it because everyone would already know about it — is classified as a trade secret. Therefore this provision, which is being surgically removed with such fanfare to show how we are broadening our commercial protection, is nothing of the sort. The government may not have known that — but I suspect it did — and it recognises that part of the role of government is that when it receives information of a personal nature, be it private or commercial, it has obligations relating to that information. Although the public interest is in releasing that information to the public if it possibly can, the public interest is also in protecting that privacy.

Will this government be different? Will it simply remove the commercial privacy provisions? Absolutely not. Will it remove a portion of it? Yes. Will that make a difference? No. I refer the house to an interview with the Minister for State and Regional Development, John Brumby, on Melbourne’s 3LO radio station on 9 November. The news reader had this to say:

> The new state government has signed a deal with an Internet security company which will create nearly 70 jobs in Melbourne.

Terrific! But as Kellie Day reports:

> The details of the arrangements are to be kept confidential for commercial reasons. The Labor Party ran a strong campaign against the previous government claiming it was keeping

> deals secret under the guise of commercial confidentiality, but the state and regional development minister, Mr John Brumby, says such arrangements will remain confidential in the interests of Victoria. He said:
>
> > We're not in the business of disclosing confidential agreements that have been necessary along with all the other benefits we have got such as the infrastructure, the people skills, to get companies like this into Melbourne.

That is absolutely right. The minister is not going to release that commercial information — and why not? Because he received it in confidence. To release it would mean that companies like this Internet company would say, 'We will not deal with you if you release that information in the public domain', which was exactly what the former government did, and what any responsible government would do.

The minister is being quite responsible in saying that. But please, Minister Brumby, do not come into this house and argue that you will do away with commercial confidentiality or make big changes or change the way your government operates as opposed to the Kennett government because quite clearly you are not. The hypocrisy surrounding this amendment — and we happily accept the amendment — is enormous.

The bill proposes to insert a provision relating to statements by ministers in the house if they intend to appeal Victorian Civil and Administrative Tribunal decisions to the Supreme Court. The opposition heartily and totally agrees with that. If a government, as John Cain's government did, wants to appeal matters to the Supreme Court and run them for days and months at great expense to an applicant who may have no money at all, the commercial impact on that applicant will be huge. The applicant may give up the request for the information as a consequence of the government using its resources to run that Supreme Court matter.

Both former governments have done it, and it is a good idea for ministers to have to make a statement to the house about that very matter. But the opposition believes this amendment does not go far enough because the house is going to sit, it says, 50 days. If it sits 50 and there are 365 days in the year, there will be 315 days it is not sitting, so for 315 days the minister will not have to make a statement at all.

For 310 days people will have no idea. The minister could be appealing every decision known to mankind to the Supreme Court and running matters up hill and down dale. Therefore the opposition will move a simple amendment proposing that the minister's statement should be published in the *Government Gazette* within seven days of a summons being issued.

I thought it was a pretty good amendment. Government members also thought it was pretty good as soon as they knew of it, either because they heard of it from the Independents or because I gave a copy of my proposed amendments to the Attorney-General. However, instead of saying, 'Yes, that is a good amendment, we will accept it', and getting on with business, the Attorney-General, whose arrogance could not possibly allow him to be seen accepting a good amendment from the opposition, quickly ran to the government printer and printed his own house amendments in identical terms to those of the opposition's so he could say, 'Yes, that is a good idea'. The Attorney-General will move the amendments, and I thank him for it! The way he has gone about it exposes more about him and his government than the fact that the amendment is good and will be accepted. The opposition agrees with the amendment and is pleased the *Government Gazette* will publish reasons in due course.

The opposition will move two other amendments. One will propose to lower the fees for appeals to the Victorian Civil and Administrative Tribunal. The Napthine opposition wants to make clear where it stands. It is making a point about its position on FOI and is saying — —

Mr Nardella interjected.

Dr DEAN — Yes, I know you will jump up and down and say, 'In the previous government you did this and you did that'. If the opposition — I am sorry, I keep saying 'the opposition' when I am referring to the government because its members continually behave like those of an opposition. If ever there were a government that behaved like an opposition, it is this one. If the government does not want to get on with the show, look at the basic strengths of the amendments, say, 'Okay, the past is the past' and get on with the future but instead wants to spend its time berating the previous government about the cost of appeals, that is fine — the opposition accepts it. However, the Napthine opposition makes its position clear: it believes a fee for an appeal to VCAT should be $50, and it has moved an amendment proposing as much.

The opposition also believes the cost of photocopying is high — it involves a $20 application fee. If you look at the legislation you will see that a $20 hourly fee can be charged just for doing the work and that other expenses can be charged. The opposition says the first 100 photocopies should be part of that fee — in other words, they should be free.

Mr Pandazopoulos interjected.

Dr DEAN — The government can say what it likes, but the opposition will follow through.

Mr Pandazopoulos interjected.

Dr DEAN — Yes. The government's preoccupation with the past government is flattering. Government members are preoccupied with it day in, day out; all their questions are designed around what the other government did. I do not think I have heard just one mention in this house of a new program they will suddenly introduce that has nothing to do with the previous government. It is hard to find any such needle in a haystack. The government is totally preoccupied with the previous government.

As I have said in this place a number of times, members of the Napthine opposition are thinking of the future. We accept that we are in opposition and we are putting our policies on the line. We are using the amendment to state our position that it should be easier than it is at the moment for someone to get photocopies.

The opposition has been told by the Clerks — this will put the government in a position in which it will have to closely consider what it must do — that because the two amendments affect appropriation, the first one relating to the $50 and the other one relating to the photocopying, they require a message from the Governor regarding appropriation. The only way a message from the Governor can be obtained is by the government's seeking such a message. Apparently the opposition cannot do it, or it would. Such bills cannot go to committee unless there has been a message from the Governor, and because the opposition seeks to discuss particular matters in committee I ask the government to adjourn the second-reading debate to allow time for a message to be sought of and sent by the Governor. The ball is in the government's court. Only the government that can do it and the opposition asks for it to be done. The decision lies firmly in the government's hands as to whether it will adjourn the second-reading debate to enable an appropriation message to be received from the Governor and a committee stage to proceed.

In conclusion, I make the following points. The opposition takes this opportunity to set its position about FOI in general and about the amendments in particular. It does not oppose the amendments, but will move amendments of its own to improve them by making them wider in relation to recent information and more accurate in relation to privacy. I understand — I know — the opposition's amendments have been accepted as house amendments by the government. That is good. Opposition members are pleased, even though we think that the backdoor, backhanded method used by the government was extraordinary.

I make the point that as democracy and the Freedom of Information Act have evolved people have to come to grips with the matter of privacy, not just with FOI, but right across the community. The amendments to the FOI provisions to protect privacy are not good enough. They open up the way for an FOI officer to allow information to be given out that he or she should not have allowed to be given out, or to fail to contact the parties concerned when he or she should have contacted them, with no comeback for those people until it is too late. The bill removes the responsibility of the experienced Victorian Civil and Administrative Tribunal judicial head to ensure that decisions about that issue are made properly. The opposition regrets that.

I put it on the record that a problem will occur involving information being released when it should not be. Somebody will be bitten, although perhaps not as severely as happened in the nurses case. The opposition puts it on the record that it wishes the government had made the provisions a lot stronger.

Mr WYNNE (Richmond) — I thank the honourable member for Berwick for his contribution. His lengthy and extensive overview of the Freedom of Information Act, which went back to the former Cain government, was also an involved defence of democracy and a civil society. However, I have to ask the question: where was the honourable member for Berwick in the former government?

An honourable member interjected.

Mr WYNNE — No, it is not a question of being predictable; it is a question of asking the honourable member for Berwick where he was in the former government.

Dr Dean interjected.

Mr WYNNE — By any estimate, the former government would have to be regarded as a government that totally emasculated many of the most important aspects of the freedom of information (FOI) legislation. Many people would suggest that the former government in fact abused the legislation. I will refer to two prominent examples of the former government's fighting tooth and nail against the former opposition over the casino tendering documents.

The Attorney-General has previously detailed some of the costs that were incurred by the former government.

The Department of Justice incurred $300 000 alone in defending the casino tendering documents. As the honourable member for Berwick said, some of those documents have now been made available to the Minister for Gaming, who is pursuing the matter. I am pleased the minister is in the house to hear that!

I turn to the former government's fight against releasing information about ambulance contracting — and what may emerge about that may prove to be scandalous. I note that the Deputy Premier said last evening that he had fought the matter up until 7 o'clock on the night before the election. The former government decided that it would fight the matter in the Supreme Court right up until election day. Victorians will soon see whether the government had anything to hide about the ambulance contracts, because the matter will be canvassed in the public arena over the next few months.

That issue highlights the opposition's attitude to FOI. One would have to say that at every turn the opposition has failed the test in not supporting an open democracy and a civil society. It certainly failed the test in the time of the Cain government, when the honourable member for Doncaster was regarded as somewhat of an expert in and diligent user of freedom of information, as was the Leader of the Opposition in the other place, the Honourable Mark Birrell. FOI legislation cuts both ways. The coalition used it in addressing a range of matters; however, when the boot was on the other foot and the coalition was in government, it had an entirely different view of freedom of information. The honourable member for Doncaster would have to agree that in many respects it emasculated some of the key aspects of the Freedom of Information Act.

The bill implements the government's pre-election commitment to open and accountable government, in line with its commitment in its response to the Independents charter to rebuild the Freedom of Information Act. Freedom of information is one of the fundamental tenets of a democratic society, among which are that an individual has the right to know what information is contained in government documents and that governments should be open and publicly accountable and encourage public debate. True FOI legislation is fundamentally important because it assists in informing the community about government policies and encourages the community to become more involved in policy-making and government itself. That is surely a good thing.

As I have already said, the Cain government introduced the original FOI legislation in 1982.

Mr Perton — It was introduced by Lindsay Thompson!

Mr WYNNE — It was introduced by the Cain government in 1982. Over the past seven years the previous government introduced numerous amendments that narrowed the operation of the act, further restricting the right of Victorians to gain access to government documents.

The bill proposes to rebuild the act by narrowing the exemptions relating to cabinet documents and commercial confidentiality, removing the $170 appeal fee at the Victorian Civil and Administrative Tribunal for deemed refusals, compelling the minister to explain to the house the reasons for appealing against a VCAT decision to release documents, and repealing the recent changes to the act that prevent access to documents that identify the people, including public servants, named in those documents.

I deal firstly with the issue of cabinet confidentiality. The bill narrows the exemptions relating to cabinet documents by removing from exemption documents that are presented to cabinet without having the status of being part of a formal cabinet decision.

Mr Perton — What happens if you staple it? Give us the answer! What is the answer?

Mr WYNNE — I suspect the honourable member for Doncaster may have highlighted one of the practices of the former government — that is, if the former government was seeking to exempt from FOI a document that had merely been presented to cabinet, it was not difficult to have it included in the cabinet-exempt category by attaching it, stapled or unstapled, to the back of a cabinet submission.

It is the intention of the bill that documents now prepared for submission to cabinet should be in the form of formal cabinet submissions. Any attachments to a submission would need to be relevant to that submission.

Mr Perton — What does that mean?

The ACTING SPEAKER (Mr Savage) — Order! The honourable member for Doncaster is being disorderly!

Mr WYNNE — It should not be attached to a submission merely to attract an exemption. That is clear.

Mr Perton interjected.

Mr WYNNE — That from a member of the former government, which fought tooth and nail against the public exposure of issues fundamental to the community!

I go to the question of commercial confidentiality. I bow to the learned opinion of the honourable member for Berwick, who I understand has written the definitive work on it. However, the bill provides exemption for a range of documents relating to business, commercial or financial matters that government agencies have obtained from business organisations. The honourable member for Berwick has said the government is approaching the matter sensibly by not requiring the revealing of information that is confidential to negotiations between business and government.

However, the bill narrows the ambit of the exemptions. Documents will be exempt only if the disclosure of information relating to business, commercial or financial matters would be likely to unreasonably disadvantage a business organisation.

This narrower exemption will operate in conjunction with the government's policy commitment to post on the Internet all contracts for the delivery of services to the community on behalf of the government, and the honourable member for Doncaster will appreciate the importance of that. That will ensure Victorians are aware of and better able to scrutinise the business undertaken and entered into by the government, and the honourable member for Doncaster will applaud that initiative.

The third matter I refer to is excessive costs for appeals. The previous government whittled away access to information by introducing extra fees and charges. The government is committed to reducing excessive fees for appeals to ensure the mechanisms in the act remain accessible to Victorians. The bill removes the fee charged for reviews of deemed refusals. Deemed refusals involve a government agency failing either to respond to a request for access to documents or to respond within the required time limits, requiring an applicant to go to VCAT to obtain access to the documents. Currently, an application to the tribunal seeking a review of a deemed refusal attracts a fee of $170. The fee, which was brought in by the previous government, will be reviewed.

The fourth matter I wish to address concerns ministerial accountability. As part of its commitment to accountability, the government promised to require ministers to explain to the house why the public interest is served by the government appealing from a decision by the tribunal to release documents. The bill requires the relevant minister to make a brief statement to the house of the reasons he or she is appealing within seven sitting days from when a summons for leave to appeal is filed with the court. The honourable member for Doncaster is aware of some amendments to be proposed which suggest that not only will the statement to the house be required but also that the reasons be published in the *Government Gazette*. That is an entirely reasonable approach because there will be times when the minister may seek to appeal when Parliament is not sitting. That is a reasonable amendment and should be accepted.

The honourable member for Berwick has canvassed the issue of personal information, and I will not go into detail on that because it will be subject to further debate in committee when there will be an opportunity to address that question.

I do not suggest that I have anywhere near the experience of my senior colleagues about freedom of information, certainly with respect to the matters that were dealt with by the Labor Party when in opposition in taking the fight to the then government about fundamental access and rights of people to documents that were critical to service delivery. I refer obviously to the ambulance service, but there are many of them.

My experience comes from dealing with a matter at a local level when I was employed by the federal member for Melbourne, Mr Lindsay Tanner. The previous government was involved in the redevelopment of a public housing estate at Kensington. The office of Mr Tanner was contacted by a number of residents who had been polled by the housing ministry seeking their views about public housing. The residents expressed concerns that the questions asked could have been interpreted as push polling to influence a particular result on behalf of the then Minister for Housing to manipulate public opinion about the redevelopment of public housing.

Drawing on the great breadth of experience of the honourable member for Doncaster, we proceeded down the path of making an FOI application. I am sure I could take the wise counsel of the honourable member for Doncaster. Perhaps my question on FOI was too broad. Basically, we were looking for some information about who the polling company was, what was the nature of the questions asked and on whose advice the polling company had been employed. The FOI request was dutifully sent off and we waited the statutory period. Eventually the reply came back that the work was in progress and that there had been no fault in the decision made by the advisory committee. Accordingly, the application was refused. The demolition of a major

public housing estate in Kensington is a matter of public interest. Local residents had rung the office of the federal member suggesting they had been push polled in order to get a particular result. The result of the FOI request was that the documents were still under consideration, still in their draft form and no material could be made available to us. However, that does not compare with the major work undertaken by the Labor Party when in opposition in fighting to have released information that was in the public interest.

The government will be open and accountable. It is prepared to put on the table all its commitments, and the FOI legislation is another step in that direction.

Mr PERTON (Doncaster) — What a joke. The honourable member for Richmond was a former ministerial adviser to the Honourable Barry Pullen who conspired with other ministerial advisers and ministers to attach documents to cabinet submissions to try to make documents pass the shopping-trolley test. Back in the Cain and Kirner days all one needed to do to have the cabinet stamp applied was to have the trolley of documents run through the cabinet room. It is an utter joke for the honourable member for Richmond to say he holds a strong commitment to open and transparent government.

Many people in the community hold great hopes for the government and its commitments to openness. The Labor Party's election policy commits it 'to strengthening the FOI act and ensuring requests are responded to within the permitted time'. It also commits it to adopting what it terms a proper definition of commercial confidentiality and ending the supposed abuse of the term by the previous government to conceal its activities.

A comment on that policy from Rick Snell, an FOI expert from the University of Tasmania, is as follows:

> The reforms, in effect, try to take the Victorian legislation back to the pre-1993 version.

Those of us who acted in FOI matters pre-1993 well remember the activities of John Cain and the proscribed authorities regulations that had to be struck down by the High Court. I remember appearing in FOI applications and having not just a barrister or one QC but two QCs appearing against me. On many occasions the government routinely appealed to the Supreme Court in an attempt to intimidate those who tried to open the veils of secrecy that covered the activities of the Cain and Kirner governments. Indeed, it is not just the inadequacy of the amendments that would disappoint FOI activists; the other activities and conduct of the government would disappoint them, too.

Mr Holding interjected.

Mr PERTON — Did the honourable member for Springvale get a ticket to the dinner last night?

Mr Holding interjected.

Mr PERTON — The honourable member for Springvale says he thoroughly enjoyed himself. It is good to see the honourable member for Springvale was there at $1000 a head!

Mr Hulls interjected.

Mr PERTON — The Attorney-General says some of my friends were there, and indeed they were.

A number of my friends were there, but I also noted that the government was interested in taking $1000 a head from Intergraph. What is the deal? Is it to say, 'Pay us $1000 and you will get the ear of the Attorney-General'? Or, 'Pay us $1000 and you will get the support of the honourable member for Springvale'? It makes remarkable reading. Lots of people who are applying for government tenders were required to pay $1000 a head to the government to get the ear of the Premier or ministers. It is a monumental act of hypocrisy on the part of the government to declare that it stands for openness.

It is also remarkable that during question time today the Premier was invited to be open about the heads of government agencies and those on government statutory boards who were present at the dinner. The honourable members for Richmond and Sunshine are both grinning and laughing because they are part of a government that is quickly exhibiting double standards. Gabrielle Costa's article in the *Age* of 4 September entitled 'ALP vows to end secrecy' states:

> Under its Integrity in Public Life policy, Labor would make freedom of information applications cheaper.

Where is that in the bill?

Mr Hulls — We got rid of the $180 for deemed refusals.

Mr PERTON — Under government policy where it promises a response in 45 days there ought to be no deemed refusals. It is the first broken promise. Government members may scream, rant and rave — —

Mr Hulls interjected.

Mr PERTON — The Attorney-General has no commitment to freedom of information. The only reduction in fees is that for deemed refusals. If the government is serious it should reduce fees for all applications.

The second example relates to transparency. Transparency requires that documents are not only released to the public but that they are accepted inwards. During question time today the shadow Attorney-General asked the Attorney-General about a breach of the law. An article in today's paper contains a good analysis of the role of the chief law officer. It says in part that he ought accept complaints and judge them without political fear or favour. The Attorney-General's response was, 'When I was the shadow Attorney-General I presented legal opinions to the former Attorney-General and I was ignored, so as the Attorney-General I will also ignore legal advice given to me by the opposition.'. That is contrary to the policy of the Labor Party when in opposition. It is contrary to the statements of the Attorney-General when he was shadow Attorney-General. He rightly looks down at his papers and smirks because he has been caught out on double standards.

The second example was referred to by the Attorney-General. The government promised when in opposition to end the use of the term commercial in confidence to conceal government activities. The first time the government was asked to disclose details relating to financial assistance to a corporate body, eSign Australia, in order to induce it to set up in Victoria or Melbourne rather than in another state, it backed away from its commitment. I have the transcript of an interview between the Minister for State and Regional Development and Kellie Day on 3LO on 9 November, which clearly shows the minister saying:

> We're not in the business of disclosing confidential agreements …

Certainly that is proper regarding confidential agreements between commercial parties, but what is the confidential agreement between the government and eSign Australia? The honourable member for Springvale looks confused, as he should, because he is a member of a government that said it would eliminate the practice of documents not being released because of commercial in confidence save in the narrowest circumstances. Yet at the first opportunity the Minister for State and Regional Development has betrayed the honourable members for Springvale and Sunshine and all the people who signed up to support the policies of the Labor Party.

The third example is the refusal to give prior briefings. The honourable member for Richmond referred to Westminster traditions in his contribution. Some six weeks ago I asked for a portfolio briefing from the Minister for State and Regional Development on his multimedia responsibilities, but I am still waiting for it. I still have not had an offer. The minister says, 'We will get around to it in due course'. The government's so-called policy of openness is not reflected in the bill or in the acts of the government.

I will not canvass all the issues covered by the honourable member for Berwick, but as a practitioner of freedom of information I intend to hold the government to the standards it sets for itself. I will hold the Attorney-General to his statement that:

> … I will be directing all departments to comply with the spirit of freedom of information legislation.
>
> Delaying tactics and wasteful expenditure will no longer be acceptable. I will be issuing guidelines to which the public will have access, so when people apply for documents they will have a framework upon which to make their applications. I will also issue revised policy and administrative directions for departments, together with training for relevant officers.

The bill has nothing in it. Rick Snell, Moira Rayner and Professor Spencer Zikcek of La Trobe University will be utterly disappointed because with new technology and changes in practice we should go forward rather than back to the activities and conduct of the Cain–Kirner governments.

I will refer to the provisions in the bill in some detail because I suspect the government will not go into committee to debate these issues.

With regard to cabinet documents, all that has been done is the reworking of words.

Mr Holding interjected.

Mr PERTON — I will hold the honourable member for Springvale to those words.

My interpretation of bill is that all you will need to do to attract cabinet confidentiality is staple a document to a cabinet submission that is in some way — —

Mr Holding interjected.

Mr PERTON — The honourable member for Springvale says 'Don't judge us by your standards'. I judge the honourable member for Springvale and his party by the standards I saw exercised during the Cain and Kirner governments when the Premier promulgated regulations that were plainly illegal and were struck down by the High Court. I will be interested to hear the

Attorney-General's response to the contention that all that needs to be done to preserve confidentiality is staple a related document to a cabinet submission.

During the 1980s the Labor Party carried out extensive public opinion polling, not only of questions like 'Are you satisfied with the government's delivery of services?' and 'What do you think of the program of the Department of Conservation and Environment?' but also questions like 'If an election was held next week how would you vote?'. Those polls were paid for with public moneys and the results were kept secret by John Cain under alleged cabinet confidentiality. The opposition had to go to the Supreme Court and ultimately the High Court to have those documents released.

Ms Davies interjected.

Mr PERTON — The honourable member for Gippsland West interjects. I will wait to hear the attitude of the honourable member if this government staples a public opinion poll to a cabinet submission and takes that as an exemption. What will the honourable member do in that situation?

I am curious to know whether the Attorney-General will give a narrow interpretation of the effect of the attachment of a document to a cabinet submission and very curious to see the performance of the government in action. Indeed, having heard the interjection of the honourable member for Gippsland West, I am curious to see what her activities will be in the freedom of information area when the government refuses to deliver her documents, which should be reasonably accessible under the rhetorical approach of the government.

I am perplexed by the narrowness of the promise of the Attorney-General to publish commercial confidentiality documents on the Internet. The Attorney-General and I debated the question in the house on 27 May, and my feeling at the time was that we shared common ground. Given that the government tends to use Microsoft products — most departments are networked using Lotus Notes, and Domino servers are available to most departments and agencies — why can we not adopt a principle of absolute openness in Internet publishing? Why not have a policy saying that 'Unless a document really needs to be secret, unless it provides an industrial secret of a firm or relates to a private commercial agreement between two other firms, it should be published on the Internet'? Instead there is a very narrow promise that the contract documents will be published and delivered to the public. Why the narrow category? Why not a commitment to publish all contracts of consultants engaged by the government. I intend to continue examining the matter and will, from time to time, test the government on its commitment to openness. The bill does not return to pre-1999 legislation or take advantage of the new technologies available today.

This year on three occasions I have said in speeches that freedom of information is only one small part of the transparency equation. The Freedom of Information Act, as drafted in 1982, was a paradigm of the 1970s and related only to physical documents; it did not take account of the growth of databases or of networking in government.

I know the Attorney-General has a personal commitment to openness in government, but he is bound by the decisions of his cabinet. If he wants to open up government to the people and enable them to contribute to policy formulation he needs to do a few things. Firstly, he should adopt the recommendations of the Law Reform Commission and the former Legal and Constitutional Committee. Next, he should contemplate the introduction of legislative impact statements to accompany regulatory impact statements. And then, apart from contemplating freedom of information legislation, he should consider a mandatory publication act. Such an act could provide that documents that should be in the public domain and could be published quite easily and cheaply on the Internet must be published in that way.

The opposition will not oppose the bill. Additional amendments, however, need to be moved. The bill is a disappointment because it does not go far enough.

The bill goes backwards, not forwards. That says a lot about this Labor government. It is a negative, backward-looking government that will not be good for the people of Victoria. The amending bill will do very little to promote freedom of information in the community.

Mr MILDENHALL (Footscray) — Sometimes when members come into the house they have to do a take 2 on what they think they have just heard. It is a bit rich for one of the architects of the secret state, the honourable member for Doncaster, to come out with the sorts of things he has said.

He said the amendments made by the bill take us nowhere, provide for no real change and do nothing to improve the openness and transparency of government. He referred to the exemption of cabinet documents. I ask honourable members to compare the straightforward definition of cabinet documents in the

bill to the mealy-mouthed and wishy-washy provisions in the act that are so wide you could drive a truck through them. The bill provides that a document is exempt if it is:

> … a document prepared by a minister or on his or her behalf or by an agency for the purpose of submission for consideration by the cabinet.

That provision is straightforward. The principal act provides that a document is exempt if it is:

> … a document that has been prepared by a minister or on his or her behalf or by an agency for the purpose of submission for consideration by the cabinet or a document which has been considered by the cabinet and which is related to issues that are or have been before the cabinet …

The only requirement under the principal act was for the cabinet secretary to claim that a document was a cabinet document. One day I sought clarification of that provision. I rang the cabinet office and asked when a document had been submitted. The office put me through to the former cabinet secretary, who said, 'Let me tell you, Bruce, this is a cabinet document. That is all you need to know'. That was the end of the phone call; that was it!

It is extraordinary to now hear the sorts of claims made by the honourable member for Doncaster. The previous government was in love with secrecy, and Victoria had become the secret state. The business leaders who attended a certain function with a number of government members last night implored me to inform the Premier that they wanted transparency of government. They wanted to know about fair and open processes for dealing with government that are not subject to favouritism. That was the message from senior business leaders.

The previous government denied it was ever into secrecy. Bill Birnbauer wrote in the *Age* of 12 September that the former Premier had said that the former government was not a secret government. Mr Kennett said:

> I speak to people, I'm on radio every day of the week … I answer my correspondence within seven days normally. I don't think anyone could argue this government is a secret government. Far from it.

Talkback on 3AW was the extent of the previous government's commitment to open and transparent government, but it proceeded through amendment after amendment to make FOI more expensive and documents less accessible.

Freedom of information is an interesting test of the integrity of the different political parties in this house. Many hardheads say to me, 'FOI is for oppositions. If you are in government, don't make FOI easier for the opposition'. The old FOI king, the honourable member for Doncaster, put in 118 vexatious FOI requests. He will be at it again, but this government walks the walk as well as talks the talk.

The government gave a commitment that it would reform the Freedom of Information Act to make access to information easier and cheaper.

An honourable member interjected.

Mr MILDENHALL — Request after request was not answered within 45 days and a person had to pay an extra $170 to get a department to respond to a request. If you go through the Department of Education records you can see how many of my requests, as shadow Minister for Education, were ditched and thrown in the round file in the corner of the room to be opened only after a couple of months or whenever it took the department's fancy.

Compare how each of the parties in this house stands when measured against that test of integrity and the commitment to openness and transparency. Under the previous government amendment after amendment to the Freedom of Information Act made the process more and more expensive, provided for tighter and tighter controls on access to documents and widened the scope of exemptions. Compare that to what this government has done in its first 100 days in office. In addition to allowing the Auditor-General more freedom to perform his or her duties, the lifting of teaching service order 140 and the opening up of Parliament under the new sessional orders, the government is improving the Freedom of Information Act by limiting the scope of exemptions and making government information more accessible.

I am pleased to see the commercial-in-confidence provisions of the bill. Under the Kennett government, grants from one government department to another were treated as commercial in confidence. Information on grants from the Department of State Development to Tourism Victoria, to Museum Victoria, to the Department of Human Services, to the National Gallery of Victoria, and to the State Library of Victoria was declared commercial in confidence.

An example of my FOI request to the then government would be, 'Can you tell me how much money was given to the department and give me one line on its purpose?'. The answer was, 'The information is commercial in confidence'. It is a distortion, a bastardisation of the intent of the act.

Similarly, grants to over 40 councils were declared commercial in confidence — grants to the City of Frankston, the Shire of East Gippsland and the Shire of Wellington from the former Department of State Development. Imagine the honourable member for East Gippsland trying to find out how much money the Shire of Wellington has been granted by the government. He asks, 'How much money went to that council? Give me one line on what it was for'. The answer is that it is commercial-in-confidence information. What an outrage! Grants were made to 40 councils. Grants were made to each of the universities. Imagine not being able to find out how much money was given to Deakin University, the University of Melbourne, Monash University, the Victoria University of Technology, Swinburne University of Technology, RMIT or the University of Ballarat. Commercial in confidence was a perversion that the previous government committed on the Freedom of Information Act.

The cause of the problem is an inexplicable part of the act that is now being changed. Under section 34(1) of the Freedom of Information Act two paragraphs define commercial in confidence. The word 'or' links the two paragraphs. The section reads that a document is exempt:

> … if its disclosure under this Act would disclose information acquired by an agency or a Minister from a business, commercial or financial undertaking, and —

The previous government classed municipal councils, universities and government departments under the category of business, commercial or financial undertakings —

> (a) the information relates to trade secrets or other matters of a business, commercial or financial nature; or
>
> (b) the disclosure of the information under this Act would be likely to expose the undertaking to disadvantage.

The second one you can wear. The government is refining it to use the words 'unreasonably' — that is a good test.

In addition, proposed new section 34(1)(a) relating to trade secrets could be reasonable as some form of exemption; but paragraph (b) states:

> other matters of a business, commercial or financial nature.

That is the clincher. Using that little loophole the government drove a B-double truck through that provision. A document that outlines the quantum of a grant from one government department to another is information of a 'financial nature'. It is therefore both commercial in confidence and exempt. What an absolute outrage!

The department under the Kennett government was prepared to take me all the way through the Victorian Civil and Administrative Tribunal. It was not interested in any sort of settlement or compromise. Time and again I suggested, 'Just give me a chart, the name of the council, one line on what the money was for and how much'. The response was, 'No, commercial in confidence! You are not even getting that!'.

These changes are reasonable and sensible, and they are overdue. They increase accountability on the part of ministers. Victoria now has a brave cabinet. This committed cabinet will get up and say, 'We will go out there publicly. We will not just have the QCs at VCAT read some inexplicable statement about the public interest or about why the government is planning to appeal to a higher court. This government is proposing to make statements in an open forum, the Parliament, and in the *Government Gazette* about why it proposes to appeal a decision.

These are unprecedented developments of public accountability and unprecedented exposure. It is the sort of thing that business leaders were telling me they wanted from a Bracks government. They wanted accountability and transparency. They wanted to know that business dealings with the government were done fairly, openly, and with integrity. They are the expectations the private and business communities are placing on the government.

What is probably more critical than anything is the cultural change signalled in the amendments to the act. They include packages and new guidelines for FOI officers, revised policy and administrative directives for departments and agencies, and training for relevant officers and amendments to the cabinet handbook. The administrative directives for departments and agencies will emphasise the high priority the government places on adherence to the procedures and time lines as laid down in the act. It does that in a practical way by removing the financial incentive for not answering FOI requests.

The former government gave itself a financial incentive. It imposed a $170 impost on an applicant. It put the onus back on the applicant to proceed with his or her application. The legislation reverses that onus. It makes it easier for the applicant; and combined with these guidelines the onus, the accountability and the heat have been put right back onto the departments.

But more important is the changing culture. It is imperative that the spirit of the FOI act reappear in state government administrations. The instinct must be for disclosure rather than the immediate past experience

where consultants acting for the government were preparing handbooks on how to not answer FOI requests, on what range of procedures or blockers could be put in place to stymie an FOI application.

The government is reversing that onus to create a culture of disclosure. It is a worthy ambition, and it comes via the administrative directives and instructions that ministers give their departments. It is welcome and overdue.

The personal information amendments to the act are also overdue. They provide a reasonable and clear test: 'Will the disclosure of personal information endanger or put anyone at risk?'. The former government used its amendments to the FOI act earlier this year to try to prevent the names of public officials and departmental heads involved in that government's dodgy deals being released. By contrast the amendments in the bill sensibly and accurately target that provision about whether somebody will be put in danger or is at risk.

That is a logical approach. The Coulston affair was the Trojan Horse for the previous government to further close down the FOI act. It was demonstrated in Bill Birnbauer's article in the *Age* where the response to his application was a blank sheet. The Kennett government took out the names and the other exemptions, and the answer to his FOI request was a blank piece of paper. That was the ultimate extraordinary example of the depths to which that government sank.

I am proud to be part of the Bracks Labor government. These are halcyon days. We are opening up government, opening up opposition, and opening up access to information. It is pleasing to see that the opposition — although it won't and can't say sorry; it is like the Prime Minister — by supporting the amendments is in a sense saying sorry.

Ms McCALL (Frankston) — An awful lot of rhetoric has been drifting around a very hot chamber this afternoon. Some of it is clearly legal gobbledegook, as is normally the case, coming from legal members of the chamber. The amendment to the Freedom of Information Act has come hot on the heels, literally, of the other amendments introduced by the former government early in the year. I am disappointed — not sorry necessarily — that the Freedom of Information Act is back in the house for further amendment.

I contributed to debate on the FOI amending bill on 27 May because of the bungle at Frankston Hospital involving the 51 names and addresses of the nurses that were released under the previous act. The hospital acknowledged the mistakes it made under the previous act by releasing those names and addresses. There is also no question that the fear, trepidation and concern of those nurses still remains.

The then coalition amended the act when in government on 27 May. There was debate on a clause which said quite specifically that any disclosure of information that could be deemed to be private about any individual should be viewed at that time much more in the light of the individual's good than what could be perceived as the common good. I was comfortable with that amendment, as were the Frankston Hospital nurses. Although at that stage we were not sure how it could or would be used, there was a general feeling that a step in the right direction had been taken.

Imagine my concern as the representative of the area within which the Frankston Hospital lies when I learnt that the provision intended to protect people such as the nurses was to be repealed. I noted with some interest the Attorney-General's statement in the second-reading speech that:

> Not only have the amendments unjustifiably narrowed the operation of the act —

to that I say hooray! —

> the amendments have also created an administrative nightmare for government departments and agencies, which have been required to painstakingly examine documents the subject of a request in order to delete identifying information relating to a person.

If that has the potential to protect an individual — be it a nurse, a bureaucrat or other member of the public service — against personal information about them being revealed to the public, I say the narrower the better.

I am pleased the government listened with some element of reason to the opposition's amendment to the very loosely worded clause 6(1), which inserts proposed section 33(2A):

> "(2A) An agency or Minister, in deciding whether the disclosure of a document under this Act would involve the unreasonable disclosure of information relating to the personal affairs of any person, may take into account, in addition to any other matters …

The word 'may' is a nice, soft and wussy word. The amendment the opposition will move contains the word 'must', and I am delighted the government deemed it proper to use that word.

Mr Doyle — It's a bit sneaky.

Ms McCALL — It is a bit sneaky for the government to use it after the opposition came up with the idea, but that is okay. I am not paid by the minute, as most of the lawyers in the chamber clearly must be, so as always I will keep my contribution short, succinct, open and accountable.

I refer to an article in the *Independent*, one of the great newspapers in the Frankston area, relating to a query raised by my colleague the new honourable member for Frankston East, Mr Viney, during the time the freedom of information issue as it related to nurses was in the news. Honourable members will recall the Coulston case, which was gruesome and mention of which may upset the sensitivities of those in this chamber. Ashley Coulston's lawyer appealed to the Frankston Hospital for the release of the names and addresses of the nurses who were rostered on the night that he claimed to be visiting his then de facto, whom I recall was having her tonsils out, or something to that effect. I was concerned then and I am still concerned that the honourable member for Frankston East had used the Freedom of Information Act to follow the same paper trail followed by Coulston's lawyer and the hospital.

I am pleased that following the insertion of the word 'must' in proposed section 33(2A) a person would not be able to follow such a paper trail and access documents in the way it was done in that case. In an article published in the *Independent* of 23 March a couple of nurses are quoted as saying:

> I just wish he'd drop it and leave the subject alone.

In essence that is what FOI as it relates to the privacy and mental wellbeing of an individual must be about.

However, FOI may also be about scoring points and about who has clipped which document in the cabinet system. Having worked in the cabinet office I am well aware of what the Cain–Kirner government did with its cabinet documents, and what we did with ours. To say that cabinet documents, and so on, are a crucial part of this issue does not accord with the high principles for which the government would like to be remembered. I hope the reason for its introducing its amendments is first and foremost a concern for fairness and the protection and privacy of individuals over what could be seen as the socialist view of the common good.

Mr CARLI (Coburg) — The reason this amendment bill must be considered is that over the period of the previous government rights to freedom of information (FOI) were dramatically narrowed. That was true as late as this year with the enactment of legislation, a large part of which will be revoked by the amendment, that further narrowed access to freedom of information as part of a tactic or strategy by the previous government to silence critics.

Labor entered government largely because of its commitment to open and transparent government. It is its agreement with the Independents to accept their charter that has allowed Labor to govern as a minority government. That was a central plank of the charter. If it were not for its support for freedom of information, together with a number of other planks of the charter, Labor would not be in government.

The proposed legislation is not only of central importance but also deals with an issue in which Labor believes and which it continually raised in opposition — that is, the importance of freedom of information to democracy in the state and the right of citizens to have some level of control over and scrutiny of government. The bill is part of a series of reforms. It is symbolic that in the first period of the government's time in office its members have been able to discuss a number of proposed reforms in the house because those reforms are central to what Victorians want from it. Many Victorians believe the previous government was draconian in its response to critics and failed to live up to the openness required in a democracy.

In many ways the introduction of the legislation is a victory of civil society over the state — and civil society is where concerns have been so often voiced. The bill and its changes, together with the changes to the Audit Act and compulsory competitive tendering in local government, will restore the control of civil society, thus restoring and reinforcing local democracy in the state.

The bill is vital. It is about rebuilding the Freedom of Information Act that has existed since 1982, at which time it was a major reform. I sincerely believe it will not only systematically rebuild rights to what they were in 1982, but will make the act stronger.

It is good to see the opposition supporting the bill. It is in its interests to support it because it will ensure greater scrutiny of government. Although it is a pity that opposition members have come to that realisation only now, their support is welcome because the government wants to maintain a political consensus that many state institutions and many rights belong to the citizenry of Victoria, should remain so and should be reinforced regardless of changes of government. Those institutions and rights should be fundamental to local democracy, and that is why the government is so strongly committed to the legislation.

What will the legislation do? Firstly, it will systematically rebuild an act that was incredibly narrowed and made almost ineffective. For example, it was narrowed in relation to exemptions for cabinet documents. The previous government followed the practice of classifying as cabinet documents any documents it did not want to be seen, such as those produced by government agencies or those that contained reviews of government services. In that way it ensured such documents were no longer made available to the opposition or to any other Victorians, even though often they were merely attached to or referred to in cabinet documents.

The attachments were not part of the cabinet documents in the strict sense. The exemption gave the government the ability to deny the people access to a document by simply saying, 'It is tacked onto the cabinet document; therefore it is no longer available under freedom of information'.

The government has removed many documents from the exempt category. Documents that are discussed by cabinet will remain exempt, but any documents that are tacked onto the end of cabinet submissions — a practice continually adopted by the former government — will be removed from the exemption provisions and will be available under freedom of information once the bill is passed.

The bill also narrows the exemption applying to commercial confidentiality. Concerns about that issue were expressed not only by the former opposition but also by Victorians in general. In the past, whenever people tried to scrutinise the incredible growth in outsourcing by government departments and local councils they were told, 'No, that is not possible. That is commercial in confidence'. Such claims about the confidentiality of outsourcing documents are not common in other countries.

During the Kennett government's period in office documents that it claimed were unavailable due to their being commercial in confidence were available on the Internet in the United States. That was true of the contracts for the sale of electricity utilities. The reason was simple: in the United States a major company or utility that does business with a government is expected not only to provide the documentation but to put it on the Internet, where it can be located by the various search engines. Companies in the United States build that requirement into their costs — it is part of doing business with government.

That has not been so in Victoria for a long time. The bill will narrow the commercial-in-confidence exemption so that it applies only to documents relating to intellectual property or documents that are commercially sensitive because their release could affect the ability of government agencies to conduct their business. Under the bill a government agency will be exempted from having to disclose under FOI the information contained in contracts only if it can show that its release would unreasonably disadvantage a company commercially or financially.

If, for example, documents relating to the intellectual property of a company were made freely available, that company could be put at an enormous disadvantage and deprived of a major competitive advantage. The government does not want to deprive companies of such advantages; however, it wants to make available information that citizens and other companies have a right to know about. For example, other companies may want to know why they did not win a tender, including the factors behind the awarding of the contract. They will now be able to find out those things.

Another of the changes which the Kennett government made to the Freedom of Information Act and which posed a problem for the former opposition was the introduction of a $170 charge for what were deemed to be application refusals. When a government department refused to release the documents requested under FOI and the refusal was appealed against at the Victorian Civil and Administrative Tribunal (VCAT), a $170 fee was charged. The charge was designed to act as a deterrent.

What happened when Labor tried to find out what was happening with credit card abuses and the dirty deals done by the previous government? The relevant departments would not respond to Labor's requests so it was forced to take them to VCAT, where it was charged $170 a pop! That was an attempt by the former government to create a financial barrier to the opposition's legitimately investigating government malpractices and maladministration. The current opposition will be adopting that role, and it will be assisted by the proposed changes to the act.

Another sensitive issue is the changes made to the act earlier this year to prevent the release of documents identifying individuals. The release of information about nurses who worked at the Frankston Hospital opened up a can of worms because it endangered their wellbeing and even their lives. The government believes information such as that should not be made available when it poses an unreasonable risk to the physical safety of the individuals who are the subject of FOI applications, and the bill allows for exemptions in those cases. However, there were plenty of cases of the

previous government deliberately not allowing the opposition to identify the individuals who were abusing their credit cards. The former government changed the freedom of information legislation to stop the then opposition from identifying the genuine abuses of credit cards and public moneys.

The bill is an important part of the new administration of the state. It is symbolic of more open and transparent government, which is what Labor represents. It is also symbolic of the government's acceptance of the Independents charter. As I said, freedom of information is a central plank of the charter, and Labor's attitude to it is one of the reasons it is now in government. The government is prepared and was prepared while in opposition to support measures that strengthen the Freedom of Information Act, which is why it has set out to rebuild it. The government knows the legislation will be used by the opposition, but it also knows that it is important that the legislation is on the books. The government would like to reach consensus on the legislation so that it can maintain strong freedom of information laws that allow for the greater scrutiny of the Victorian government by its citizens.

Mr KOTSIRAS (Bulleen) — It is a pleasure to speak on the Freedom of Information (Miscellaneous Amendments) Bill. Although I am not a lawyer, I speak with some experience of the matter, having been an adviser to the government for the past seven years. I have seen for myself how the Australian Labor Party, the then opposition, abused freedom of information (FOI) for its own political mileage.

On 25 February 1998 the current Attorney-General walked into the chamber with some documents under his arm, happily thinking that he was about to embarrass the government. The honourable member for Niddrie claimed that two members of the Premier's staff had spent $1600 in the Imperial Hotel on Spring Street. Unfortunately for him, the money had been spent not at the hotel on Spring Street but in Japan!

If the Attorney-General had had the courtesy to check the information, he would have realised his mistake. Even the *Age* reported on 26 February that:

> … the distinction seemed lost on the state opposition in question time yesterday, resulting in the hiccup in its latest attack over taxpayer-funded credit cards.

According to the *Age* of 23 January, the then Deputy Leader of the Opposition, the honourable member for Albert Park, said that Labor:

> … adopted a scattergun approach to FOI, lodging hundreds of requests for documents in the hope of embarrassing the coalition.

If that is not an abuse of FOI, I am not sure what is.

Another piece of misinformation put forth by the Labor Party was that it was unable to get documents under the previous government. After sitting in the gallery week in, week out, watching the honourable member for Niddrie walk in with documents relating to credit card expenditure by bureaucrats, ministers and advisers to try to embarrass the former government, I find it strange that the government now says it was difficult to get credit card information under freedom of information. That is a myth.

The way the minority Labor government is treating Victorians with contempt is insulting. It has no intention of being accountable to the people. The government is making a mockery of democracy. I believe and support the review of FOI to ensure democratic government, but I also believe if changes are to be made they should be made for the better, which is where the Labor government fails. It has the opportunity to improve FOI in line with its so-called government policy.

The former Deputy Leader of the Opposition objected to the previous government's amendments to FOI because there was no advertising, no submissions were called for and people were not given the opportunity to have their say. In government the Deputy Premier allows the Attorney-General to introduce a bill and amendments just prior to the bill being debated. I quote a statement from the government:

> These amendments to the act form part of a package of reforms being developed to implement the government's freedom of information policy.

It would have been appropriate if the house had the total package to consider rather than bits and pieces. That would give everyone the opportunity to consider the total package before they responded to the amendments. The bill will be reviewed again because it does not allow for open and accountable government.

The architect of the American Bill of Rights and the fourth President of the United States of America, James Madison, said:

> Knowledge will forever govern ignorance, and a people who mean to be their own governors must arm themselves with the power which knowledge gives.

In October 1993 President Clinton sent a memorandum to all government departments reminding them that FOI:

> … has played a unique role in strengthening our democratic form of government. The statute was enacted based upon the fundamental principle that an informed citizenry is essential

> to the democratic process and that the more the American people know about their government the better they will be governed. Openness in government is essential to accountability and the act has become an integral part of that process.

Even the chairman of the Australian Press Council said earlier this year:

> The public should be able to gain access to the information that it wants and not be limited to what the government hands out.

Regrettably, the bill does not achieve open and accountable government. I will point out the government's deceptive reasons for introducing the amendments. It says it will promote open and accountable government and rebuild the Freedom of Information Act. If those reasons were taken on face value the government should be applauded. However, if one looks closer, one finds the minority Labor government should be ashamed for introducing only superficial cosmetic changes. The bill makes the surgeons who worked on Michael Jackson look like modern-day Michelangelos.

The government has rebuilt the Freedom of Information Act without any substance. The changes do nothing to ensure the government does not repeat the disasters of the 1980s. The Freedom of Information Act, which was introduced in 1982, sets out the principle that information from government departments and agencies should be made available. FOI was introduced to ensure open and effective government, to improve participation and to create greater transparency and accountability. A better informed public can more easily participate in the democratic process. The public is now demanding that government information be publicly available.

The bill does not achieve that. The government has put nothing into the bill to ensure that it will be accountable. This is a good opportunity for new government members to stand up to the inner circle, to the Attorney-General and to the leadership team, because every member of Parliament should want their constituents to have access to information about government departments and agencies.

FOI must be simple to allow the public and the media to play an important role in opening the activities of the government to public scrutiny. The media must have access to information and to pass on to the wider community the processes of government. The public and the media must have the instruments and tools to scrutinise government, to make it honest and accountable. Ethnic newspapers such as *Il Globo* and *Neos Kosmos* should be able to access information to ensure members of our community from a language background other than English have access to government information.

What is wrong with the bill? Clause 5 substitutes proposed new section 28(1)(b) and does nothing to ensure an open and accountable government. The provision allows the government not to release documents it does not want to release by attaching them to a formal cabinet submission. By inserting proposed section 33(2A), clause 6 takes away the right to exempt documents which identify an individual if that individual's life is at risk. The amendment allows a minister or agency to make a judgment on whether the individual's life or property is at risk. We must ensure that the Coulston incident, where a Melbourne hospital supplied a convicted triple murderer with the names of 51 nurses as part of his bid to clear his name, does not happen again.

In its present form the bill allows the minister the opportunity to consider other matters should the minister feel it necessary to do so. It is good that the Attorney-General has now agreed to the opposition's circulated amendment. It is important that the minister considers all matters thus ensuring nobody is put at risk by releasing the information. I am pleased that the word 'may' has been replaced with the word 'must'. However, it is vital that people are informed if information that is disclosed will affect them in some way or put them at risk.

Clause 7 amends section 34 by making information exempt if it relates to business, commercial or financial matters that are likely to expose a business organisation unreasonably to disadvantage. What does that mean and who will decide? Virtually all business or commercial information not in the public domain are trade secrets.

The Labor government is making David Copperfield look like an amateur. The proposed new section does nothing to ensure open and accountable government. It is nothing more than a con job done with smoke and mirrors. The government is providing the bare minimum to the public to give the false impression that it is an open government.

Clause 8 inserts proposed section 65AB and requires that ministers explain to the house why they refuse FOI applications. However, Parliament will not be able to debate the issue or instruct the minister to release the information. It is pleasing that the Attorney-General has once again agreed to the opposition's circulated amendment to cover times when Parliament is not

sitting. The minister's refusal will be published in the *Government Gazette*.

Clause 10 substitutes proposed paragraph (x) in item 7 of schedule 3 to remove the appeal fee at the Victorian Civil and Administrative Tribunal for deemed refusals. The opposition believes all fees on appeal should be reduced to $50. This will enable individuals to appeal to VCAT without thinking about the costs involved. Another problem that I foresee concerns Victorians from a language background other than English. They will not be given financial assistance to have documents they have accessed under FOI translated. If one believes the objectives of the Victorian Multicultural Commission —

> to promote full participation of Victoria's ethnic groups in the social, economic, cultural and political life of the Victorian community —

this cannot be achieved. People from non-English-speaking backgrounds should be given the resources to have the documents translated into their own language.

David Copperfield has performed many of the greatest illusions in history, making the Statue of Liberty and a jumbo jet disappear and even walking through the Great Wall of China, but the Attorney-General is the master of illusion. In 1998 the then shadow Attorney-General said that 'FOI' stood for 'frightened of investigation'. Under the Labor government, 'FOI' stands for 'full of illusions'.

In the December issue of the Law Institute journal the Attorney-General said that if you do not believe in something you become a rubber man swinging in the breeze. The Attorney-General does not believe in these amendments, and history will remember him as the elastic man of Spring Street.

Mr SAVAGE (Mildura) — I listened with disbelief to some of the things I was hearing. The previous government stripped the Freedom of Information Act of its effectiveness and stopped individuals from properly gaining access to government information. All I can say to the honourable member for Bulleen is, 'Come back David Perrin', because the honourable member believes the Labor government is to blame for that! I am not a racing man, but I regard the bills that have been debated in this place over the past two weeks as part of a trifecta of good legislation. The Labor government has restored the powers of the Auditor-General and is creating open and more accountable government through the amendment of the Freedom of Information Act. I feel proud to be a member of this place and to be achieving some of the things that would never have been achieved if the coalition parties had been returned with a majority. Anyone who says Victoria is going backwards because of the introduction of the legislation is a hypocrite and is suffering from delusions.

The response to the Independents charter is worthy of mention. The Labor government said it would amend the Freedom of Information Act to require a full tribunal hearing before any document that includes the names of public servants or third parties is released to the applicant, cap appeal and applicant costs for freedom of information requests for the term of the next Parliament, adhere to the requirement to respond to all freedom of information requests within the 45-day limit set down in the act, and establish internal disciplinary procedures for public servants who fail to comply with the act.

I relay to the house a story about my own experience with a freedom of information application. I am glad the honourable member for Wimmera is present in the chamber because it relates to a period when he was the chief commissioner of the Mildura Rural City Council. The council had undertaken a number of road projects, about which I made an FOI application. The initial response I received indicated that the council had made a profit. However, the total loss from the three road contracts was either $2.1 million or $2.4 million, depending on the documents one believed. The material released under one FOI application said that initially there had been a profit of $81 000, but later that became a loss of $140 000 and, later still, a loss of $2.1 million — an incredible loss. People who issue false information in response to FOI requests should be censured. The only way one can recover one's costs is by applying to the Victorian Civil and Administrative Tribunal.

I am proud to be a member of a house that is amending the Freedom of Information Act. When the last amending FOI bill was debated in this place I viewed it as a measure on personal privacy that would affect open and accountable government. I congratulate the opposition on its proposed amendments, which will ensure that the minister 'must' endorse information and take it into account rather than 'may'. The legislation is a step along a pathway that is indicative of good government — something we have not seen in this place for some time.

I received another postcard recently — I presume it is from the same person who sent the last one — although on this occasion the words were far more uncomplimentary. In fact, they are the same words the former Premier used, so I wonder whether he is sending me anonymous mail! Obviously I have a fan

somewhere, but he put two stamps on the envelope so I am ahead 45 cents. I am proud to be participating in the debate on legislation that will be a hallmark of good government for the state of Victoria.

Mr DOYLE (Malvern) — In contributing to the debate I point out two things to prove to the honourable member for Mildura that the former government was not as diabolical as it has been painted. I am pleased that the honourable member's story about the road contracts initiated by the Mildura Rural City Council had a good ending, but it was the former government that made local government accountable under the Freedom of Information Act. Honourable members may recall that it was difficult for parties to recover costs in appeals to the former Administrative Appeals Tribunal. The honourable member is correct when he says that you should be able to recover any costs associated with the release of false information, as can occur before the Victorian Civil and Administrative Tribunal. That was made possible by the former government amending the act, particularly to deal with vexatious litigants, as the then Attorney-General said. Most honourable members will agree that not everything the former government did was unreasonable.

I pick up one important point, not to criticise what the amending legislation attempts to do but because I fear the provision may not work. As part of his usual thoughtful contribution the honourable member for Coburg said the bill is a central plank of Labor Party policy, as indeed it is, and the opposition does not deny that. However, if the amending legislation is a central plank of Labor government policy, why are the four amendments needed? If the legislation has been clearly thought through, why does it need amending? Two of the amendments are sneaky because they pick up the suggestions of the honourable member for Berwick. One concerns an oversight relating to allowing an applicant to defend himself in a case where a minister is deciding whether to release information, and the other relates to notifications when Parliament is not sitting. Why were those proposals not included in the bill?

The honourable member for Coburg referred to the need to balance openness and accountability in government and the rights of the individual to privacy and protection — and that is the concern I have with clause 6, which inserts proposed section 33(2A) in the principal act. I am getting tired of the word 'transparency' because it is a stick the government is enjoying beating the opposition with. Does transparency extend to personal information? The honourable member for Coburg also referred to the need for a balance between the civil society and the state. The state is constituted in part by people who are public service officers, and sometimes documents requested under freedom of information contain specific information about their personal lives. Should those documents be automatically released as of right? What notice of publication is appropriate when public servants are involved? I think they are areas the bill will not fix, despite the view of the honourable member for Coburg that it will.

I am well aware of Mason's judgment in *Commonwealth v. Fairfax*, and I do not suggest we overturn that doctrine of public interest. It is an important doctrine and one to which all governments hold. I do say, however, that there will be some instances in which the public interest will be overridden by the private interests of the individual, and it is those I wish to look into. In particular I wish to look into instances in which clause 6 of the amending legislation, amendment 3 standing in the name of the Attorney-General and sections 33, 34(3) and 50(2)(e) of the act come together. It is a difficult area.

Clause 6 addresses the question of whether an applicant has to prove a case for the release of information — —

The ACTING SPEAKER (Ms Barker) — Order! I ask members to please keep their conversations quiet or else leave the chamber.

Mr DOYLE — The question of whether a person named has the right to prevent release forms part of the generic argument raised by the honourable member for Coburg.

The second-reading speech relates how amendments brought in by the previous government were drafted in response to tribunal decisions in the Coulston case and argues that those amendments made the operation of the act unjustifiably narrow. The reasoning, however, is wholly unjustified. Why does it say the previous legislation was made unjustifiably narrow? Because, in its view, the amendments created an administrative nightmare for government. I argue that that is a case of misplaced priorities. It may well be that — —

Mr Holding interjected.

Mr DOYLE — Yes, it is difficult to search through those acts. It may well be, however, that if we wish to protect somebody — —

Mr Holding interjected.

Mr DOYLE — I will get to you in a moment, if that is OK.

Mr Holding — Good.

Mr DOYLE — No, it will not be good. Just listen to me.

The ACTING SPEAKER (Ms Barker) — Order! I remind honourable members not to interject, and I ask the honourable member for Malvern to continue without taking up interjections.

Mr DOYLE — Thank you, Madam Acting Speaker, I will try to ignore inane interjections by honourable members who have had 5 minutes of experience in the chamber.

It may well be administratively difficult, but that should not override the protection of an individual. The difficulty hinges on what clause 6 says about protection. Who makes the decision? Not the minister. The decision-making powers will be vested at the level of an individual FOI officer, so subjective judgments about whether a person's privacy should be protected may be applied because the level at which decisions are to be made is inappropriate. Granted, it may well be difficult to look out individual names to determine whether or not certain people need protection — we all agree that in cases of this kind people do need protection — but the clause will not allow that protection to be given because in trying to make it administratively easier the bill strays from the questions of the level of scrutiny and why names should or should not be released. That is the difficulty.

The second-reading speech talks about permission being given to a decision-maker. We know that person will be an FOI officer and may well be somebody in a hospital, in the justice department or in the area of corrections. Those can be inappropriate areas because judgments may be subjective and dependent upon who is making the request. The person making judgments about whether to release information, whether it should be scrutinised and whether protection is required may or may not know the applicant for the information. In the case of the Frankston Hospital there was an element of notoriety attached to a name that would have set alarm bells ringing, but that will not always be the case. Does that, therefore, mean there should not be that level of scrutiny?

It may well be the nature of the document that causes the need for privacy of the individual to override the needs of a civil society, as the honourable member for Coburg has explained. That level of discrimination may not be available to an FOI officer making the decision. Then again, it may be caused by the relationship of the information to certain external issues, or by any one of the range of issues raised by the honourable member for Berwick. I will not go over all of them again.

I am pleased the government has taken up the amendment suggested by the honourable member for Berwick and proposes to change the word 'may' to 'must'. That helps because it makes it a mandated requirement. Even with that suggested amendment, however, there is still room for concern about some sensitive areas. In particular the opposition has concerns about the purpose for which information will be used.

The notification clause in the bill is not strong enough. Both sides of the house can share the blame for that. It provides that notification should be given 'if it is practicable'. One of the amendments states that regardless of whether the minister releases or determines not to release, a person may go to the tribunal for protection. Notification is particularly important, and I argue that it should be mandated.

Consider the case of Frankston Hospital, where 51 people needed to be contacted. If just one of them had not wanted her name to be released it would have been reason enough to go to the tribunal. We all know the unfortunate circumstances and steps that led to the release of the list of names, and we would not want them repeated. My point is that the word 'practicable' is not strong enough. Both sides of the house need to consider how the provision can be made stronger. It is not good enough the way it is.

The last part of clause 6 is difficult because it leaves out a whole area of protections for the individual. It provides that an FOI officer may take into account information that would endanger the life or physical safety of any person. I argue that there are many other matters, such as emotional or mental concerns, that would be equally appropriate. The bill seems to exclude conditions of that sort, probably not deliberately. Imagine the concerns one would have in a situation not characterised by physical or mortal danger but full of the threat of, for example, mental harassment following release of information. No member on either side of the house would want that.

You might say that such situations could be picked up under stalking laws or by the Crimes Act, but in my view that is not good enough. People should be protected against the inappropriate release of information that may cause emotional or mental harm. Clause 6 does not make any such provision. More needs to be done in that area.

The purpose of my brief contribution to the debate is not to carp about opposing or not opposing. The opposition does not oppose the bill. It suggests, however, that in the area of personal privacy the protection offered to individuals must include any compromise to physical, mental or emotional wellbeing, even if unwitting, caused by the operation of the legislation. The bill is flawed in that area.

One of its flaws has been fixed by changing the word 'may' to 'must', and that is good; but the remaining flaws include the need to change the level of decision making by an FOI officer and the need to alter the factors that can be taken into account — not just physical but emotional and mental factors as well, and particularly in areas such as health, corrections and justice. Personal privacy is a delicate area and particular attention needs to be paid to it.

In cases like the Frankston incident, when different areas of government such as health, corrections and justice come into collision, outcomes for the community can be particularly poor. While the opposition agrees with the government on the need for openness and accessibility, I make a simple plea for adequate protection and notification for people so they can determine whether they want the material released.

Mr NARDELLA (Melton) — I support the Freedom of Information (Miscellaneous Amendments) Bill. I could not believe my ears earlier when I heard that the born-again defenders of freedom of information (FOI) want to rewrite history. The honourable member for Berwick gave us a legal history lesson and talked about what he believed were the democratic traditions of freedom of information.

Members of the opposition come into the house as the great defenders of and believers in FOI, yet for seven years in this house and in the other place they systematically dismantled and destroyed the FOI legislation that was put in place in 1982. They systematically went out of their way to close down Victoria and ensure that the citizens of Victoria were kept in the dark. It is an absolute disgrace that they now have the audacity to come into this place and say they have been reborn and have seen the light. The hypocrisy is massive!

In opposition, the new liberals, the born-again defenders of FOI, have gone out of their way. The honourable member for Berwick — the former Parliamentary Secretary, Justice — debated amendments to the freedom of information legislation without a flinch. He had no spine — as members on the other side of the house when in government had no spine — to defend FOI and democracy in Victoria. Not one of them had the spine to go into the party room to safeguard democracy.

Today they have the audacity to introduce amendments and say, 'Sorry we could not have done this when we were in government, but can the fee be reduced from $170 to $50? It is too high at $170 — we do not want to pay that at the Victorian Civil and Administrative Tribunal (VCAT). We only want to pay $50 because that is reasonable'.

An honourable member interjected.

Mr NARDELLA — They are on the road to Damascus and have seen the light. They have the audacity to demand to pay only $50, when every citizen in Victoria has paid $170. The government has given the concession and gone down the path of saying that if there is a deemed refusal, the $170 should not be paid. It is a good concession and the opposition should be able to live with it.

If there is a challenge to a ruling, the government has determined the FOI charges will not rise. During the term of the previous government charges rose year after year and were gazetted. The Attorney-General at the time, the Honourable Jan Wade, said the charge should not have increased to $170 but because it had, it would be maintained at that level. She did not have the spine to stand up to the Premier at the time, just as members on the other side of the house when in government did not have the spine to stand up to the Premier, the Attorney-General or others who were making the decisions at the time.

Opposition members come in as evangelists for FOI and democracy. They are all democrats now. They believe they should be out there in the marketplace, as they would call it, keeping us honest. That can be achieved with the legislation because it puts into place some of the mechanisms that are important for democracy. One of the major aspects of the legislation is that it builds on democratic processes and the democratic philosophy that both the Labor Party and the Independents are committed to within Victorian society. Members of the opposition have no such commitment.

I love it when opposition members call it the Napthine opposition. May they call it that for a long time to come! The Labor Party is the only defender of democracy within the chamber; we do not — —

Ms Davies interjected.

Mr NARDELLA — And the Independents, I apologise. In opposition, we do not come in here because we want to have a go at the government of the day. All governments, not only ours, are accountable through the legislation: it is not only about the Bracks government; it is about keeping all governments accountable.

The easiest thing would have been to delay the bill or not to introduce it at all. There would have been other consequences, but it would have been the easy way out. The Labor government has taken the hard decision because it wants to be kept accountable, unlike the previous Kennett administration. Time and again important information was kept from the former opposition. I remind the house of the travesty of justice that occurred under the Kennett regime. The former opposition battled for years to get information on the credit card fiasco. Once it obtained the information, changes and amendments were made to the Freedom of Information Act in May of this year, closing it down even further.

There was the ambulance contract corruption with Firman and Tyrrell. Remember them? They are part of the opposition's list of mates. That is obvious because the former government wasted $33 million, and I will not let opposition members forget it. What did the Kennett government do? It closed down FOI to ensure that the then opposition could not get information on the ambulance contracts. That is the type of secrecy that this bill will change.

There were other instances where information was kept from Victorians. The honourable member for Footscray repeatedly requested and was denied information on education issues. The former opposition was forced to take matters to the then Administrative Appeals Tribunal and later to VCAT to obtain important information on class sizes. I remind the house that the information was leaked to the newspapers just prior to its being given to the opposition. That was done because the then government knew it was going to lose the case. Do honourable members recall the tens of thousands of dollars the former government wasted defending its information? Labor does, and certainly it does not believe that should be part of our democratic process.

I refer again to the credit card fiasco and the casino documentation, which the Bracks government is now releasing to all Victorians. Doesn't that make interesting reading? The release of those documents means that every Victorian is in reach of that information. They now understand that people did not get a fair hearing under the Kennett government, or under Liberal and National party governments, and that if they were not part of the mate system they would be disadvantaged, like ITT Sheraton was in the bidding process.

The Kennett government created a ludicrous situation whereby under the current legislation it would not release the contracts for the power industry and flogged utilities off for a song. That was an absolute shame. The irony was that you could get on the Internet, plug into the United Energy web site in the United States, and the details of the contracts were there for everybody to see. The former government was all about secrecy and commercial confidentiality and would not make public those details. What a false position that was! The information was available on the Internet, yet a state of siege existed in Victoria where information was available only to the privileged.

The honourable member for Doncaster suggests the Internet and electronic communications are there for everybody, but that was not the case under the Kennett government. Contracts were kept from Victorian citizens. It was absolutely disgraceful.

Opposition members are now rewriting history. Government members may be the socialists, but members of the opposition are the protectors of the individual! The reality is that the former government stuffed it up — for example, under section 33 of the act the Frankston Hospital administration could have stopped the supply of that information. The legislation provided for it, yet it was not done. That information was released by the previous government, the previous administrators and the hospital network. It had nothing to do with the previous legislation. The government and its agencies did not even allow a lawyer to represent them to stop that information being released by VCAT. That was the pathetic nature of the previous government, yet it then used that as a pretext to further tighten the screws. In addition to the tragedy of the information about the nurses being discussed before VCAT, the current defenders of FOI were not diligent enough to stop that information being released to the applicant.

The honourable member for Doncaster bleats about the Minister for State and Regional Development hiding behind commercial confidentiality, but if he is interested the proposed legislation will allow the honourable member to use the provisions to put in an FOI request and be provided with that information.

I certainly support the bill. The honourable member for Malvern asked, 'Why the four amendments?'. The government has introduced the amendments because it

is prepared to pick up good ideas from either side of the house. The FOI butchers, the hypocrites from the other side, will support the bill because they have to be seen to be defending FOI, but the government introduces reform of FOI because it believes in it.

Mr SMITH (Glen Waverley) — The Freedom of Information (Miscellaneous Amendments) Bill is supposed to be the panacea to solve all FOI problems. However, it does not even touch an example in which I was personally involved. In the 1980s when the Liberal Party was in opposition I took to the then Administrative Appeals Tribunal (AAT) the case of Ronald Victor Legge, a gentleman who had been a victim of the legal club of Victoria. I note the Clerk remembers the case very well because it was something with which we were extremely involved at the time.

The case had been before the grand jury, which had not been revived since about 1940, and Ronald Legge finally won. His case was against a firm of solicitors, Williams, Winter and Higgs, and the principal at the time was John Gerard McArdle. It is now a landmark case. I took this case over because Legge was a constituent — when the County Court decided that it would follow a nolle prosequi brought by the then Attorney-General, the Honourable Jim Kennan.

I sought all documents under freedom of information. Madam Acting Chair, I waited for the relevant period — —

The DEPUTY SPEAKER — Order! My title is Deputy Speaker, not Madam Acting Chair.

Mr SMITH — Whatever you are, Madam, thank you. I offer my humble apologies to the Chair. I had just taken over the case because it had been turned down by the County Court. I think Judge O'Shea was presiding.

Mr Cameron interjected.

Mr SMITH — The Minister for Local Government would remember him very well; he was probably doing his law exams then. He was an interesting old judge who agreed to an application brought by the Crown prosecutors — in those days they were called prosecutors for the Queen — so I decided to take on the case. I put in the FOI application and waited for the required time. I was eventually turned down and took the matter to the former Administrative Appeals Tribunal with the incredible political help of the honourable member for Pakenham. The hearing lasted for a couple of days. It was fascinating. The government employed for the Attorney-General and the Director of Public Prosecutions two silks, two juniors and a table full of all the solicitors that go with them. After a wait of about a couple of months a decision was handed down in my favour — that is, that the documents would be released to me.

The Attorney-General and the then Premier, the Honourable John Cain, decided they would take the case on appeal to the full court of the Supreme Court of Victoria. About eight months later, after a lot of preparation, I had to present my own case to the three judges who comprised the court because I could not afford legal counsel. I think one of the most daunting prospects of all time is appearing in the Supreme Court. The presiding judge, Mr Justice Kay, now retired, asked if I would like to sit at the bar table. I had a pretty good brief — again with the help of the honourable member for Pakenham, who was offering me political advice; I hasten to add that it was not legal advice because he does not have a practising certificate — which was also the subject of quite a lengthy debate. The case went on for a couple of days. I was then told that if I lost the case costs would be awarded against me and I would probably lose my house. The injustice of that is — apart from the injustice of the Ron Legge case — that if someone wins in the AAT but is taken on appeal, it is as though he or she is the guilty party.

After presenting my case because I believed in it I had to go through months of anguish awaiting the outcome. I believed that an injustice had been done to Mr Legge. Fortunately I won, but the point is that the injustice has still not been rectified. A person — not a lawyer but a citizen — taking a case from what is now the Victorian Civil and Administrative Tribunal (VCAT) can lose everything if costs are awarded against that person. One of the provisions in this bill — the be-all and end-all of all bills! — is supposed to provide for that. However, on my reading of it there is very little in it. People who have been involved with FOI would know that a lot of trumpeting has gone on but there is very little in the bill.

The honourable member for Melton raised the issue of costs. At the time I pursued my case there was no provision for the awarding of costs at the tribunal. If the government were really fair dinkum about the bill and it were to be the panacea referred to by the honourable member for Melton, costs would have been eliminated. That will not happen, and I can live with that. It is probably only once in a lifetime that one goes to the full court of the Supreme Court and risks everything on behalf of a constituent. I would not do that more than once. That situation will still not be fixed by the bill.

Although many other problems will also not be fixed by the bill, and are not likely to be fixed, government members trumpet that everything they claimed existed

before — travesties of justice, and so on — have now been fixed. The bill fixes only the minor point referred to by the honourable member for Berwick in his lengthy and erudite contribution. He went through it all, and I am not here to parrot what he had to say. However, I say there is little in the bill.

One point he may have even missed was that during the election campaign the Labor Party promised it would issue FOI guidelines for putting contracts on the Internet. Surely that would have been near the top of the government's list of panaceas for all ills — it will fix all FOI problems — yet people still do not know the guidelines. I hope the Attorney-General will take the point on board, and either during the committee stage or when the bill is between here and another place tell us what provisions are being made on the issue. Otherwise, apart from one provision, it is a mickey mouse bill. It does not fix the big problems, such as the case I mentioned — it does not fix the circumstances surrounding a citizen's right to go to VCAT, win a case and the matter then being appealed.

One of the most daunting tasks for anyone is to have as opponents two Queen's Counsel and their entourage — they occupied a whole table — particularly if they include someone such as Hartog Berkeley. Early in the piece in the AAT he did to me what honourable members do here, except that he did it in a soft voice — and I was reacting. The same tactics we use here were employed there, but far more subtly. When the matter came on before the full court, although he was there again, the other person on the other side was a thorough gentleman. It was Michael Black, now the Chief Justice of the Federal Court, who is based in Melbourne. The likes of the honourable member for Melton and the rest are pussy cats compared to those characters. They have every facility of the law at their fingertips.

Cases involving injustice, such as that of Ronald Victor Legge, can still be pushed under the mat. He was done a most incredible injustice involving the firm Williams, Winter and Higgs, in which $100 000 of his money went down the drain due to a fraud. The case was taken on board by the Victorian fraud squad, went through the grand jury process, was reinvigorated and taken to the County Court, and eventually ended up in the Supreme Court of Victoria. Ronald Victor Legge is still without any recompense for what was done to him. The people who were involved in the matter probably still have sleepless nights. I say for the record that a certain Queen's Counsel here in Melbourne, a certain junior and a certain solicitor are again feeling conscience stricken as a result of this case, not because of their actions but because they can see an injustice has been done. The case is again being looked at carefully. I hope that sends shudders down the spines of the guilty people in that case, which has been going on for years, all as a result of FOI. I have become a wiser and more experienced member of Parliament as a result of being involved in the case and of taking on board a man's injustice, carrying it through for him and seeing the joy on his face when he succeeded. Unfortunately, when the case was taken into the civil jurisdiction technicalities arose that once again prevented the poor man from being recompensed for the injustices he has suffered.

If the government is fair dinkum those are the sorts of practical issues it needs to take on board, and provisions to address them should be included in the bill. I do not agree with members of Parliament using freedom of information to go on fishing trips for information, and I am sure the honourable member for Melton understands what I am talking about. However, I am advocating a bill that will enable not only members of Parliament — they are the ones who mainly get the publicity that comes from making such applications — but ordinary citizens to take the legislation on board and follow it through.

When the bill is in committee I want the Attorney-General to address the points I have raised, in particular those concerning the guidelines for contracts on the Internet and how a person who has won in a lower court but has had to go to the Supreme Court is likely to lose the lot in terms of paying costs.

I support the amendments the opposition has proposed. I am for anything that will make the legislation work for the little people.

Ms DAVIES (Gippsland West) — I support the Freedom of Information (Miscellaneous Amendments) Bill, which is another bill I am quietly relieved to see before the house. I am proud of the role the Independents have played in getting the bill to the stage it has now reached. The introduction of the amending legislation has been possible because of the Independents' actions in developing the charter and selecting a government that was prepared to properly implement it — despite the bill possibly making life harder for that government in future.

The Independents have also played a role in encouraging the government to accept various amendments to the bill. For the benefit of the honourable member for Glen Waverley, I note that in the four weeks of its first parliamentary sittings the government has shown more bipartisanship and a greater preparedness to allow amendments to its proposed legislation than the Kennett government

showed in seven years. The opposition should be careful before it attempts to beat the government about the head over amendments to bills.

Clause 4 repeals part IIIA of the principal act — that is, it repeals amendments the previous government made which ostensibly protected individuals but which worked to make many documents virtually meaningless. The example I gave when speaking against the amendments to the act proposed in the previous Parliament involved disabled individuals. When they needed to access their case history documents, the removal of the names of the people who had acted for them while they had been receiving care rendered the documents basically useless. The proposed amendments to the act will replace those excesses with a simple provision whereby personal information — that is, identifying details — can be withheld from documents if there is a reasonable likelihood of someone's safety being endangered.

I welcome the further amendment that the government has accepted stating that a minister must take into account any possible danger to an individual. That is a sensible strengthening of the safeguard for individuals. I also welcome the government's acceptance of a further amendment stating that individuals whose details are subject to appeal should be informed of that appeal and have an opportunity to express their points of view. That amendment also gives greater protection to individuals, which is good.

Clause 5 tightens the definition of cabinet documents that will not be released under FOI. That is another amendment that was specifically requested in the Independents charter. The previous Liberal–National Party government abused the current provision, denying people access to documents on the basis of cabinet confidentiality. If as has been asserted by the opposition the previous Labor government also abused that restriction, it makes the amendment even more important. I am pleased to see it in the bill.

Likewise, clause 7 relates to restrictions on the release of documents on the basis of commercial confidentiality. The previous government's penchant for selling absolutely anything and everything and leasing or contracting out to private industry whatever was left was moving Victoria towards the stage where little information was available to the public. Every time somebody requested information, the issue of commercial confidentiality raised its ugly little head. When public money was being channelled into private interests under the previous government, the public had no right to know about it. That was not right, and it was unacceptable — and all members of the opposition should acknowledge that. The bill will tighten up the section.

If business interests are genuinely at risk of tangible and specific harm if information is released, I agree that is reason enough to keep the information private. However, private companies must — and I believe do — accept that the public has a right to information about matters concerning public money, public services and the public interest, just as they have a right to the opportunity to argue against any potential business detriment. The clauses comply with the New Zealand legislation as specified in the charter. That means they are not hypothetical and do not experiment with theoretical possibilities. We have already seen similar clauses in operation in New Zealand, and they work.

Clause 8 will increase the accountability of ministers. When ministers wish to appeal against Victorian Civil and Administrative Tribunal decisions, they will have to report to Parliament on the reasons for their appeals, which means they will be reporting to the public through the Parliament. That also seems to be sound policy.

Under clause 10, fees will no longer be payable to VCAT when the reason for an appeal is merely that a department has not responded to a FOI request within the time limit prescribed. It was bad for the public service and for the accountability of government for the public to be penalised in that way.

It is almost impossible to see how any government could justify those charges as the previous government managed to do. I am glad they have now gone.

There has been no controversy or great public excitement over the passage of the bill. Of course, the opposition will support the bill because it will help it do its job better. It is another reason for the great collective sigh of relief which greeted the incoming government. The bill will set a framework whereby good government is possible. It does not mean that good government is inevitable — it just means it is possible.

Despite the waffling of the honourable member for Glen Waverley, I do not think anybody is suggesting this is the be-all and end-all. I do not see this bill or any single bill as a total panacea. It just makes good government more possible than it was before. The bill will ensure that members of the public, the Independents and the opposition are able to watch government more closely and help ensure it stays on track. Any good, sane government recognises that it also benefits from closer public scrutiny.

The floor of the vestibule of Parliament House is inscribed with the words:

> Where no counsel is the people fall but in the multitude of counsellors there is safety.

The basis of sound counsel is good information. A better FOI act means greater safety for us all. As I said, the bill is no panacea, or cure-all, and I do not think anybody is claiming that it is. However, it will give us a better Freedom of Information Act, and I am pleased to support it.

Mrs FYFFE (Evelyn) — I am not a lawyer. I speak simply as a representative of the people of Evelyn. Listening to the debate and to the honourable member for Melton earlier, I realised that I am very much a working-class girl from a country background. The honourable member accused opposition members of being audacious, reborn and spineless. His speech made me think he doth protest too much. In my part of the world one wonders what blustery and loud people are trying to hide.

I am concerned that some of the human aspects of the bill may be overshadowed by the legalese and the smoke and mirrors of the debate. Many honourable members have discussed the Frankston Hospital nurses case during the debate. We were all appalled that a convicted criminal was able to gain access to personal details. I am sure all honourable members will agree it was not a good result and the previous government acted quickly to ensure it would not happen again.

Threats from a criminal person are not the only reasons the legislation is important. The ordinary Victorian is often forgotten because honourable members are so involved in tit for tat and making decisions based on personalities and because a previous government did something. I refer the house to stalkers — and a stalker can be anyone. Stalking is growing. Stalkers are not easily identified, and the person who is stalked does not necessarily do anything to attract the stalker. They may be just like the two attractive government members of Parliament, the honourable members for Bendigo East and Gisborne. They are just doing their jobs in the community, working for the responsible ministers, having warm smiles and being pleasant, and drawing the attentions of someone who becomes obsessed and follows them. If the stalker can get their names and addresses through freedom of information, their lives may be reduced to a horrendous mess. Anyone can ask for their documents if they have been involved with a government department. Stalking is an obsession. Reasonable judgment goes out the window. All a stalker can see and think about is his or her obsession and all decisions are based on that obsession. Because they are obsessed they cannot think clearly about whether what they are doing is right or wrong.

After sitting in the chamber over the past few weeks I believe sometimes that applies here, that decisions are made based on things that have happened in the past and not for the benefit of Victorians — the individuals who need the protection of the government. We are enacting laws, not something merely with which to hit the previous Kennett government. Just because someone has made a decision is not a reason to change it. Perhaps I am not expressing myself as clearly as would some of the more learned members of Parliament, but I feel seriously about the matter. When decisions made in the house are based purely on the reason that the previous government made them, I worry about the rights of the individual Victorians for whom we are supposed to be legislating.

I turn to the quieter and calmer area of commercial confidentiality. The agreement between the minority Labor government and the three Independent members for commercial confidentiality was to have restriction removed to the extent of the New Zealand Information Act 1982. Section 9 of that act deals with commercial confidentiality. The amendments that the government wishes to make to commercial confidentiality do not go so far as those listed in the New Zealand legislation, although the government is already flaunting the proposed changes.

As the shadow Attorney-General has already pointed out, recently the Minister for State and Regional Development announced that an agreement with the company eSign would be kept quiet, that the commercial details would not be spoken about because the minister wanted to get companies such as that into Melbourne. I do not see the reasons the minister gave listed as a section of the government's amendments to the act. However, I wholeheartedly support any new investment in Victoria which leads to new jobs. As a small business person, I also support the diversity of employment options that now exist in Victoria thanks to the work of the former government, including new and growing industries such as information technology.

During the past seven years there have been many examples of Labor Party members attacking the former coalition government on commercial confidentiality. Many Labor members who are now ministers have attacked the provision, including the Minister for Community Services, the Minister for Agriculture, the Minister for Gaming, and the Minister for Industrial Relations in the other place. Those ministers have previously referred to commercial confidentiality as rubbish, shonky, and a barrier for the government to

hide behind. I have many examples to quote but I will not bore honourable members by listing all of them.

Honourable members interjecting.

Mrs FYFFE — Would you like just two or three? The Minister for Community Services is reported in *Hansard* of 14 May as saying:

> Ministers opposite refer to commercial confidentiality — the mask behind which they hide. We —

meaning the ALP —

> advocate public accountability and open government.

Even the honourable member for Mitcham, who is also the Parliamentary Secretary for State and Regional Development, has said that commercial confidentiality is not a justifiable excuse.

There are so many other examples that I could go on for hours about the hypocrisy of the government. In opposition it attacked the previous administration, but now it expects to do the same thing without being confronted with its own statements on the public record. Having said that, I give one final example to illustrate the hypocrisy of the government's statements on commercial confidentiality. The honourable member for Gippsland West is reported in *Hansard* of 27 May as stating:

> … commercial confidentiality provisions… remove our right to know about the deals the government is making.

I have not heard the honourable member criticising the government for its recent use of commercial confidentiality in not disclosing information. Having examined the bill and the proposed amendments, I wondered under which provision in the New Zealand act — which the government says it used as the basis for its agreement with the Independents — the latest example of commercial confidentiality falls. Although the government's stand on commercial confidentiality is hypocritical and deceitful, I will not oppose the measure because I believe in the need for open government, unlike some ministers and members of the government, who are recent converts.

In conclusion, I concur with my colleagues about the way the proposed amendments could affect people who are placed in a similar situation to the nurses at the Frankston Hospital. I am pleased that the government has accepted the opposition's amendments on that basis.

Mr MAXFIELD (Narracan) — The bill is another example of the Bracks Labor government honouring an election promise — its commitment to open and accountable government and to a democratic society where individuals have the right to know what information about them is contained in government records.

For government to be accountable to the community it must be open to public scrutiny. If people are informed about government policies they are more likely to be involved in policy making and in providing information. For seven years the Kennett government rescinded the right of all Victorians to access government. It made numerous amendments to the Freedom of Information Act, narrowing its scope of operation. The amending bill will be the cornerstone of open and accountable government.

Firstly, the bill will rebuild access to information by narrowing the exemption for cabinet documents. In the past seven years the exemption provisions increased. Documents should not be exempted from release under freedom of information (FOI) merely because they are attached to cabinet documents. The Kennett government consistently attached documents to cabinet papers in a blatant attempt to hide information from the community.

Secondly, the bill will increase access to information by narrowing the exemptions relating to commercial confidentiality. The Kennett government used that process to restrict documents being open to public scrutiny. Access to information relating to the privatisation of former government agencies was restricted. For example, information relating to the privatisation of prisons was kept from public view. Restrictions on information relating to the problems with Intergraph and government contracts with corporations have affected the public's right to know about the proper running of the state.

The government will remove the $170 appeal fee currently charged by the Victorian Civil and Administrative Tribunal (VCAT) for deemed refusals. The fee was imposed by the Kennett government to stop people from appealing — so they would give up their search for information. Only the wealthy could afford to pay for the right to obtain information. I do not know why the Kennett government hated ordinary people, but they made sure it knew how they felt about issues such as freedom of information. The former Kennett government denied low-income earners, the ordinary Joe Blows, the ability to obtain information.

Mr Mulder interjected.

The DEPUTY SPEAKER — Order! The honourable member for Polwarth is out of his place and should remain silent.

Mr MAXFIELD — The honourable member for Polwarth has not done his homework. During the past 13½ years I worked as a union official looking after shop assistants who worked in Safeway and Coles supermarkets. I strove day and night to look after low-income people, so the honourable member should get his facts right.

The government will cap appeal and application costs for freedom of information requests for the entire term of the Parliament. It will compel ministers to explain to the house the reasons for appealing VCAT decisions to release documents. Ministers will be required to explain how the public interest is served by the government's appealing a decision by the tribunal to release documents. It will not be an automatic process, as it was under the former government. A good way to demonstrate what happened under the former government is to refer to the number of requests, reviews and appeals to the tribunal in recent times. In 1997–98 there were 304 appeals, yet in 1991–92, prior to the Kennett government's amendments, there were 193 appeals. The government will remove the Kennett government changes that prevent access to documents that identify any person named in documents, including public servants. The former government tried to hide the disgraceful use of government credit cards by its mates.

I refer to a report in the *Sunday Age* of 12 September of this year entitled 'The door to data closes even more'. It states:

> The flow of FOI from the government threatens to become a slow drip …
>
> This is the blank response the *Sunday Age* received to a freedom of information request on medical mishaps in public hospitals.
>
> If it looks bad, experts say that under the state government's recent changes to FOI, all the names and identifying information would be blacked out as well.
>
> The North Western Health Care Network, which released the letters, said it was required to disclose the documents but not their contents, which were exempt. 'That's how stupid the act is,' a spokesman said.
>
> A prominent government backbencher says the FOI act is clumsy and should be abolished. Doncaster MP and chairman of the parliamentary Law Reform Committee, Mr Victor Perton, said he favoured 'reversing the FOI act'.

The Cain government introduced freedom of information legislation in 1982. The former Kennett government consistently wound back FOI during the past seven years. The only government that has increased the ability of people to seek freedom of information is a Labor government.

It was a Labor government that introduced the powers of freedom of information, and a Labor government is now bringing them back.

Mr McINTOSH (Kew) — It is a challenge to rise as a cleanskin, someone who did not participate in any freedom of information debates in any previous Parliament. I was, of course, aware of and put up with all the rhetoric throughout the election campaign about freedom of information, the audit bill and the powers of the Director of Public Prosecutions being the cornerstones of open and accountable government. I also listened while the Independents trotted out their charter of additional cornerstones.

The legislation now before us is more rhetoric and hot air. The bill is all about smoke and mirrors. The rhetoric is that it purports to restore open and accountable — —

The DEPUTY SPEAKER — Order! There is too much audible conversation.

Mr McINTOSH — The rhetoric includes restoration of open and accountable government for Victoria, but the party purporting to be the government and purporting to propose concrete provisions for the development of the processes of government has come up with nothing. Today is supposed to be a great day for Victoria, the day when all the powers of freedom of information are restored!

The bill covers four main areas: the repeal of part IIIA of the act dealing with personal privacy and the strengthening of section 33; the amendment of provisions dealing with cabinet documents and exemptions thereto; amendments to provisions for commercial confidentiality; and the removal of some fees. I will deal with each in turn.

Four categories of cabinet documents are exempt under current legislation: official records; documents that would involve the disclosure of cabinet discussions and deliberations; documents prepared for the purpose of briefing a minister on issues to be considered by cabinet; and copies or drafts of the above.

Section 28(1)(b), which deals with documents submitted to cabinet, is the provision the government wants to amend through this bill. The first part of that section, which no-one disputes, concerns documents created for the purpose of submission to cabinet. At

issue is the matter of the cabinet documents to be considered — just considered — by cabinet.

The Attorney-General's second-reading speech shows that the government intends to remove from that section documents that are merely considered by cabinet. However, so long as such documents are relevant to other documents being formally submitted to cabinet they can be attached to them. In other words, the whole of that exemption boils down to a staple. If a document is stapled to another document to which it relates it becomes exempt! The amendment will therefore not make one iota of difference to the operation of the act. It is all smoke and mirrors and does nothing to restore open and accountable government.

The second aspect of the bill concerns commercial confidentiality, one of the pillars upon which the government was elected. But what has happened? The government has retained the provision dealing with trade secrets. They are not necessarily of a technical nature, but the point about trade secrets is that they are confidential: they are secrets. They relate to the trade or business of the particular undertaking, and the legislation should include a clearer reference to them.

We have heard from the honourable member for Berwick, who wrote the book, and I will paraphrase pages 19 to 32 of that book.

Honourable members interjecting.

Mr McINTOSH — No, I don't plan to read all 20 pages! The most important thing about a trade secret, according to the book, is that it does not have to be of a technical nature but can be something as simple as an address list. It is simply something confidential arising out of a business enterprise. The amendments proposed by the government maintain the trade secret provisions but water down other matters of a business, commercial or financial nature. That is completely otiose and will have absolutely no effect until the government gets the legislation right. It must replace the word 'or' with the word 'and'.

Trade secrets also need to be dealt with in relation to undertakings unreasonably disadvantageous to the applicant. Such a provision is missing from the bill.

I have read about half a dozen articles by people such as Moira Paterson concerning commercial confidentiality provisions, and in them the proposed new provisions have been widely criticised. The government is purporting to upgrade the Freedom of Information Act, yet it is not listening to people who may know something about it and is not introducing any alternative other than the rewording of section 34 of the principal act.

It is a bizarre outcome, yet government members stand in this house and talk about open and accountable government. That was the cornerstone or pillar upon which they were elected, yet they have done nothing. The bill is a smoke and mirrors act. I have heard speaker after speaker from the government talk about open and accountable government, but I do not believe any of them have read the bill or the act. The bill is about smoke and mirrors. Why not simply change the word 'or' to 'and'? The government is not interested in doing that — it is not doing anything.

Section 33 of the act concerns personal privacy. The introduction of that section may have been a knee-jerk reaction by the previous government, but it was a dramatic change. Mr Coulston was found guilty of murdering three students in Burwood in unbelievably bizarre circumstances, yet he tried to get the names and addresses of 50 nurses. He did not know the name of the particular person he was seeking; he was merely on a glorified fishing expedition. Of course the nurses needed to be protected. Although the amendments attempt to improve those sorts of situations, they do not go far enough.

The word 'may' has been changed to 'must'. A consideration of whether or not to release information should not be confined to whether releasing the information could endanger life or physical safety but should be extended to other matters, such as whether the material could be defamatory, given that defamation is personally upsetting, or whether it could lead to harassment. It is arguable that the only information Mr Coulston wanted was the names of the nurses who could establish an alibi for him and that releasing the information would not involve the likelihood of life or physical safety being endangered. It seems the government has failed to pick up on that essential and important difference.

The honourable member for Narracan fawned about being a worker and said that ordinary people cannot afford the application fees. I commend the reduction of the fees, but I do not believe the government is fair dinkum in what it is doing. If it wanted to make freedom of information open and accessible it would reduce the fees on every application. Under section 33 it is possible for a third party to intervene in a proceeding, and under the amendments circulated by the Attorney-General he or she may have to pay the full application fee. In many respects the reduction of the fees has not been thought out. The amendments tabled today are a knee-jerk reaction, but they go no further.

The intellectual challenge inherent in the bill is of Olympic proportion. As I said, the bill is a smoke and mirrors act. Many of the amendments it makes do not take freedom of information one step further, and they will have absolutely no practical consequence. I will love standing in this house in another 6 or 12 months when the public realises the bill is merely a smoke and mirrors act and further amendments are introduced.

Mr VINEY (Frankston East) — I am pleased to join the debate on the restoration of democracy in Victoria through the Freedom of Information (Miscellaneous Amendments) Bill.

During the election campaign commitments were given to restore open and accountable government to Victoria, and I am proud to be part of a team that is delivering on that commitment. The government is in contrast to members opposite because it is prepared to deliver on its commitments. The word 'commit' is in contrast to the word 'submit', which describes what opposition members did when they were in government. They submitted to the gag and to the then Premier's edicts and decisions made unilaterally to try to silence any criticism of the government. The previous government showed an absolute fear of democracy in this state that almost became an obsession.

Opposition members have shown an enormous amount of hypocrisy during the debate. The honourable member for Kew talked about a smoke and mirrors act, but the only smoke and mirrors act is the act of members of the opposition when they do a lot of chest beating about freedom of information, given that they were spineless on freedom of information issues during the past seven years.

As the honourable member for Melton said, members of the opposition have experienced a conversion on the road to Damascus on freedom of information. I simply do not believe that conversion. I do not believe the opposition is committed to the amendments the government has put before the house. I do not believe it because for seven years members of the opposition demonstrated that they did not share the commitment to democracy, openness and freedom of information that Victorians deserve. It is a conversion of convenience, and it is hypocritical. It is a conversion of convenience since they have come into opposition. When they were in government all they wanted to do was to prevent anyone from gaining access to the reasonable flow of information that would assist with public scrutiny of government action. Now they are in opposition they want to make government more open. Now they are in opposition they can see the opportunity of gaining some minuscule political advantage by supporting — or as they put it, not opposing — the bill. We are witnessing a meek and mild level of support in this place tonight.

The address to the house of the honourable member for Doncaster showed that he was probably one of the greatest exponents of hypocrisy. He was a chronic abuser of the freedom of information system. He even attempted to shut it down.

On 12 September in the lead-up to the election the honourable member for Doncaster was quoted as saying he favoured reversing the Freedom of Information Act. Today in the house he beat his chest about the importance of the FOI act and tried to find weasel words for his lack of opposition to the bill.

The record of the previous government on freedom of information is a disgrace. That includes events that occurred during the election campaign such as the cover-up on Intergraph. An article in the *Australian* of 25 September headed 'Court hears of Tehan cover-up on Intergraph' states:

> Former Victorian health minister Marie Tehan was involved in the cover-up of politically damaging documents on the eve of the 1996 state election, statements made in the Supreme Court yesterday suggest.

The article goes on to state:

> The Supreme Court heard yesterday that the documents show Mrs Tehan was aware of legal advice that directed that the documents should be released under freedom of information.

The documents were still not available on 25 September 1999, the eve of the following election three and a half years later.

The record of the previous government on FOI is disgraceful. It used the legislation to cover up use of credit cards, the casino bidding process, and privatisation contracts — anything controversial or that could in any way be construed as casting a less than glowing light on an obsessed Premier who wanted to manage and control the state.

By contrast, the Labor record on FOI is proud and honourable. The Labor government introduced the legislation after the 1982 election. The Kennett government continually introduced restrictions to the act that made it increasingly difficult for reasonable information to be accessed. In that regard the record of the previous government was disgraceful.

Clause 6 refers to the protection of personal privacy. I refer to it because incidents that took place at the Frankston Hospital have been referred to in the debate. The hospital released the names of 51 nurses to a

convicted murderer. There has been much misinformation, particularly from members on the other side, about the release of the names, which occurred because of a gaffe in the management of the previous FOI legislation. The Frankston Hospital failed to have legal representation at the hearing, failed to inform the nurses that their names had been subject to an FOI request, and failed to exercise the right of appeal to the Supreme Court.

It was a botch from start to finish. The Kennett government used the release of the names in a cynical attempt to ensure the government, which at the time was under a degree of criticism on credit card misuse, was able to stop the release of names of public servants in relation to government documents.

It was not only the former opposition that raised those matters, including the use of that clear abuse of the process at Frankston Hospital to further limit the opportunities available to the community under FOI. An article in the *Age* of 16 January states:

> In this particular case that balance is between the rights to justice of a convicted person and the rights to privacy of employees of the state. At fault is not the law, but the way it has been administered by a particular state employer.
>
> This case should not become a pretext for a further curbing of the state's freedom of information laws. These laws have been an important, indeed vital, bulwark between citizens and state.

Similarly a *Herald Sun* article at the time said:

> But while Mr Kennett is right to order an examination of the circumstances of this particular case, to see how similar abuse of the system can be prevented, he should not use it as an excuse to undermine the FOI legislation.

But that is what the former government did. The legislation that was subsequently introduced was a deliberate attempt to try to ensure that the opposition and other interested persons were unable to get access to vital information of concern to the then opposition and of public interest about the previous government's misuse of credit cards. It was a disgraceful misuse of the plight of the Frankston Hospital nurses who had been put under terrible pressure as a result of their administration's mismanagement. One could say that the mismanagement that occurred at the Frankston Hospital was probably in part due to the serious cuts that had been occurring in our health system and to the pressures that the management of the hospital were under at that time.

The hypocrisy of the opposition on this bill is absolutely breathtaking. Opposition members' chest beating about the FOI legislation when they were absolutely spineless, failed in their duty to represent the people's concerns — —

Mr Perton interjected.

Mr VINEY — The honourable member for Doncaster was a chronic abuser of freedom of information. Only two months ago he said that he favoured the reversing of the Freedom of Information Act, but he comes into this place tonight and says — —

Mr Perton — On a point of order, Madam Acting Speaker, there are clear rules in this house about quoting from documents. The honourable member for Frankston East purported to quote from an article which quoted me and my views on the Freedom of Information Act. That quote did not say that I would shut down the FOI act but that I would reverse FOI to create a mandatory publication act. In that respect the honourable member has misled the house.

Mr Hulls — You are just so precious!

Mr Perton — Thank you. I would not have minded and I would not have interfered except that he has continued to mislead the house. I ask you to direct members when quoting from a newspaper or another source that, firstly, the quote be accurate, and secondly, that where the quote is paraphrased the honourable member's attempt to paraphrase is accurate as well. It is a clear breach of the standing orders and of previous rulings of Speakers and Acting Speakers, and I ask you so to rule.

The ACTING SPEAKER (Ms Davies) — Order! I uphold the point of order and ask the honourable member to quote accurately from documents when he is quoting.

Mr VINEY — I am happy to quote from an article by Mr Bill Birnbauer in the *Age* of 12 September:

> A prominent government backbencher says the FOI act is clumsy and should be abolished. Doncaster MP and chairman of the parliamentary Law Reform Committee, Mr Victor Perton, said he favoured 'reversing the FOI act'.

Honourable members interjecting.

Mr Hulls — Good point of order, Victor!

Mr VINEY — That just demonstrates the absolute hypocrisy and chest beating of the honourable member for Doncaster and other members opposite who demonstrated that they were spineless during seven years of closing down the FOI act. They did not at any time stand up to a Premier who failed constantly not only in this but in countless other matters involving

open and accountable government, such as the Audit Act and Intergraph. The people of Victoria stood up to that government on 18 September and reconfirmed that in Frankston East, I am proud to say, in part because of the disgraceful misuse of FOI in the case of the Frankston Hospital nurses and because those nurses' lives were placed at risk by the hospital's failure to deal with that properly. Despite the enormous pressure those nurses were under the then government failed every time. That is why the people of Frankston East confirmed on 16 October that they had had enough of the Kennett government's spineless approach and its failure to stand up for freedom of information and open and accountable government. I stand here tonight extremely proud that together with the Independents Labor has restored democracy and open and accountable government to the people of Victoria.

Mr BAILLIEU (Hawthorn) — It gives me great pleasure to speak on the Freedom of Information (Miscellaneous Amendments) Bill. I share with the honourable member for Kew the pleasure of debating the bill from a fresh vantage point. I have been impressed with the symbolism that has been thrown around the chamber. Clearly it is an important factor in legislation in this place. Much of what I have seen in my brief time as a member of Parliament has been of symbolism.

Madam Acting Speaker, I believe I have even heard you mention the same in recent debates — the symbolism of the Audit (Amendment) Bill, the Regional Infrastructure Development Fund Bill and the Local Government (Best Value Principles) Bill. But is it a case of symbolism or substance, theatre or reality? The theatrics from the other side are impressive, but the reality is less so. This is an interesting place for observers. Is it a place of rhetoric or a place of real change? I am yet to see any real change in the bill. The previous speaker referred to the restoration of democracy involved in the bill. All I can see is the honourable member's cant. When I arrived at this house I expected to find everyone in chains. What a lot of nonsense. This bill is more of the same — it is rhetoric, not reality. No-one should imagine that the bill will change the world. It will have minimal effect on anyone. It is hardly a show stopper. It is more of Labor's mythology — the myth makers on the other side of the house. Here he is, the captain of hit or myth!

Opposition speakers have said much about the previous government and what may or may not have occurred under freedom of information applications in the past.

However, the question is what in the past would have been changed by the legislation. We have heard about tenders, credit cards and other issues, but what changes would have occurred?

In the second-reading speech the minister referred to five major objects of the legislation. Of those five, only two could arguably constitute a change. One change involves a $170 saving in a Victorian Civil and Administrative Tribunal (VCAT) appeal. I have no problems with that, but will $170 save the world? It is a good thing but it is not an earth-shattering change. It is only one of the many costs involved in freedom of information (FOI), yet it is one of the five major objects of the legislation.

The only other object that might result in a change in the operation of the principal act attaches to ministers having to give reasons why appeals have been lodged, and having to explain them to the house. That change assumes that reasons are not given now — as though the media and questioning did not exist. I can only thank God for the amendment; it has been accepted and will put the reasons into the *Government Gazette*.

Mr Hulls interjected.

Mr BAILLIEU — Nothing has been accepted, says the Attorney-General. It is your amendment!

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member for Hawthorn to please address his remarks through the Chair.

Mr BAILLIEU — At least the amendment will put the reasons in the *Government Gazette*. They are the only changes the opposition can discover.

I turn to what will not change. I again refer to the second-reading speech and the objects of the act. A lot of fluff has been spoken about cabinet exemption, but the only thing that may change is the manner of achieving such exemption, because there is nothing surer than that it will be achieved. In reality there will be no change.

Another of the five objects concerns commercial confidentiality. What change will occur? I have known the honourable member for Berwick for a long time. and for many years he was writing a book about trade secrets, the delights of which he often regales us with.

Dr Dean — It nearly ruined my life.

Mr BAILLIEU — It nearly ruined all our lives! I can only suggest that the honourable member for Berwick knows whatever there is to be known about trade secrets and commercial confidentiality, and information that is not available on the public record is

effectively a trade secret. Honourable members with any commercial experience know that is how it operates, that those are the mechanics that have operated in the tender code for years and that it will stay the same. There will be no change to the operation of the Freedom of Information Act as a result of the amendments in the bill relating to commercial confidentiality.

The last remaining object of the legislation concerns the privacy of the personal information of people who may be endangered by information. The only change may be that it will be more difficult to achieve, but it will still be achieved.

Madam Acting Speaker, I noted that in your contribution you remarked that the government might possibly be making it more difficult for itself — 'possibly' being the operative word. There is little chance of the provision having any material effect on the government. I also noted your remark that there was no great public excitement about the bill. Nothing truer could be said. I think the public has seen through it.

Information is powerful, but it is not a substitute for power or responsibility. Access to information is the important thing in a democratic society. In the second-reading speech the minister referred to the right of access to information, the scrutiny of government being important for accountability and the need to involve the community. I concur with each of those points. However, as a principle and as an act of Parliament, FOI is evolutionary. The Freedom of Information Act was first introduced in 1982, and although I congratulate the then government on its introduction, I do not suggest it was an easy road and no honourable member or past member can suggest that it was without problems.

I think it was the honourable member for Frankston East who derided the Kennett government's commitment to openness and democracy. That was cant because in 1993 the Kennett government introduced the most material change ever made to FOI — its extension to local government. Those who have worked for years with local government on the other side of the counter know that no more important material change has been made to the act and that the extension was an example of the commitment by those on this side of the house to the act. I remember well what happened at St Kilda and Port Melbourne city councils. If only such FOI legislation had been applicable to local government in the 1980s and early 1990s! I suggest the government ask itself who was controlling those councils at the time. In 1999 a further material change was made to protect the privacy of individuals who might be endangered by access to information. It was a reasonable change and was accepted by the community.

I note the honourable member for Gippsland West said that although the bill was not the be-all and end-all of parliamentary legislation it may improve the operation of the act. It will improve the operation of the act by cutting $170 off the appeal fee and perhaps having reasons recorded in the *Government Gazette*, but that is about it. In the long run the opposition will judge the government not by the legislation but by its conduct on FOI. The time will come when the legislation will no longer be necessary. The introduction of mandatory publication, if it happened in the future, would be another material change. The community and the opposition will judge the government only on whether it conducts itself openly.

Already the government has indicated how it proposes to conduct itself by denying briefings to honourable members on this side of the house. It is a small thing, but it is an example of the government's conduct. People need to conduct themselves in good faith, with trust and with commonsense. Freedom of information should be a matter of saying, 'Ask and you shall receive'. Freedom of information has a long way to evolve on matters of timeliness, comprehensiveness, mandatory publication and even Internet publication. How will conduct on FOI be judged in the future? By the number of applications made? Perhaps in the future information will be so freely flowing there will be no applications. Will it be judged by the number of successful applications? Are they the only indicators? Will it be by the number of knock-backs or the cost of publication or production? FOI should not be judged by the vindictive actions of the government.

Mention has been made of the pursuit of information on credit cards. There is a classic irony in the government's mentioning credit cards. Annual reports of various government agencies record FOI application information, and the bulk of applications are for credit card information and personal details about executive members. It is ironic that the pursuit of personalities and political points fills the FOI register because the consequence of that pursuit has been that the best monitor of executive expenditure has now been abandoned — the use of credit card records. What a disaster!

Mr Hulls interjected.

Mr BAILLIEU — You have talked about it. You have reduced it. You have taken it out of everybody's hands.

Honourable members interjecting.

Mr BAILLIEU — Well, we look forward to — —

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member for Hawthorn to address his remarks through the Chair. I ask the Attorney-General and the honourable member for Doncaster to cease interjecting.

Mr BAILLIEU — The honourable member for Melton recorded for the benefit of those honourable members on his side of the house who had forgotten that they are socialists and the masters — —

Dr Dean — The Premier said he is not a socialist.

Mr BAILLIEU — Yes, but the honourable member for Melton said they are the masters of freedom of information. The Australian Labor Party is not the FOI party but the HOI Party — the Hoarders of Information Party — whose members hoard information for their personal use and for the use of power. As the past few years have clearly demonstrated, the ALP is not the party of freedom of information but the party of freedom of innuendo that pursues personalities and casts aspersions and slurs.

True FOI will become an act of trust and faith in the future, of that I am confident. The opposition will judge the government on its commitment to the principles of freedom of information, not to the minutiae of the bill, which will induce little change. I support the opposition's proposed amendments and look forward to holding the government to account on all aspects of FOI, including the conduct and principles attached to it.

Mr Perton — On a point of order, Madam Acting Speaker, you will recall that about 15 minutes ago you ruled in my favour on a point of order about a quote made by the honourable member for Frankston East. After you ruled in my favour, Madam Acting Speaker, the honourable member for Frankston East then proceeded with great mirth to allegedly quote from the document. I have to tell you, Madam Acting Speaker, that the honourable member misled you. Could I — —

Government members interjecting.

Mr Perton — This is a serious allegation, Madam Acting Speaker, you have been — —

Mr Hulls — That is not a point of order, it is a personal explanation.

Mr Perton — This is a serious challenge to your authority as Chair. You made a ruling — —

The ACTING SPEAKER (Ms Davies) — Order! I understood the point of order made at the time, which I ruled on, and the honourable member for Frankston East then proceeded to quote directly from the document. I understand the honourable member for Doncaster may be a little concerned that the entire document was not read out. I did not find that of concern. The issue was finished with at the time. There is no point of order.

Mr Perton — On a further point of order, Madam Acting Speaker, your ruling has been directly flouted by the honourable member for Frankston East. It is your responsibility as Acting Speaker to deal with the point of order as I raise it. Can I precisely read to you, and I am not — —

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member to deal with the matter as a personal explanation. There is no point of order.

Mr Perton — On a further point of order, Madam Acting Speaker — —

The ACTING SPEAKER (Ms Davies) — Order! I have given my ruling. I ask the honourable member for Doncaster to resume his seat.

Mr Perton — On a further point of order, Madam Acting Speaker, the standing orders and the rulings of previous Speakers permit an honourable member — —

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member for Doncaster to take great care with the tone in his voice, which I currently find disrespectful of the Chair. I advise him to temper his words and his tone of voice, or I will cease to hear him.

Mr Perton — I am delighted to do that, Madam Acting Speaker. Madam Acting Speaker, you have a responsibility as Acting Speaker to uphold the standards of the Chair. You made a ruling in my favour some 15 minutes ago. I am advising you at the first possible opportunity that you were misled by the honourable member for Frankston East. You may allow me to complete the point of order and then rule on it. I ask you — —

Honourable members interjecting.

The ACTING SPEAKER (Ms Davies) — Order! I ask honourable members to cease interjecting.

Mr Perton — You may not wish to have your authority respected by the honourable member for Frankston East, Madam Acting Speaker, but I do. In those circumstances you ought to seek an apology from

the honourable member for defying your ruling in a most appalling way. If you want to rule against me on the matter, Madam Acting Speaker, I will take my seat and your authority will be diminished. On the other hand, you may let me complete my point of order — —

Honourable members interjecting.

Mr Perton — I do not think it appropriate for an Acting Speaker to giggle during the course of a point of order.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member has made his point. I made my ruling 15 minutes ago. There is no point of order.

Mr INGRAM (Gippsland East) — I am pleased to speak in favour of the Freedom of Information (Miscellaneous Amendments) Bill — —

Mr Perton interjected.

Mr Batchelor interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Doncaster should maintain temperate language and keep his silence. He has had his say.

Mr Perton — So ought the Minister for Transport!

Mr INGRAM — I am pleased to speak in favour of the Freedom of Information (Miscellaneous Amendments) Bill. The success of freedom of information legislation should be judged by the access it provides to information requested by the community.

Fundamental to progressive democratic government is the right of the community to access documents relating to a government's decision-making process. I am pleased to see some opposition members supporting not only the notion of freedom of information but the amendments proposed by the bill to improve the legislation, including the necessary safeguards to protect individuals.

The bill is a response to the freedom of information requirements in the Independents charter, to which both the government and the opposition responded. I will compare the opposition's current support for freedom of information with the reality of its handling of the issue when in government. I refer in particular to one freedom of information application concerning the submission of the Department of Natural Resources and Environment to the Snowy River water inquiry.

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member for Mordialloc to remain in his seat.

Mr Leigh — I was looking for something for the Clerk.

The ACTING SPEAKER (Ms Davies) — Order! I ask the honourable member to look carefully, without getting in the way of the speaker.

Mr INGRAM — Months of work by bureaucrats went into the submission, which represented the Victorian government's position to the Snowy water inquiry. When the government submission was completed, the final document landed on the desk of the Leader of the National Party. Although the draft document had been submitted to the Snowy water inquiry and represented the Victorian government's position, because the then Minister for Agriculture and Resources had not signed the document it could not be released under freedom of information legislation. Obviously it was lost in the piles of unsigned documents on the then minister's desk.

The amending bill addresses the concerns the Independents had about the previous act by freeing up access to certain documents presented to cabinet and documents exempted as commercial in confidence as well as removing the costs currently incurred in appeals to the Victorian Civil and Administrative Tribunal when departments either refuse to release documents or respond to requests.

No more should citizens have to accept lame excuses for information not being released such as, 'We cannot find the document because it is somewhere on the minister's desk'. I suppose we will not be able to find them now because they have all been shredded!

Honourable members interjecting.

Mr INGRAM — I am proud of my independence and the influence I have had on the bill, which differs from those on the opposition benches, who are part of a de facto party relationship, living together in secret yet collecting the benefits. I hope future governments will stand by this commitment to the spirit of the Freedom of Information Act. Good democratic governments should not need to be forced by legislation to be accountable. I support the bill.

Mr HOLDING (Springvale) — I am pleased to contribute to the debate on the Freedom of Information (Miscellaneous Amendments) Bill. One of the most substantial things a government can do is ensure that it conducts its business openly and transparently. That is

fundamental to our notion of what it means to live in a democratic society. It is to the government's credit that one of its first acts following its election has been to introduce legislation to increase transparency and accountability and to improve access to information for all Victorians who deal with government.

I take up one of the points raised by the honourable member for Hawthorn. He made much of the notion that an opposition's asking for information about credit card abuse was a frivolous use of freedom of information. That shows the extent to which the opposition, the previous coalition government, fundamentally misunderstands the community's concern about the way it conducted public administration over the past seven years.

Victorians had a right to the credit card information that the previous government did not want released because it involved the expenditure of public funds. It was about the expenditure of moneys with which ministers, senior bureaucrats and ministerial staffers were entrusted and which should have been accountable, transparent and honest. They had a right to the information they needed to ensure that those moneys had been expended in accordance with the law and departmental guidelines. The previous government spent tens of thousands of dollars of taxpayers' money preventing the release of information about credit cards and the documents on the Intergraph dispatch scandal because it was not willing to be an open and transparent government of the sort required in a modern democracy.

Honourable members interjecting.

Mr HOLDING — Honourable members interject across the chamber asking what the bill will do. The bill will do four principal things to improve the operation of freedom of information legislation. It will narrow the exemption for cabinet documents and commercial-in-confidence documents, it will remove the $170 appeal fee for VCAT-deemed refusals, it will compel ministers to explain to the Parliament the grounds on which they are appealing Victorian Civil and Administrative Tribunal decisions, and it will repeal the changes that prevented the identification of individuals under FOI. I will deal with each of those in turn.

It is interesting to see how often things in politics go full circle. Listening to the cant from opposition members about the so-called cabinet document exemption takes me back to the 1988 election, when the Liberal Party promised it would kill Labor's FOI regulations on cabinet documents and rely on the exemption for such documents that had already been built into the FOI act. When elected in 1992 the former government was not willing to make those changes. They all went out the door.

What was their spokesman saying about cabinet in confidence at the same time? An article from the *Age* of 8 September 1988 inappropriately entitled 'Lib promise to take secrecy out of FOI law' states:

> Mr Chamberlain said a Liberal government would repeal provisions for refusal to release any material declared a cabinet document. Genuine cabinet documents would continue to be exempt from FOI requests, and courts would decide whether material was a cabinet document.

What happened to the commercial-in-confidence exemptions to which honourable members are considering amendments today? We know what the previous government had to say about commercial in confidence. I quote from an article in the *Age* of 23 September 1988:

> Importantly, Mr Chamberlain said that a Liberal government would review the so-called 'commercial confidentiality' provision. This was designed to protect trade secrets, but has been given such a wide interpretation by the courts as to exclude almost any document passing from a business to the government.

That was from the people who, when elected to government, did nothing to tighten up the commercial-in-confidence aspects of FOI. They did nothing to make commercial in confidence less of a component of the act. The bill will ensure that commercial confidentiality will be subjected to a reasonability test. I understand that is borrowed from the New Zealand model and will do much to ensure that the act is not used as a blanket mechanism to prevent access to information and shut down disclosure of information when government is interacting with business enterprises in the private sector.

Honourable members have had a lot to say about the cost of FOI applications, which they claim the bill does nothing to reduce. That is not correct. Under the legislation the $170 appeal fee that was applied to deemed refusals will be removed. If an agency or government department does not deal effectively with an FOI request, the request is deemed to have been refused. Those categories of refusals are currently subject to the $170 fee when they are appealed before VCAT. The bill will remove the fee, thus reducing the cost of access to freedom of information for ordinary citizens.

When it was last in opposition between 1982 and 1992, how did the opposition use the Freedom of Information Act? The truth is it used the act for fishing expeditions across all spheres of government activity, and it did so

with total impunity. Because members of Parliament were exempt they were not required to pay fees. In making voluminous requests of departments they racked up huge bills that were borne by the taxpayer. For example, the then shadow Minister for Health, Mr Birrell, now the Leader of the Opposition in another place, cost the health department and Victorian taxpayers more than $500 000 in FOI requests in the three years before 1988. Mr Birrell was provided with 10 000 documents in response to 117 requests. All the requests were met in good faith — and they did not cost Mr Birrell one cent.

As I said, taxpayers were left to foot the bill because members of Parliament were exempt. One of the first changes the previous government made when elected to office in 1992 was to remove the exemption for members of Parliament, requiring them to pay for freedom of information requests!

What else did Mr Birrell have to say about freedom of information? In a contribution to the October 1988 *Freedom of Information Review* entitled, 'Government, Parliament and the right to know', Mr Birrell began:

> Only five short years after the introduction of the Freedom of Information Act, Victoria's open government law is under serious — and potentially fatal — attack.

That from a minister in the former government, which dismantled freedom of information legislation as soon as it was elected to office.

The SPEAKER — Order! The time appointed under sessional orders for me to interrupt the business of the house has now arrived.

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

Mr HOLDING (Springvale) — Mr Birrell continues:

> In conclusion, let me outline where an incoming Liberal government will stand. The Liberal Party is not afraid of FOI. We are committed, publicly and privately, to its existence, because it meets our objective of improving public administration in this state …
>
> The Freedom of Information Act has the ability to influence in a very beneficial way the process of governing Victoria. We give a firm commitment to abide by the letter and spirit of this vital piece of legislation.

One of the first acts of the former Kennett government was to dismantle the freedom of information legislation. It spent the next seven years making it ineffective, continuing to frustrate the people who use freedom of information and continuing the expenditure of hundreds of thousands of dollars of taxpayers' funds to fight the release of documents in the Victorian Civil and Administrative Tribunal and the courts. The government also prevented access to information by increasing FOI fees.

I support the amendments to be proposed in committee by the Attorney-General. The legislation will make freedom of information more accessible and transparent. It will ensure cabinet document exemptions and commercial-in-confidence provisions function effectively and are not used as a de facto blanket prohibition. It will reduce the cost of accessing freedom of information by abolishing the $170 appeal fee. It will compel ministers to justify why they need to appeal against VCAT decisions. Finally, the bill will remove the recent changes to the act which prevent the identification of individuals under freedom of information. It is a good bill and deserves the support of the house. I wish it a speedy passage.

Mr HULLS (Attorney-General) — I thank the honourable members for Berwick, Richmond, Doncaster, Footscray, Frankston, Coburg, Bulleen, Mildura, Malvern, Melton, Glen Waverley, Gippsland West, Evelyn, Narracan, Kew, Frankston East, Hawthorn, Gippsland East and Springvale for their contributions, some of which were worth while and some of which were hopeless.

The former Deputy Prime Minister, Treasurer and state member of Parliament from 1947 to 1951, the Honourable Frank Crean, was present in the public gallery today. I ask all coalition members of Parliament who contributed to the debate to write to Mr Crean and apologise to him for their appalling speeches on such an important issue. Mr Crean deserves that apology. He was a member of Parliament for many years, and I am sure he never heard such trifle, tripe and nonsense in debates on bills as important as this.

For seven years the former Kennett government did everything it could to stifle freedom of information, to hide documents and to rule under the veil of secrecy. When the government delivers on its promises to improve and open up freedom of information legislation, to stop the rorting of commercial confidentiality and the making of false claims about cabinet documents, and to reduce the extraordinary increase in application fees, the jellyback members opposite say, 'Well, you have made some changes, but they are not good enough'. What a disgrace!

Members of the former government were happy for the FOI legislation to remain as it was. They were happy to ensure that no documents were released by the Kennett government. Now that the government is demonstrating

it is an open and honest government the opposition believes it should move some amendments to make out it is relevant. Opposition members are irrelevant in this debate and were irrelevant when in government over the past seven years. Everyone knows they are irrelevant. They are a bunch of sooky — —

The SPEAKER — Order! I ask the Attorney-General to be temperate in his language.

Mr HULLS — The question has been asked of me, 'How come you are Attorney-General?'. The Labor Party won government, that is how! This great groundbreaking legislation will open up freedom of information. It is supported by those in the community who have been stood on for far too long. It is supported by those who have been hit by the sledgehammer of the former Premier and by those who stood up to him and were criticised for what they believed was right.

Not one member opposite stood up to the former Premier in his stifling of freedom of information. The honourable member for Hawthorn made an interesting contribution and said, 'True freedom of information will become an act of faith on conduct'. He is right. Freedom of information cannot be Clayton's legislation. That is what we had for seven years. Victoria had a charade of FOI legislation — it was gutted, cut up and chopped. It became FFI — freedom from information. The government is now putting back the 'O' into FOI. The legislation is all about freedom of information.

The eloquent contribution from the honourable member for Gippsland East summed up succinctly the hypocrisy of opposition members when he said that the opposition's support for the legislation has to be compared with how it acted when in government. That is dead right. Jack the blind miner can see what is going on. The Kennett government did nothing to assist people who tried to access information under the Freedom of Information Act. The former Attorney-General made it clear she inadvertently introduced the $170 fee for deemed refusals. When she was approached about it she admitted that she had changed the provision inadvertently, and she was asked whether she would restore the amendment she refused — she was happy to leave it. That indicates the bona fides of the sycophants opposite.

Government members are proud of the legislation. It adheres to the charter to which the Independents agreed, but it is also good legislation. The Labor government has nothing to hide. It is happy to be judged on how it acts. It believes it is appropriate for Victorians to have access to documentation from government regardless of its political persuasion because, as the honourable member for Hawthorn said, knowledge is power. Once you start denying people knowledge you start taking away the power they have in the democratic process.

I thank all honourable members who contributed to the debate. It is wonderful legislation and should be supported by all honourable members.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 5 agreed to.

Clause 6

Mr HULLS (Attorney-General) — I move:

1. Clause 6, line 19, omit "may" and insert "must".

This amendment ensures that an agency or minister must take into account in addition to any other matters the matter of whether the disclosure of information would, or would be reasonably likely to, endanger the life or physical safety of any person. As currently drafted the bill provides that the issue of physical safety may be taken into account. The government believes, on reflection, that the provision should be strengthened by replacing the word 'may' with the word 'must'.

I understand that amendment is in line with an amendment proposed by the shadow Attorney-General, and it is an appropriate amendment.

Dr DEAN (Berwick) — I am pleased to see that the Attorney-General, having been advised of this amendment proposed by the opposition first by the Independent members and later by me when on Friday I had the amendments delivered to him, has accepted it.

It is indicative of the government's approach to privacy that the amending legislation as originally drafted did not use the word 'must' but rather the word 'may'. The previous wording meant that an FOI officer, not the Victorian Civil and Administrative Tribunal (VCAT), was the authority nominated to make the decision about privacy and that that officer did not even have to take into account questions of safety. It did not matter how competent or experienced that person was on FOI matters, he or she could make decisions about whether personal information should be released.

The wording said that the person may — or may not — take into account that the disclosure of information would be reasonably likely to endanger the life or physical safety of any person. That earlier wording exposes the difference between the opposition and the government on that area of the legislation. The opposition's view of privacy is a lot stronger than that of the government.

The government wants to open up the privacy issue and see to it that privacy protection is not quite so strong. The government is the government, so members of the opposition are happy for it to do that. We will try to tighten up the legislation as it goes along. It is important that an FOI officer must take these matters into account. I remind honourable members that the opposition wishes to improve the protection of privacy under the Freedom of Information Act. That is an important issue, as I said during the second-reading debate, and it is an issue that will have to be faced by any government.

It is also important to note that the original decision by the government to say 'may' rather than 'must' is a reflection of its intention to make the part IIIA provisions a waste of time. Those provisions, which this amendment is designed to replace, were very tight. They said that all personal information would be deleted unless and until a VCAT officer said it was okay for it to be released, and they put a lot of emphasis on notification because the tribunal was able to ensure that notification had taken place properly.

Going back to the situation of the nurses in the Coulston case, the problem was that the FOI officer did not notify them. That was the important matter, and that is why the notification provisions under part IIIA of the act were made much stricter, in that the VCAT required the minister to notify and the minister had, therefore, to satisfy the tribunal before a decision was made that notification would take place. The VCAT was, in effect, overseeing the process. So the fact that the nurses were not notified is very important, and it is indicative of the government's attitude to privacy.

Sooner or later the government will have to do more than just accept the opposition's amendment changing the word 'may' to 'must'. It will have to realise that privacy is an important issue in society today, that it affects people and that people take it seriously.

Under the act as it stands at the moment — which is effectively as it was before, aside from some small changes — the Coulston situation will arise again. Having an FOI officer make the decisions about whether people should be notified does not mean the mistake will not be made again.

Mr Hulls interjected.

Dr DEAN — The nurses were not notified that there was a case, you idiot!

Mr Hulls interjected.

The ACTING CHAIRMAN (Ms Barker) — Order!

Dr DEAN — I withdraw the word 'idiot'. It is most unbecoming. I leave that sort of stuff to — —

The ACTING CHAIRMAN (Ms Barker) — Order! Back to the amendment, thank you!

Dr DEAN — He does not want me to withdraw it, but I withdraw it anyway.

Sooner or later the government will have to face up to the fact that in this modern world privacy is important, and any freedom of information act must protect privacy properly. The provisions in the Victorian act are not nearly as strong as those in the Tasmanian and New South Wales acts, states that take the issue much more seriously. Sooner or later Victoria will also have to take the matter seriously. Mr Mark Dreyfus is looking at the FOI act to ensure that other amendments are made. I say to the government in an open and cooperative way that I am happy it accepts the amendment I have put forward, but if it wants to take my advice further it needs to do more to protect privacy. I hope Mr Dreyfus will look at that suggestion.

Although the opposition is not asking for part IIIA to be replaced, something will have to be done to toughen the requirements for FOI officers to notify people when personal information is being looked at either by a minister or by the Victorian Civil and Administrative Tribunal and to ensure that decisions are made responsibly. I am pleased the government has put forward the amendment, which the opposition accepts.

I presented the opposition's position on FOI; I spoke for about an hour to make sure everyone understood that position. I commend the Attorney-General for being sensible and accepting the amendment. I believe he will be sensible and also accept some of the other opposition amendments to be proposed.

Mr THWAITES (Minister for Health) — The hypocrisy of the shadow Attorney-General is quite astounding, as is his lack of knowledge of the facts. He alleged earlier that the nurses' names were released by an FOI officer. That is completely untrue, and I hope he will look at the history of the case and see that the names were released by the Victorian Civil and

Administrative Tribunal. That was the basis on which the names were released, yet he is now criticising the fact that the nurses were not notified. The government agrees they should have been notified, but it was his government that failed to do that and forced the situation on the nurses. The departing shadow Attorney-General is either leaving the chamber to cry — we all know he is a cry baby who cannot handle the pressure — or to get a quick briefing on the side — —

The ACTING CHAIRMAN (Ms Barker) — Order! I ask the Minister for Health to refer to the amendment.

Mr THWAITES — The fact is that the problems in the Coulston case occurred because no proper freedom of information system was in place under the former government and because the hospital that had to make the decision was so underresourced that it ended up sending to the hearing a representative with no legal experience. Even worse than that was the fact that the then government used the trauma and fear of the nurses to try to cover the fact that it had only one aim — that is, elimination of freedom of information through part IIIA of the act. The fact that the shadow Attorney-General said that members of the opposition are happy to get rid of part IIIA shows that they are hypocrites. If he were genuine he would move an amendment to retain that part. We all know his real attitude because when he was in government he revealed it in conversations he had with the current Attorney-General and me. His desire was to get rid of not only part IIIA, but hearings in the tribunal. He admitted that! He stood outside — —

The ACTING CHAIRMAN (Ms Barker) — Order! I remind the Minister for Health that he should refer to members using their appropriate titles.

Dr Dean interjected.

Mr THWAITES — The shadow Attorney-General is urging me to read his speech. I will read it with some interest because I will compare it with the comments he made a few months ago when he was in the position of doing something about the FOI act. At that time the shadow Attorney-General was the parliamentary secretary for justice he told me he believed freedom of information was being used for political purposes and that there should not be hearings in the Victorian Civil and Administrative Tribunal. He wanted to get rid of — —

Dr Dean — On a point of order, Madam Acting Chair, it is important that a member does not mislead the house directly, particularly when he is referring to a personal conversation between two members of the house. The conversation concerned whether or not an ombudsman system should be put in place, and the Minister for Health should be careful because I would not be surprised if this government wants to go down that track. It is not appropriate for him to come into the house and refer to a private conversation so as to mislead the house when he knows the conversation was about the ombudsman and nothing at all to do with — —

The ACTING CHAIRMAN (Ms Barker) — Order! I ask the honourable member for Berwick to come to the point of order.

Dr Dean — The point of order is that the rules of the house — —

The ACTING CHAIRMAN (Ms Barker) — Order! I ask the honourable member for Berwick to come to the point of order.

Dr Dean — The point of order is that members should not mislead the house deliberately or by negligence. I ask you, Madam Acting Chair, to tell the honourable member to desist from misleading the house about the conversation that occurred.

Mr THWAITES — I ask the shadow Attorney-General to withdraw the implication that I deliberately misled the house.

Dr Dean — On the point of order, what I said was — —

The ACTING CHAIRMAN (Ms Barker) — Order! The honourable member cannot speak twice on a point of order. I ask him to resume his seat.

The Minister for Health has indicated that the words used by the honourable member for Berwick asserting he had misled the house are unparliamentary, and the honourable member has been asked to withdraw. I ask the honourable member for Berwick to withdraw.

Dr Dean — On a point of order — —

The ACTING CHAIRMAN (Ms Barker) — Order! There is no point of order. I have asked the honourable member to withdraw.

Dr Dean — I am happy to withdraw the part of my statement that suggested there could be any deliberateness. Of course the rest of my statement, 'it could have been negligent' was heard by the member — —

The ACTING CHAIRMAN (Ms Barker) — Order! I will now rule on the point of order if the member for Berwick will resume his chair.

There is no point of order. If the honourable member for Berwick believes something that was said in the house misrepresents him, he can make a personal statement in accordance with the normal procedures of the house. There is no point of order.

Dr Dean — The honourable member for Albert Park — —

The ACTING CHAIRMAN (Ms Barker) — Could I ask the honourable member for Berwick if this is another point of order?

Dr Dean — I am asking for a withdrawal.

The ACTING CHAIRMAN (Ms Barker) — So this is not a point of order; the honourable member is asking for a withdrawal? Go ahead.

Dr Dean — The honourable member for Albert Park has made an allegation that I deliberately said in this house that he had deliberately misled the house. I find that totally offensive. I would never do such a thing. I did not do such a thing and I find it totally offensive that he would make the accusation that I would say that he had deliberately misled the house, and I ask him to withdraw the allegation.

The ACTING CHAIRMAN (Ms Barker) — Order! I ask the Minister for Health if he would withdraw the statement.

Mr THWAITES — Anything the shadow Attorney-General feels upset about — —

The ACTING CHAIRMAN (Ms Barker) — The Minister for Health is withdrawing? The minister will now continue his remarks on the amendment.

Mr THWAITES — I conclude my remarks by saying he protesteth too much.

Amendment agreed to; amended clause agreed to; clause 7 agreed to.

Clause 8

Mr HULLS (Attorney-General) — I move:

2. Clause 8, lines 11 to 19, omit all words and expressions on these lines and insert —

"(2) The Minister who is seeking leave to appeal or the responsible Minister in respect of the agency seeking leave to appeal must cause a brief statement of the reason or reasons for seeking leave to appeal —

(a) to be published in the Government Gazette within 10 days after the day on which the summons for leave to appeal is filed with the court; and

(b) to be laid before each House of Parliament on or before the 7th sitting day of that House after the day on which the summons for leave to appeal is filed with the court.".

The amendment requires that a brief statement of reasons for seeking leave to appeal on a question of law from an order of the tribunal must be published in the *Government Gazette* within 10 days after the summons for leave to appeal is filed with the court. The requirement is in addition to tabling reasons in Parliament. The period of 10 days for publication in the *Government Gazette* was selected because the gazette is published only every fortnight with a cut-off on Thursdays, the cut-off day being the Tuesday before. It would be inappropriate to have a lesser time: for instance, a seven-day limit for publication in the gazette would provide insufficient time, depending on when the summons is filed with the court.

If a summons were filed on a Tuesday, seven days would dictate that the notice would be published in the *Government Gazette* on the following Tuesday, and that would usually not be possible as the gazette would not be published on that particular day. It is possible to have a special gazette published on a day other than a Thursday, but I have made inquiries and I understand that the cost of publishing a special gazette would be $500, and the printing of such a gazette would be requested only in exceptional circumstances.

I note that the shadow Attorney-General also has a proposed amendment to this clause, and I believe his amendment deals with the notice to be published in the next general edition of the *Government Gazette*. Without wanting to get into the technicalities, the amendment that I am moving is far more practical, because if the shadow Attorney-General's amendment were approved, in certain circumstances special gazettes would have to be published or there simply would not be enough time for the notice to be published in the *Government Gazette*. So there is far more clarity in the amendment being moved by the government, and I ask all honourable members to support it.

Dr DEAN (Berwick) — It does not matter that the government did not think of certain amendments until later when it saw the amendments proposed by the opposition and realised they were a good idea. It does not matter that the government then introduced its own

amendments to cover up the fact that they were originally the opposition's amendments. The opposition is just pleased that this amendment is being accepted. Quite clearly that is important.

However, I advise the government that at some stage appeals to the Supreme Court will require further amendment to deal with costs. It may be a case of introducing a different provision dealing with the way the Supreme Court determines its costs in these matters or there may need to be some indemnity relating to costs. Some action will have to be taken because, as has been said by both sides in the debate, taking people to the Supreme Court — whether it was the former Cain or the former Kennett government — and conducting long battles over documents is incredibly expensive for applicants who do not have much money. At some stage it will have to be more than just 'advising of the reasons'. Again I hope Mr Mark Dreyfus will take that on board. It is a worthy amendment. I am sorry the government did not think of it at the start. I am sure it was just an oversight and I am glad it has been adopted.

Mr THWAITES (Minister for Health) — The shadow Attorney-General raises the issue of Supreme Court appeals, which is worthy of note. The former government appealed a number of cases to try to prevent information getting out before the recent state election. Not only did the then government appeal to the Supreme Court but it also sought injunctions in the Supreme Court.

It is interesting that on the eve of the state election, on the Friday night, the former Kennett government had barristers in the Supreme Court seeking an injunction, and in fact it was awarded an injunction based on the information that it supplied to the court. But as the committee will be aware, a few days later the Supreme Court lifted that injunction on the basis that the information that had been supplied by the then government was misleading. I believe the words that were used were that it was 'hard to find a worse abuse of process'! I cannot recall a Supreme Court making those sorts of comments about a government. It is one of the most serious things that a Supreme Court can say, and whatever the shadow Attorney-General may say about his views on freedom of information, it is a pity that those same views were not shared by him when he was in a position to do something about it.

Hundreds of thousands of taxpayers' dollars were spent on those appeals. In one case alone, the ambulance service and the Department of Human Services spent more than $1 million fighting my applications. And how many did they win? Not one! The honourable member for Doncaster says we did not win many, but I can assure him that whenever we wanted to see a loser we used to look under 'P' for Perton — Perton against the Attorney-General!

The honourable member for Doncaster raised a number of famous cases, and unfortunately he lost a number of them. I can say that, despite the fact that more than $1 million was spent in fighting them, I never lost any of those ambulance cases.

Amendment agreed to; amended clause agreed to; clause 9 agreed to.

Clause 10

The ACTING CHAIRMAN (Ms Barker) — Order! The honourable member for Berwick is unable to move amendments 3, 4 and 5 in his name because an appropriation message is required and the opposition is unable to request such a message.

Clause agreed to.

Clause 11

Mr HULLS (Attorney-General) — I move:

3. Clause 11, lines 24 and 25, omit "clause 29A is **repealed**" and insert 'for clause 29A **substitute** —

"'**29A.** ***Person whose personal privacy is affected may intervene***

If —

(a) an agency or Minister makes a decision refusing to grant access to a document under the **Freedom of Information Act 1982**; and

(b) a reason for the decision is that the document is an exempt document under section 33(1) of that Act because its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of a person —

the person to whom the information relates may intervene in a proceeding on an application under section 50(2)(a) of that Act for review of the decision.".'.

The amendment confers on a person who is a subject of personal information contained in a document exempt under section 33(1) of the FOI act the right to intervene in proceedings for a review of the decision before VCAT. This is an important step which protects personal information if a person wants to intervene in proceedings.

Dr DEAN (Berwick) — I am seeing the amendment for the first time tonight, because unlike the opposition, which provided a copy of its amendments to the Attorney-General earlier, the government did not do

that for the opposition. I suppose that is going to be par for the course from now on, but that is fair enough. I have had a quick look at the amendment and it does concern me. Firstly, it refers to an application under section 50 of the act. In that section the applicant is quite clearly the applicant as defined in the act and is not a person who would be affected by information as a third party. I wish the Attorney-General luck with the amendment because he will discover it is not possible under section 50(2) to do what he wishes to do in relation to a third party.

I also note that, unlike its amendment 4, which has already been circulated and which will insert proposed section 53A, in this amendment the government was kind enough to include a provision that people who have been notified will be told what action they can take. Most people are ordinary citizens and when they receive notification that their personal information may be released they like to know what they can do about it. Usually they can be told, 'You can make an application under this section and write a letter to such-and-such a person'. The person who drafted the amendments certainly took care of that in the amendment the house will hear about in a minute or two, but in this one, which concerns a review of the minister's decision, no help is provided to a person who receives a notification in having any idea of what they will do.

The opposition will support the amendment, but there is a gaping hole in it on the basis — —

An honourable member interjected.

Dr DEAN — Yes, it is all right to turn around, but it is terrible that the government would move an amendment that someone whose personal interests would probably be infringed unless they did something be notified but not give them any indication about what they should do. Will such persons have to suddenly go to lawyers and ask them to look up the act and tell them where they should write to, whether it be to the minister or to a department, and which one? It is sheer and unadulterated negligence to introduce an amendment with such a huge gap. It is pathetic, because the next amendment got it right and this one could have got it right. The difference is two pages — and the government still got it wrong. This is the competent government we are all watching with great interest. My response is that I will support the amendment. It has a gaping hole and probably cannot be operated under section 52 in any case. Good luck to the government. Happy Christmas!

Amendment agreed to; amended clause agreed to.

New clause

Mr HULLS (Attorney-General) — I move:

4. Insert the following New Clause to follow clause 7 —

'AA. ***New section 53A inserted***

After section 53 of the Principal Act **insert** —

"53A. ***Notification of reviews regarding documents affecting personal privacy***

(1) If —

(a) an agency or Minister makes a decision refusing to grant access to a document; and

(b) a reason for the decision is that the document is an exempt document under section 33(1) because its disclosure would involve the unreasonable disclosure of information relating to the personal affairs of a person; and

(c) an application is made to the Tribunal under section 50(2)(a) for review of the decision —

the agency or Minister, as soon as practicable after being notified of the application, must, if practicable, give written notice in accordance with sub-section (2) to the person to whom the information relates.

(2) A notice under sub-section (1) must —

(a) inform the person to whom it is directed of their right to intervene in the review; and

(b) request the person to inform the Tribunal, within 21 days after the day on which the notice was given, whether or not the person intends to intervene.

(3) If —

(a) the person does not intervene in the review; and

(b) the Tribunal orders that access be granted to the document —

the Tribunal must, if practicable, give notice of the order to the person.

(4) An order referred to in sub-section (3)(b) does not take effect until 28 days after the day on which it is made."'.

The new clause is to be inserted following clause 7 of the bill. It requires that where an agency or minister is notified by VCAT that an applicant has applied for a review of the decision by the agency or minister refusing to grant access to a document because its disclosure would involve unreasonable disclosure of personal information, the agency or minister, as soon as practicable after being notified of the review, must if

practicable give written notice to the person to whom the information relates. The written notice must inform the person to whom it is directed of his or her right to intervene in the proceedings and request that the person inform VCAT within 21 days after the day on which the notice was given whether or not he or she intends to intervene in the proceedings.

Where the person to whom the information relates does not intervene in the review and VCAT orders that access be granted to the document, then VCAT must if practicable give notice of the order to that person. The order does not take effect until 21 days after the order has been made.

It is a sensible amendment. It will ensure that people whose names are about to be released will be notified. I am sure the shadow Attorney-General will have some words to say about the amendment. It is important to reiterate that the amendments remedy the flaws in the previous bill. They are appropriate. They ensure a balance between the privacy of the individual and the release of information that ought to be released. Any comments that criticise the new legislation made by people who did nothing for the past seven years with the principal act are spurious, a joke and cannot be taken seriously.

Dr DEAN (Berwick) — I am pleased to see that the amendment has the part that the previous one should have. Proposed subsection (2) says:

> (2) A notice under sub-section (1) must —
>
> (a) inform the person to whom it is directed of their right to intervene in the review; and
>
> (b) request the person to inform the Tribunal —

so at least the person knows who to inform —

> within 21 days after the day on which the notice was given, whether or not the person intends to intervene.

That is very pleasing.

The amendments highlight two things. The first is that the government is scratching around trying to ensure that people's privacy is protected. In removing part IIIA, thereby removing the absolute protection and replacing it with a weak amendment, the government has had to scramble around because it has suddenly realised that section 33 was never an appropriate protection of personal interest and personal information. That was what the enactment of part IIIA was all about. After getting so upset about part IIIA the government has realised that it completely misunderstood the basis of it and has made a weak return to where it was. It is scratching around with amendments to try to again protect individuals in respect of their personal privacy.

The amendment goes only a short way in doing that. It is a help, thank goodness, but the government will have to start again. It will have to follow the lead of other states. It will have to look at and rewrite section 33. This is on-the-run stuff. It was done after the government had formulated its amendments, which were obviously done in haste, on the advice of somebody saying, 'Hang on, you have not even provided the opportunity for parties to be notified, to be contacted, or to do anything about it'. The very fact that the government compiled amendments with respect to notification to third parties who might be subject to the release of personal information as an afterthought and in a rush as an amendment on its amendment makes it clear that it does not understand privacy and does not have the same feeling about protecting people and ensuring they know that their privacy is under challenge as does the opposition.

The government's last-minute effort is an absolute indication that it has simply missed the game on privacy completely. It is better than nothing. At least in this case the third party who receives notice will know what to do about, so it is a start. The opposition will support the amendment. It is the first step of the very new government's trying to come to grips with what privacy and FOI really mean.

New clause agreed to.

Reported to house with amendments.

Remaining stages

Passed remaining stages.

PERSONAL EXPLANATION

Mr BRACKS (Premier) — Mr Speaker, I wish to make a personal explanation in relation to a question from the Leader of the Opposition concerning an Australian Labor Party business fundraiser last night.

In that answer I advised the house that no taxpayers' funds were used. My answer was based on advice I had received from the state party's offices. I have also been advised that invitations to the function were sent out by the party to companies listed on readily available business databases. During the course of last night's function I was aware that a small number of public servants and other people associated with public bodies were in attendance. I was advised by the state party that

in each case these people were guests of private companies who purchased the tickets.

I have subsequently learnt that 6 of the 850 tickets sold for the function were purchased by organisations that have a statutory relationship with the state government — namely, City West Water and the Victoria University of Technology. Neither organisation is a government department, nor is it part of the budget sector. However, there is a statutory relationship in that City West Water is a government business enterprise and the VUT is established under an act of this Parliament. Accordingly, I believe it is appropriate that I inform the house of the matter. Immediately on receiving advice that the organisations had purchased tickets I directed the state ALP to refund the moneys.

I advise the house that cheques have been drawn for this purpose and will be forwarded first thing tomorrow. I also advise the house that I have instructed my department to issue new protocols to all bodies that have a statutory relationship to government ensuring that no moneys belonging to those bodies are to be used for any purpose that may relate to the fundraising efforts of any political party or organisation.

CRIMES AT SEA BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr HULLS (Attorney-General).

RAIL CORPORATIONS AND TRANSPORT ACTS (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr BATCHELOR (Minister for Transport).

GAS INDUSTRY (AMENDMENT) BILL

Introduction and first reading

Received from Council.

Read first time on motion of Mr BRACKS (Treasurer).

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.

Sprayline

Mr LEIGH (Mordialloc) — I raise a matter for the attention of the Minister for Transport. It is a pity the Premier is leaving the house because this is one of the first examples of the Bracks government saying one thing to regional Victoria and doing another.

Approximately one week ago the Minister for Transport signed an order — this is not something the Kennett government has done, it is something the Bracks government has done — about an organisation called Sprayline. Throughout Geelong, Bendigo, Benalla, Bairnsdale and Ballarat some 17 local road construction jobs have now been cancelled by the new Minister for Transport. It is an interesting arrangement that has wider implications.

Today I received a letter from one of the quarrying companies that provides material to Sprayline. It states:

In the last six months —

the company —

has spent in excess of $250 000 on plant to cater for production of A grade sealing aggregate.

Mr Batchelor — On a point of order, Mr Speaker, the honourable member is reading from a document, and I ask him to make it available.

Mr LEIGH — I would be delighted. The minister's arrangement will cost the company between $100 000 and $200 000 and a number of jobs will be lost. What is even more fascinating is the attitude of government members. The Minister for Local Government, as reported on the front page of the *Bendigo Advertiser* of 3 December, said, 'The Sprayline company did not come under the government's control because it had been privatised'. It is interesting that the same thing has been reported in the paper in Benalla.

I have a copy of schedule A quality management system registration no. 2099 concerning Roads Corporation trading as Sprayline. Sprayline is owned by the Victorian government. The Bracks government says it will look after regional jobs, yet the Minister for

Transport's first order is to cancel 17 jobs in regional Victoria to create probably 4 jobs in Melbourne, if anyone is prepared to leave country Victoria. These are local people who have a good understanding of the road network, and it means goodbye for quarrying companies and Sprayline employees. The minister and the Bracks government have been saying one thing to regional Victoria and doing exactly the opposite.

Scoresby freeway

Mr ROBINSON (Mitcham) — I raise for the attention of the Minister for Transport misleading Liberal Party claims about the Scoresby freeway, and I seek the minister's urgent action to clarify the situation and to put the record straight.

In a recent newsletter circulated at taxpayers' expense Mr Phil Barresi, the federal Liberal member for Deakin, claims:

> If the Victorian government classifies the corridor —

the Scoresby corridor —

> as a road of national importance, I will continue to fight for a federal contribution.

That is a very brave statement.

My understanding has always been that it is not for the state government to declare roads to be roads of national importance. That is a decision for the federal government, and the federal government does so only where it is prepared to put in dollar for dollar.

In the case of the Scoresby freeway it is my recollection that the government of which the honourable member for Deakin is a member has not contributed even one cent to the project in all the time he has served as a member. My recollection is that the only role the federal member for Deakin has played in the project in the past few years is to assist the federal transport minister to take a helicopter ride over the proposed route — another great use of taxpayers' money when that federal member will not arrange for one cent of taxpayers' money to build the road.

It is disingenuous of the federal member for Deakin to try to blame the new state government for his shortcomings and to put in a document he circulated a paragraph stating:

> If the Victorian government classifies the corridor as a road of national importance, I will continue to fight for a federal contribution.

That is a convenient way of saying he is prepared to continue doing absolutely nothing.

If he is right, and it is the job of the state government, why did the Kennett government not put one cent towards the project in seven years? Why did the honourable members for Wantirna or Knox not organise state government funding? The matter needs clarification. It is regrettable that these myths are being peddled, and it is more regrettable that they are being peddled at taxpayers' expense in the form of a newsletter circulated by the federal member for Deakin.

Lilydale Primary School

Mrs FYFFE (Evelyn) — I refer the Attorney-General to the matter I directed to his attention last week concerning his department's reluctance to make a decision about the Lilydale courthouse. Currently the Lilydale Primary School has more than 350 students. That number grew from 212 in 1996, and it will be far higher next year.

For some time the school council has been speaking to the Department of Education about gaining access to the Lilydale courthouse if and when the facility becomes available. Prior to the last election the department had been negotiating with the Department of Justice about the lease or purchase of the courthouse. However, I am informed that those negotiations have since been placed on hold. This is an important matter that needs urgent resolution.

The Lilydale courthouse, which is valued at over $200 000, is currently classified as a heritage building on which interior work is permitted. I am informed that the building requires little or no work to make it suitable for classes. The building is currently empty, while Lilydale Primary School is far from being empty. Incidentally, the principal and the school council have chosen to have classes of more than 30 students. The school's current plan for the asset will see the building used for community activities after school hours.

For the courthouse to be considered a viable part of the Lilydale Primary School the education department requires the Department of Justice either to sell the facility to it or to offer it for long-term use. If a suitable decision is not reached soon, the school will be forced to turn its current music room into a general classroom for the new year.

On that note, I am sorry we do not have a racecourse to enable us to invite the Attorney-General to a race meeting. However, but we do have a collection of songs sung by Dame Nellie Melba that we could play for him in the courthouse when it is opened as a new music room. I therefore urge the minister to formally

dispose of the Lilydale courthouse, which will allow the school to put it to good use.

Huntly preschool

Ms ALLAN (Bendigo East) — I again refer the Minister for Community Services to the matter I raised with her on 25 November regarding the difficulty the Huntly kindergarten is having with its finances for the next school year. At the time I reminded the house of the actions of the former government in slashing funding to the kindergarten sector, the impact that had on kindergartens in my electorate and the difficulties they were having with their finances.

I am pleased to say that after I raised the matter with her the minister immediately requested her department to look into it and to meet with representatives of the kindergarten. I have also spoken to Department of Human Services officers in my area. It is important to look at the future numbers of three and four-year-olds, not just for next year but for a projected 5 to 10 years down the track to ensure the long-term viability of the kindergarten.

When I was contacted yesterday by the treasurer of the Huntly kindergarten I was disappointed to be informed about the meeting held with the department last week. I regret to have to inform the minister that the meeting did not go as well as the kindergarten, the minister or I would have hoped. Although the meeting was an outcome of the directive the minister gave when she visited Bendigo early in her term as minister, the options canvassed by the department had already been thoroughly examined by the executive of the kindergarten and ruled out as not being viable. The only option the department gave the kindergarten in the end was to top up the four-year-old kindergarten numbers by incorporating three-year-old pupils with the four-year-olds — an unsatisfactory situation for both the pupils of the kindergarten and their parents.

It was also interesting to note that the department thought it was the kindergarten's job to look into the long-term three and four-year-old population numbers in the area, despite the minister having given a directive that the department was to look into it because with its resources it is best placed to do so. Unfortunately, the kindergarten now has to consider offering fewer hours, increasing its fees and putting more fundraising demands on parents.

I ask the minister to again look into the Huntly kindergarten's financial situation for next year and to consider a strategy for examining the long-term three and four-year-old population in the Huntly area, because there is clearly a need for some long-term planning. I am pleased to say, as I stated earlier — —

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

Police: Cobram station

Mr JASPER (Murray Valley) — I refer the Minister for Police and Emergency Services to the lack of police numbers at the Cobram police station. Honourable members will be aware that my electorate of Murray Valley contains a number of near-new police stations. The construction of the Cobram police station, which was built in 1986, was approved by a former Labor Minister for Police and Emergency Services, the Honourable Steve Crabb. The facility is of a high standard. However, although the station has an approved strength of 10 police officers, that has recently been reduced to 3 police officers. The formerly approved manning level was 1 senior sergeant, 1 sergeant, and 8 other officers.

The situation, which requires action by the minister, was brought to my attention last weekend, when a service station in Cobram was robbed. During the robbery the service station attendant was attacked and ended up in hospital needing immediate attention. Unfortunately, there were no police on duty at the Cobram station at the time, so police officers were unable to get to the area quickly.

Recently three police vacancies in Cobram were advertised, and I understand that a further vacancy will be advertised. When those positions are filled, the police strength at Cobram will be seven. However, as I said, at present there are only three officers at the station, so there is an urgent need to immediately increase the number of police at Cobram to meet not only current policing requirements but also future requirements.

I inform the Minister for Police and Emergency Services that the lack of police numbers in Cobram is well known. That has led to an increase in the crime rate and, in turn, a rise in the number of complaints made to me about the lack of appropriate police numbers in the area. As I said, I am not complaining about the facilities at the Cobram police station, because they are excellent. However, the minister must investigate whether additional police can be allocated over a consistent period to provide appropriate services for the township and surrounding areas.

Ivanhoe East Primary School

Mr LANGDON (Ivanhoe) — I ask the Minister for Education to clarify the funding arrangements made by the previous government for the Ivanhoe East Primary School. My opponent at the last election and an upper house colleague of his visited the school in September, promising half a million dollars for an upgrade to enable the school to dispose of a large number of portables. Several parents have reported back to me that it was one of those typical commitments given by the previous government, which promised people money so long as they voted for the Liberal candidate.

On 30 November an upper house member of the opposition asked whether the school would get the half a million dollars. In doing so he said that he had been to the school and had seen that it urgently needed upgrading. He also argued that in the 10 years of the previous Labor government it had never received any money.

I ask the minister to clarify whether the previous government had allocated half a million dollars or whether it was one of those hollow promises it typically made. I believe it is a hollow promise, but I ask to minister to clarify the situation. It is another of the untruthful episodes in the history of the Ivanhoe electorate. All honourable members on the government side will recall the previous commitment made about the Colosseum Hotel site and how false that was.

The situation at Ivanhoe East Primary School is a typical example of the previous government's misleading of the Ivanhoe electorate. An upper house member for Templestowe Province, Mr Furletti, had the unmitigated gall to state in the other place that he had said that no matter who the honourable member for Ivanhoe was, the funding would be there. Mr Furletti must have knowledge that the previous government did not fund it and he is trying to transfer to the current government his inability to receive that funding.

I ask the minister to clarify once and for all whether the previous government had allocated $500 000 to the school from Department of Education funds and, if not, what hole is left behind. I also urge the minister to consider the school in future funding rounds. In April 1998, well before my upper house colleague, I raised the needs of the school and praised the school and its teachers, principal and council. I urge the government to consider funding the school within the four-year program and to not mislead the school and school community as did the previous government.

Orchard Grove Primary School

Mr WILSON (Bennettswood) — I direct the attention of the Minister for Education to an ongoing issue at Orchard Grove Primary School in my electorate. A major refurbishment project at the school in the early 1990s left the school in a rather unfortunate financial position. I seek the minister's intervention in solving the problem.

The original contractor for the refurbishment project commenced winding-up proceedings in May 1991, and soon after a number of defects were identified that were attributed to poor workmanship, inadequate materials or defective installation. I am advised that the workmanship did not comply with the architect's specifications in all instances. Expenditure between 1992 and 1997 on those works totalled over $78 000. In addition, a departmental audit in August 1997 identified future maintenance works in excess of $71 000 for assets at the school in either a worn or fair condition.

The school's global budget will be under pressure for a number of years if it is not allowed to retain the full guarantee plus interest of the failed building contractor. Education Victoria has signalled that the school will be able to retain a small portion, about $15 000, but the rest of the moneys must be returned to the department.

I ask the Minister for Education, to whom I have written about the matter, to intervene and give the Orchard Grove Primary School the opportunity to move forward and leave that unfortunate event behind it.

Road safety: national rules

Mr SEITZ (Keilor) — I raise for the attention of the Minister for Transport the implementation of the standard road rules that will come into effect on 1 December. I ask the minister to consider whether the requirements under the associated acts and regulations can be phased in progressively. Some changes do not have to be implemented by local government until 2005, but some must be implemented almost immediately — for example, the use of disabled identification stickers. Local government has not able to get those prepared beforehand because of problems associated with the short time between the proposal and the implementation of the regulation, including the design of the stickers and having to choose the form the proposal would take.

Australia is moving towards a standardised system of road signs, rules and traffic movement. It is best to have one standard, especially if a person travels interstate. A family in my electorate was caught out by the different

rules that apply for U-turns at traffic lights in Sydney and Melbourne. Such inconsistencies cause much confusion and hardship, particularly when people are fined. Those Victorians thought they were being taken for a ride, with their money being taken by New South Wales authorities!

I commend the new road rules but ask the minister to consider whether the introduction of some of the changes that might attract big fines that would be difficult for people to pay or involve preparatory work might be extended to 2000, for local government in particular. That would allow time for the work not allowed for in the regulations to be carried out before the rules are implemented.

Lastly, I ask the minister whether a public campaign might be undertaken to make Victorian drivers aware of the new rules and regulations that apply to road users. In that way, come the Christmas holiday period, Victorian drivers travelling interstate and drivers visiting from interstate will be familiar with the new rules — for example, those relating to the priority a driver turning into a road must give to other traffic and pedestrians. Many minor changes will be introduced.

Election: ALP commitments

Mr WELLS (Wantirna) — I ask the Premier to take decisive action in implementing election promises. As a backbencher I listen to many dorothy dixers asked by government members. The government is ensuring it is a no-go government by boxing up all election promises into committees.

To give a few examples, the government's answer to the drugs problem is to set up an expert committee; the answer to addressing public sector waste is the creation of an expenditure review committee of cabinet; the answer to problems in industrial relations and the manufacturing industry is to set up a consultative committee; the answer to issues surrounding Workcover and serious injuries is to establish a representative working group; the answer to addressing unmet demand for crisis support accommodation services is to set up an inter-agency working party — although I have to admit the minister is genuine about making a difference; the answer to Workcover and common-law rights — —

The SPEAKER — Order! I ask the Clerk to stop the clock. The Minister for Local Government, on a point of order.

Mr Cameron — On a point of order, Mr Speaker, an honourable member should raise one matter during the adjournment debate. The honourable member for Wantirna is seeking to raise a range of matters about a series of commitments.

Mr WELLS — On the point of order, I made it clear in my opening remarks that my one point of concern was that the Premier take decisive action to implement the government's election policies.

The SPEAKER — Order! There is no point of order.

Mr WELLS — I will continue because I know I have hit a nerve.

The answer to the problems in education and self-governing schools is to set up a working party; the answer to trying to get the Snowy River to flow again is to set up the Snowy implementation group; the answer to the problems associated with the dismantling of health networks is the formation of a panel; the answer to addressing the ICT — information and communications technologies — sector's future is the formation of the information industry advisory group; the answer to addressing the neglect of public housing is the creation of a consultative advisory committee; and the answer to considering Workcover and dangerous places is the formation of a tripartite body. Just when we have about run out of names, the answer to addressing planning issues relating to sporting venues is to form an operational advisory committee.

I put it to the Premier that any call for decision making is simply referred to a committee. The government does not have decision-making processes in place and does not have the ability to implement decisions itself. I call on the Premier to take some real action — not to just mouth words or make a referral to some airy-fairy committee. Victoria had a can-do government under Kennett. The opposition calls on the new minority Labor government to implement its election promises so the state can get on the move instead of being boxed up as it was in the Cain–Kirner days.

Disability services: residential units

Mr MAXFIELD (Narracan) — I raise with the Minister for Community Services a new residential home in Warragul that caters for six people with a range of disabilities. Months ago the previous honourable member for Narracan said the places would be for people in the local shire, yet when it opened two places went to people from Wonthaggi — possibly three now — one to someone from Sale and only two to people from the local area.

Since then a family in Warragul has been offered a place in Moe. The provision of a residence out of

someone's home town takes that person away from support services, including family support and in many cases day placement. Can the minister investigate the placement in residential units across Gippsland to ensure that wherever possible people are placed in their home towns, thus ensuring the move from the family home to residential care is made as easy as possible? In Warragul a wonderful group of parents has been working hard to ensure those children will be cared for.

Honourable members interjecting.

Mr MAXFIELD — It is sad that some opposition members seem to think this is not an important issue. They do not understand about caring for the disabled. We can tell a lot about a community and about a person by the way the sick, the young and the disabled are looked after. Government members are committed to raising such issues and looking after those who are disabled to ensure they are given the best possible care and are kept within the community in which they belong. We do not want to be shipping them from one side of Gippsland to the other where they cannot be with their families and friends. We need to ensure the placements are made in their home towns, in the places where they belong, with their friends, families and supporters.

Mawarra in Warragul is a wonderful place that cares for the disabled. It has fantastic day placements because it cares. We care about the disabled in our community. It is a shame that you do not.

The SPEAKER — Order! The honourable member shall direct his remarks through the Chair.

Mr MAXFIELD — I am sorry, Mr Speaker. Mawarra has such wonderful residential care during the day that many parents have moved into the district to access those services. Those parents are suffering because they cannot obtain residential care in their areas.

Schools: Frankston

Ms McCALL (Frankston) — Before I raise a specific issue with the Minister for Education, I point out that I have no difficulty with the excellent schools in my electorate — all 10 state schools and 6 private schools. Since 1992 they have been wonderfully maintained after recovering from the backlog left when they had been sorely neglected through the previous 10 years of Labor rule. I refer the minister to the physical resources management system or the maintenance backlog program that was promised by the previous education minister, the Honourable Phil Gude. I will read the names of the schools and the quantities of money that were promised: Derinya Primary School, $5855; Frankston High School, $282 965; Frankston Primary School, $24 820; Kananook Primary School, $7930; Kunyung Primary School, $49 490; Mount Eliza North Primary School, $465 596; Mount Eliza Primary School, $60 563; Mount Eliza Secondary College, project to be finalised; Mount Erin Secondary College, $81 234; and Overport Primary School, $355 957.

Those schools waited their turn until the Labor backlog had at least begun to be addressed, particularly in my electorate. Is the minister prepared to fulfil the undertakings given by the previous Minister for Education that this backlog will finally be dealt with?

Responses

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Murray Valley referred to the lack of police numbers at the Cobram police station.

Mr Leigh interjected.

Mr HAERMEYER — You would have great difficulty getting anything, I would say.

The SPEAKER — Order! The minister should ignore interjections.

Mr HAERMEYER — I apologise, Mr Speaker. The honourable buffoon for Mordialloc is hard to refuse.

The SPEAKER — Order! The minister shall refer to honourable members by their correct titles.

Mr HAERMEYER — I am sorry, Mr Speaker; at least I got the seat right.

The SPEAKER — Order! I ask the minister to cooperate by calling honourable members by their proper names.

Mr Perton interjected.

The SPEAKER — Order! The honourable member for Doncaster is not assisting.

Mr HAERMEYER — The pompous dandy from Doncaster cannot resist it, either.

The honourable member for Murray Valley raised a serious matter. It is sad that some opposition members do not take the issue as seriously as the honourable member for Murray Valley does. At least he had the

decency to raise the matter. He has spoken to me about it.

Honourable members interjecting.

The SPEAKER — Order! I ask the honourable members for Doncaster and Mordialloc to cease interjecting.

Mr HAERMEYER — The honourable members at the table obviously do not share the concern of the honourable member for Murray Valley. This is a serious issue.

The honourable member said that the Cobram police station had been built under the previous Labor government and was of a high standard. He indicated it has a normal strength of 10, which has been reduced to about 3 as a result of the deliberate policies of the previous government to reduce the size of the police force by attrition. That is an indictment of the way the previous government went about the business of running law enforcement and the police force. The previous government deliberately cut 800 police out of the police force through a process of managed attrition over three years. Despite its loud law and order rhetoric, at the same time it was out there cutting the police force that was entrusted with the job of trying to bring the Victorian crime problem under control.

Last weekend there was a robbery at a service station in Cobram. As the honourable member for Murray Valley pointed out, the attendant was attacked and had to be hospitalised. He also said that no police were available to attend, which is a story that is not unique to Cobram. The same story has been recited to me from an array of areas across Melbourne, and it is a sorry indictment of the way the previous government treated our police force.

Mr Leigh interjected.

Mr HAERMEYER — The honourable member for Mordialloc interjects by asking, 'What are you doing?'. Notwithstanding the cynicism with which the honourable member treats such matters, the government is committed to introducing some 800 additional police to the front-line operational strength of the Victoria Police over the next four years and will restore the police force to the strength at which it should be operating.

The allocation of police to individual police stations is a matter for the chief commissioner and, as I have said, the government will give the chief commissioner the numbers of police to enable him to address shortages across Victoria. I will refer the matter raised by the honourable member for Murray Valley to the chief commissioner and will reply to him accordingly.

Ms CAMPBELL (Minister for Community Services) — I will deal firstly with the issue raised by the honourable member for Narracan about an investigation of placements across Gippsland to ensure that people with disabilities are placed in their home towns. When I visited the Gippsland regional office of the Department of Human Services the honourable member for Narracan ensured that I stopped on the way at Yarragon to meet with the families who have fought hard to ensure there is a community residential unit in Warragul.

It was a productive meeting. That competent group of parents have put together an excellent proposal. All their work is based upon improving the lives of their sons and daughters who have some form of disability.

I was concerned when I learnt that the home in Stoffer Street, Warragul, was built to ensure that six people with disabilities were given appropriate long-term accommodation. The department has only two people from Warragul in that Stoffer Street home, and I share the concern expressed by the honourable member for Narracan that families from Wonthaggi are travelling to Warragul, Warragul families are travelling to Moe, Sale families are coming up to Warragul and some of the Warragul families are going further to East Gippsland.

I will ensure that the department carries out a thorough investigation into what is happening. We do not wish to isolate people with disabilities from their families, homes, friends and day placements, particularly the day program at Mawarra. I have visited that outstanding facility, which provides an excellent service.

A financial and time cost is involved for rural families travelling greater distances, and many of them have ageing parents. It is inappropriate for their sons and daughters to be travelling such distances from their family homes and friends. I will ensure that the regional office follows up the matter, and I will report back to the honourable member for Narracan and to the families of Warragul who have raised the matter.

The honourable member for Bendigo East again referred to the Huntly preschool. My children's service officers are in an invidious position, and parents and staff of the preschool are working desperately to keep it open. I am conscious that they are battling with a black hole because $16 million was ripped out of preschools by the former Kennett government, which then handed back management of the preschools to committees of management. I will ensure that a children's services

officer visits the preschool again, because I am not convinced from the information supplied to me by the honourable member for Bendigo East. One must wonder why there are more children in the preschool area than are currently taking up places. Without more children enrolling in the Huntly preschool its future will be more problematic.

I will ensure that the Loddon–Mallee children's service officer, together with the senior project officer, follows up the Huntly preschool matter again, and this time I will ask them to follow up where children in the Greater Bendigo area are not accessing preschool. In consultation with the city, the local community and a committee of management, there should be more children enrolling in the Huntly preschool, and as a result its financial future will be assured.

Mr HULLS (Attorney-General) — The honourable member for Evelyn referred to me the matter of one the schools in her area wanting to access the Lilydale courthouse if and when it becomes available. She said that the Department of Education, Employment and Training and the Department of Justice have been involved in the negotiations and that she had raised the issue with me earlier. I apologise to the honourable member, but I have not received any earlier correspondence.

However, now that it has been raised with me I will take it up. I have had a brief conversation with the Minister for Education. The minister has told me she is more than happy to discuss the issue. I will raise the matter with departmental officers and advise the honourable member in due course.

Ms DELAHUNTY (Minister for Education) — The honourable member for Ivanhoe referred to me the election confetti the former government threw around the East Ivanhoe Primary School during the last election campaign. The honourable member said that during the election campaign the former government offered a threat or a bribe, depending on your definition, that the school would receive a $500 000 upgrade so long as the electorate of Ivanhoe returned a coalition member.

The honourable member asked me about the status of the upgrade and whether money had been allocated by the previous government in its budget or forward estimates. I have looked in vain. I am advised that there is no evidence of a budget allocation of $500 000 for the upgrade. It was not approved by the previous Minister for Education for the planning program in the 1999–2000 financial year, nor has it been approved for the master plan for 2001–02. A cruel and callous trick was played on the people of Ivanhoe. They resisted it, as well they should.

The government is committed to quality education and education infrastructure in all its schools. I ask the school community of East Ivanhoe Primary School to raise the matter if it is considered urgent so it can be considered in the next round of planning for capital works upgrades.

The honourable member for Bennettswood raised for my attention the Orchard Grove Primary School in Blackburn South. The issue was complicated, and the honourable member has now given me a letter. The matter relates to poor workmanship, expenditure over the past five years of about $78 000 and insufficient completion of the job, failed building standards, or both. I will examine it and get back to the honourable member quickly.

The honourable member for Frankston raised for my attention the physical resources management system money that was promised by the previous Minister for Education. I had some difficulty hearing the detail of the issue outlined by the honourable member, but she referred to a number of schools in her electorate. It reminded me of a previous comment by a former Minister for Education, who said that some schools are awash with money. I do not think the honourable member was referring to money in school bank accounts, but promised PRMS money. In the absence of evidence that this money has been allocated, I will investigate the issue. If it has been allocated and is in the PRMS budget money the honourable member will certainly find that the schools in her electorate will receive it.

Mr BATCHELOR (Minister for Transport) — The honourable member for Keilor raised with me the implementation of the new Australian road rules. He spoke in the adjournment debate tonight because he has an ongoing interest in road safety and is concerned about the way the new laws and changes will impact on his local area.

If I recall correctly, the honourable member mentioned in particular the implementation date of the new Australian road rules. He also raised with me the need for an extensive publicity campaign and the prospect of funding being provided to enable local government to implement these changes.

I assure the honourable member for Keilor that the implementation of the national uniform road rules is an important landmark in road safety, not only in Victoria but in Australia generally. The new road rules came

into effect on 1 December 1999 and have been implemented from that date.

Enforcement is an issue for the police to consider as an operational matter. They will use their judgment on the way they implement the new road rules. I will not suggest to the police how to carry out that task, but I understand they will show commonsense and discretion and play an educative role in the enforcement and implementation strategy.

The rules on providing funds to local government to implement the changes are the result of the implementation of a national strategy. Because this is a fundamental change the rules have a cost impact on all three tiers of government, and they will be implemented for road safety reasons. Benefits will accrue to the Australian community, to the local population and to the economy.

Accordingly, all levels of government should ultimately be beneficiaries, as will the community, as a result of the introduction of those changes. There will be costs at the state and local level, as there will at the national level, and it is the responsibility of each tier of government to fund the costs. I understand local councils will organise their budgets to implement the changes that they have responsibility for at a local level, particularly signage and line markings.

As to the request for an extensive publicity campaign, I assure the honourable member for Keilor that the government has already acknowledged that there is a need for that. The government has taken a number of steps to progressively and systematically bring those changes to the attention of the public at large.

Firstly, Vicroads has placed advertisements in the newspapers, including community newspapers. It has produced a leaflet, which is available for wide distribution through the Vicroads outlets and community organisations. You would be pleased, Mr Speaker, to know that the Vicroads leaflet explaining those new changes is printed in 13 or 14 different community languages.

A telephone inquiry line has been established so people can make calls and ask specific and detailed questions, and if members of the public are even more interested they can get free information on the Internet outlining details of the regulations.

The government, through the good offices of Vicroads and the Victoria Police, as well as through my efforts, has taken these steps to make sure the matter comes to the public's attention, and it has received widespread publicity in the free media as well as in the paid media and on the Internet. We believe there is a growing realisation of what the new road rules are and how they will impact on motorists, cyclists and pedestrians. We hope people will acknowledge that it is a significant breakthrough. In the history of our nation it has taken a long time to accomplish, and the Bracks Labor government is proud to be able to implement these changes.

The honourable member for Mitcham raised with me a matter referred to in a political broadsheet called the *Barresi Report* distributed as part of his election campaign by the federal member for Deakin. The *Barresi Report* is a political journal that can otherwise be described as a farrago of lies and distortions. One would expect nothing less from that member of federal Parliament. It is a pity the honourable member for Mitcham has to deal with such distortions that make a political point. In the most recent edition of that infamous journal the member for Deakin makes a number of allegations that are incorrect. In particular, as the honourable member for Mitcham correctly points out, he makes a false claim about how the Scoresby freeway might be declared a road of national importance. Such roads are known in the industry as RONIs.

The mechanism declaring roads within a state as being roads of national importance lies with the federal government, of which the member for Deakin is part. The Victorian government would certainly support the federal member for Deakin taking the matter forward and having the Scoresby freeway declared a road of national importance. We lay down the challenge tonight for the federal member for Deakin to use his influence within the federal government to deliver on it. If he is unable to do that — —

Mr Leigh — On a point of order, Mr Speaker, that road could have been dealt with in 1991 if the then government had not changed the arrangements. It is an outrage that he can stand up and — —

The SPEAKER — Order! There is no point of order. I ask the honourable member not to abuse points of order in that way.

Mr BATCHELOR — It is clear that the honourable member for Mordialloc does not want his colleague the federal member for Deakin to raise the matter and have the Scoresby freeway declared a road of national importance. He has identified a split between the national and state levels of the Liberal Party over the approach to the Scoresby freeway.

Given that I have supplied the federal member for Deakin with that basic information, I expect he will redirect his energies and attitudes and use his influence

in getting the federal government to live up to its responsibilities in respect of the proposed Scoresby freeway and provide the $800 million that is necessary for its construction.

As I have said previously, the freeway was not funded by the previous state Liberal government and there is now an opportunity for that funding to be picked up by the federal Liberal government. I wish the federal member well and will wait with bated breath to learn of his success. The government will be watching. It will monitor his efforts and keep him up to the mark with the task. He should not be held back by the attitude of the Victorian Liberal Party, which wants to create dissension, fear and uncertainty about the proposed freeway.

The Labor government is in the process of providing the planning regime it is responsible for. The reservation will be in place; the land will be made available. However, the government would like to see the federal Liberal government to provide the sort of funding it provided for the Western Ring Road. It is hoped that Mr Barresi will be able to do that. I thank the honourable member for Mitcham for his continuing interest in improving the basic infrastructure of the outer eastern and south-eastern suburbs.

The honourable member for Mordialloc raised with me the issue of Sprayline, a corporate entity owned by Vicroads which conducts a commercial operation in road repairs. It is a pity the honourable member for Mordialloc is engaging in a scaremongering campaign. It would be more helpful to the people of rural Victoria if he understood what was happening and the structural relationship that exists within the industry. Sprayline plays a crucial role in the road repair industry and it is needed as a government-owned enterprise to prevent the state's being held to ransom by large oligopolistic forces.

The honourable member for Mordialloc scratches his head when I try to explain the relationship. As a corporate entity Sprayline is required to operate as a successful commercial business and the government supports its ongoing role as a viable commercial — —

Mr Leigh interjected.

The SPEAKER — Order! The honourable member for Mordialloc has been called to order many times today. I ask him to cease interjecting and warn him.

Mr BATCHELOR — In particular, the government supports the role of Sprayline in keeping the other major foreign-owned companies honest. If it were not for Sprayline no competition would be provided in the marketplace and the government would have to pay much higher prices — a matter that is of no concern to honourable members opposite. It would also mean the industry would fall into the hands of a few, and the jobs of many more people from around rural Victoria would ultimately be threatened.

This is the exact point that is made in the letter from Extons Quarries that the honourable member for Mordialloc referred to tonight. The honourable member for Mordialloc quoted selectively from the letter sent to him. He missed the significant economic and political point made in it. The letter from Graeme Exton of Extons Quarries, addressed to Geoff Leigh, shadow Minister for Transport, states:

> The multinational companies will supply materials from multinational quarries and the small quarries will die, which in turn will form a monopoly in the road surfacing field which will eventually lead to price rises.

That is exactly the point I was making. If the government is unable to take steps to keep Sprayline as a viable commercial entity that is able to compete with large multinational corporations not only will jobs be lost at Sprayline, which would be a disaster, but the road surfacing industry would be in the hands of an oligopolistic structure that would lead to a reduction in the local sourcing of raw materials and high price rises. Rural Victoria, particularly rural workers, would suffer from that. One would have thought that would be obvious to the honourable member for Mordialloc, and if it was not obvious to him in the first instance one would have thought he would have read the letter to understand the commercial advice being given to him.

The government wants Sprayline to be successful by winning tenders and operating across rural Victoria. I have raised with Vicroads the allegations that have been the subject of rumour over the past couple of days, and it is examining what is going on. I will take up the issues raised by the honourable member for Mordialloc, but the matter has already been raised with me by the two very active local members, the honourable members for Bendigo West and Bendigo East, and the government is already on the job of addressing it and trying to make sure that Sprayline remains viable by winning tenders and by providing long-term employment.

The honourable member for Wantirna raised a matter for the attention of the Premier, and I will refer that matter to him.

Motion agreed to.

House adjourned 11.58 p.m.