PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FOURTH PARLIAMENT

FIRST SESSION

5 September 2000

(extract from Book 3)

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By authority of the Victorian Government Printer

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FIFTY-FOURTH PARLIAMENT — FIRST SESSION

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

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

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TUESDAY, 5 SEPTEMBER 2000

Tuesday, 5 September 2000

The SPEAKER (Hon. Alex Andrianopoulos) took the chair at 2.04 p.m. and read the prayer.

DISTINGUISHED VISITOR

The SPEAKER — Order! It gives me great pleasure to welcome to the gallery Senator Kong Korm, the Deputy Leader of the Opposition Party of Cambodia, the Sam Rangsy Party, and the leader of that party in the Senate of the Royal Kingdom of Cambodia. Welcome, Sir! I hope you find question time informative.

MAS: ROYAL COMMISSION

The SPEAKER — Order! Today Mr President and I co-signed a letter addressed to Ms Stephanie Cleary, the secretary of the Metropolitan Ambulance Service royal commission, concerning parliamentary immunity. The letter states:

> Re: parliamentary immunity
>
> We have been handed a copy of your letter of 31 August 2000 to Mr Ian Killey, assistant secretary, Legal Branch of the Department of Premier and Cabinet. The letter indicates that a 'debate' is to take place on 6 September, in which it is suggested that the commissioner will deliver a ruling as to whether or not he proposes to permit cross-examination of past or present parliamentarians.
>
> We are surprised that, despite public comments apparently emanating from the commission, no approach has been made to the Presiding Officers from the commission on these issues up to the present time.
>
> The purpose of this letter is to address itself simply to the question of whether any examination can be made of a present or former member of Parliament in relation to any matter raised by a member in either house of the Parliament.
>
> It is our firm view that:
>
> 1. No such examination may take place;
>
> 2. The privilege attaching to such parliamentary proceedings as contained in the bill of rights is the privilege of the Parliament and not something that can be waived by individual members;
>
> 3. The Parliament itself has no power to permit its members or former members to waive any such privilege;
>
> 4. Any attempt to cross-examine a member of Parliament or a former member of Parliament in relation to any matter which arose in proceedings in either house would be a contempt of the Parliament and a breach of privilege.
>
> Any questioning of members of Parliament or former members in relation to matters which did not arise during the course of parliamentary proceedings would be a matter for the commission.
>
> We trust that this clarifies the matter from the point of view of the Victorian Parliament.

I shall advise the house further when communication on the letter is received from the royal commission.

PARLIAMENTARY PRIVILEGE

Complaint: misleading the house

The SPEAKER — Order! Last Wednesday I indicated to the house that a matter of privilege relating to the Minister for Education had been placed before me for consideration and that once I had deliberated on it I would report back to the house.

In considering the matter it was clear from relevant authorities — that is, *May* and previous decisions by former Speakers, including Speaker Plowman — that the Chair must be satisfied that there is clear and substantial evidence that the action of the member concerned was one of intent.

After careful examination of all the evidence provided in the present case, I cannot arrive at that conclusion.

Opposition members interjecting.

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

There is no clear and substantial evidence, firstly — —

Opposition members interjecting.

The SPEAKER — Order! The Chair will not hesitate to use sessional order 10 to deal with any more disturbances.

There is no clear and substantial evidence, firstly, of a denial by the minister of the existence of two pages.

Opposition members interjecting.

The SPEAKER — Order! The Leader of the Opposition!

During consideration of the subsequent points of order raised — —

Opposition members interjecting.

The SPEAKER — Order! The honourable member for South Barwon will find himself outside the chamber very shortly.

During consideration of the subsequent points of order raised, the minister was not asked whether two pages were originally attached. She was actually asked whether she was referring to any other document, and she stated that she had made available the document to which she was referring.

Secondly, there is no clear and substantial evidence that in making available the sheet she was quoting from at the time of the request the minister was deliberately retaining one sheet with the intent to mislead the house.

Thirdly, there is no clear or substantial evidence to show when the two pages were separated.

In her personal explanation the minister confirmed the existence of two sheets of paper — —

Mr McArthur interjected.

The SPEAKER — Order! The honourable member for Monbulk!

In her personal explanation the minister confirmed the existence of two sheets of paper but indicated her understanding that she had agreed only to make available literally the single document she was quoting from at the time.

Opposition members interjecting.

The SPEAKER — Order! The Leader of the Opposition!

Accordingly, I do not find that a prima facie case exists which would take precedence over the business of the house. I have, however, advised the honourable member who lodged the issue with me that the option exists of raising the matter by way of substantive motion.

The Chair was very tolerant of the level of interjection while advising the house of the decision. I ask the house to respect the forms of this place in that when the Chair is on his feet making a statement or an announcement there is silence.

Mr Honeywood — On a point of order, Mr Speaker, given the overwhelming evidence on this matter, I wish to move a motion of dissent against your ruling.

The SPEAKER — Order! There is no point of order. If the honourable member wishes to pursue that course I will call him at the appropriate time.

Mr Richardson — On a further point of order, Mr Speaker, I seek your clarification. Why did you ignore the video evidence?

Honourable members interjecting.

The SPEAKER — Order! There is no point of order.

Honourable members interjecting.

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

QUESTIONS WITHOUT NOTICE

Minister for Education: conduct

Dr NAPTHINE (Leader of the Opposition) — Given that all Victorians know that the recent behaviour of the Minister for Education has been totally unacceptable — they have seen it on their televisions — I ask why the minister does not do the right thing and resign?

Honourable members interjecting.

The SPEAKER — Order! I warn the honourable member for Bentleigh.

Mr Hulls interjected.

The SPEAKER — Order! The Attorney-General!

Ms DELAHUNTY (Minister for Education) — The answer to the question is no.

Rail: regional links

Mr TREZISE (Geelong) — I refer the Premier to the government's commitment to grow the whole of the state. Will he inform the house of details of the historic boost to Victoria's rail network?

Honourable members interjecting.

The SPEAKER — Order! The Chair is having difficulty hearing the honourable member for Geelong. The honourable member for Mordialloc in particular should cease interjecting.

Mr TREZISE — I refer the Premier to the government's commitment to grow the whole of the

state. Will he inform the house of details of the historic boost to Victoria's rail network?

Honourable members interjecting.

The SPEAKER — Order! The honourable members for Ivanhoe and Springvale shall cease interjecting.

Mr BRACKS (Premier) — I thank the honourable member for Geelong for his question and his interest, together with that of other members of Parliament, in the regional Victoria fast rail network.

Today is a memorable day for Victoria. For the first time in 100 years a government has had the courage to invest in regional rail. The investment announced today is the most significant in the past 100 years. The underground loop system in Melbourne is the only bigger investment.

The announcement can be contrasted to the closure of rail lines by the previous Liberal and National Party administration. With the complicity of the National Party, rail services, including the *Vinelander* and some in Gippsland, were closed.

The project will be the largest upgrade of Victoria's regional rail service since the four lines to Bendigo, Ballarat, Traralgon and Geelong were opened in the 1800s. It will be the first project to be funded as a public–private sector partnership project under the Partnerships Victoria policy, with major works to be undertaken by late 2001. Calls for tender and investor interest will take place in the first half of next year. Billions of dollars have rightly been invested in the road system this century, but very little, if anything, has been invested in the rail system to renew regional freight and passenger rail links.

Feasibility studies released today show that the project will reduce travelling times to the four key provincial centres and result in substantial improvements in jobs, population and investment growth in those regions. The studies estimate that the total cost of achieving travelling times of 60 minutes to Ballarat, 80 minutes to Bendigo, 45 minutes to Geelong and 90 minutes to Traralgon will be approximately $800 million. It is a significant project that will contribute to a significant building of the state.

Mr Wilson interjected.

The SPEAKER — Order! The honourable member for Bennettswood.

Mr BRACKS — I do not want to respond to the interjection — 'Why don't you put it in the city?' — but it is typical of city-based Liberals.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is unacceptable. The Premier should ignore interjections, as he knows they are disorderly. I ask the honourable members for Doncaster and Warrandyte and the Leader of the Opposition to cease interjecting.

Mr BRACKS — The government will provide $550 million towards the project from the Growing Victoria reserve, which will include the $80 million allocated to kick-start the project in the first place.

The project is fundamental to growing the whole state. It is not just about transport but about the shape and size of Victoria in the future. The government wants to see the benefits of economic growth, which are already evident in the centre of Melbourne, spread out to the rest of country Victoria, including the major provincial centres and the regions that spread out from them.

I am pleased the studies found that the introduction of the links will increase the population in the four rail corridors and further up those lines by 21 000.

Mr Perton — On a point of order, Mr Speaker, your guidelines indicate that 5 minutes is appropriate to answer a question. If the Premier wants to make a ministerial statement, the Liberal Party is ready to accommodate him.

The SPEAKER — Order! I am not prepared to uphold the point of order as there have been numerous interjections that have eaten into the Premier's time. However, I remind the Premier of the need to be succinct and to conclude his answer.

Mr BRACKS — The studies found that by 2021 the introduction of fast rail links into Victoria's provincial centres would increase the population in all four rail corridors by 21 000, which is significantly higher than the figure forecast originally.

The project will start at the end of 2001 and is expected to take about five years to complete. It is biggest single investment in country Victoria in living memory. It will renew a 19th century rail system for a 21st century commuter population and is another demonstration of the government's commitment to regional and rural Victoria. The government is opening and expanding rail lines; the previous government closed them.

Barley: industry deregulation

Mr STEGGALL (Swan Hill) — Given that 84 per cent of Victoria's barley growers are in favour of the maintenance of the single desk for export barley, can the Minister for Agriculture advise the house what action he intends to take on the future of the single desk for the barley industry in Victoria?

Mr HAMILTON (Minister for Agriculture) — The rabid deregulation policies of the former Kennett government that resulted in the introduction of legislation and a sunset provision of 30 June 2000 for the remaining single desk export policy will see the export of barley deregulated and subject to competition. The Bracks government is committed to the national competition policy guidelines and thereby will become eligible for the third tranche payments from the federal government under the national competition policy.

As the honourable member for Swan Hill would know, unlike dairy deregulation the barley growers in Victoria have no single preferred position. Indeed, there is a great deal of debate going on, and I am aware that the Victorian Farmers Federation through its grains group would prefer to see the barley regulation of the export part of the industry rolled over until 2004, as will happen in South Australia. Given that there is a marked relationship between Victoria and South Australia, that is an understandable position. By the same token, following the undoubted success of the deregulation of the domestic market in barley and the advantages that have transferred to growers in Victoria, a significant number of barley growers are also looking for the deregulation of the single desk.

The government sought information from growers, exporters and those involved in the barley industry. Subsequently it prepared a discussion paper, and the week before last I wrote to 27 key stakeholders in the barley industry putting forward the arguments for and against the continuation of deregulation. I am awaiting the response from them. Once the government has that response, it will, as it always does, make a decision that is in the best interests of Victorian farmers, in this case the barley growers.

Education, Employment and Training: consultancies

Mr HONEYWOOD (Warrandyte) — Given that the Minister for Education promised to release a list of consultants, I ask whether she can assure the house that no consultants have been hidden away in other categories, such as contractors or casual labour?

Ms DELAHUNTY (Minister for Education) — When the government has been requested to provide information it has provided it.

Honourable members interjecting.

Ms DELAHUNTY — When the department was asked about the details of the employment of Lyndsay Connors, an appointment that I personally made on advice, it provided that information. The information was made available freely to the opposition and the public. I understand, as the Deputy Premier says, that that was not the case under the previous government.

When the department was asked to provide a list of consultancies it, quite correctly, provided that material. I said last week that when that material became available I would make it available to the opposition and the public. The detail of that list of consultancies has been made available.

The information was quite correctly provided by the department pursuant to the Financial Management Act. As I recall, that act was brought into this house by the previous government in 1994. The definitions are under that act, and the department has quite correctly provided that information. The government did not give a commitment that it would not use consultancies; it said it would not use wasteful consultancies, and as the information has been provided — —

Honourable members interjecting.

Ms DELAHUNTY — As the list of consultancies shows, in less than 12 months the government has cut the cost by more than $1 million. It will continue to hire the best consultants it can to provide education in Victoria.

Mr Cooper interjected.

The SPEAKER — Order! I warn the honourable member for Mornington.

Rail: regional links

Ms OVERINGTON (Ballarat West) — I refer the Minister for Transport to the announcement today of a $550 million boost to Victoria's rail network. Will the minister inform the house of the specific benefits to Victoria of this historic announcement?

Mr BATCHELOR (Minister for Transport) — The announcement today will deliver an historic boost to Victoria's train services. As the Premier said, it will help grow the whole of the state and will deliver enormous economic benefits. It will mean faster train

services, thousands of jobs in the construction phase, a huge boost to investment in regional centres across the state, and the revitalisation of Victoria's 100-year-old rail system and the services it provides.

The existing network was built more than 100 years ago and the track and signalling infrastructure is not capable of carrying or controlling trains travelling at speeds of up to 160 kilometres an hour or more. The failure of previous governments to invest in Victoria's rail network means that the state does not have a system that adequately meets the needs of today's passengers. The government is determined to end that neglect in the interests of the whole of the Victorian economy.

The project will involve a range of complex engineering and design works, including the upgrading of 500 kilometres of metropolitan and rural tracks; the installation of modern signalling systems; the introduction of new trains capable of travelling at speeds up to at least 160 kilometres an hour; and the delivery of some 9000 jobs during the construction phase, as well as 4000 ongoing new jobs. According to the feasibility studies, patronage across the four rail services will increase by as much as 70 per cent.

For Ballarat in particular the introduction of the service will mean an estimated increase in population of 4700, 900 additional jobs along the Ballarat corridor and an additional 2100 new households. Bendigo will experience an increase in population of 3800, and will gain 700 new jobs and an additional 1700 households. For Traralgon it will mean an increase of 2700 in population in the corridor, the creation of 500 additional jobs and an additional 1200 households. Geelong will receive a real boost because population will increase by 9900, 1900 jobs will be created in the Geelong corridor and there will be 4500 new households.

Honourable members interjecting.

Mr BATCHELOR — Members of the Liberal opposition deride and attempt to undermine this massive initiative. One would think they would try to encourage and support the initiative to provide better services and better economic growth, but that is not the case. The project is a long-term, massive undertaking that will change the way Victoria looks at itself and deliver benefits for decades to come, yet what does one see in the house? The opposition is being negative while the government is getting on with the job.

In conclusion, I thank all the municipal councils across rural Victoria that helped the government prepare feasibility studies. I also thank local members of Parliament, who have worked hard side by side with community-minded people on the community reference groups in delivering the feasibility studies that led to this outcome today.

Today is a great day for public transport. It is the biggest investment program in trains in Victoria's history.

Minister for Education: conduct

Mr HONEYWOOD (Warrandyte) — I refer the Minister for Education to her assertion that a Park Hyatt apartment was held on a long-term lease by her department, which was subsequently proved to be untrue; to assertions that there was only one Department of Education, Employment and Training consultancy, which was subsequently proved to be untrue; and to her personal explanation to the house in which she admitted misleading the house. Will the minister categorise her behaviour as ignorance or incompetence?

Honourable members interjecting.

The SPEAKER — Order! I remind the honourable member for Warrandyte that questions must relate to government administration. I will allow the question but I ask that the honourable member cease using inflammatory language when asking questions.

Ms DELAHUNTY (Minister for Education) — I look forward to taking questions from the honourable member for Warrandyte on issues that relate to the education of our children. But, specifically, the answer is neither.

Schools: minor works

Mr NARDELLA (Melton) — I refer to the government's commitment to continue the process of reviving education in this state. Will the Minister for Education inform the house of further improvements to the facilities for our schools and students?

Honourable members interjecting.

The SPEAKER — Order! The Deputy Premier! The honourable member for Bentleigh is on a warning!

Ms DELAHUNTY (Minister for Education) — I thank the honourable member for Melton for asking the first question on the substantive issues of education. The government is getting on with the job of reviving public education in this state. Part of the government's commitment to Victorians is to improve the learning environment for all students, teachers and staff.

Further to the government's recent announcement of $160 million for the planning of major works, today the government announces part of its minor works program — but very important to students and parents — to improve the quality of the learning environment in which students and teachers must work.

Since coming to office the government has been shocked, for example, by the state of some of the toilets at some schools. An issue was raised by the honourable member for Benalla during last Thursday's adjournment debate concerning the state of the toilets, in particular at the Wandiligong Primary School. I know it is an embarrassment for the opposition, but the government is obliged to try to improve the situation. This is a matter not only of educational significance but of hygiene, health and safety.

Therefore, today the government announces $100 000 each — —

Mr Honeywood — On a point of order, Mr Speaker, as the minister is clearly either reading from a document or notes, I ask her to table those notes or documents.

The SPEAKER — Order! Was the minister quoting from a document or referring to notes?

Ms DELAHUNTY — Referring to notes.

The SPEAKER — Order! There is no point of order. The minister was referring to notes.

Honourable members interjecting.

Mr Maclellan — What is the document on the table?

The SPEAKER — Order! The honourable member for Pakenham!

Mr Maclellan interjected.

The SPEAKER — Order! I have asked the honourable member for Pakenham to cease interjecting.

Ms DELAHUNTY — The government is aware of the state of some of the toilets in some of the small schools. I have referred to the matter raised by the honourable member for Benalla during the adjournment debate last week. Today the government announces $100 000 each for the Belgrave South Primary School and the Blackburn Primary School to improve or replace their toilets.

The government is also concerned about the security and safety of students at school. This is a big concern raised by parents, and certainly in the Lyndsay Connors report extensive research done by the focus groups showed that parents are really concerned about the safety of their children in schools.

An amount of $40 000 has been allocated for urgent security measures for the North Shore Primary School in Geelong. I am sure the honourable member for Geelong will be very pleased to see that money. Rosebud Secondary College has been allocated $100 000 for fire security measures.

The government is concerned about the environment for teachers and staff. Traralgon Primary School will receive $60 000 for a staff and administrative upgrade, which is part of the minor works budget. The government is getting on with the job of improving education in this state.

The SPEAKER — Order! I call the honourable member for Footscray.

Honourable members interjecting.

Mr Honeywood — On a point of order, Mr Speaker, the call comes to the opposition after the honourable member for Melton. I was on my feet at the same time as the honourable member for Footscray, and I ask you to rule accordingly.

The SPEAKER — Order! For the information of the house, that is the second occasion on which the Speaker has called the wrong person! The honourable member for Warrandyte has the question.

Education, Employment and Training: consultancies

Mr HONEYWOOD (Warrandyte) — Given that Lyndsay Connors's role as a consultant has been reclassified by the Minister for Education as that of a contractor, I ask: will the minister now release a full list of other contractors, or does she believe — once again — that Ms Connors is the only one?

Ms DELAHUNTY (Minister for Education) — Mr Speaker, as I said in my earlier answer, the definitions are determined by the Financial Management Act, which was brought into this house in 1994. They are the definitions.

Mr Honeywood — On a point of order, Mr Speaker, the minister is obviously answering from the wrong list. The question clearly asked: would she provide the house with a list of contractors? She is answering a different question.

Honourable members interjecting.

The SPEAKER — There is no point of order. The minister hardly had an opportunity to answer the question.

Ms DELAHUNTY — As the honourable member would know, since he was a senior education minister in the last government — —

Honourable members interjecting.

Ms DELAHUNTY — The Financial Management Act is what the department must be guided by in providing this information. The department quite correctly provided the information pursuant to the Financial Management Act, as requested. We have openly and freely provided that information to the house and to the public.

Dr Napthine — On a point of relevance, Mr Speaker, the question was quite clear. The question was whether the minister would now release a full list of contractors. That was the nub of the question, and that is what the minister should be asked to answer. The minister is not being relevant to that question.

The SPEAKER — Order! I do not uphold the point of order, and I will not allow the Leader of the Opposition to repeat the question.

I note that the minister has concluded her answer.

East Timor: government assistance

Mr MILDENHALL (Footscray) — I refer the Minister for Agriculture to the government's previous commitment to assist the East Timorese community in rebuilding after the tragic events of last year. Will the minister inform the house of the role the Department of Natural Resources and Environment is playing in training representatives from that community in land management and environmental and agricultural issues?

Mr Maclellan interjected.

The SPEAKER — Order! The honourable member for Pakenham.

Mr HAMILTON (Minister for Agriculture) — One would think that on a serious matter such as the events that have happened in East Timor in the past few years there would be a bit of decorum and respect from all members of the house.

All Victorians, including I believe every member of this house, observed the events in East Timor with a mixture of apprehension and hope following the declaration of independence. It was in the spirit of hope that the Bracks government made a commitment to assist with the rebuilding of East Timor. It is for that reason I am pleased to welcome to the public gallery of the house today four gentlemen from East Timor who have come to work with the Department of Natural Resources and Environment. They are: Jorge Martins, Egidio de Jesus, Cesaltino De Carvalho, and Adalfredo Ferreira. Many of us in this house have a great belief in democracy. One of those gentlemen, Egidio de Jesus, spent three years in jail because of his quest for democracy. That is a commitment that none of us has been challenged with — and, I would hope, none of us is ever challenged with.

At the moment East Timor has a fledgling society in terms of both government administration and the large demands that will be placed on the people of East Timor in making sure that they have a sustainable economy, particularly a sustainable agriculture industry. It is for this reason that the four men have been welcomed into the Department of Natural Resources and Environment to work with its officers in agriculture, conservation, resource management and minerals. In each of those areas an officer of the department will work with them as a mentor and will recommend that they work as partners to ensure that they are able to gain knowledge and skills, not only technical skills but also the skills associated with government administration.

Because East Timor is a fledgling nation it is our responsibility and great privilege to be part of its rebuilding. The men will be here for 13 weeks. They will work in various areas of the department with its officers and with officers from the Department of Premier and Cabinet. The government and all Victorians will learn a great deal from this so that the programs can be extended into other departments within government and so that Victoria, in particular, can play its part in an extremely important challenge: to help East Timor gain the status of nationhood and be able to work towards being a democratic society following the many years of occupation by a foreign nation.

This is a great day for Victoria. Together with the Minister for Environment and Conservation and the Minister for Energy and Resources in the other place I am proud to welcome these people to the department. I know the Premier is with me in making sure that this is an important day and that it will be a beneficial 13 weeks.

Workcover: premiums

Ms ASHER (Brighton) — I refer the Minister for Workcover to the fact that the Treasurer recently announced in this house an increase in the Transport Accident Commission premiums to offset the cost of the GST. I further refer to the fact that accident victims on long-term benefits have not had their payments increased to offset the GST. I ask: will the minister increase TAC benefits to road accident victims in the same way the federal government has compensated pensioners?

Mr CAMERON (Minister for Workcover) — This is an interesting question from a mob totally devoted to the GST, a tax that has not been well received except by honourable members opposite. As a result of the Liberal–National Party GST those people who are in receipt of Transport Accident Commission (TAC) income payments are effectively worse off. The government recognises that and is concerned about it.

The government believes it must do the right thing, even though it will be a cost burden to Victorian motorists. The legislation will be introduced in this parliamentary session, and I look forward to the opposition's support in passing it.

The Bracks Labor government is doing the right thing, even though that burden has been created by the Liberal–National Party coalition at another level of government without regard for its effect on the recipients of TAC scheme payments.

NOTICES OF MOTION

The SPEAKER — Order! Are there any notices of motion?

Notices of motion given.

Dissent from Speaker's ruling

Mr HONEYWOOD (Warrandyte) — I give notice that tomorrow I will move:

> That this house dissents from the ruling of Mr Speaker on the complaint made by the honourable member for Warrandyte against the Minister for Education because all the video evidence supported by independent witnesses and members' recollections clearly shows the minister lied to the house, lied to you, Mr Speaker, and lied to the people of Victoria.

The SPEAKER — Order! I ask the honourable member for Warrandyte to rephrase his notice of motion to make the language more temperate.

Mr HONEYWOOD — I give notice that tomorrow I will move:

> That this house dissents from the ruling of Mr Speaker on the complaint made by the member for Warrandyte against the Minister for Education because all the video evidence supported by independent witnesses and members' recollections clearly shows the minister misled the house, misled you, Mr Speaker, and misled the people of Victoria.

Further notices of motion given.

PETITIONS

Preschools: funding

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

> To the Honourable the Speaker and members of the Legislative Assembly in Parliament assembled:
>
> That the Victorian government immediately invest more substantially in preschool education for the benefit of Victoria's young children and their future. That the Victorian government increase funding to preschools to at least equivalent to the national average in order to ensure:
>
> > a reduction in fees paid by parents and the removal of the barrier to participation for children;
> >
> > reduction in group sizes to educationally appropriate levels consistent with those established by government for P–2 classes in primary schools;
> >
> > teachers are paid appropriately and in line with Victorian school teachers and preschool teachers interstate;
> >
> > critical staff shortages for both permanent and relief staff are alleviated;
> >
> > the excessive workloads of teachers and parent committees of management are addressed.
>
> And your petitioners, as in duty bound, will ever pray.

By Mr HARDMAN (Seymour) (197 signatures) and Mr LUPTON (Knox) 409 signatures

Laid on table.

PAPERS

Laid on table by Clerk:

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17D a lease by the Bayside City Council

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

> Standard for the Uniform Scheduling of Drugs and Poisons No 15

Amendment No. 1 to the Standard for the Uniform Scheduling of Drugs and Poisons No 15

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

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

Ballarat Planning Scheme — Nos C8, C26, C32

Bass Coast Planning Scheme — No C1

Brimbank Planning Scheme — No C21

Campaspe Planning Scheme — No C12

Casey Planning Scheme — No C12

East Gippsland Planning Scheme — No C2

Greater Dandenong Planning Scheme — No C7

Maroondah Planning Scheme — No C4

Mornington Peninsula Planning Scheme — No C12 (Part 1)

Swan Hill Planning Scheme — No C2

Victoria Planning Provisions — No VC8

Yarra Planning Scheme — No C14

Statutory Rules under the following Acts:

Drugs, Poisons and Controlled Substances Act 1981 — SR No 85

Electronic Transactions (Victoria) Act 2000 — SR No 86

Subordinate Legislation Act 1994:

Minister's exception certificate in relation to Statutory Rule No 79

Ministers' exemption certificates in relation to Statutory Rule Nos 82, 85

The following proclamation fixing an operative date was laid upon the Table by the Clerk pursuant to an Order of the House dated 3 November 1999:

Accident Compensation (Common Law and Benefits) Act 2000 — Section 4 on 1 September 2000 (*Gazette* G35, 31 August 2000).

ROYAL ASSENT

Message read advising royal assent to Courts and Tribunals Legislation (Further 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, 7 September 2000:

Juries Bill — amendments of the Legislative Council

Information Privacy Bill

Planning and Environment (Restrictive Covenants) Bill

Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill

Constitution (Proportional Representation) Bill

I move this government business program in order to facilitate the work of this chamber and the progress of bills transmitted to the upper house.

By way of introduction, Mr Speaker, I point out that you will see that many of the items have been on the notice paper for a long time, some since well before the beginning of this sessional period. They have been around in the public domain for a number of months. Responses to amendments to the Juries Bill moved by the Legislative Council go back to the early stages of this sessional period of Parliament. Two other pieces of legislation, the Drugs, Poisons and Controlled substances (Injecting Facilities Trial) Bill and the Constitution (Proportional Representation) Bill are already being debated in this chamber. Indeed, the Constitution (Proportional Representation) Bill has been around for a considerable length of time.

Mr Doyle interjected.

Mr BATCHELOR — In response to the interjection by the honourable member for Malvern, the government was not going to guillotine debate on that bill. When the Constitution (Proportional Representation) Bill was first introduced the opposition requested that debate not be guillotined that week. I gave a commitment that debate on the bill would not be guillotined that week, and it was not. What happened in response to that? The government was lulled into a false sense of security by the opposition. In a great act of treachery the opposition proceeded to say that the government was not allowing bills to go through and did not have a legislative program that would enable bills to be progressed. Clearly members of the opposition speak with forked tongues. They try to do one thing one week and another thing the next.

This week the opposition is taking another procedural tack on the government's business program. The opposition has already announced to the public at large that its members will frustrate legislation in the upper house by delaying matters there. Today it is acting that out and trying to drag the Legislative Assembly into that process. It has indicated verbally its opposition to the program, to prevent matters going to the upper house. The intent of opposition members today, as will

unfold in both their contributions and actions today, will be to delay and try and cause problems for the smooth progression of legislation through both houses in an effort to frustrate the reform program the government has a clear mandate to implement.

Government members can understand why the opposition does not want to reform the upper house. We would have thought that members of this chamber would not have gone along with that. However, it is clear that they want not only a parliamentary system in which members can be unaccountable for up to eight years but also to thwart the implementation of the democratic system of proportional representation. Last week opposition members said not enough legislation was coming forward; this week they say too much is coming forward. They are absolutely hopeless! Their procedural subterfuge will be rejected by the government in this chamber.

Mr Doyle interjected.

The SPEAKER — Order! The honourable member for Malvern!

Mr McARTHUR (Monbulk) — The opposition will seek to amend the government business program. Therefore, I move:

> That the words 'Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill' and 'Constitution (Proportional Representation) Bill' be omitted.

In response to the comments of the Leader of the House, I point out that the opposition does not oppose the proposed amendments to and passage of the Juries Bill, and has been calling for that for some months. Neither does the opposition oppose the passage of the Information Privacy Bill or the Planning and Environment (Restrictive Covenants) Bill. The opposition is quite happy to support the government on that part of the motion.

However, I need to correct the statements of the Leader of the House about my request to him when the sittings started on 15 August. He said that on behalf of the opposition I asked him not to guillotine debate that week on the two constitution amendment bills, the one that passed last week and the other that the house will consider this week. I did ask him not to guillotine the debate — not just for that week or the following sitting last week but not to guillotine it, full stop. It is the view of the opposition that those two bills are of such importance to members of this and the other place and to members of the public that any member of this place who chooses to do so should have the opportunity to speak on them.

To give him his due the Leader of the House did allow considerable debate on the Constitution (Amendment) Bill, and in two weeks some 35 speeches were made on that bill. The honourable member for Melton spoke twice on the bill but did not realise it — and neither did the Government Whip! Despite that, some 33 other members were able to make a contribution to the debate, which along with debate on other proposed legislation was conducted over two weeks.

Let us consider what the house faces this week. If honourable members do what the Leader of the House suggests, the house will deal with two critical bills: the Constitution (Proportional Representation) Bill and the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill. They are of enormous importance to the public of Victoria, and despite party allegiance every honourable member has a view on them and would like to put that view to the house. I am sure the three Independents would like to contribute to the debate on those bills, just as each of them did on the debate over the past two weeks on the Constitution (Amendment) Bill.

If the motion of the Leader of the House is agreed to the chances of all or most members speaking on either the proposed injecting rooms legislation or the proportional representation bill are zero. So far only three honourable members have spoken on the Constitution (Proportional Representation) Bill: the Premier, the Leader of Opposition and the Leader of the National Party. If the government's motion is agreed to, at best a dozen additional members will be able to make a contribution, and very few other than the six who have already spoken on it will be able to speak on the drugs bill. All 88 members of this place have a view on that proposal. All honourable members also have a critical interest in and should be entitled to speak on the Constitution (Proportional Representation) Bill.

I therefore urge honourable members to support the amendment, which would allow the reasonable passage of three pieces of legislation in line with the government's business program but would not allow debate on the other two bills to be guillotined. Those two bills are critical to the future of Victoria and the operation of Parliament and it is essential that every member of this place have the opportunity to make his or her point of view clear and be accountable for doing so.

Mr LANGDON (Ivanhoe) — The opposition's hypocrisy on the business of this house is appalling. Its view changes not just from month to month but from week to week. Only last week members of the opposition were saying there was not enough business

before the house, and the previous week they were saying the same. Now they want to reduce the government's business program to three bills. They keep on complaining or, as the former Minister for Education used to say, they keep on harping and moaning, et cetera, et cetera.

An Honourable Member — Whingeing!

Mr LANGDON — They are the whingeing party. One of the three bills that opposition members want debated has already been debated fully in this house and sent to the upper house, where it was amended. The amendments must be considered in this place. The other two bills have been on the table since the autumn session — they have been available for public consultation and before the house for some time.

Honourable members interjecting.

Mr LANGDON — It is interesting to hear the interjections from opposition members about debate and consultation in this house. In the first four years I was a member of this place I witnessed the appalling way they ran government and the lack of debate in this house. Bills would be passed after only one contribution from the opposition. Now they complain when they have seven or eight speakers! They want it all ways. When in government they wanted to push through legislation, now in opposition they want to be able to debate bills for hours.

The government's business program contains a modest five bills. As I said, three have been around since the autumn session and one has already been passed by this house, considered by the upper house and is now back with amendments.

The opposition parties control the upper house, and every time that place makes amendments the opposition parties in this place want to debate the relevant bill again from the word go, thereby adding hours of debate to the business program. Members of the opposition are whingeing about being in the house too often because they now have to doorknock a hundred houses per month. They may have to do a bit more than that! It is not for me to advise them, but if they can do only a hundred a houses a month they are very poor doorknockers. If they cannot do that in an afternoon, they have serious problems.

I picked up a point made by the manager of opposition business that the government once allowed one member — the honourable member for Melton — to speak twice on a bill. I have always enjoyed the honourable member for Melton's speeches, obviously far too much. His previous experience in the upper house was obviously needed in that debate, and he added it twice.

What is proposed is a very modest business program. If the opposition cannot handle its workload it should give up altogether!

Ms ASHER (Brighton) — I support the amendment put forward by the honourable member for Monbulk and will make a few comments on the absurd proposition being put by the Leader of the House. He argued that members of the opposition complained about the lack of business before the house in previous weeks. That is absolutely correct. We have complained about government incompetence in its management of the business before this house and, indeed, before the other place. However, the solution to that is not the one advocated by the honourable member for Ivanhoe and the Leader of the House.

The solution is not to guillotine two bills; it is for the government to learn to better manage its business program. The solution to the short-term problem currently before the house is precisely as suggested by the honourable member for Monbulk — that is, to guillotine the Juries Bill, the Information Privacy Bill and the Planning and Environment (Restrictive Covenants) Bill. However, in view of the enormous significance of the other two bills — the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill and the Constitution (Proportional Representation) Bill — they should not be guillotined this week.

The Leader of the House has identified the problem of insufficient business, but his solution is incorrect. He also made the incorrect assertion that those bills have been in the public domain for a long time. That sentiment was parroted by the honourable member for Ivanhoe — albeit that he is a good Essendon supporter — but the bills have not been before this house for some time. The honourable member for Monbulk has already outlined that only six members have spoken on the vitally important Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill, and only three members have spoken on the Constitution (Proportional Representation) Bill.

The opposition certainly put forward a case that there may have been grounds for a joint debate on the Constitution (Amendment) Bill and the Constitution (Proportional Representation) Bill, and the government clearly had a strategy that it did not want those two bills debated conjointly. A whole range of members who wish to represent their communities want to have a say on the very important constitutional changes the Labor Party has brought before this house. As I recall the

second-reading speech, the decision to have separate debate on those two bills relating to substantial amendments to the Victorian constitution was a conscious and distinct decision of government.

Only three speakers have had the opportunity to express a view on the Constitution (Proportional Representation) Bill. That bill, along with the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill, is one in which most members have been vitally involved either in some sort of community activity in their electorates or in the vast and healthy public debate that has taken place. Most members just want to have a say.

Members of the opposition are not asking for a substantial change to the business program; we simply want to debate the bills as planned. The government should not guillotine debate on those two important bills. I recall very distinctly that during the last election campaign I heard over and again about making Parliament a more representative place where members could express their views. As a relative newcomer to this house, I am amazed to see the guillotine being used on debate on enormously significant bills. I assume the Independents have strong views on those bills because I have read about them in the newspapers.

All honourable members have a right to debate the bill. The honourable member for Monbulk's motion asks that debate on these two vital bills not be guillotined. It also asks the Labor Party to honour its election commitments and not gag debate.

Mr MAUGHAN (Rodney) — For obvious reasons, the National Party supports the amendment moved by the honourable member for Monbulk.

Mr Seitz interjected.

Mr MAUGHAN — Settle down, George.

The SPEAKER — Order! The honourable member should address members by their proper title.

Mr MAUGHAN — The Liberal and National parties have no difficulty in facilitating the government's business program on the Juries Bill, the Information Privacy Bill and the Planning and Environment (Restrictive Covenants) Bill: it is agreed that they will go through the house this week. However, the constitution bills are some of the most important pieces of legislation to be introduced into this house in the past 100 years.

Labor claims to have a mandate for the bills, but that is not something it argued for during the election campaign. It did not win a majority in its own right but needed the support of the three Independents to form government, so how it can logically claim to have a mandate to push those bills through escapes me. As the honourable member for Brighton rightly pointed out, it is important legislation on which all honourable members have views, and they all wish to have the opportunity to express them.

The Leader of the House said there would be no restriction on the debate on either the constitution bills or the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill. He said they would be debated until everybody had had a chance to express his or her view. By guillotining those debates the government is denying Liberal and National Party members the opportunity to present their views. The government can yell and scream and say the previous government did the same thing, but Labor came to power promising a better deal and a better standard for Victoria. It said that the behaviour of the house would improve and that there would be more opportunities for debate. I would like to see it honour its commitments to the electorate.

I ask the Independents to support the amendment because they have argued for more debate in the house and for all members to have an opportunity to express their views on behalf of their constituents. I challenge them to give honourable members the opportunity to continue to debate the important constitution reform bill and the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill.

They are important pieces of legislation that the government clearly wants to remove from the agenda, having failed in its attempt to get support for them. Although the government does not want to debate the bills, the opposition thinks they are important. Some members of the Drugs and Crime Prevention Committee have not yet had an opportunity to put their point of view, and they should be heard.

The National party supports the amendment and opposes the government's motion.

Ms DAVIES (Gippsland West) — I have not got a lot to say, except that I will not support the opposition's move to alter the — —

Honourable members interjecting.

Ms DAVIES — Quiet, rabble!

The SPEAKER — Order! The honourable member should address the Chair.

Ms DAVIES — Excuse me, Mr Speaker. It is just as well one does not pay too much attention to what most opposition members say. Their hypocrisy continues to astound me every time I sit in the house listening to debate. I remind the opposition yet again that last week it was whingeing about the house not having enough to deal with even though there were issues that needed to be discussed. Honourable members have already heard speeches on those bills, and given that everybody already knows which way the vote will go, I for one — —

Honourable members interjecting.

The SPEAKER — Order! The honourable member for Forest Hill shall cease interjecting.

Ms DAVIES — I have already said to the government and to the house that there should have been more discussion of the Constitution (Amendment) Bill, in particular. I am eager for the debate to continue, without repetition, so the issue can be referred to the constitution commission and be discussed in a way that leads to a productive result.

Mr DOYLE (Malvern) — I cannot let the contribution of the honourable member for Gippsland West pass without making a brief comment on it. The honourable member suggested we should not be debating the Drugs, Poisons, Controlled Substances (Injecting Facilities Trial) Bill in this house because we already know which way the vote will go. I have never heard a more flagrant contempt of the processes of this place, particularly when we have been elected to Parliament by our constituencies to take part in debates.

An honourable member interjected.

Mr DOYLE — So far it has not been a proud afternoon for the government and the democratic process. I wish to make a special pleading on the debate for one bill — the Drugs, Poisons and Controlled Substances (Injecting Facilities Trial) Bill. I cannot believe debate on that bill is to be guillotined at the end of this week because, as we all know, probably that means a further 2 hours of debate is available.

The house has heard from only 2 of the 23 members of the Liberal Party who are prepared to make a contribution to the debate. Only one speaker from the National Party has made a contribution. Despite the fact that one Independent may believe she knows which way the vote will go, no Independent member has yet spoken during the debate. Only two speakers from the Labor Party have put forward their views. There are 21 more members from the Liberal Party alone who wish to speak on the debate, and they all have a valuable contribution to make to the overall debate on drugs in our society.

The Deputy Premier, the Minister for Health, said he hoped when the various parties had made their decisions honourable members would stand up in this place to explain why they had come to those decisions. The Liberal Party has 23 members ready to do so, but apparently 21 will be denied the opportunity to discharge the responsibility with which the Deputy Premier has charged them. They are all happy to discharge that responsibility in this place!

A range of views is to be put forward, not only from the Liberal Party but also from the National Party and the Independents. What colossal arrogance from the government to say that because it already believes the vote is lost, only 1½ or 2 hours of further debate may proceed and that the contributions of many honourable members can be discounted. I find that offensive, because a great deal of work has been done by many honourable members on both sides of the house on this critical issue. People have consulted with their communities, they have talked with community groups and they have looked widely at the issues both academically and personally. Those views deserve expression in this place, if only as part of the wider community discussion that has taken place.

The bill has been allowed to remain on the notice paper for a considerable period. If this Parliament is the highest expression of democracy and community views in our state, it should be the forum in which those views are represented. By guillotining the debate on the bill the expression of those views will be denied. The voices of not only members of Parliament but also those of the community, including many community organisations, many of whom may disagree with each other, will be silenced. If those voices are not allowed expression in this place, where can they have expression in the democracy of this state?

I cannot believe the Minister for Health or his parliamentary secretary could have agreed in the Labor Party caucus that the bill should proceed with only another 2 hours of debate. I cannot believe the Minister for Health and the honourable member for Frankston East would have agreed that debate on this bill should not be given its full expression, or that all ideas should not be given expression in the highest democratic forum in the state. Apparently they are prepared to be complicit in denying that.

It is not enough for debate to take place in the outside world. Unless we are to have full debate in this place, this is not a motion on the government business

program but a government contempt of debate motion, because it says that there is no place for the valuable contributions of 21 more members of the Liberal Party, many of the National Party, Independents, and, if I may say, the Labor Party in this place. That is what the Labor Party is saying by guillotining the debate. The Labor Party in this place and outside it has talked about the seriousness of this debate. If the Labor Party can look the opposition in the eye and say, as the opposition does, that drug abuse is the most serious social issue facing Victoria, how then can it say, 'Let us guillotine debate at 4.00 p.m. on Thursday', as if that would allow adequate expression on an important debate? The government cannot do that. If it is fair dinkum about having a debate and the exchange of ideas — —

The SPEAKER — Order! The honourable member's time has expired. The time set down for debate has expired.

House divided on omission (members in favour vote no):

Ayes, 45

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Ms
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Ingram, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maddigan, Mrs
Maxfield, Mr (*Teller*)
Mildenhall, Mr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Noes, 42

Asher, Ms
Ashley, Mr
Baillieu, Mr
Burke, Ms
Clark, Mr
Cooper, Mr
Dean, Dr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Elliott, Mrs
Fyffe, Mrs
Honeywood, Mr
Jasper, Mr
Maclellan, Mr
Maughan, Mr (*Teller*)
Mulder, Mr
Napthine, Dr
Paterson, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Savage, Mr
Shardey, Mrs
Kilgour, Mr
Kotsiras, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Smith, Mr (*Teller*)
Spry, Mr
Steggall, Mr
Thompson, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr

Amendment negatived.

Motion agreed to.

MEMBERS STATEMENTS

Minister for Education: conduct

Mr HONEYWOOD (Warrandyte) — I am sure all honourable members would agree that being a member of Parliament carries with it the responsibility to tell the whole truth and nothing but the truth whenever possible. However, when one considers the hypocrisy of the policy the ALP put to the people prior to the last election of returning paramount respect for both Parliament and government and the pressure applied on both you, Mr Speaker, and others who are part of the community of the Parliament, one realises that the Minister for Education has been allowed to play loose with the truth once too often.

The Minister for Education misled the entire Victorian community when she said an apartment was on long-term lease when it was chosen for her hand-picked consultant. In the same week that the Minister for Education told the Victorian community there was only one consultancy in her department, we have found there are 57!

We have a situation where the Minister for Education informed the Parliament that she was reading from only one page when, quite clearly, she was reading from a stapled two-page document. Respect for this institution, and indeed for us as politicians, has been demeaned.

Fr Kevin McKelson

Mrs MADDIGAN (Essendon) — As the member for Essendon I pay tribute to Fr Kevin McKelson, who is celebrating 50 years as a priest. He is a true son of Essendon, having been born in South Street, Ascot Vale, and having attended St Monica's in Moonee Ponds and St Bernard's in West Essendon.

Fr McKelson has put reconciliation into practice and has worked as a Pallotine father, a missionary, in the Kimberley for 50 years. He has recorded over a dozen extinct Aboriginal languages. He translated the Catholic mass into the Karijari language and it has now been

translated back into English. The simplified, recomposed mass is known as the Missa Kimberley and is used extensively in the region.

Fr McKelson is referred to and known as a true Labor priest. His father was a previous president of the Trades Hall Council. Fr McKelson was the priest who gave the last rites to Arthur Calwell, the victim of Australia's only political assassination attempt in Sydney.

Fr McKelson has continued with his work in a way that is an example to all of us. Parliament should recognise the great contribution of this man to the people of the Kimberley — —

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

Kyabram: sports champions

Mr MAUGHAN (Rodney) — The town of Kyabram in the Rodney electorate has once again reinforced its claim to having produced more champion sportsmen and women than any other town of comparable size in country Victoria.

Having produced such well-known sporting personalities as Jim Higgs, Garry Lyon, Pam Mathews, Dick Clay, Stephen Pate and lots more, Kyabram now has another member of that illustrious group — Cynna Neele.

Cynna is a world champion netballer, having played for the winning Australian 21-and-under netball team in the World Youth Cup in Wales in July. Australia defeated Jamaica in the final. As goal shooter for the first three-quarters of the match, Cynna had a magnificent 92 per cent success rate and received the commentator's award for that series.

Cynna's achievements are an inspiration for large numbers of junior Kyabram netballers and further reinforce Kyabram's claim to be the home of champion sportsmen and women.

Bendigo: Lady Braves basketball team

Ms ALLAN (Bendigo East) — On 20 August the Bendigo Lady Braves became the Australian Basketball Association's national women champions.

I congratulate the entire team: co-captains, Mandy Henderson and Andrea Walsh; players, Cara Demaine, Kerryn Henderson, Michelle Fletcher, Rebecca May, Megan Starr, Nina Shelton, Cathy Barber, Hayley Addlem, Heidi Rawiller, Casey West, Michelle Murphy, and our own Opal and Australian representative, Kristi Harrower.

I also congratulate the coach, Bernie Harrower, and his assistants, Graeme Taylor and Mary Anne Slattery, who took the team to the national title where they defeated the Nunawading Spectres in a very one-sided match: 77 to 50. It was a fantastic result.

It was the first time a team from a regional centre has taken out the national title. What made it an even better result was the fact that the players were all born and bred and played their junior basketball in Bendigo.

This great result also raised the profile of women's sport throughout the region. The *Bendigo Advertiser* gave extensive coverage over a number of weeks to this successful women's champion team. In congratulating the Lady Braves I am proud to say that I am a sponsor of one of the players, Cara Demaine.

It is a wonderful result when one thinks that a town the size of Bendigo is competing at the national level, the Australian Basketball Association level, which is only one level under the Women's National Basketball League. My heartfelt congratulations to all the team — —

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

Minister for Education: conduct

Dr DEAN (Berwick) — I wish to state to the house what I saw and heard in this place last week.

I heard the Minister for Education say to you, Mr Speaker, 'At the time I was asked whether I would table a document I had one piece of paper which I have given to you'. Unless the English language has changed, I took that to mean that she denied having two, three or more pieces of paper in her hand.

I saw a videotape of question time. It showed me that the minister had two attached pieces of paper to which she was referring before, during and after she was asked to table her notes.

I heard you, Mr Speaker, advise the minister that if documents were being referred to and they were attached, both had to be handed up together.

I heard you, Mr Speaker, ask the minister whether she was referring to any other documents or notes. By notes I took you to mean other pieces of paper with notes on them.

I have spoken to two eyewitnesses who personally witnessed the minister rip the smaller page from the larger page shortly before handing over the smaller page to the Clerk.

I heard the minister come into this house and admit that she knew she had to hand up the second piece of paper. The minister clearly knew she was relying on two pieces of paper.

This is not about pieces of paper — this is about honesty and misleading the house.

Schools: Ballarat West electorate

Ms OVERINGTON (Ballarat West) — I bring to the attention of the house the Bracks Labor government's continued commitment to education.

Recently an extra $160 million was committed for school capital works. Over the past seven years many schools have been neglected throughout this state, and I am sure they will welcome the funding. I am extremely pleased that $3.2 million of that money has gone to my electorate of Ballarat West.

Sebastopol Secondary College will receive $1.6 million to build the much needed gymnasium for which it has waited 10 years, and for the upgrade of its science wing. Pleasant Street Primary School will benefit from $1.2 million that will build permanent classrooms and will mean that its classes will be able to move from the current portables. Forest Street Primary School will be able to have an assembly hall and canteen built. The school has waited a long time for the announcement; it is one of the few left in the region whose students still assemble outside. While I fully compliment Ballarat on its weather, sometimes it is not very pleasant in winter.

On that note I wish Sebastopol Football Club all the best for this week's Ballarat football league grand final match in which it will meet Melton. Sebastopol has not won a premiership since 1978. I believe it will take it off this century.

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

Minister for Education: conduct

Mr McINTOSH (Kew) — I hope every member of this house would acknowledge that the greatest and most significant privilege that we have as members of Parliament is the right to free speech. However, with any right is a countervailing responsibility. Honourable members should recognise that that responsibility is to be open and honest in all dealings and in all things in this house.

Last week I, too, witnessed certain events that cast some doubt on that proposition in relation to the honourable member for Northcote, the Minister for Education. There is no doubt that the minister was referring to two pieces of paper when she was responding to a question during question time, and those two pieces of paper were stapled together. It was not until the minister sat down that she ripped the first piece of paper away — as witnesses will testify — immediately before she gave the piece of paper to the Clerk in response to a point of order.

I remind all members of the house, particularly of this government, that any reduction in our standards and our responsibilities reflect poorly on us all. It diminishes us all and reduces our abilities as members of Parliament to carry on our tasks and to exercise that most sacred of rights — the right to free speech.

Iramoo Primary School

Ms GILLETT (Werribee) — I wish to sing the praises of and say thanks to the Minister for Education on behalf of a very important school in my electorate, the Iramoo Primary School. For the past 20 years it has — —

Honourable members interjecting.

Ms GILLETT — And you ought to get off!

Honourable members interjecting.

Ms GILLETT — Well and truly — it is just pathetic.

Honourable members interjecting.

Mr Cooper interjected.

The SPEAKER — Order! The honourable member for Mornington shall cease interjecting forthwith. He is on a warning today and he will soon find himself out of the chamber under sessional order 10.

Ms GILLETT — Iramoo Primary School is 21 years old this year. For the past 20 years the school has been allocated an enrolment number of some 250 children, but for the past 19 years it has had more than 600 children. In the wisdom of the facilities division of the Department of Education, Employment and Training the school has only ever been given facilities approximating an enrolment of 250 children.

This year I phoned Moira Finlay, the principal of Iramoo Primary School, to let her know that this government had provided $661 536 for the new gymnasium, the new canteen, the music room and the upgrade of two general purpose classrooms, for which it has been waiting eight years.

An Honourable Member — How many?

Ms GILLETT — Eight years.

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

Ethnic communities: aged care funding

Mrs SHARDEY (Caulfield) — I applaud the federal government's announcement of alternative funding for aged care services provided to the Australian Greek Welfare Society and the Italian organisation Co.As.It. I was pleased to be able to speak out on behalf of Victoria's multicultural communities and achieve such a good result, particularly in view of the strong and supportive relationship the Victorian Liberal Party has always enjoyed with those communities.

The opposition responded quickly and decisively to the announced funding cuts by directly lobbying the federal Minister for Immigration and Multicultural Affairs and the Prime Minister on the issue. It is now gratifying to see that the Victorian opposition's call for a whole-of-government approach to multicultural aged care funding has become a reality. Restoring funding will bring stability and security to Greek and Italian communities, particularly funding for existing services for the elderly, which should obviously be retained.

Trafalgar: bank closure

Mr MAXFIELD (Narracan) — I raise the closure of the Trafalgar branch of the Commonwealth Bank of Australia. The bank is engaging in a round of branch closures in small country towns in Gippsland. The management of the Commonwealth Bank has sent a message to country towns: 'We do not care about you and we do not want you'. We will not take this betrayal lying down. If the Commonwealth Bank abandons us, we will abandon it. The closure will hurt businesses who need banking services. It will also affect people such as the elderly, who will be unable to get the banking services they need and deserve. The senior management of the Commonwealth Bank has behaved in a disgraceful way and is more interested in ripping off country Victorians than in providing decent services.

I urge the residents of Trafalgar and surrounding districts to attend a meeting at 7.00 p.m. on 14 September at the Baw Baw Technology Centre in Trafalgar to discuss solutions to the bank closure. We as a community will fight with everything we can to ensure that we have adequate and good banking services. It is a tragedy that the Commonwealth Bank has behaved in such a despicable and appalling manner.

Minister for Education: conduct

Mrs PEULICH (Bentleigh) — I also wish to voice my disappointment in the Minister for Education for failing to uphold proper ministerial standards, for actively engaging in misleading the Victorian community as well as this Parliament and for failing to deliver a credible educational agenda.

The SPEAKER — Order! The honourable member's time has expired. The time set down for members statements has also expired.

INFORMATION PRIVACY BILL

Instruction to committee

Mr BATCHELOR (Minister for Transport) — I move:

That it be an instruction to the committee that they have power to consider a new clause and an amendment to the Information Privacy Bill to provide for an additional criterion to be considered by the Scrutiny of Acts and Regulations Committee in reviewing statutory rules pursuant to section 21(1) of the Subordinate Legislation Act 1994.

Motion agreed to.

JURIES BILL

Council's amendments

Message from Council relating to following amendments considered:

1. Clause 68, line 20, omit "(3)" and insert "(2)".

2. Schedule 1, page 63, after line 16 insert —

"6. A person who is released on bail.".

Mr HULLS (Attorney-General) — I move:

That amendment no. 1 be agreed to.

The amendment corrects a minor typographical error in subclause 68(3). The reference to subsection (3) should be to subsection (2).

Motion agreed to.

Mr HULLS (Attorney-General) — I move:

That amendment no. 2 be disagreed with but the following amendment be made in the Bill:

'Schedule 1, page 63, after line 16 insert —

"6. A person who has been charged with an indictable offence and is released on bail in respect of that offence.".'.

The amendment will mean that persons who are on bail after being charged with serious offences will be disqualified from jury service. Under the original Juries Act it was possible, although unlikely, for a person on bail for a serious offence such as murder to be selected to sit on a jury. Members of the community have expressed concern that a person on bail could sit on a jury but at his or her subsequent trial be convicted of a serious offence.

On reflection I believe those concerns have some merit. I acknowledge that some people who have been charged with offences and who are about to go through their own trial might not be capable of the calm, rational and impartial deliberation expected of jurors.

However, the opposition amendment passed by the Legislative Council would mean that all persons on bail would be disqualified from jury service. The government believes that amendment goes too far. The disqualification of persons charged with minor offences is not necessary. People should not be denied their rights and obligations to serve on a jury.

The community must have confidence in the justice system, specifically the institution of trial by jury, which is an essential element of democracy. The government amendment embodies an appropriate balance between these considerations. Consequently, I commend the amendment to the house.

Dr DEAN (Berwick) — I hear the minister's comments about his compromise between the original act allowing all people to sit on juries and the opposition proposal, passed by the Legislative Council, that no person on bail should sit on a jury.

It is important to understand why the opposition will persist with its view that no person on bail should sit on a jury. A person on bail has not yet been convicted of an offence and is therefore entitled to the presumption of innocence. But there are many cases of people on bail having to take a step back prior to trial and after being charged. The granting of bail itself is a statement that although you are innocent until proved guilty, money must be put up for you to be free and your movements will be restricted.

A person who fails to obtain bail has also not been convicted of an offence and is also entitled to the presumption of innocence, even though he or she is being kept in jail prior to trial. There are many examples of situations where for obvious reasons people who have not yet had their trials have had their rights curtailed. Another example would be where a minister is charged with fraud or some other matter and he or she steps down until the matter is decided.

It is necessary to ensure that that happens, because part of the success of the jury system is that communities have faith in it.

Mr Plowman — Do you have an example of that?

Dr DEAN — Yes, there is the SOCOG example; but there could be examples on the other side of the house in due course.

Honourable members interjecting.

Dr DEAN — One of the reasons these rules exist is to maintain the community's faith in the jury system. That is why the community reacted to the original decision to allow people on bail to sit on juries — they felt it was unfair. It is important to recognise that we all suffer if the community does not have faith in juries.

The minister said that he had decided on a compromise because the community would understand that summary offences are not serious offences and would therefore accept those people sitting on juries in those cases. He also said that people who had been charged with indictable offences would not be acceptable to the community.

It is an interesting exercise to read the findings of the Law Reform Committee in its report entitled *Jury Service in Victoria.* Appendices IV and V set out all the summary offences and indictable offences in Victoria.

I will read to the house some summary offences, which the Attorney-General believes are appropriate. They include assault other than by kicking, sexual offences and carrying an offensive weapon under the Crimes Act; the breach of a family violence order under the Crimes (Family Violence) Act; forgery under the Casino Control Act; fraud and bribery under the Accident Compensation Act; breaches of the Adoption Act; extortion involving court officials; the display and sale of pornography; and giving false and misleading information under the Crimes (Confiscation of Profits)Act. There are also offences to do with gaming machines; breaches of the Infertility Treatment Act; planting listening devices; making threats of undue influence against local government officials; fraud

under the Medical Practice Act; and even dangerous driving. It is important to note also that they are indictable offences that are heard summarily.

It is not clear from the amendment whether, if a person elects to have an indictable offence tried summarily, that offence would be included in the amendment and whether such a person would be able to sit on a jury. If so, people charged with some extraordinary offences such as theft, bestiality or God knows what would be included. It is a matter of principle, and the opposition will not compromise. A person who is on bail should step back until the decision is made.

Statistics show that 80 per cent of people charged end up convicted of the crime. Therefore, a person on bail sitting on a jury has an 80 per cent chance that he or she will be convicted after the jury has deliberated — maybe of the same offence as, or one even worse than, the offence for which he or she sat on a jury. That is unacceptable and totally inappropriate, and the community will not wear it.

If a juror found out later that one of the other people on the jury was charged with a similar offence and later convicted, how would he or she feel about that person's impartiality towards the prosecutor and the system, particularly if it was a similar offence?

Figures from the United States show that 63 per cent of people on very serious charges go on bail. Of the total number of people charged with murder 16 per cent are bailed; for those charged with robbery, the figure is 39 per cent; for burglary, 47 per cent; and for rape, 51 per cent. It is not unusual to be bailed, so the problem is not small.

Jurors may find out later that one of their fellow jury members was charged with and then convicted of, say, a summary offence, one with sexual connotations. That is bad enough, but they will lose faith in the system even further if, after reaching a verdict of not guilty, they find out that he or she was facing an assault charge similar to the one of which the defendant was acquitted by the jury. Surely the faith of the victim in the system would also, in that case, be greatly lessened. Such a person would feel short-changed by the jury system. We must never open up the jury system to that sort of criticism. The system must never be in the situation where, rightly or wrongly, the community may lose faith in it. There is no reason to do that.

Why would a person on bail be offended by the provision that he or she would not be able to sit on a jury? If the person is convicted of the charge — and there is an 80 per cent chance that he or she will be — the act already disqualifies the person from sitting on a jury. Surely the person would not argue with that! If the person is acquitted he or she becomes available for jury duty. Most people on bail would want a decision on their own case before they got themselves into that situation.

An honest jury member might well admit in a jury room that he or she was being charged or was under a charge. The situation could even arise where a jury member had been convicted but was awaiting sentence on bail. That would be outrageous. Such people cannot sit on juries in any event.

Mr Hulls — Have you spoken to Victor about this?

Dr DEAN — I think the minister is referring to the Law Reform Committee.

Mr Hulls — It does a good job.

Dr DEAN — That is the one recommendation on which the Law Reform Committee split. Every other recommendation was unanimous. When the previous Attorney-General got the report she made the decision that people on bail should not be able to sit on juries until their innocence is determined. That is a sensible and practical approach.

The Attorney-General has slipped up. He has realised that the amendment moved in the upper house is a good amendment, and the community has told him it is good, but he does not have the strength to say, 'All right, we will accept that amendment' because he could not possibly accept an amendment coming from the opposition. Instead, he came up with a compromise that is neither here nor there: it breaches the principle, and it still leaves us with the problems and ills that were the whole reason for moving the amendment in the first place.

Mr Hulls — What does the Criminal Bar Association say?

Dr DEAN — I will tell the Attorney-General what the Law Institute has written to me. It agrees entirely with the view of the opposition — that faith in juries will be lessened if the community perceives that people who are on bail and who may be convicted of a similar offence to that of the person on trial are able to sit on juries.

Mr Hulls — What does the Criminal Bar Association say?

Dr DEAN — I have had numerous conversations with the Criminal Bar Association, and only a division

of the association has written to me saying that on the basis of presumed innocence what is proposed by the opposition should not happen. I have explained in response that presumed innocence is often put aside during the process of determining some rights. I think the Attorney-General was out of the house when I said that what happens with bail is a fantastic example of that. A person, who is innocent until proved guilty, may even be incarcerated prior to trial but certainly will be told, 'You can't walk free; you've got to have recognisance; you've got to have someone put up money for you'. That person is entitled to ask, 'Why should I? I am innocent'. The reason is that until the trial is conducted it is inappropriate for that person to have complete freedom, so some rights are restricted. As I have said, I do not believe that people on bail, particularly if they were innocent, would be at all concerned if prior to determination of their innocence they could not sit on a jury.

Mr Hulls interjected.

Dr DEAN — What will the Attorney-General do if suddenly during a trial a juror says in the jury room, 'I suppose I should tell you that I am actually charged with the same offence and my trial is coming up', and in answer to the question, 'What are you going to plead?', says, 'I'm actually going to plead guilty'? The jury would say to the judge, 'Hang on a tick, this is not right', and the whole thing would be aborted.

Mr Hulls — It's been in place since 1967!

Dr DEAN — It should not have been in place since 1967.

Mr Hulls — So the system is not working?

Dr DEAN — Well, it has.

The DEPUTY SPEAKER — Order! The Attorney-General and the honourable member for Berwick will not indulge in a debate across the table.

Dr DEAN — The Attorney-General keeps getting it wrong. Prior to the bill something called vetting was in place. He has gone red. Under vetting, the prosecutor could say to the Sheriff in advance, 'These people should not be considered', so people on bail would be removed from those available for jury service. The government proposes to remove vetting, and the opposition agrees entirely with that. The problem with removing vetting is that it throws back to the schedules the determination of who can sit on juries. That is entirely appropriate, but then the government must ensure that the schedules pick up all those who would not be able to sit on juries as a consequence of the vetting process. That is why the spotlight is on that question. The Attorney-General has completely overlooked that.

It was always inappropriate that someone on bail should sit on a jury. Now a situation could arise that if a member of a jury had been convicted of a crime similar to the subject of the trial there would be an appeal to the Court of Appeal in relation to the jury and the juror. It is only a matter of time before that happens, and it will be interesting to see whether the Court of Appeal holds that the trial should be aborted. Honourable members have already heard what a judge believes about juries having access to a list of the previous crimes of an accused. If a jury turns out to be not fair and proper, that can be a point of appeal.

At this late stage I urge the Attorney-General to say, 'I realise that this was a blue and that no-one on bail should sit on a jury and there is no reason for compromise or distinction. I will accept the amendment because that is the case'. Trying to have a wishy-washy compromise, which includes summary offences that in anyone's view are extremely serious — in some case as serious as indictable offences — makes no sense.

Mr RYAN (Leader of the National Party) — I support the bill as amended by the upper house and oppose the half-baked compromise suggested by the government. I will make a brief contribution on the most important points.

The fundamental issue is the public perception of the jury system and the time-honoured acceptance of it as a magnificent component of how the judicial system is discharged not only in this state but throughout Australia. I have had the pleasure of being part of a parliamentary inquiry into the operation of the jury system. That basic tenet, which is held so dear by so many people, has always been a feature of what has transpired in its operation. That must be the first point in a consideration of the system because other factors may cloud the issue. That being so, there is a need to be careful about anything that causes concern about that basic belief. The current bill represents such a concern. If the bill were passed in either its initial form or as the Attorney-General is now proposing it would detract from the public's basic view about how the jury system should operate.

I am a strong believer in individual rights. When I was its chairman the Scrutiny of Acts and Regulations Committee put much time and effort into the protection of individual rights. However, there are occasions when for the public good questions of public policy must prevail to the point where the rights of the individual

are sacrificed for those of the community. This is one such circumstance.

I appreciate that a person on bail is not guilty, and remains innocent until proven guilty, but the bill represents one of the singular instances where the rights of the individual must be sacrificed for the greater good — that is, the protection of the jury system and the perception of it by the public at large.

The Attorney-General's proposal is an unsatisfactory halfway house. It is a classic instance of something having to be one thing or another. As soon as the Attorney-General indicated he was prepared to come half way, as it were, he was admitting that the original proposition was wrong. The very action of proposing the halfway house is in principle supportive of the proposition that was accepted by the upper house. On this matter the government cannot be half pregnant, so to speak. It cannot go half way. It must have a view one way or the other. Persons who are on bail for offences should not be able to serve on juries because it is necessary to preserve the identity of the jury system in the eyes of the public at large.

The point the honourable member for Berwick in his capacity as shadow Attorney-General made about non-indictable offences was valid — that a range of serious offences happen not to be indictable. Nevertheless, among them are matters that I recognise will be of grave concern to members of the public. The very concept of an individual who is on bail and who has been charged with one of the many types of offences referred to by the honourable member for Berwick serving time on a jury is something about which the public at large would be very disturbed. When the issue was flagged the reaction from the public at large was a significant outcry that any such circumstance could properly arise.

Persons who are on bail should be excluded from jury service. Of course, at the end of their trials or whenever the offences with which they have been charged have been dealt with, in whatever way that might occur, they should again be eligible for jury service.

The National Party supports the legislation as amended by the Legislative Council and opposes the amendments proposed by the Attorney-General.

Mr WYNNE (Richmond) — I support the government's amendments. As the Attorney-General has indicated, there are two amendments: one is a very minor typographical amendment and the second pertains to the government's desire to reach a compromise in relation to matters flagged by the honourable member for Berwick. The second amendment means that a person on bail after being charged with a serious offence will be disqualified from jury service. The government considers that to be quite a reasoned and sustainable halfway point.

It is worth highlighting some of the history surrounding the Juries Bill, which was canvassed by the Attorney-General in his opening remarks. The bipartisan parliamentary Law Reform Committee under the leadership at the time of the honourable member for Doncaster did some excellent work in reviewing the Juries Act, which had not been reviewed since 1967. I commend the work of that committee.

It is important to acknowledge that when this house debated the bill some months ago it was passed without amendment. I recall that at that stage — I have not had a chance to look carefully at *Hansard* — the shadow Attorney-General, the honourable member for Berwick, did not raise any substantial issues on the question of people on bail being excluded from the jury process. One must wonder what happened from the time the bill was debated in the lower house and the time it was amended in the other place. It is in that context that members need to consider the debate that occurred in the other place. I refer specifically to a contribution by the Honourable Carlo Furletti in the other place, who said in part :

> The opposition will not stop the bill if it is returned to this place, but if the government does not accept the amendment —

that is the amendment that was proposed —

> the outcome will be on its head.

At another point, Mr Furletti went on to say:

> While the opposition does not agree entirely with a number of provisions, it will defer to government prerogative.

It is very clear that the government has provided an important and measured response to the concerns expressed in the upper house. I take cognisance of the debate which occurred when the bill was previously before the house when, to my recollection, no substantive issues were raised against the legislation. It is important to acknowledge that the bill was passed by this house unamended.

I will raise a couple of additional matters. I am advised by the honourable member for Berwick's contribution earlier today that there is a basic point of criminal procedure — that is, a jury cannot hear summary offences, only indictable offences and that a person who has been charged with the same offence as the

person whose case he or she is due to consider is ineligible to serve on that jury. The second amendment proposed by the Attorney-General means that people charged with indictable offences who have either been remanded in custody or released on bail will be disqualified from jury service.

I am cognisant of the time and the restrictions placed on honourable members. On reflection, this is a reasoned compromise. The Attorney-General has put forward a sound case for disqualifying from jury service people who have been charged with serious offences. It is important to recognise that people get themselves into difficult situations.

The opposition's proposed amendment would disqualify a whole lot of people — for example, someone who may have been charged with the admittedly serious offence of drink-driving and who is on bail. It is hard to imagine a circumstance in which a person who has been bailed on a drink-driving charge should not sit on a jury in another matter before a court. The opposition's amendment is manifestly biased against someone in that situation. That is the context in which the Attorney-General has framed his amendment.

The government argues that the opposition's amendment would discriminate against a group of people whose actions do not in any way conflict with an open and accountable jury process that represents all sections of the community. In that context I hope the opposition hears and understands the argument. The government does not want to exclude people from jury service. It wants to open up the process. I commend the government amendment to the house.

Mr McINTOSH (Kew) — I commence by reflecting on what the bill is about. The fundamental thread running through the bill is the need to support the integrity of the jury system as an essential part of the criminal justice system. It is probably not beyond possibility to suggest that the jury system is a cornerstone of democracy in Australia, the United Kingdom and the United States of America.

I was sitting in the house when the honourable member for Sunshine reminded us of less fortunate lands that do not have a jury system. Speaker after speaker validated the process as an integral part of Australia's criminal justice system. The fundamental aim of the bill must be to preserve the integrity of the jury system. Anything that impacts on that integrity has to be questioned.

The bill is based on a previous bill introduced by my predecessor as the honourable member for Kew, the former Attorney-General the Honourable Jan Wade, save for two major changes, the first of which relates to jury vetting. I will say this very slowly so the Attorney-General can understand, because I want him to answer my question now that he has got rid of the jury vetting system. In his second-reading speech he referred to Katsuno's case, and I will remind him of what that was about.

Katsuno's case is about the High Court saying that the process of jury selection is a statutory system and that because there is no reference in the Juries Act to the way jury vetting is undertaken in Victoria the process has no statutory base, is therefore unenforceable and so is struck down. There is nothing in Katsuno's case about it being reprehensible or a fundamental breach of human rights. It is not contrary to any United Nations convention or treaty. The case simply said that the jury system in Victoria is a statutory system and that if jury vetting does not accord with the statute, it is not lawful.

In its wisdom the previous Law Reform Committee said the jury system should be enhanced by increasing the ambit of jury vetting, making it a statutory formula prescribed in the act. For some reason the Attorney-General removed jury vetting, including the rights of individuals to serve on juries. It comes back to the fundamental notion of ensuring the integrity of the jury system. Sometimes life is about weighing up rights; sometimes it is more important to diminish or depress the rights of an individual for the common good.

The Attorney-General's amendment does not maintain the integrity of the jury system in relation to bail. The process began in this house. I raised a conundrum, saying that if one gets rid of jury vetting those on bail for any offence could theoretically serve on a jury. My conundrum was not addressed by the Attorney-General. There may be an answer, and I ask the Attorney-General to address it. The conundrum remains even with the Attorney-General's amendment.

The shadow Attorney-General read out a variety of different offences, and it is worth noting that some of them are summary offences in this state. It is within the power of this Parliament to subsequently change which offences will be excluded, but the summary offences include fraud under the Accident Compensation Act, forgery under the Casino Control Act, and making, possessing or selling objectionable films under the Children and Young Persons Act. Further, the sale or possession of a small quantity of drugs is still dealt with summarily under the Drugs, Poisons and Controlled Substances Act as is the use of prohibited listening devices under the Surveillance Devices Act, bribery

under the Local Government Act and dangerous driving — not negligent but dangerous driving. It is theoretically possible for someone charged with a serious offence, such as dangerous driving, to be sitting on a jury in a case involving culpable driving. It is still possible for someone charged with selling or possessing objectionable films under the Children and Young Persons Act to be sitting on a jury involving, for example, a sexual offence against children or some other sexual offence.

If the amendment to exclude from sitting on juries people who have been charged with not only indictable offences is not accepted, it is more than a possibility — it is a likelihood — that Victoria will be faced with the situation of a jury being discharged if it is later found that a juror has been charged with a related offence. Given that Victoria does not have a jury vetting system, will the Attorney-General suggest how on earth the judge, the prosecution or even the defence counsel will know that a person sitting on a jury involving a case of culpable driving is on bail to appear for charges of dangerous driving, sexual offences, fraud or bribery in relation to an ancillary provision?

It beggars belief that a simple amendment that is rational, reasoned and enormously beneficial is not able to be passed by Parliament. That conundrum arose in this house and caused an enormous amount of public comment; it was not addressed by the Attorney-General but rather had to be amended in the upper house. The amendment proposed by the upper house should not be watered down or it will attack the integrity of the jury system in Victoria.

Mr STENSHOLT (Burwood) — I speak on the Juries Bill, which has been returned from the Legislative Council, and the amendments proposed by the Attorney-General.

The bill seeks to reform the jury system. Other speakers have pointed out that the bill builds on the 1996 recommendations of the Law Reform Committee, which also includes the changes brought forward following consultations undertaken by the government when introducing the bill earlier this year. As other speakers have also said, trial by jury is one of the basic principles of our legal system and democratic society. It provides that a jury of peers must determine whether a person is guilty of an offence. One of the basic intents of the bill is to determine who can serve on a jury, who should not serve on a jury and when those people eligible should serve.

Several schedules of the bill pertain to the major amendment we are debating. Schedule 1 refers to persons disqualified from serving as jurors, and schedule 2 refers to persons who are ineligible to serve on a jury. Honourable members are now debating the proposed amendment to schedule 1. When dealing with the issue of which people are disqualified from serving as jurors we must consider whether all people on bail should be disqualified or whether only those who are on bail for serious offences, rather than those on bail for a summary offence, should be disqualified.

Certain principles have been raised in the house, including the presumption of innocence unless proven guilty. When one looks at schedule 1 and reflects on that principle one should not automatically lump all people on bail with those people who have been convicted, sentenced or have recently served a term of imprisonment. It is a matter of fine judgment and of weighing up the issues, as the previous speaker said. The Attorney-General's amendment provides a commonsense and balanced approach that accepts that people on bail for minor offences are eligible for jury service while acknowledging that there may be long periods before such summary offences are fully heard. The amendment does not allow for people on bail for serious charges to serve on juries. I support the amendment.

Mr MAXFIELD (Narracan) — The amendment to the Juries Bill strikes at the heart of the importance of the jury system, our way of life, justice and treating every human being with dignity. As we know, some countries do not have a proper jury system and may not look after their judiciary in the way they should. Civil rights may be infringed and people may not get a chance to live their lives in the way they need, deserve or are entitled to in a civilised society.

The amendment goes to the issue of narrowing the selection of juries. The amendment is an attempt by the government to exclude some people who have committed some minor offences from jury duty. It is unfortunate that the opposition does not agree with the amendment, because the government strongly believes in the rights of all individuals. It is important that we have a good jury system. The amendment provides that persons on bail for serious offences are disqualified from jury service. That is justifiable and acceptable. The opposition has gone too far by disqualifying all persons on bail for offences of a minor nature.

Why is it important to have juries that are representative of the whole community? Juries must come from all walks of life. Victorians do not want a situation where people repeatedly turn up for jury duty; neither do they want juries that come from narrow sections of society,

which can happen at present. They want jury selection to be based on the widest possible criteria.

The opposition wants to damage jury selection and reduce its credibility. It is trying to play politics. It is trying to see whether there might be votes in it or whether it may have a chance at a free kick by twisting and distorting the truth and carrying on about a person committing this crime or that crime. It is not interested in good policy or good government. Victorians realised that in the era of the Kennett government when the rights of individuals were undermined. Many people were denied both the right to speak clearly and the right to justice. The Bracks government is about giving freedom and opportunity to people to conduct their lives in an appropriate manner.

Victoria needs juries made up of people from all walks of life. As an example, it does not want too many politicians on juries. Imagine if that art thief who bolted with a painting suddenly found himself judged by people who had committed a similar crime!

Ms Campbell interjected.

Mr MAXFIELD — We will not mention exercise bikes! Juries must consist of a wide spread of people. Opposition claims that the government will not maintain the integrity of the jury system are rubbish. Victoria must have a strong jury system but must not disqualify people from jury service without good reason. The amendment will provide the correct balance in the make-up of Victorian juries.

Mr HULLS (Attorney-General) — To sum up, the proposed government amendments are appropriate. Speakers on the other side failed to understand that Victoria has had a Juries Act since 1967 and that the proposed amendments strengthen that act. For honourable members opposite to say that the amendments will undermine the state's jury system is nonsense and demonstrates a failure to understand both how well the jury system has worked and how much integrity it has.

It goes without saying that the government is a believer in the jury system. Unlike former governments the Bracks government does not intend to abolish the system and has strengthened its importance by the requirement that unanimous verdicts for murder should remain. The government believes that the former government's wish to introduce a system of majority verdicts for murder was inappropriate.

The former Law Reform Committee, chaired by the honourable member for Doncaster, who sits opposite, carried out great work. I note that he has not contributed to this aspect of the debate.

Mr McArthur — Because you guillotined the constitution debate.

Mr HULLS — As Sooky La-la walks out of the chamber it is interesting to note that he did not contribute to the debate, either. I have no doubt that the honourable member for Doncaster is a true believer in the jury system, and would hazard a guess that he would be happy for the jury system to be opened up as widely as possible to make it representative of the community as a whole.

The government firmly believes that people charged with offences are innocent until proved guilty and that putting a tag on such people and creating an aura around them that they must be lesser members of the community will have a tendency to prejudice the chances of any accused person getting a fair trial. If jurors know that no-one charged with offences may sit on a jury they are entitled to take the view that any person charged with an offence must have something wrong with them, and therefore trials will be prejudiced. The government does not want that to happen. If you say that any person charged with an offence should not sit on a jury because it may prejudice his or her consideration of the evidence, you might as well get rid of victims on juries by taking the view that a victim of crime may have certain views about particular matters. You may as well say, 'Let's get rid of black people'.

The DEPUTY SPEAKER — Order! The honourable member for Kew is acting in an unparliamentary manner. I ask him to behave himself or leave the chamber.

Mr HULLS — For the record, and for the benefit of his own constituents, it is important to note that the mature honourable member for Kew was blowing raspberries in the house. One wonders how seriously one can take his contribution on this important debate.

I repeat, if you say, 'Let's get rid of certain people', why not get rid of victims or get rid of black people or get rid of people from non-English-speaking backgrounds because their views might be tainted? It is an absolute joke to say that we should get rid of all people charged with offences and on bail from sitting on juries.

The government believes the jury system is very robust. It has served Victoria well since 1967 and it is here to stay. The proposed amendments are indeed appropriate and they will strengthen the jury system.

I thank the honourable member for Doncaster for the excellent work he did with the Law Reform Committee. I also take up the point made by the honourable member for Richmond. There were no amendments moved when this bill came before the house some time ago. All of a sudden the opposition sees this is an opportunity. It is flagging in the polls and it has a leader who is rating at 8 per cent. It has to do something to raise its profile so it wants to see if it can get some political hits out of the jury system.

The opposition had the chance to move amendments when the bill first came before the house, but it did not do that. Members in the upper house are now saying that although they will move amendments they will not oppose the bill. They are all over the place like a dog's breakfast. I simply ask all honourable members of this house — —

An honourable member interjected.

Mr HULLS — Well, Sooky La-la's back.

The DEPUTY SPEAKER — Order! Through the Chair.

Mr HULLS — The Honourable Sooky La-la's back, Madam Deputy Speaker.

The DEPUTY SPEAKER — Order! The Attorney-General!

Mr Perton — On a point of order, Madam Deputy Speaker, you have called the honourable member for Kew to order. This is the Attorney-General of the state of Victoria using playground terms. I ask you, just in terms of the dignity of this house, to direct the Attorney-General to refer to other members by their appropriate title — that is, the honourable member for whatever appropriate seat.

This Sooky La-la nonsense is playground stuff. The honourable member for Kew earlier made it very clear to the house that basically we have got a kid in a sandpit masquerading as the Attorney-General of this state.

The DEPUTY SPEAKER — Order! I was attempting to call the Attorney-General to order before the honourable member for Doncaster rose and started to speak. The Attorney-General, in conclusion.

Mr HULLS — In conclusion, it is important to note that since the High Court decision in Katsuno in September 1999 no person on bail has been disqualified from jury service or vetted by the Crown. The Director of Public Prosecutions is no longer provided with information about whether a person is on bail. There have been no problems with the operation of the jury system in the almost 12 months since that decision.

For opposition members to be saying that this is going to be the end of the world as we know it and that this is going to undermine the credibility of the jury system is absolute nonsense. The compromise being proposed is an appropriate compromise. The government believes it will strengthen the jury system.

The government asks all honourable members to support the bill and the proposed amendment.

House divided on motion:

Ayes, 46

Allan, Ms
Allen, Ms
Barker, Ms
Batchelor, Mr
Beattie, Ms
Bracks, Mr
Brumby, Mr
Cameron, Mr
Campbell, Ms
Carli, Mr
Davies, Ms
Delahunty, Ms
Duncan, Ms
Garbutt, Ms
Gillett, Ms
Haermeyer, Mr
Hamilton, Mr
Hardman, Mr
Helper, Mr
Holding, Mr
Howard, Mr
Hulls, Mr
Ingram, Mr
Kosky, Ms
Langdon, Mr (*Teller*)
Languiller, Mr
Leighton, Mr
Lenders, Mr
Lim, Mr
Lindell, Ms
Loney, Mr
Maddigan, Mrs
Maxfield, Mr
Mildenhall, Mr
Nardella, Mr
Overington, Ms
Pandazopoulos, Mr
Pike, Ms
Robinson, Mr
Savage, Mr
Seitz, Mr
Stensholt, Mr (*Teller*)
Thwaites, Mr
Trezise, Mr
Viney, Mr
Wynne, Mr

Noes, 41

Asher, Ms
Ashley, Mr
Baillieu, Mr
Burke, Ms
Clark, Mr
Cooper, Mr
Dean, Dr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Elliott, Mrs
Fyffe, Mrs
Honeywood, Mr
Jasper, Mr
Kilgour, Mr
Kotsiras, Mr
Leigh, Mr
Lupton, Mr
McArthur, Mr
McCall, Ms
McIntosh, Mr
Maclellan, Mr
Maughan, Mr (*Teller*)
Mulder, Mr
Napthine, Dr
Paterson, Mr
Perton, Mr
Peulich, Mrs
Phillips, Mr
Plowman, Mr
Richardson, Mr
Rowe, Mr
Ryan, Mr
Shardey, Mrs
Smith, Mr (*Teller*)
Spry, Mr
Steggall, Mr
Thompson, Mr
Vogels, Mr
Wells, Mr
Wilson, Mr

Motion agreed to.

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

INFORMATION PRIVACY BILL

Government amendments circulated by Mr BRUMBY (Minister for State and Regional Development) pursuant to sessional orders.

Opposition amendments circulated by Mr PERTON (Doncaster) pursuant to sessional orders.

Second reading

Debate resumed from 26 May; motion of Mr BRUMBY (Minister for State and Regional Development).

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

Mr PERTON (Doncaster) — This is a very important debate and one that has been unconscionably long in coming before this house.

The opposition's position is that ignorance of the law is no excuse but making laws in ignorance is inexcusable. In introducing only half of the bill that was introduced by the Honourable Alan Stockdale in May last year this government is not only making laws in ignorance but is betraying Victoria and young Victorians and denying them opportunities in the new economy.

The opposition will not oppose the legislation, as it applies the privacy principles to the public sector. However, it will seek to amend the bill in line with the amendments that have been circulated in my name and during the course of the debate will be critical of and ask the government to reconsider its position in that it has failed to deal with the private sector.

Criticisms of the bill come from a variety of sources. The first is that the government is adopting a patchwork approach. It is dealing only with the government sector, thereby leaving a large portion of the Victorian public unprotected. The second is that the government has indicated it is delivering a separate piece of privacy legislation for the health sector, and from briefings the opposition has received from the department it appears there will even be a separate commissioner for health privacy. So far from being simple, the structure delivered by the government will be very much a patchwork structure which will very likely increase the regulatory burden in Victoria.

It is my view that the bill and the minister's second-reading speech fail to consider global developments. The bill steps away from the development of uniform best practice in the Victorian public sector; it clearly steps away from Victoria's position of leadership in e-commerce and as an electronic government; and in particular it delays protection in the private sector by an estimated two years.

In doing so it will negatively affect consumer confidence and result in a failure to complete the work initiated under the Electronic Transactions Bill. The bill directly challenges the Bracks government's claim that it supports the development of e-commerce for the prosperity of the state. It will have a negative impact on Victorian-based industry and business; it reflects poorly on Victoria's role in the global economy and on its determination to set the global pace; and it ignores the growing calls in the private sector for regulation.

Further, the government's treatment of the bill misconstrues the threat in the new economy. It will not appropriately educate the private sector so that Victoria can take the lead. It fails to show the leadership so strongly provided by the former Minister for Information Technology and Multimedia, the Honourable Alan Stockdale.

I first became involved in the preparation of the bill when I took on the chairmanship of the Data Protection Advisory Council, which reported to the government in December 1996. I was joined on that committee by the honourable member for Caulfield, Helen Shardey, who has been a tower of strength in this debate. She has provided strong leadership and contributed to the intellectual output of the council. We were joined by Dr Chris Brook, Mr Roger Clarke, Dr Gordon Hughes, Professor Ron Sacks-Davis and Professor Greg Tucker. We were ably served by the executive officer, Miss Bridget Bainbridge, and other staff members of Multimedia Victoria — including the adviser in the box.

The privacy debate has been around for over a hundred years, but it is only in the last couple of decades that privacy, data protection and, as the government refers to it, information protection have become topical. A landmark decision in this debate was the enforcement of the International Protocol For Civil And Political Rights, ratified by Australia in 1980. Article 17 of that covenant says:

> No-one shall be subjected to arbitrary or unlawful interference with his privacy, family, home or correspondence; nor to unlawful attacks on his honour or reputation. Everyone has the right to protection of the law against such interference or attacks.

A further landmark was the issuing of the Organisation for Economic Cooperation and Development guidelines at the beginning of the 1980s. In 1983, after an arduous inquiry, the recommendations of the Australia Law Reform Commission (ALRC) formed the basis of the commonwealth Privacy Act of 1988.

In May 1990, after another long inquiry, the Victorian Legal and Constitutional Committee tabled its report entitled *A Report to Parliament upon Privacy and Breach of Confidence*. The report rejected the ALRC recommendations and instead advocated the introduction of wide-ranging and comprehensive data protection legislation. In a contemptuous and contemptible act, the then Labor Attorney-General, the Honourable Jim Kennan, tabled a single-page response to the committee's recommendations.

He advised Parliament that the matters raised by the Legal and Constitution Committee were to be referred to the Victorian Law Reform Commission. The Attorney-General said that the VLRC had advised that it would submit its report early in 1992, but it was not until October that the commission released a discussion paper on the issue.

That ended the debate until in January 1996, when the Kennett government, under the leadership of the Honourable Alan Stockdale, convened a whole-of-government privacy workshop to discuss the issues of data protection and government use of information.

The workshop reached the consensus that privacy and data protection needed to be addressed on a whole-of-government basis. That was considered necessary because of the new technologies that were in use, the increased demands within the public sector for information from government departments, and the demand from the private sector resulting from increased outsourcing. As a direct result of the workshop, the Victorian government established the Data Protection Advisory Council.

The council was given the following terms of reference:

> … to inquire into, consider and report to the Minister on the most appropriate regulatory regime for Victoria governing collection, storage and transport of information, particularly personal information held by public sector organisations and in so doing
>
> (A) to have regard to the models, principles, and experience of data protection or privacy regulation schemes however called, in other jurisdictions such as in other Australian States, in New Zealand and in the European Union; and
>
> (B) to consider the desirability of regulation covering the private sector, in light of the commonwealth government's activity in the area; and
>
> (C) to make recommendations on the most appropriate regulatory regime for data protection and privacy in Victoria

The Data Protection Advisory Council consulted widely and researched actively. The advent of the Internet and cheaper telephone communications meant it could consult internationally. The Data Protection Advisory Council — I note my colleague, the honourable member for Caulfield, is now sitting beside me at the table — believed that support for a privacy regime for Victoria came from three levels.

The first was international, in particular the European Union (EU) directive on transported data flows of 24 October 1995, which demonstrated the seriousness with which the union viewed data protection and privacy issues. The directive provides that EU members cannot deal or trade in personal information with outside countries that do not have adequate data protection regimes. Most seriously for Australia, there is no data protection regime for the private sector.

The second source of support was at the national level. The commonwealth Privacy Act of 1998 applied to the commonwealth public sector, but the federal government announced that its provisions would extend to the private sector.

Lastly and most importantly, at the state level the Victorian government's Victoria 21 policy outlined a number of initiatives to support the development and use of new information technologies. Privacy is integral to those developments. I quote from the report of the Data Protection Advisory Council (DPAC), which states, in part:

> A privacy regime would provide a bedrock for the development of electronic commerce, the electronic service delivery project and other projects derived from the Victoria 21 policy.

The council also stated in its report that:

> In the light of these developments DPAC recommends that a privacy act be created for implementation in Victoria in 1997.
>
> At the commonwealth level the desirability of national uniformity with respect to privacy protection arouses interest but is not yet apparent. Until such time as a comprehensive national regime becomes a topic for debate, DPAC

> recommends that a privacy act be passed in Victoria as a matter of urgency.
>
> While the recommended regulatory regime provided by DPAC is based on the commonwealth Privacy Act 1988 and the New Zealand Privacy Act 1993, it also takes into account other international developments in privacy law as well as the specific Victorian context.
>
> Privacy law is not new, neither is it 'rocket science'. DPAC has taken the best elements of a range of privacy regimes and combined them to create a regime which reflects international best practice. DPAC has proposed a legislative regime that is flexible, facilitative, easy to understand and capable of adaptation.
>
> Data protection involves a careful balancing of two competing objectives: the first aims to inform and regulate the collection, use, storage, disclosure, individual access, and the quality of personal information; the second recognises that the competing public interests, for example the free flow of information, may outweigh the individual's right to privacy.

That report was handed to the government in December, 1996. After the tabling of the report the Honourable Alan Stockdale, together with Dr Bridget Bainbridge and her team and my colleague, the honourable member for Box Hill, who was then the Parliamentary Secretary to the Treasurer, worked actively with the federal government to seek national uniformity within legislative structures. It is quite clear that for constitutional reasons the Victorian government must legislate for its own agencies. It is arguable, however, that at the national level the federal government could cover the private sector.

By early last year it became the clear view of the Victorian government that good data protection law in the private sector was not being provided at the federal level. Not only the Liberal–National government but the federal Labor Party too was reluctant, and the Democrats were playing games around the issue. It was clear that uniform legislation for the private sector was going to be slow in coming. In May of last year the Honourable Alan Stockdale introduced a bill to cover both the public and private sectors.

Why did he do that? In this global age, regional economies and governments integrate with the world almost as much as national governments do. Many of the issues at the cutting edge of electronic commerce are state issues. Electronic signatures, computer crime, consumer protection and business support are all best delivered at the state or provincial level. That is true not only of Australia but of the United States, Canada and other countries with both state and provincial governments. State jurisdictions tend to be more responsive to the needs and possibilities of their constituents.

During the course of the Data Protection Advisory Council investigations and their follow-up I interviewed a film-maker who said, 'Make sure you tell them that Victoria is the best place for film-making and multimedia. Your government is the only one committed to making multimedia happen'.

It was the view of Alan Stockdale and the Victorian coalition government that Victoria ought to act with speed to create the right environment to engender business and consumer trust in electronic service delivery. It is our desire even in opposition to position Victoria as a leader. Given the flexibility of the proposals contained in the Stockdale bill, those provisions could have been fully integrated into any forthcoming federal regime.

The Victorian government, in its Victoria 21 strategy, proposed a regulatory framework that made Victoria the leader in the field because it recognised very early that the backbone of the information economy, its basic commodity, would be trade and services based on data and information — areas in which government is traditionally a leader. Government has acted as an exemplary collector and manager of information, having acted as the repository for social data and records since the advent of parliamentary democracy. Historical records maintained in parliamentary democracies show us clearly that government has always been a leader in the field.

The bill makes provision for the management and handling of personal information only within the Victorian public sector. As I have indicated, the opposition does not oppose those provisions because they go some way towards achieving the certainty and confidence in privacy necessary if Victoria and Australia are to position themselves in the new economy. However, the limits of the legislation have certainly been noticed elsewhere. Professor Graham Greenleaf, a professor of law at the University of New South Wales and a former chair of the Australian Privacy Foundation, in his commentary on the bill said that:

> The Information and Privacy Bill retains most of the features of the previous Liberal government's Data Protection Bill 1999 but has some significant differences. The main difference is the bill's more limited scope. It only covers the public sector, whereas the Liberals' 1999 bill covered both public and private sectors.

Why is that important? Most people who have considered the privacy debate that took place in the late 1990s and throughout the past century note that the greatest threats to privacy no longer come from government. It is in the private sector that the huge and

unregulated collection of data is taking place. It is quite apparent that an organisation such as Coles Myer, with its stranglehold on the Australian and Victorian retail sectors, is collecting more personal data on the consumption habits of Victorians and Australians than the government could ever hope to collect. While government traditionally holds data that needs to be preserved carefully — for example, criminal records and certain health records — it is quite clear that the bulk of even health records remain in the private sector and are essentially unregulated.

The decision to limit the scope of the bill to the public sector is a mark of the Bracks government's failure to take leadership in the field of multimedia. I hear a giggle from the honourable member for Mitcham, who was the chairman of the committee of the Interact festival that took place last week. Members of the Liberal Party supported it. We attended the festival and ensured that our constituents and members of the private sector knew it was on and that they ought to participate in it. One of the most telling blows to the government came from people who had been consultants to the management of the organisation, who indicated that the strong advice from those who are powerful in the sector indicated that the next Interact meeting should take place in Sydney.

Mr Steggall — It took only a year!

Mr PERTON — As the honourable member for Swan Hill says, it took only a year for Victoria to fall from leadership in the field. It was such strong leadership that, for instance, in his latest book *Business at the Speed of Thought* Bill Gates referred to Victoria on at least four occasions. It has taken only one year for the Labor government to relinquish Melbourne's and Victoria's position as the leader in the Australian and Asia–Pacific economy and surrender it to Sydney.

The honourable member for Mitcham is left in an invidious position as the parliamentary secretary to the minister charged with the administration of Multimedia Victoria. It was clear to the private sector and internationally from day 1, when no minister for multimedia or IT was sworn in, that Victoria was no longer serious about the matter. That has meant that the IBM e-commerce centre, which should have been situated in Melbourne, has gone to Sydney; the Computer Sciences Corporation e-commerce centre has been set up in Canberra, rather than in Melbourne; the new facilities for Nortel and Bell Laboratories will be set up in New South Wales; and the most recent announcement by Microsoft is that its new facility will be going to Adelaide.

Mr Steggall — And it took only a year.

Mr PERTON — As the honourable member for Swan Hill says, it took only a year.

The opportunities forgone through the decision not to proceed with the bill on information privacy in the private sector that was introduced by the former minister for multimedia are immeasurable. The move jeopardises confidence in early take-up in e-commerce and delays protection in the private sector by at least two years. It represents a step away from Victoria's position of leadership in the new economy, it fails to consider its place in global developments and it fails in its objective of simplifying the law.

Mr Leighton interjected.

Mr PERTON — The honourable member for Preston asks whether I believe that the federal bill is inadequate. The answer is yes, I do. I am on record as saying that. It is sad that members of the Labor Party are also on record as saying that the federal legislation is inadequate. If the honourable member for Preston, the honourable member for Mitcham or the minister were to maintain consistency with their federal colleagues they should have proceeded with the Stockdale bill. It is an act of absolute hypocrisy and madness to admit that the federal legislation is inadequate and then delete the private sector provisions from the Stockdale bill.

The strength of the Stockdale bill was that it recognised that in business law today the federal jurisdiction is paramount. The Victorian bill introduced by Alan Stockdale would have provided a very easy mechanism for the Victorian provisions to be repealed to allow federal law to take precedence over Victorian law in the private sector in cases where the federal government legislates to protect private sector data handling. When the honourable member for Preston rightly points to the flaws in the federal bill, I find it difficult to understand how he can accept the provisions of the bill before the house and the fact that the Victorian bill deals with only limited Victorian government agencies.

It could be that the honourable member for Preston and the minister accept the view of the chairman and chief executive officer of Sun Microsystems, Scott McNealy, who in August was reported in 'Privacy is dead' on ZD Net as having said: 'You have zero privacy — get over it'. On the other hand, this year one of the chief executive officers of the new economy, Carly Fiorina of Hewlett-Packard — who has been reported favourably internationally in both magazines and newspapers — has said about privacy that, 'There is a role for

legislation that sets a minimum standard of requirements to create a foundation that is minimally acceptable'. Her comments indicate a change in sentiment in the United States IT sector. The company she manages turns over US$50 billion a year, so hers is a significant view.

Mr Leighton — We have not produced legislation yet.

Mr PERTON — The honourable member for Preston says the government has not produced legislation. Victoria produced legislation and the current government has cut it in half and taken away the useful component. There is no doubt there are political pressures on governments to comply with privacy standards. Even before the bill was introduced the privacy standards were being applied in the City Link project and in the contracts being entered into by the Victorian government in respect of electronic service delivery. So in Victoria government respect for personal data is pretty much already guaranteed by the political process, by the fact that there are watchdogs looking over government.

I referred earlier to the great grab for data. The honourable member for Preston is an expert in the area. He knows that companies such as Axiom in the United States and its arm here, Coles Myer, the insurers and the banks are on a major grab for data to build up databases before information or data privacy laws come into effect. If in Victoria we can protect our citizens ahead of the pack we will be in the nice position where good human rights law will meet good commercial practice.

There is no doubt that the lack of good privacy law holds back electronic commerce, not just in Victoria but in the United States and other places that do not have appropriate privacy regimes. Almost universally privacy regimes are assessed as the key barrier to the uptake of electronic commerce. The honourable member for Caulfield served with Roger Clarke, one of the Australian experts in the privacy debate. He has carried out a number of studies on the reluctance of consumers to engage in electronic transactions because of the lack of privacy law. He made it quite clear in his contracts to Visa, Mastercard and others that they are important.

One of the conclusions of an Organisation for Economic Cooperation and Development conference entitled 'Dismantling the barriers to global electronic commerce' held in Finland from 19 to 21 November 1997 was that privacy protection is a critical element of consumer and user trust in the online environment and a condition for the development of electronic commerce.

Tony Hill, the Executive Director of the well-respected Internet Society of Australia, said on 23 August:

> … only 5 per cent of Australian adults are currently purchasing online. They're waiting for a more trusting environment.

Last month Forrester Research estimated that:

> Worries over online privacy and how personal information would be used cost e-commerce companies some US $2.8 billion last year as many consumers simply refrained from web shopping.

That was reported on ZD Net on the Internet and in a range of newspapers.

The explanatory memorandum to the commonwealth's bill amending the Privacy Act states:

> The Australian public has expressed concern about doing business online … this concern could frustrate the growth of electronic commerce … User confidence in the way personal information is handled in the online environment will significantly influence consumer choices about whether to use electronic commerce.

Recently one of the experts in e-commerce in the legal field, Mr Peter Ludemann of Dibbs Crowther Osborne, said:

> Privacy-related issues seem to be universally raised as fears of people who might otherwise be interested in e-commerce.

The decision to limit the scope of the bill represents a step away from Victoria's position of leadership. It will have a negative effect on consumer confidence and will clearly leave the work of the Electronic Transactions (Victoria) Act incomplete. That act was intended to establish technological neutrality, protection and certainty on the supply side. The Data Protection Bill introduced by the former minister for multimedia, Mr Stockdale, aimed to establish confidence on the demand side by establishing a co-regulatory environment that would act as a default mechanism taking up the inadequacies of the common law.

However, the Bracks government clearly intends to leave the circle incomplete, and in so doing e-commerce in this state will suffer. Whereas there was the possibility that the new Amazon.com food industry and other industries in which Victoria is a world leader could have been based in this state, the lack of adequate privacy protection and an online consumer protection regime will certainly hold that back.

Earlier the honourable member for Preston interjected indicating he was critical of the federal regime. Indeed

his colleague, the shadow Attorney-General at the federal level, Robert McClelland, put this on record last month:

> EU concerns are justified in that the proposed legislation clearly needs to be tightened up. It is clearly going to be in our trading interests, but more importantly in the interests of Australian citizens, for us to have a meaningful privacy regime.

The work the honourable member for Caulfield, others and I did with the Data Protection Advisory Council made it clear that the European Union was not merely reliant on federal legislation in assessing whether there was an adequate data protection regime. It was quite prepared to look at state and provincial governments and determine whether adequate regimes were in place.

The Stockdale legislation was the answer to that. It would have satisfied the European Union's requirements in respect of data transfer. Despite that, as the honourable member for Preston has rightly pointed out, his own government has failed to take the opportunity to produce legislation to enable both Victorian businesses and consumers to benefit.

The honourable member for Preston is also quite right in seeking to have a world-leading privacy regime in this state. When Alan Stockdale proposed the comprehensive privacy legislation, he referred to it as a third-generation privacy regime that would be the world's best. In assessing that statement the *Australian Financial Review* described his vision for a co-regulatory regime, allowing industry codes of practice approved by the Victorian Privacy Commissioner to replace the privacy principles and enforcement aspects of legislation, which would act as a default position in the absence of any code, as a world leader. The *Australian Financial Review* speaks on behalf of many in business and it indicated that the Stockdale legislation would become the national standard.

When a bill is already before the house it is very sad when a government feels compelled to remove its most important provisions and tinker around with its name, calling it the Information Privacy Bill rather than the Date Protection bill. I am not sure why it did so, because on most counts the definition of 'information' is narrower than the definition of 'data'. 'Data' applies to a much wider sphere of information, so it seems odd that the government has moved down that path.

The bill introduces a number of rigidities that the Stockdale legislation sought to avoid. Data collection is an activity common to all organisations, regardless of the sector in which they operate. The regulation of information on a sectoral basis confuses rather than irons out the wrinkles in privacy legislation. In June 1998 Moira Schollay, the former federal Privacy Commissioner, stated:

> Everyone wants to avoid a patchwork of different standards applying across industries, technologies and state and territory boundaries.

The government fails that test for the very reason that the Stockdale bill was regarded as a success. The view taken by Alan Stockdale, by the honourable member for Caulfield and me and by the Data Protection Advisory Council — it is a view that is supported nationally — is that there is absolutely no difference between the data or information that is held by a private sector organisation and the data or information that is held by a government organisation. That is because privacy principles make sense not only in the government sector but also in the private sector. It is a case of good business and of respecting one's customers. The principles require a person to be told when data is being collected on him or her. If the purpose for which the data is to be used changes, the person must be asked for his or her consent. While the data is held it must be kept up to date, and when it is finished with it must be disposed of securely.

They are not complex principles, and there should be no difference between the private and government sectors. Using health information as an example, what is the difference between data held by a hospital and data held by a general practitioner? Why should the personal information held by a government school and a private school be treated any differently? The same is true for personal information held by a private sector transport provider and a government transport provider. The Stockdale approach was made clear with City Link and electronic service delivery. There is no difference.

The government's removal of the private sector provisions violates the human rights of Victorians.

Mr Nardella — Rubbish.

Mr PERTON — It is not rubbish.

Mr Nardella — Understand what you are talking about.

Mr PERTON — The almost-Trotskyist member for Melton, an arch left-winger, throws up as his excuse the argument that the federal government should deal with it. His argument and that of the Minister for State and Regional Development is perverse, because everyone knows the federal private sector legislation has been tied up in committee by the Liberal and Labor parties

and the Democrats. The private sector provisions will not come into effect nationally for about two years. If the honourable member is at all serious, and if he is not a hypocrite on human rights, he should say that Victorians deserve protection right now and for the next two years.

It is remarkable that the Kennett government saw it clearly and the international head of Hewlett-Packard sees it clearly, yet the members of the Labor Party sit there smugly, happy to see rights being violated.

An honourable member interjected.

Mr PERTON — I find it interesting that socialist parties have some aversion to the protection of citizens' privacy rights. There is no greater example of that than the former federal Labor government's proposal to introduce the Australia card, an identity card for every Australian. At the time, the Soviet Union and the Chinese communist regimes were in a state of decay.

Former federal governments wanted to introduce *1984* and *Brave New World* controls over its citizens. A committee called the Australia card joint select committee sat from December 1985 to May 1996. The majority of the committee — including Senator Puplick; Senator Haines; the honourable member for Richmond, Mr Blunt, a National Party colleague of the honourable member for Swan Hill; and the Labor member for Aston, Mr Saunderson — opposed the Australia card in favour of an upgraded tax file system. The minority was comprised of two people: the honourable member for Charlton, Mr Brown, and the honourable member for Bendigo, Mr Brumby. They were the supporters of the Australia card, and they published a minority report, which showed that Mr Brumby wanted to go even further than the rest of his Labor Party colleagues — he wanted to have a photograph on the Australia card!

It is clear to me that the legislation has not gone forward in the way Alan Stockdale would have wanted, because the government has no interest in extending the privacy rights of Victorians. It has little interest in e-commerce or in making Melbourne and Victoria a centre for electronic commerce in the Asia–Pacific region. It also has a distinct aversion to privacy protection; there is no other explanation for the Labor Party introducing a bill that fails to deal with the private sector.

Why has the word 'data' been changed to the word 'information' when it is clear that 'information' is a narrower term? Why does the bill fail to deal with health issues? Why will we have a separate health privacy bill and a separate health privacy commissioner? The minister's second-reading speech on the bill fails to deal with biometric data. Some reasonable questions have been raised — for instance, does a genomic analysis — a gene analysis — constitute health information or personal information? Does a retinal scan or digital fingerprint used as a key to gain security access to a private sector organisation constitute personal, employee or health information? Into which category does the occupational health and safety record of a private sector contractor providing services in the Victorian public sector health field fit? Are we to have two employment files — one with health data and another with other personal data? What happens if a company or individual is a contractor to both the government and the private sector? Is the privacy regime to apply, and if so, to which files will it apply?

The states are much better positioned than the commonwealth to deal with those issues, and it was certainly clear to everyone that in 1999 Victoria was the centre for e-commerce in the Asia–Pacific area. Alan Stockdale was the person invited to the first major conference on e-commerce in the United States. Only two elected officials were invited: one was the Vice-President of the United States, Al Gore, and the other was Alan Stockdale. At the major conference on Internet education in the United States the then federal minister for education was not invited to give the major keynote address, nor was the secretary of education in the United States.

In fact, Phil Gude, the former Victorian education minister, was called upon to describe the successes of online education in Victoria. If anyone doubts that, I advise them that Chris Puplick, the former New South Wales Privacy Commissioner, who has enjoyed bipartisan respect for his work on human rights, said that the states have many advantages over the commonwealth in achieving workable privacy legislation without the complexities of developing constitutionally valid legislation.

The bill fails to place pressure on the federal Parliament to cover the field of activity of information management. The Stockdale legislation was designed to act as a catalyst to federal action, creating a space in which to negotiate the best possible national regime. The Labor Party is playing some weird federal political game. It is prepared to betray the rights of Victorians in order to give its own federal colleagues ammunition on privacy issues.

There are many dangers in the new economy in respect of privacy. Those people who have used the Internet

know it is almost impossible to use many web sites without allowing cookies to be transferred to their computers. Most of us are aware that the data collected by companies such as Double Click Australia is easily merged and matched up against other buying activities, and it is possible in today's modern information age to provide frighteningly accurate profiles of individuals to manipulate them either commercially or politically.

The traditional role of government, certainly from the Liberal Party's perspective, and particularly in this period of social change, is to pave the way for appropriate and responsible behaviour for society to function and make adjustments. That was the clear position of the Liberal–National coalition before it was defeated at the election last year, and it remains its position that that sort of leadership should be provided.

To give honourable members an idea of the challenges we face I refer to an article about a Mr Keith Little headed 'Spyware' and subheaded 'Your PC is watching you', which appeared in the *Washington Post* of 13 July. It states:

> Keith Little, a computer technician who makes house calls on the apple farms of central Washington state, says more and more of his clients are asking him to take steps to protect their online privacy. So he scans their computers for any mischievous programs and installs security software.
>
> What surprises people is how often Little finds programs designed to funnel bits of their personal information from their computers and into giant corporate databases. He says more than half of the 20 or so computers he inspects each week are running stealthy programs he calls 'spyware'.
>
> The electronic eavesdroppers usually come attached to the software people install on their personal computers. Whenever a user connects to the Internet these programs take advantage of the opening to pass on information that has been stored on the PCs hard drive. The data — it could be details of Web surfing habits or identifying personal information — are then typically sent to the manufacturer of the software or a marketer to be used in developing new products or advertising campaigns.

If that is happening on the apple farms of central Washington state there is little doubt that it is happening on the apple farms of Victoria, and certainly in the Melbourne suburbs.

The opposition does not oppose the bill because it is important that the public sector is an exemplar in those areas and that there be legislative coverage of the private sector. However, there will be a wasted privacy regime, a wasted privacy commissioner and a wasted opportunity to educate Victorians on the appropriate use of personal data and ways of improving confidence in e-commerce. It is yet another wasted opportunity by the Labor government to position Victoria as a leader in information technology.

I have asked that amendments in my name be circulated. They relate to privacy codes that would be approved by the Privacy Commissioner and processed through the Governor in Council. Codes are an odd sort of thing. In New Zealand, where the act provides for both public and private sector coverage, there is only one code after some 10 years of operation, and that code applies to one sector of industry. So, one would hope there would not be many privacy codes in Victoria to exempt state agencies from the application of the privacy principles.

If such a code were created it would be a serious piece of legislative work. The opposition does not trust the executive arm of government on the regulations, on the state environment protection policies and on what is probably the most important area of human rights law in respect of a modern economy. There is no need to trust the executive arm of government in this field, and the amendment I will propose in committee provides that, as with state environment protection policies, an approved code of practice under this act ought to be laid before the Parliament, examined by the Scrutiny of Acts and Regulations Committee and be subject to disallowance by either house of Parliament.

I take this debate seriously. I have worked in the area of policy for more than a decade — and intensively for the past five years. It is a shame that a strong opportunity served up to the Labor government to provide leadership to not just other Australians but throughout the Asia–Pacific area has been given away. My suspicion is that it has been given away so it can be part of a federal election strategy by the Labor Party, which sabotaged efforts at a federal level and which at a state level has completely abrogated its responsibilities to act in both the commercial and human rights interests of every Victorian, who will be the poorer for that.

A newspaper article published at the weekend referred to the brain drain from Victoria to San Francisco and other parts of the United States where there are strong centres of e-commerce. The headline of the article said it was an exodus we could not afford. The government's failure will accelerate that exodus and make it more difficult for Victoria to be a centre of the new economy.

Mr STEGGALL (Swan Hill) — I congratulate the honourable member for Doncaster on his contribution. People may find it strange that I lead for the National Party in debate on the bill.

An honourable member interjected.

Mr STEGGALL — I know you would. Going back in time a little, I was parliamentary secretary to the Premier when the multimedia taskforce was introduced. I had the task of setting that up, finding the people and setting it on its way. I became one of the foot soldiers involved in the background, and while I did not play the role of those who took it forward I played the role in government that ensured that both the private and public sectors were heading in a direction that was all new territory.

In those days the then government did not know where it was going but knew it had a journey to travel. It knew that if it did not travel the journey society would be weaker for its lack of action. It examined other states and various countries and found that it had to get a move on because the main challenge in those days — and I am referring to early 1994–95 — was Singapore, where enormous work was being carried out. It became clear to the then government that if it could create its first multimedia minister, provide support and encouragement to a new industry and work with large and small companies in providing leadership, the industry could be likened to a clever industry looking for somewhere to go. Then the government did not know where the multimedia industry was going or what its role would be.

An understanding of potential direction was gained from the mass of cleverness that came with the companies and individuals that joined the industry in the early 1990s, particularly in the fields of education and e-commerce. Everyone was nervous about that because no-one was certain how it would work and whether it would take. It was suggested that e-commerce was going to overrun our communities in both the retail and commercial sectors.

However, the government of the day did not think that would be the case. It foresaw a society using both e-commerce and conventional commerce. If businesses were going to succeed and improve, e-commerce had to be part of it. The house would be aware of my involvement in the food industry. It was recognised that if the food industry was going to become a vital part of the future it too would need to embrace these changes. The exchange of data and the trust of that industry was something that had to be addressed.

In those years the honourable member for Doncaster started work on the data protection and privacy laws, which I did not have much to do with. I watched with a great deal of interest as companies were started and new operations were born. There were positive observations of government departments adopting various multimedia functions and of people making choices about taking up related opportunities.

By the time we had appointed a multimedia minister and had our education area lined up we were travelling in a positive direction. However, the issue of privacy was not seriously debated because there was no real understanding of what the government was doing, let alone what the privacy implications were. From about 1996 on the honourable member for Doncaster reminded us from time to time of the huge international issue privacy and the right of access to information had become. Today if one were to look at the Internet on this subject one would find an enormous debate in progress.

Victorian legislation is still reasonably up front compared with some worldwide jurisdictions. Data protection legislation has been picked up in some parts of Europe that do not have freedom of information (FOI) and privacy legislation. Studies and inquiries are currently in progress on how Britain will address the issues of privacy legislation and freedom of information. It will be interesting to observe Britain's response because the issues of privacy and FOI tend to dovetail in people's minds. Victoria will probably face similar issues, although because this state has had FOI legislation for some time it will probably be easier to introduce the privacy of information legislation.

If the opposition parties were in government what would really upset us more than anything else about this legislation is its reliance on the federal act, because it is not working.

Mr Robinson — It is only a bill.

Mr STEGGALL — Yes, the federal bill is not working and probably is not going to work for some time.

The Victorian coalition got itself into some exciting areas in its term of government by moving into those vacuums and actually leading the charge. Sometimes we got into trouble through doing that, and the food safety plan is one of those areas where there was a huge gap. However, governments needed to get in there. We put our hands up and said that we would do the first trials because we were further ahead than anyone else in Australia; however, we ran into problems with that.

The same thing can be said about this issue. As the honourable member for Doncaster said, explain the difference between the principles that apply to personal information in the private sector and those that apply in the public sector. We have to understand that we are

now small players in a new world, and we must make sure wherever we can that we give confidence to our people and our companies who are trying to get into that new world.

The term 'globalisation' keeps getting thrown around. Globalisation is brought about because the information flow is so huge that Victorians have many choices and they are applying those choices to many areas of their lives. Because of that we are finding that we no longer have boundaries such as the state of Victoria or the nation of Australia; we are part of the global community.

The former coalition has taken some political hits leading up to and since the last election on that point. We have moved away from the frontiers along which we were travelling in many fields, not only this one. However, the Labor Party has gone back to the safe ground, not only on this issue but in many areas. I do not blame the government for doing that, but if it is going to keep to the safe areas it must still find a way to go forward, otherwise it will go back and back and back.

Ms Pike — Relaxed and comfortable.

Mr STEGGALL — The Minister for Housing says, 'Relaxed and comfortable'. Yes, many honourable members would agree that the government is not moving ahead. Instead, it has taken a step back and is now sitting in a relaxed and comfortable position. I would like the government to move forward but I am not convinced that it will, and that is a pity.

The information privacy bill introduced last year, of which the Labor government has taken many parts, was intended to give society a set of principles for both the public and private sectors on information privacy issues. But the government has pulled back from it and said, 'It is okay, the feds are going to fix it'. Unfortunately, it might be a couple of years before the feds fix it.

An honourable member interjected.

Mr STEGGALL — The honourable member talks about responsibility. If the government is to govern, its responsibility is to ensure that it talks up the confidence levels and the directions of society so that it will not be disadvantaged in the future. Because with all the changes in technology — and for many of us non-practitioners they are coming so quickly that it is frightening — many people believe their rights to privacy are diminishing. Technology has definitely provided a greater ability to gather and disseminate information about citizens. The proposed legislation is required to give people some rights.

There is the same amount of mistrust in the community about those who hold information in the private sector as there is about those who hold information in the public sector. But today we are not talking about the private sector; we are talking just about the public sector. People will not fully participate in the information technology industry and e-commerce until they are confident of their regulation. The bill should assist the community in dealing with the public sector, but I believe an opportunity has been lost in the private sector for what could have been.

I understand why the government has not gone ahead with some aspects of the previous bill. It needs what is called courage, and I do not think courageous politicians will be seen in Victoria or in Australia for many years to come. In the Australian context courage in politics is seen as being a negative, particularly just prior to an election. We must ensure that we keep driving our governments to give us a society that can participate strongly in the world of international commerce and trade.

In country Victoria food and fibre production is the biggest industry, but only 20 per cent of the farmers are needed to provide for Australia's food needs. Therefore, huge volumes of our produce have to be exported — and to do that we must stay with the international world of commerce, law, science, packaging, transport, communications — the lot. Our people are doing that and are coming along quite well, but we have reached the stage where there needs to be more confidence in legislation relating to information privacy than has been the case in the past. This bill is the opportunity to enable that to occur.

This is the first crack at the legislation — the first time such a bill is passing through Parliament. It is the first attempt, and the National Party is happy to see how it goes. However, I join honourable members who have already voiced their disappointment at not seeing the other half of the legislation.

The bill requires that personal information be managed in accordance with the national principles for the fair handling of personal information. It is interesting to go through the 10 information privacy principles attached to the legislation, because they are a discussion point right around the world, not just in Australia. Much of the European material is based on the same principles. However, New South Wales somehow ended up with 11 principles. I did not bother to chase it up because New South Wales is always trying to outdo Victoria.

In his contribution the honourable member for Doncaster raised several points about data and other material. I must admit that I took the bill to mean that the information available would be in the form of printed material, data, electronic records, video recordings, photographs, biometric information and the like, which fits into the data category. I would be pleased to hear the honourable member for Mitcham, as parliamentary secretary for information technology, say whether that is included under information. It is in the New South Wales legislation and I took it as being part of the Victorian legislation, but the doubt raised by the honourable member for Doncaster is important and should be noted. I look forward to a response on that.

The Privacy Commissioner will be given a role with the legislation. I hope the Privacy Commissioner will be a reasonable and proper operator who will be able to travel with the legislation. It is interesting that if the Privacy Commissioner fails to pick up a case — for example, if I am seeking some remedy to a problem regarding personal information — and decides not to prosecute, and a policeman cannot be obtained to prosecute, pressure will be put on and the matter will come back to Parliament. I point out that Victoria has a lot of legislation like that. The Water Act provides a final appeal for people who feel aggrieved by the legislation to take it to their members of Parliament so that the matters come back here.

The government has circulated a series of amendments, one of which exempts members of Parliament from the legislation. It is fascinating to consider the role of members of Parliament in this. I am comfortable supporting the amendments circulated by the government, including that which relates to members of Parliament. As to the issue of the use of personal information by members of Parliament being referred to the Scrutiny of Acts and Regulations Committee for inquiry, I look forward to seeing the result. The link between members of Parliament and privacy information is interesting. I am sure that some information will come out of that inquiry on how we might or might not be caught up.

Various agencies will adopt codes of practice to carry out aspects of the legislation. Codes of practice are used quite a lot in legislation of this type. There are mandatory, voluntary, management and best practice codes of practice, although I am not sure where this will fit in the scheme of things. It seems we have a mandatory code here which, as the honourable member for Doncaster has suggested, does not bear any public scrutiny. Most of the other codes of practice, particularly for agriculture, where most of the codes are, are subject to a 14-day tabling requirement within both houses for approval or otherwise. I strongly support the tabling and disallowance of codes in Parliament.

That is not a bad thing if we really look at what we do and try to work through it. The National Party will support the amendments proposed by the honourable member for Doncaster on the tabling of codes of practice.

Many of us are confused about the difference between the Freedom of Information Act and the Information Privacy Bill. I understand that the FOI act will continue to provide right of access to policy documents held by government and that the information privacy legislation will provide right of access to information held by government that is of a personal nature. I look forward to that being clarified as the debate progresses.

The legislation is the first attempt at engendering confidence in the way the public sector handles the privacy issues that are now rushing at us. I hope we in the Victorian Parliament will not confuse the issue by jumping ahead and leaving the private sector hanging in Canberra when we could have set the standard.

The National Party will not oppose the legislation. We will support the government's amendments and we will also support the amendments of the honourable member for Doncaster. On that matter, I say to the government that running codes of practice is not a bad way to introduce privacy legislation, given the multitude that there is in our legislation. That is particularly so as the public sector takes on new responsibilities and society affords new rights, including the right to access information, to know when it has been changed, and to correct it. A code of practice would be a good safeguard and would provide an opportunity to show how it can be done. I trust the bill will have a speedy passage, and I look forward to the ongoing development of multimedia in Victoria.

I reiterate that many members on this side of the house are disappointed that in only one year Victoria has gone from being a world leader in many areas of multimedia to being seen as a second-rate player. The proof of that is in seeing which states companies coming to our country are setting up in and where Victorians are travelling to to use the skills they gained as a result of the great work done in the last five years of the former government.

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

Mr ROBINSON (Mitcham) — I start my brief contribution to the debate on the Information Privacy

Bill with congratulations to the opposition on supporting the bill.

The only point that was missing from the contributions that preceded mine was an explanation of why the former Treasurer, the Honourable Alan Stockdale, was so slow getting the bill to the Parliament and into law.

The former government would not have wanted to be paid by results, because its bill was first foreshadowed in 1997, and in 1998 the then Treasurer indicated he hoped the bill would be passed by the end of that year. I can only conclude that the reason the former government delayed passage of the bill was because the federal government was also working on privacy legislation and the state, under the previous government, realised it would have been folly to introduce two competing privacy codes for the private sector.

In the *Age* of 4 August 1998 the then Treasurer, Mr Stockdale, was quoted as saying:

> The idea of any one state acting in isolation from the federal government is a concern for everybody, including Victoria.

Given that the genesis of the bill goes back some two or three years we should have no more nonsense about delays.

The bill is intended to complement private sector legislation that is now before the federal Parliament. A number of speakers have commented on that, and have criticised the federal government. I do not need to go into any detail on that matter except to say that there are concerns.

The *Australian* of 27 June carries a comment by the European Union Commission that voices a number of concerns — mainly that the bill would not provide adequate protection for European citizens because it contained too many exemptions.

The Victorian government has chosen to proceed with the bill because if we did not we could be waiting forever for the federal legislation to go through the various committees.

The government believes the bill contains adequate facilities for scrutiny of codes that are agreed to by the Privacy Commissioner, whose position is established under the bill. I encourage honourable members to consider clauses 22 and 23, under which the Privacy Commissioner is required to maintain a register of all approved codes developed under the bill and to provide public access to that register. Clause 23 details a way in which revocations of approvals can proceed. Strong powers of scrutiny are, in other words, available to the Victorian community, and the government believes they are more than adequate. The minister may address that point in more detail in his summing up.

One classic example of mishandling by the former government — one which contributors to the debate so far have avoided mentioning and which involves members opposite — was the letter sent out just before the state elections last year and signed by the former Minister for Health. The letter, which was addressed to a large number of Victorian women, referred to government policy on treatment for breast cancer. I am not going to suggest that the letter resulted from anything other than a slick marketing campaign. The effect of that clumsy tactic, however, was to create great offence. Many people, some of whom contacted me, were of the view that information of a very private and sensitive nature involving medical conditions had been leaked and put to a use for which it was never intended. Members opposite should not claim it is the sole province of members on this side of the house to abuse privacy principles. The effect of that tactic by the Liberal Party late last year caused great offence and indicated a great clumsiness.

In conclusion, I issue a challenge to the honourable member for Doncaster. If he is committed to introducing a privacy regime for the private sector emanating from Victoria he should feel free to do it with a private member's bill. The effect of that, however, would be to throw business people in this state and throughout the country, especially in the information technology industry, into chaos. Not only would they have to deal with the existing privacy legislation before the federal government at the moment, which is very extensive indeed; they would have to comprehend what the Victorian government is proposing. That would quickly prove to be unworkable.

The bill deserves support, and I commend it to the house.

Mr LEIGHTON (Preston) — I support the Information Privacy Bill. I had wanted to range far and wide on the legislation but, given the agreement on time, I can do no more than advance a couple of basic propositions.

We are still in the horse and buggy days of computing, despite the fact that the world's first hard disk storage device for a computer was developed by IBM in 1956. It had 50 24-inch platters and provided 4.9 megabytes of memory.

These days, you can get twice that memory in a hand-held device. Perhaps another way of looking at it is that if back in 1956 all honourable members had brought into the house computers with the same capacity as their notebook computers have today Parliament House would have been more than filled with mainframe computers. But it is still early days.

It is said that the legislation is necessary because of the capacity to store and manipulate large databases, merge them with others and transfer them electronically. I suspect that is just the tip of the iceberg. The honourable member for Doncaster mentioned Internet cookies. I agree with him and I would be happy later to show him programs such as Cookie Cruncher. While I am speaking, I am online to an Alaskan government site. It has exactly the opposite model from ours — it has its offenders database online. I can view the file on any offender, including his or her home address and criminal offence. So that is another use of databases. More sophisticated uses now make it possible to embed little bugs in Microsoft Word documents so that when they are used the little bug, which is smaller than one pixel in size, will automatically email back to the originator of the document various details about the user. Information privacy is potentially a much broader issue than the manipulation of databases.

The second proposition I make has probably not been properly appreciated by honourable members on either side of the house. If it is recognised that freedom of information legislation has teeth — and certainly over the years it has been a political issue — then over time the bill will be another freedom of information measure that really does have teeth. I do not have time to go into all the features, but by the time the government appoints a privacy commissioner who has the capacity to have matters brought before the Victorian Civil and Administrative Tribunal, creates certain offences, gives people the right to apply for information and restricts the use of information, I suspect that over time it will have teeth and cause discomfort to governments of whichever political persuasion in the same way that freedom of information has done.

I congratulate the honourable member for Doncaster in his candour in criticising the federal Liberal government's bill that deals with the private sector. That very inadequate bill has fewer teeth and will take longer to implement than this bill. I understand its regulation is not as strong and that it has a series of exemptions. However, I part ways with the honourable member for Doncaster where he waxed lyrical about the Stockdale bill. He was quite disingenuous. He conveniently forgot that going back to the time of the former government the preferred model was one national privacy bill and that Minister Stockdale and the Kennett government introduced an information privacy measure only when the federal government failed to act.

What has changed since is that now there is a federal bill. It is highly inadequate but it is a federal bill. Is the honourable member for Doncaster suggesting that we should have federal legislation that deals with privacy information in the private sector as well as a state act? If there is any area of activity that knows no borders it is the area of electronic transactions. It would be unworkable to have both federal and state legislation that tried to regulate electronic transactions. It just would not work. The federal bill includes a provision that if there is a conflict between federal and state legislation, the federal legislation prevails. What the honourable member for Doncaster argues should happen would not work.

Finally, the bill has more teeth than the Stockdale bill because the Stockdale bill was much weaker on the power of codes. The current bill provides that codes must be at least as stringent as the information privacy principles, whereas under the Stockdale bill they had only to be adequate and could be less stringent. With those few comments, I support the bill.

Mr BRUMBY (Minister for State and Regional Development) — In summing up before the house moves to the committee stage, I thank all contributors to the debate. It has been an important debate on important legislation. It will be a great achievement for Parliament and the state when the bill is passed this week. I particularly thank the Parliamentary Secretary for State and Regional Development including Information Technology, the honourable member for Mitcham, Tony Robinson, for his work, which has been truly first rate. I also thank the honourable member for Preston for his contribution to the debate, to the bill and to improving the workability of the proposed measure. I thank the honourable member for Doncaster, the shadow minister for multimedia, for his contribution. I also thank the honourable member for Swan Hill. He is not present to hear the summing up, but I understand he also made an important contribution.

Obviously Victoria will now be a leader in the field. To my knowledge no other state is so advanced with its privacy legislation. Other states have various types of privacy legislation but the measure that has been introduced and is being debated today is the most rigorous of its type and sets up Victoria to continue its leadership in all areas of communications and information technology and information privacy.

The honourable member for Doncaster has a sound knowledge of the area and made some comments about the lack of the application of the measure to the private sector. I was surprised he raised that issue. I repeat that the government has always held the view that as trade and commerce occur across state borders any private sector privacy legislation should be national in its focus. It is a view I and the Labor Party have always held. It was also the view of the former Treasurer and minister for multimedia, Mr Stockdale. I refer to a document of his, a discussion paper on information privacy in Victoria. In a section headed 'There is no national data protection regime' it states:

> Victoria will continue to pursue a national approach. The government's clear preference is for national data protection legislation underpinning voluntary codes.

In this case my view and that of the responsible minister in the former government are consistent and clearly focused. It appears the only party that now disagrees on the issue is the honourable member for Doncaster, who seems to think that Victoria alone should be introducing legislation that would apply to the private sector. Honourable members can imagine what nonsense that would be. Where trade, commerce and other activities are being conducted across state borders it is eminently more sensible to have national legislation.

The one thing the shadow minister and I would be as one on is that the proposed federal legislation is not rigorous enough. It needs to be strengthened in a number of areas, particularly in its consistency across all industry sectors. However, to suggest that Victoria should embark alone on private sector privacy legislation is lunacy.

The honourable member for Doncaster also suggested that the Interact festival is headed for Sydney. As I said at the opening of this year, Interact is a very successful IT event and the largest event of its type in Australia — and given the focus on e-commerce, it is unambiguously the largest e-commerce event in the South Pacific. The initiative is five years old, so it commenced under the former government. It is a good initiative, and we have expanded it and increased our support of it. I can tell the honourable member that Interact is in Melbourne to stay. It is bigger and better than ever, and it cements our leadership in the IT area.

I have been told that the honourable member attended the state reception on the 46th floor. That is a long way up, so maybe a bit of altitude sickness and dizziness crept in, resulting in his comments about Interact going to Sydney.

On behalf of the National Party the honourable member for Swan Hill asked about the difference between the bill and the FOI act. My second-reading speech made the distinction clear. As reported at page 1907 of *Hansard* of 26 May 2000 I said:

> Individuals are given a right to access their information and make corrections to it, where necessary, under principle 6. In Victoria, the Freedom of Information Act already provides a right of access to documents held by government. The bill does not propose to make changes to this method of access or to superimpose another access right over it. Accordingly, in the case of documents held by public sector agencies, the Freedom of Information Act will continue to be the only method of access.

I then went on to say:

> In these circumstances the access provisions in principle 6 have a limited operation to contracted service providers, which are not always subject to freedom of information legislation, and certain other bodies. Contracted service providers are able to charge a prescribed fee for granting access to personal information held by them as agents of government. This is intended to allow consistency with the fees prescribed under the Freedom of Information Act.

The final matter concerns access to private health and biometric-type information, which was raised by the honourable members for Swan Hill and Doncaster. I advise the house that health services information is exempt as it will be covered by parallel privacy legislation to be introduced by the Minister for Health. If it is not of a strict health service type as specified in schedule 2, the information will be taken to be covered by the bill. If it is not of a specific type identified in the bill that will be introduced by the Minister for Health, the information will be taken as being covered by the information privacy legislation.

In conclusion, I thank those honourable members who contributed to the debate, particularly the honourable member for Mitcham, who has been assiduous, diligent and focused. Despite some differences at the margin, I think I can say that all members of the house will be delighted that the legislation is being given effective passage by the Parliament. It was originally drafted 18 months to two years ago, and it has since been modified. It is now a fine piece of legislation, and I look forward to its passage through this house and the other place.

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

Bells rung.

Motion agreed to by absolute majority.

Read second time.

Committed.

Committee

Clause 1 agreed to.

Clause 2

Mr BRUMBY (Minister for State and Regional Development) — I move:

1. Clause 2, line 18, omit "80" and insert "81".

Amendment agreed to; amended clause agreed to.

Clause 3

Mr BRUMBY (Minister for State and Regional Development) — I move:

2. Clause 3, page 6, line 29, after 'database)," insert "that is recorded in any form and".

3. Clause 3, page 6, lines 30 and 31, omit "and whether recorded in a material form or not,".

Mr PERTON (Doncaster) — The amendments change the definitions. I ask the minister to give an explanation of their effect.

Mr BRUMBY (Minister for State and Regional Development) — The amendments relate to the definition of personal information. They are necessary because they apply not merely to verbal and conversational exchanges of information but to personal information that is recorded in any form.

The amendments are necessary to clarify that the bill will apply only to information recorded in some form, whether, for example, it is held in physical files or on electronic databases. It is not practicable or desirable for the bill to regulate conversations in which personal information is discussed. That was the unintended interpretation of the definition. In other words, if in a telephone conversation between two parties personal information had been discussed but no notes were held of that discussion, it would be inappropriate for that discussion to be subject to the act.

The advice I received was that a technical interpretation of clause 3 could have meant that telephone conversations could fall within the ambit of the act. That is not the intention of the legislation. It is meant to relate to information that is held on physical files or electronic databases, not information that may or may not be discussed orally across a telephone line.

Amendments agreed to; amended clause agreed to; clauses 4 to 8 agreed to.

Clause 9

Mr BRUMBY (Minister for State and Regional Development) — I move:

4. Clause 9, lines 8 to 11, omit all words and expressions on these lines.

5. Clause 9, line 20, after "Act" insert "(other than the office of member of the Parliament of Victoria)".

6. Clause 9, page 12, line 16, omit "(f)" and insert "(e)".

7. Clause 9, page 12, line 17, omit "(g)" and insert "(f)".

8. Clause 9, page 12, line 18, omit "(h)" and insert "(g)".

Those amendments deal with the definition of 'public sector organisation'. They amend the definition of public sector organisation to omit the reference to a member of Parliament — other than a minister and parliamentary secretary — in clause 9(1)(c). The amendment will ensure that members of Parliament without formal executive responsibilities are not bound by the obligations applying to public sector organisations. Ministers and parliamentary secretaries will be included in the scheme to the extent — and I stress this — that they are operating in their executive roles.

Under the original legislation members of Parliament would have been required to adopt the 10 information privacy principles, subject to their own interpretation. The government wants to avoid an outcome in which it would be possible for the information privacy principles to be interpreted and applied in 132 different ways. For that reason, the government has indicated that it will refer a series of matters relating to members of Parliament, including their use of personal information, privacy, emerging communications and the complex interactions between the legislation and parliamentary privilege, to the Scrutiny of Acts and Regulations Committee for inquiry.

One of the other considerations is that the proposed federal legislation relating to privacy laws in the private sector does not apply to federal members of Parliament. There is a blanket exemption for members of Parliament, political parties and their agents. If the Victorian legislation proceeded without amendment, Victorian members of Parliament would have been covered by the federal legislation. As I said, that could have resulted in up to 132 different interpretations of the privacy principles being applied in the offices of members of Parliament, while no privacy principles at

all would have applied to the workplaces of federal members of Parliament.

Some electorate offices of federal and state members of Parliament are co-located — for example, the offices of the federal member for Gellibrand and the honourable member for Footscray — so that would have created an unworkable environment.

In providing the reference to the Scrutiny of Acts and Regulations Committee the government asks that committee to report back to Parliament by the autumn sessional period next year. Obviously, in time the legislation will apply to members of Parliament, but a fair amount of work needs to be done in the interim to consider the implications, the management requirements and issues of consistency with the federal legislation. For that reason I have moved the amendments in my name.

Mr PERTON (Doncaster) — The opposition will not oppose the amendments. However, the reason they need to be made is that the clause was taken directly from the Stockdale bill, which was introduced in May last year and which would have applied privacy principles to both the public and private sectors. It was the view of the previous government, and it remains the view of the Liberal Party, that in circumstances where the public and private sectors are covered by the legislation, members of Parliament in their leadership roles as either legislators or politicians should be bound by the same principles as the rest of the community.

The ambit of the bill is being narrowed to cover only the executive arm of government, and in those circumstances it is inappropriate for members of Parliament to be covered either as legislators or as politicians in so far as that relates to private sector activity involving political parties. In those circumstances the opposition does not oppose the amendments.

As the honourable member for Broadmeadows said, Australian political parties almost operate under a national framework. It would be an impossible situation if state members of Parliament had to treat party information at the federal level differently from the way they treated it at the state level, because it would expose them and their parties to ridicule.

Amendments agreed to; amended clause to; clauses 10 to 18 agreed to.

Clause 19

Mr PERTON (Doncaster) — I move:

1. Clause 19, page 23, after line 8 insert —

"( ) The Minister must ensure that a copy of an approved code of practice, or of an approved variation of an approved code of practice, is laid before each House of the Parliament on or before the 6th sitting day of that House after the day on which the notice of approval under sub-section (2) is published in the Government Gazette.

( ) The Scrutiny of Acts and Regulations Committee may report to each House of the Parliament if it considers that any approved code or variation laid before Parliament —

(a) appears to be inconsistent with the objects of this Act in relation to the personal information to which the code applies; or

(b) appears to prescribe standards that are not at least as stringent as the standards prescribed by the Information Privacy Principles; or

(c) does not specify the organisations bound (either wholly or to a limited extent) by the code or a way of determining the organisations that are, or will be, bound (either wholly or to a limited extent) by the code; or

(d) requires explanation as to its form or intention.

( ) A report of the Scrutiny of Acts and Regulations Committee under sub-section (7) may contain any recommendations that the Committee considers appropriate, including a recommendation that an approved code or variation should be —

(a) disallowed; or

(b) amended as suggested in the report.

( ) An approved code or variation laid before Parliament may be disallowed by either House of the Parliament.

( ) An approved code or variation is disallowed if —

(a) a notice of a resolution to disallow is given in a House of the Parliament on or before the 18th sitting day of that House after the code or variation is laid before that House; and

(b) the resolution is passed by that House on or before the 12th sitting day of that House after the giving of the notice of the resolution.

( ) If a House of the Parliament is prorogued or the Legislative Assembly is dissolved —

(a) the prorogation or dissolution does not affect the power of the House to pass a resolution disallowing an approved code or variation; and

(b) the calculation of sitting days of the House is to be made as if there had been no prorogation or dissolution.

( ) If an approved code or variation is disallowed, the disallowance has the same effect as a revocation of the approval of the code or variation.".

The amendment is straightforward and relates to codes of practice that may be adopted with the approval of the Privacy Commissioner who, as was referred to by the honourable member for Mitcham and is stated in the second-reading speech, must approve a code of practice or a variation of a code of practice, and under subclause (3) of clause 19 may advise the minister to recommend to the Governor in Council that a code of practice, or a variation of an approved code of practice, be approved.

Codes of practice ought to be significant documents. Under the New Zealand act, which covers both the public and private sectors, only one code has been made in almost a decade of operation. It is a serious thing to allow a state government agency to seek a variation from information privacy principles. The information privacy principles adopt the requirements of both the United Nations and the Organisation for Economic Cooperation and Development. Those principles are internationally accepted and it ought to be a significant act for a state government agency to vary them — significant for the organisation applying for a variation, for the minister responsible for that agency to allow a variation, for the Privacy Commissioner to deal with it and for a minister to present it to the Governor.

In all senses a code is a regulation or a subordinate instrument, and just as state environment protection policies are subject to the scrutiny of the Subordinate Legislation Subcommittee of the Scrutiny of Acts and Regulations Committee these serious codes ought also be subject to the additional scrutiny of the all-party committee, and in the circumstances ought to be disallowable by either house of Parliament.

I understand that the government has not agreed to the amendment. The opposition is determined to have the provision inserted in the bill, and the National Party supports the Liberal Party in its commonsense proposition. Any serious legislative document ought to be presented to the house. Parliament has the right and the ability to scrutinise any set of regulations, and as the minister said, the Information Privacy Bill is an important bill that provides a serious set of guidelines for state government agencies to abide by. If it were to be the subject of variation, a privacy code should be treated at least as would a regulation. It should be put before the Scrutiny of Acts and Regulations Committee and ought to be subject to disallowance by either house of Parliament.

Mr BRUMBY (Minister for State and Regional Development) — The government has looked closely at the amendment but is unable to support it. The Liberal Party is seeking an amendment to allow all codes agreed to by the Privacy Commissioner to be automatically referred to the Scrutiny of Acts and Regulations Committee (SARC) for possible disallowance. As I said, the government has closely examined the amendment but opposes it on several sensible grounds.

Firstly, the opposition has already been invited to formally take up the suggestion with the committee, which already has an inquiry under way into regulatory reform. The SARC has been asked to inquire into the Subordinate Legislation Act, and as I understand it, is canvassing the range of subordinate instruments currently not covered by the disallowance procedures. The government wishes to allow the SARC to respond on the wider range of subordinate instruments. It is important that it is allowed to continue with its work.

Secondly, the provisions of the bill before the house — and I refer to clauses 22 and 23 — already provide for significant scrutiny. The Privacy Commissioner will maintain a register, which will be publicly accessible, and disapproval via the minister and the Privacy Commissioner will be possible on complaint from a citizen. If a citizen was concerned, he or she could make a complaint and the regulation could be disapproved of under existing arrangements.

Thirdly, the government stresses that the former government considered but rejected the effect of the amendment. What the honourable member for Doncaster is asking the house to agree to is not only not supported on this side of the house but the former Treasurer, Alan Stockdale, would also not support it.

Honourable members interjecting.

Mr BRUMBY — How quickly we forget! The former member for Brighton, Alan Stockdale, was the minister responsible for the legislation. The major focus of the legislation is positive, but the government believes the proposal introduced tonight by way of amendment was not supported by either the former Treasurer or the former government. For those three reasons, the government is not prepared to support the amendment moved by the Liberal Party tonight.

Mr PERTON (Doncaster) — I am disappointed that the Treasurer has taken the approach he has taken. Those members of the Labor Party, Liberal Party and

National Party who have served on the Scrutiny of Acts and Regulations Committee and its predecessor body, the Legal and Constitutional Committee, know the valuable work that is carried out by such committees.

There are many occasions when departments in all good faith prepare regulations or other subordinate instruments and overlook something.

I well recall an example when the National Parks Service created regulations that would have had the absurd effect of making a criminal of every child who played cricket or threw balls in a national park. That was an inadvertent piece of drafting. In that instance the all-party committee raised the issue and the regulation was amended.

There are many circumstances in which the all-party committee performs a valuable act and gains efficacy because it can report to the Parliament. Traditionally this Parliament has accepted reports of the Scrutiny of Acts and Regulations Committee (SARC).

The Treasurer, in indicating why he would not support this amendment, referred to clause 22, which provides for the establishment of a register of approved codes of practice. That is just a public record, so there is nothing of any moment in that.

The Treasurer's second comment was that a citizen could complain. However, I suggest, Madam Chairman, that once it has gone through the process of approval by the Privacy Commissioner, has been signed off by the minister, has been presented to the Governor in Council and has been published in the *Victoria Government Gazette* the usual response from the executive arm of government is, 'We'll fix it up next time we review it'. In most cases that is a 10-year cycle, which is not good enough.

Most Labor Party members know that the SARC process is a good one. Under the chairmanship of the honourable member for Werribee it does its best in doing its work. As a matter of respect to this Parliament and to our colleagues, I urge the government to reconsider its position while the bill is between the houses.

Mr STEGGALL (Swan Hill) — I support the amendments moved by the honourable member for Doncaster. I remind the government of the number of codes of practice that exist in Victorian legislation, nearly all of which can be disallowed by Parliament. This bill is one of the first of its type, and it would be sensible for the government to give Parliament the right to approve codes of practice under the proposed legislation.

It is done for the welfare of animals and with a range of agricultural acts. There are a whole range of codes that come before the Parliament that can be disallowed by either house. The government's rejection of the amendments is rather disappointing, particularly in light of earlier discussions.

This is new legislation that covers a new area of privacy, and none of us has any experience in how it will work. The operation of privacy codes is part of a worldwide debate. No department in government and no minister in this house is capable of explaining to anyone exactly how this is going to work.

The codes of practice are in the legislation because there is no process through which we can ascertain that they are going to work. We accept the codes as a good way to go, but not to give Parliament another chance to approve or disallow the codes is a big misjudgment on the part of the minister. I ask that the government reconsider its position and support the amendments.

Honourable members interjecting.

Mr STEGGALL — You tell us about scrutiny and say that you are a consulting government, but the first time you get to a test, you run!

Honourable members interjecting.

Mr STEGGALL — You are getting to be — —

The CHAIRMAN — Order! The honourable member for Swan Hill will address his comments through the Chair.

Mr STEGGALL — The government is getting a reputation for saying one thing and doing another.

Government members interjecting.

Mr STEGGALL — You are getting a reputation all round Victoria for saying one thing and doing another.

The CHAIRMAN — Order! The honourable member for Swan Hill is required to address clause 19 and to address his comments through the Chair. I ask him to do so.

Mr STEGGALL — I will say it again in a different way: the government is getting a reputation for saying one thing and doing another, and this is a classic example of exactly that. This is not a big ask. It is a sensible approach for any government entering into new territory on codes of practice.

Very few members of the government have given consideration to how codes of practice work in our

legislative system. I suggest that the Treasurer might consider this not to be a bad sort of amendment to give Parliament the opportunity to assist in the difficult area of privacy legislation that we are entering into for the first time.

I suggest to the government, through you Madam Chairman, that this would be a very good amendment to accept.

Mr BRUMBY (Minister for State and Regional Development) — The opposition invited me to reconsider my views on this. I have, and they remain unchanged. I must say that the committee has just heard some pious claptrap. The substance of this legislation is the bill that was introduced into Parliament 18 months ago by the former government. When the proposed legislation was introduced into the then government party rooms, the honourable member for Doncaster and the honourable member for Swan Hill had the opportunity to put their arguments up, to have their say, and to win their way. But do honourable members know what happened? They did not have the backbone or the guts to put their views in the party rooms. Consequently, the bill that was then introduced did not contain the proposals they dare to propose in the chamber today.

You are not allowed to use the word 'hypocritical' in this place to describe the actions of another, but if you were using that language you could apply it accurately to some members who have spoken in this debate tonight. They had the opportunity and they did not avail themselves of it, and on this particular aspect this legislation is entirely consistent with the legislation that was agreed to by the former government. So let us not hear the nonsense from the honourable member for Swan Hill, who says one thing in government and another in opposition. The government has carefully considered the arguments. It believes the clause 23 revocation of approval provisions provide adequate safeguards under the act and wants to ensure that the Scrutiny of Acts and Regulations Committee is given the time and opportunity to continue its consideration of the issues.

Mr STEGGALL (Swan Hill) — I point out to the minister that 18 months is a long time for all of us. In that time we have moved from there to here. On many occasions the government has criticised us and said that we have not listened. Well, we have been listening.

An Honourable Member — And doorknocking.

Mr STEGGALL — We consistently doorknock.

An honourable member interjected.

Mr STEGGALL — The minister talks about pious claptrap. I suggest that the advice he is getting on this amendment is pretty good advice, probably advice the former government would have been well advised to have taken. But in the meantime the former coalition parties have lost an election and they consider — —

An honourable member interjected.

Mr STEGGALL — I think you will find that many people have gained a lot of wisdom after shifting from that side to this. We are trying to help the government introduce reasonable legislation.

An honourable member interjected.

Mr STEGGALL — We are a long way out of the election. We would not offer you this advice if we were close to an election, but we are not. Scrutiny of legislation is very important. This legislation is in a new area and no member of the chamber knows exactly how it will run. Madam Chair, if you would pass on this advice to the minister — —

The CHAIRMAN — Order! You may refer to the government.

Mr STEGGALL — I believe the amendment before Parliament makes an enormous amount of sense. You do it for the welfare of animals, and you do it for a whole range of codes. The Minister for Agriculture is sitting at the back of the chamber. He operates and manages 19 codes of practice, and all of them are referred to the Parliament.

This is not a big ask; it is not pious claptrap. I suggest to this minister, who is known by some in Melbourne as being one of the most secretive ministers we have, that he might consider the proper scrutiny of the legislation — —

An Honourable Member — By his cabinet colleagues.

Mr STEGGALL — By his cabinet colleagues? I had not heard that, but then, we are not on speaking terms. There will be a division and, depending on how the Independents travel with the amendment, we are likely to lose this sensible — —

Mr Perton interjected.

The CHAIRMAN — Order! I ask the honourable member for Swan Hill, without assistance, to conclude his comments and relate them to clause 19.

Mr STEGGALL — Clause 19 is exactly what I am talking about. It is about the way legislation can be

improved to get parliamentary scrutiny. I suggest that any Independents who vote against this amendment after the nonsense they have spoken in this place over the past 12 months would show themselves in a very bad light.

This is not a big ask. It is a sensible and, from a parliamentary point of view, a very good approach. The honourable members who know a little about the multimedia and other electronic issues we will confront will know that the scrutiny of and the right to disallow codes of practice coming before the Parliament is a good safeguard for honourable members to adopt.

Committee divided on amendment:

Ayes, 40

Asher, Ms	McIntosh, Mr
Ashley, Mr	Maclellan, Mr
Baillieu, Mr	Maughan, Mr (*Teller*)
Burke, Ms	Mulder, Mr
Clark, Mr	Napthine, Dr
Cooper, Mr	Paterson, Mr
Dean, Dr	Perton, Mr
Delahunty, Mr	Peulich, Mrs
Dixon, Mr	Plowman, Mr
Doyle, Mr	Richardson, Mr
Elliott, Mrs	Rowe, Mr
Fyffe, Mrs	Ryan, Mr
Honeywood, Mr	Shardey, Mrs
Jasper, Mr	Smith, Mr (*Teller*)
Kilgour, Mr	Spry, Mr
Kotsiras, Mr	Steggall, Mr
Leigh, Mr	Thompson, Mr
Lupton, Mr	Vogels, Mr
McArthur, Mr	Wells, Mr
McCall, Ms	Wilson, Mr

Noes, 45

Allan, Ms	Kosky, Ms
Allen, Ms	Langdon, Mr (*Teller*)
Barker, Ms	Languiller, Mr
Batchelor, Mr	Leighton, Mr
Beattie, Ms	Lenders, Mr
Bracks, Mr	Lim, Mr
Brumby, Mr	Lindell, Ms
Cameron, Mr	Loney, Mr
Campbell, Ms	Maxfield, Mr
Carli, Mr	Mildenhall, Mr
Davies, Ms	Nardella, Mr
Delahunty, Ms	Overington, Ms
Duncan, Ms	Pandazopoulos, Mr
Garbutt, Ms	Pike, Ms
Gillett, Ms	Robinson, Mr
Haermeyer, Mr	Savage, Mr
Hamilton, Mr	Seitz, Mr
Hardman, Mr	Stensholt, Mr
Helper, Mr (*Teller*)	Thwaites, Mr
Holding, Mr	Trezise, Mr
Howard, Mr	Viney, Mr
Hulls, Mr	Wynne, Mr
Ingram, Mr	

Amendment negatived.

Clause agreed to; clauses 20 to 66 agreed to.

Clause 67

Mr BRUMBY (Minister for State and Regional Development) — I move:

9. Clause 67, page 65, after line 34 insert "Penalty: 60 penalty units.".

By way of brief comment I point out that the amendment of clause 67(2) is necessary to clarify that the penalty applies to contravention of this provision in the same way as it does to contravention of clause 67(1). It merely brings the two aspects into consistency.

Amendment agreed to; amended clause agreed to; clauses 68 to 80 agreed to.

New clause

Mr BRUMBY (Minister for State and Regional Development) — I move:

10. Insert the following new clause to follow clause 75 —

'AA. Amendment of the Subordinate Legislation Act 1994

In section 21(1) of the **Subordinate Legislation Act 1994**, after paragraph(g) **insert** —

"(ga) unduly requires or authorises acts or practices that may have an adverse effect on personal privacy within the meaning of the **Information Privacy Act 2000;".'.**

The change proposed here complements clause 74, which allows the Scrutiny of Acts and Regulations Committee to consider regulations as well as bills against a new privacy head. The committee currently vets legislation against a number of criteria. This amendment corrects an oversight contained in the original bill. The chair of the Scrutiny of Acts and Regulations Committee is the honourable member for Werribee.

Mr PERTON (Doncaster) — After the minister's earlier comments about hypocrisy and hypocritical actions the honourable member for Werribee should hang her head. It is evidently perfectly okay for a minister to bring in a new clause and to have the Scrutiny of Acts and Regulations Committee scrutinise other regulations for privacy principles; but it seems to be not okay for the Scrutiny of Acts and Regulations Committee to scrutinise the privacy code. I see the honourable member for Preston grinning. He is embarrassed by this, too.

The opposition will vote in favour of the new clause. However, for the minister to reject the opposition's amendment and then present this one as his next amendment is a joke. It is a silly, petulant act on his part to reject the opposition's amendment and then proceed to move this amendment.

Mr BRUMBY (Minister for State and Regional Development) — By way of brief response, Madam Chair, the change was requested by the Scrutiny of Acts and Regulations Committee, which is an all-party committee. I looked at the request carefully and believed it was something that would add value to the legislation, so I have included it among the amendments. It is a good example of the capacity of the government to listen carefully to constructive suggestions put to it.

New clause agreed to.

Schedule 1

Mr BRUMBY (Minister for State and Regional Development) — I move:

11. Schedule 1, page 71, lines 5 to 9, omit all words and expressions on these lines.

12. Schedule 1, page 71, after line 21 insert —

'**"unique identifier"** means an identifier (usually a number) assigned by an organisation to an individual uniquely to identify that individual for the purposes of the operations of the organisation but does not include an identifier that consists only of the individual's name.'.

These are very minor amendments. The amendment of schedule 1 is necessary so that the definitions of 'unique identifier' and 'sensitive information' are listed alphabetically.

Amendments agreed to; amended schedule agreed to; schedule 2 agreed to.

Long title

Mr BRUMBY (Minister for State and Regional Development) — I move:

13. Long title, after "**1973**" insert ", the **Subordinate Legislation Act 1994**".

Amendment agreed to; amended long title agreed to.

Reported to house with amendments, including amended long title.

Third reading

Motion agreed to by absolute majority.

Read third time.

Remaining stages

Passed remaining stages.

PLANNING AND ENVIRONMENT (RESTRICTIVE COVENANTS) BILL

Government amendments circulated by Mr THWAITES (Minister for Planning) pursuant to sessional orders.

Second reading

Debate resumed from 1 June; motion of Mr THWAITES (Minister for Planning).

Mr CLARK (Box Hill) — As its title suggests, the Planning and Environment (Restrictive Covenants) Bill amends the way the Planning and Environment Act operates in relation to restrictive covenants.

I regret that before turning to the background and provisions of the bill I must express disappointment at the way the bill comes before the house, in particular the hasty manner in which it has been rushed on for debate. That haste has detracted from what would otherwise have been a consultation process that would have allowed an informed debate and for discussion in this place to focus in an informed way on the issues underlying the bill.

The minister introduced the bill into the house during the autumn sittings. He told the house that the bill would lie over until the spring sittings and that during the winter recess there would be consultation with the community, that he intended to invite public comment on the bill, that all submissions received would be reviewed by an independent legal expert on restrictive covenants, and that a report would be prepared for the minister in time for the spring sittings. He added that the report would be made publicly available. Perhaps I was somewhat naive in my interpretation of that final remark, but I took it that the report would be made public prior to the bill coming on for debate in this house.

The minister reinforced the consultative process in a news release he issued on 26 June in which he sought submissions from the public. He said that the Department of Infrastructure would be notifying various parties, notices would be published in newspapers and submissions were to be sent to the Department of Infrastructure by the end of July. He said:

> I am inviting the public to provide comment on the proposed changes to ensure that when Parliament resumes in spring that the new laws reflect community expectations.

While not conclusive, those remarks seem to imply that the consultation process was intended to be concluded prior to the Parliament resuming in spring.

The minister kindly agreed for the opposition parties to be briefed on the bill. The briefing took place on 29 June, when we were taken through the bill as it then stood. At that time I raised with the minister's adviser that given the extensive consultation process that was under way and the likelihood there could be quite significant house amendments arising out of that consultation process, it seemed a sensible procedure for the opposition parties to await the publication of the outcome of that consultation process and of any house amendments arising from it rather than form a view on the bill as it stood and then have to reconsider the issue in light of the house amendments.

My understanding and that of other opposition members who attended that briefing was that that point was accepted, as also was my request that the opposition parties be given early notice of the outcome of that consultation process so that they would be in a position to reach an informed and considered view on the bill before it came on for debate in this house. That was something I followed up by email to the minister's office. I took it that there was an arrangement that the opposition parties would be given that advance notice, or at the very least there was a legitimate expectation on our part that that was the way things were going to go.

I was therefore surprised yesterday morning when the manager of opposition business, the honourable member for Monbulk, contacted me to let me know of his understanding that the government wished to bring on the bill for debate and to have it passed this week. The minister's adviser on planning was able to confirm that to me around midday yesterday. A briefing had been organised for the National Party late yesterday afternoon, which I was invited to attend with the kind agreement of the National Party. At that stage a brief outline of the house amendments was given, but it was not possible for me to receive a copy of them at that stage. In fact I received them by fax at about 12.30 this afternoon, and about lunchtime I was given a copy of the first 50 pages of the report of the independent expert, Mr Terry Montebello, who had been commissioned by the government — but not the appendices, which were the various submissions.

I understand that the opposition was not the only group caught out by the bill being brought on so suddenly. The Save Our Suburbs organisation was also of the understanding that it would be given advance notice of the outcome of the public consultative process and would have an opportunity to have an input and to comment on the recommendations of the Montebello report before the bill came before the house.

Unfortunately none of that happened with the bill being brought on so hastily. It is unfortunate because it mars the consultation process the minister set up and somewhat negates his effort in that regard. Exactly why the bill has been brought on so suddenly is from our point of view largely a matter of speculation. I have no reason to question either the sincerity or integrity of the minister's adviser in the dealings we have had. I suspect it is due in part to the disarray in the government's legislative program — that is, that it needed legislation to bring into the house this week and it may well be that the minister was told his bill had to come on whether or not he was ready for it.

It may also be that the minister underestimated the time it would take to proceed through the consultative process over winter or for his department to advise him on the report of the independent expert or for him to reach a view on the advice he was given.

As honourable members know, the minister has two very demanding portfolios, and that may have played some part in the process. Whatever the reason, it is regrettable. The arrangements I thought had been made with the government would have allowed a fully informed debate that focused on the issues.

The government may say there is no particular reason why it should do any favours for the opposition. If that is the government's attitude no doubt that point will be made later. However, this was an arrangement that had been proposed, discussed and, so far as I was aware, accepted. If the opposition had been told it would not receive advance notice of debate on this legislation coming on it would have proceeded differently.

Quite apart from what the opposition is told is the more important question of whether such action contributes to a good process of public policy development and law-making. It is not only the opposition that has been disadvantaged by the way debate on the bill has suddenly come before the house; those parties who have made submissions in the course of the consultation process have not had a chance to assess what is being recommended and therefore have not had the opportunity to participate fully in the democratic process. It is fine for the government to undertake consultation so far as it goes, but ultimately the elected representatives of the community in this house and the other place need to make decisions on the legislation.

For members of the public to be able to play a full role in the democratic process, they need to have time to

assess the amendments proposed by the government so they can make representations to both the government and the opposition parties. The quality of the consultation process is undermined if that does not happen.

Although debate on the bill has come on quite suddenly this evening, despite the short notice the opposition is determined to ensure it achieves a good outcome from the legislative process. The opposition will make clear the various concerns and reservations it has about the legislation and will put those concerns on the record. It will give the government an opportunity to consider and take on board such of them as it wishes. The opposition will also consider whether it will propose amendments to the bill when it is in another place.

That will be done after it has had the opportunity to take into account the views of the parties participating in the consultation process.

Some very grave issues have been raised in the consultation process. Significant submissions have been made; it is not a matter of a comma here or a change of word there. As I said earlier, those issues should be manifested in a democratic way in this chamber and in another place, and there needs to be time for that to happen.

I turn to the background to the bill and will briefly review some of the history of restrictive covenants and their interaction with planning law over recent years. As most honourable members will know, a restrictive covenant is, in essence, a commitment made between the owner of a piece of land and the owners of neighbouring pieces of land whereby the owners undertake certain restrictions on what they can or cannot do or must do with the land concerned. That is not simply a contractual agreement between the people who happen to be the owners of the land at the time; it is an obligation imposed on the land and runs with the title of the land. If there are changes of ownership, the benefit of the covenant passes from owner to owner.

Covenants are rights that parties can negotiate for themselves; they are not things that require government endorsement or approval. There is a mechanism for registering them on certificates of title, but the actual terms are a matter for private citizens.

It is interesting to note that while covenants are an ancient aspect of property law they have undergone a resurgence in popularity in recent years. Many new subdivisions are being opened up on which estate developers have imposed extensive covenants, presumably because they believe the presence of the covenants gives assurances of quality or other desirable features, as well as assurances to purchasers that those features will endure over time. Covenants are not an historical anachronism but a valuable technique by which individual citizens can order their affairs.

Going back to 1991, the former Labor government, under its planning minister the Honourable Andrew McCutcheon, sought to enact measures enabling restrictive covenants to be wiped out simply by the issuing of planning permits by councils or other responsible authorities under the Planning and Environment Act. Mr McCutcheon argued strenuously that any proposal to remove a covenant should be assessed purely on planning grounds. I commend to honourable members and others who are interested in the issue the report of the debate on the legislation in 1991.

As an aside to illustrate the provisions of the bill in particular and planning matters more generally, I quote the following remark by Mr McCutcheon, as reported at page 3040 of *Hansard* of 5 June 1991, in response to an interjection by the honourable member for Warrandyte:

> Dual occupancy very rarely affects neighbours. Rarely are any complaints made. If you are not aware of that you should do some talking to people where it has occurred.

That is a reflection of how times have changed and how Mr McCutcheon and the government of the day completely misunderstood planning issues. It is also an indication of how planning issues have progressed since 1991. The attitude of the then Labor government was that covenants were private rights that should be subordinate to the greater public interest, particularly the public interest in urban consolidation. A number of remarks made by the former minister bear that out.

The opposition strenuously objected to that at the time, moving amendments that were accepted by the government. They meant that the ability to remove restrictive covenants by issuing planning permits would be confined only to covenants that were dead wood — that is, covenants that had been put in place many years previously and were perhaps anachronistic or related to matters that were no longer important. One example may be the maintenance of stables for horses, something that had been superseded many years previously and was of no real value to anybody. It was accepted that the issuing of planning permits could be an expeditious way of removing those covenants.

However, where covenants had real value to the parties concerned, they could not be abrogated by the issuing of planning permits. Because they were valuable

property rights, people were entitled to access the due process of law before they could be removed. Unfortunately, the Administrative Appeals Tribunal (AAT) did not seem to like either covenants or the opposition's amendments, construing the amendments in a way that made them close to inoperable.

In 1993, after the change in government, the then coalition government legislated to reinforce the principles established in 1991 and to further protect covenants, making it absolutely clear, as best Parliament can, that covenants were not to be removed unless they were of no value. Among other things the amendments specified that if someone objected to the removal of a covenant, it could be removed by the issuing of a planning permit only if the responsible authority was satisfied that the objection was frivolous or vexatious.

Despite some questionable decisions by the AAT and Victorian Civil and Administrative Tribunal since then, the principle has generally prevailed — and it is not a principle that the bill seeks to overturn.

Following further amendments made in 1997, there are now four ways by which a restrictive covenant can be removed. The first is under the Property Law Act which involves applying to the Supreme Court, satisfying the court of the criteria set out under the act and the court using its discretion to make orders, including orders for the payment of compensation. The second is by the issuing of a planning permit, which, as I have indicated, can be used only when the covenant concerned is dead wood and of no value to anyone.

The third method, which has been available since 1997, is under part 9A of the Planning and Environment Act, which deals with projects of state or regional significance. Extensive procedures are set out under section 201N of the act for the secretary of the department to conduct certain inquiries and to provide people with an opportunity to be heard. There are also some provisions for the payment of compensation. The final method is by means of a planning scheme amendment, which is dealt with not under part 9A but under part 3 of the act. It involves a planning scheme amendment being prepared in the normal way, which operates to remove or vary a covenant.

That is how we have evolved to the current position. It is a vast improvement on where we would have been if the amendments introduced in 1991 by the then government had been passed, because restrictive covenants could have been swept aside by planning permits issued by local government or other responsible authorities. The steps taken by the former coalition government protected covenants from being abrogated by administrative action.

However, a problem emerged — namely, that often people did not apply for planning permits to remove covenants. Instead they simply applied for planning permits to undertake developments that breached covenants, in effect ignoring the existence of covenants. A person would apply for a permit to construct a dual occupancy development that was in breach of a restrictive covenant that provided for only single-dwelling occupancies by planning permit, but he or she would not seek to extinguish the covenant. Instead, as I said, the person would ignore the covenant by simply seeking a planning permit for the construction of the dual occupancy. If the person was successful in getting the planning permit it meant he or she had planning permission to do something he or she was not authorised to do — that is, that person would breach the covenant.

That left the person with two options. The first would be to go to the Supreme Court seeking the removal of the covenant under the provisions of the Property Law Act, which would be the honourable way to go about it. The second would be to simply ignore the existence of the covenant, proceed with the construction and, in effect, force those people with the benefit of the covenant to take proceedings to defend their legal rights.

That gave rise to several concerns. The first was that people would simply defy their legal obligations and impose a burden on those who wanted to continue to live the way they had in the past and enjoy the benefit of the covenant. The onus was on the beneficiaries of the covenant to stop an infringement of their rights. Some people also had a fear that the prior issue of a planning permit may make it easier for someone to go to court to have the covenant overturned. I am not sure whether that has been proven to be the case in practice. I am not sure whether the cases that have reached the Supreme Court have turned on that point so that we are able to know whether it is correct. However, it is certainly a concern that many people have had. In any event, the situation has placed the onus on the beneficiaries of the covenant, and they, legitimately, have argued that the operation of the planning system has put their rights at risk and has aided and abetted the violation of their rights.

Even if one did not accept that argument, the current situation has certainly had the effect of the beneficiaries of covenants being burdened with the costs of defending themselves against the issue of planning permits — in other words, when an applicant comes

before a council seeking a planning permit for a dual occupancy, the neighbours have to get involved in the planning process and incur costs in doing so even though they have already said that the dual occupancy should not go ahead because it would be in breach of the restrictive covenant. They are legitimately asking why they should be put to that expense.

It should be borne in mind that in those instances the applicant for the planning permit is seeking to do something that is not permitted by the covenant on the land owned by the applicant. In most instances, if not in all instances, the applicant knows, or should have known if their legal advisers had been doing their job, that they were seeking to do something that the covenant did not permit. Therefore, it can be argued justifiably that the onus should be on the applicants to carry the risk and burden of seeking to have the covenant overturned. On the balance of convenience, the rules should operate by requiring the removal or variation of the covenant to be dealt with first. Only then should the issue of whether a permit should be granted on planning grounds be considered. That was something that the coalition proposed to address in its election policy last year. The policy states:

> Loopholes which allow the granting of a planning permit before the consideration of removal of a covenant on the same piece of land will be closed.

It also states:

> Changes will be introduced to ensure an application for the removal or variation of a restrictive covenant is made separately and prior to the granting of planning approval for a new development on the same site.

They are the two principles to which the opposition continues to adhere.

The perspective from which the opposition approaches the bill is one of upholding the value and the merit of restrictive covenants both for individuals and more generally on public policy grounds and of defending them against uncertainty and unjustifiable interference. Covenants are common in many established suburbs and new subdivisions. In and near my own electorate of Box Hill there are many single-dwelling covenants in suburbs including Balwyn, Kew, Camberwell and Glen Iris. There are many covenants in Warrandyte, and in Mount Eliza the Ranelagh estate designed by Walter Burley Griffin in about 1930 has extensively used covenants that are valued by property owners who are among the many people fearful of anything that may threaten those covenants.

The position from which the opposition approaches the bill is that in terms of stability and the independence of parties to order their own affairs, to regulate their own arrangements, to protect their rights from arbitrary confiscation and to provide people with the ability to make long-term plans with confidence, anything that tends to allow the arbitrary abrogation of covenants is something to be viewed with concern.

I turn now to the provisions of the bill, which does three main things. Firstly, it provides that no permit may be issued which allows a development in breach of a covenant. The bill provides that information about a covenant on a property which is the subject of a permit application is to be given with the application and that notice of the application is to be given in a newspaper circulating in the area and on the property concerned. A further provision allows one to simultaneously apply for both an amendment to the planning scheme and for the issue of a planning permit that would be in breach of the covenant currently on the property.

The bill gives rise to various concerns, some of which come from different perspectives. Several municipal councils consulted by the opposition have expressed concern that the legislation imposes on them too much of a burden. They argue that covenants are a private matter and they should not be forced to bear the expense of dealing with arrangements entered into between private parties.

One can see the point in that concern, and it may be that in some ways more of the burden should be placed on the applicant and less on the council. However, if one is to achieve what the opposition believes is a valuable objective of protecting beneficiaries of covenants against their rights being infringed through the planning process, it may be that councils will have to accept a role in that process.

The second aspect of concern relates to the various mechanics of the notice to be given to parties of the application for a permit that affects a covenant and of the detail to be provided by an applicant. The third area of concern is the procedures that allow a proposal to amend a planning permit to vary a covenant at the same time as applying for a planning permit to do what the covenant does not currently permit.

I turn now to the amount of information provided in applications and the notice given to interested parties. Several of the recommendations of the independent review touched on that issue. I refer to some of the house amendments that purport to respond to those recommendations. Generally the amendments respond adequately to the recommendations of the Montebello report, so I will confine my remarks to those that are

questionable or where it appears that the recommendations have been omitted.

The report recommended that clause 5 be amended to give a further indication of the type of documentation that must be provided with an application for variation or removal of a covenant or restriction. That recommendation has not made its way into the amendments. Two other provisions included in the amendments do not seem to give proper effect to the Montebello report. I refer in particular to a proposal to alter clause 6 of the bill to provide:

> Without limiting any other notice the responsible authority may require to be given under that paragraph, a notice under sub-section 1(ca) or (cb).

That is the phrase being substituted.

A further amendment relating to the giving of notice is to be found under amendment 8, which proposes changes to clause 13. It states in part:

> A planning authority must cause notice of an amendment providing for the removal or variation of a registered restrictive covenant to be given by placing a sign on the land which is the subject of the amendment.

That is probably the one that is most relevant. It occurs in two places in the house amendments. The intention is that in the case of proposals to amend planning schemes notice must be given individually to each of the property owners. I question whether that is achieved by the amendments in the form in which they are moved. It may be that that is something the government will consider.

I also draw the government's attention to the recommended alteration to clause 13(5), which is that the clause be amended so that the planning authority is required to make a copy of the application for a permit available for inspection. Again that is something that does not seem to have been done by the house amendments.

The comments I am making in the time available should not be taken to be exhaustive. The Montebello report contains a 50-page detailed analysis, which the opposition and interested parties have had only about half a day to examine.

The other major area of concern on the part of the opposition is the response of the government and of the review by Mr Montebello to criticisms of the provision to allow the simultaneous amendment of a planning scheme and the granting of a planning permit to do something prohibited by the covenant. In particular I quote a passage from page 25 of Mr Montebello's report in which he states:

> In a number of recommendations of independent panels appointed by the Minister for Planning to hear submissions concerning amendments to the planning scheme, various panels have developed a test based on the concept of 'net community benefit' or 'substantial net community benefit'. The application of the test has varied from one panel to another and has by no means been consistent.
>
> Urban consolidation and the benefits it achieves has been put forward as something weighing heavily in favour of the community benefit and supporting the modification of a covenant.

Debate interrupted pursuant to sessional orders.

The ACTING SPEAKER (Ms Davies) — Order! The time has arrived for me to interrupt the business of the house.

Sitting continued on motion of Mr HAERMEYER (Minister for Police and Emergency Services).

Mr CLARK (Box Hill) — I continue the passage I was quoting from Mr Montebello's report:

> It is a matter of some angst among those beneficiaries having to mount an argument under the enormous spectre of the urban consolidation/community benefit rationale for amending a covenant.
>
> However, it is clear that the bill does not seek to specify the criteria that are to be applied to proposals to amend a planning scheme so as to vary or remove a restrictive covenant.
>
> Accordingly, it is inappropriate to amend the bill to provide for this matter. This goes beyond the purpose of the bill and is beyond the purpose of this report.

The passage is a cause of considerable concern. It is not clear whether Mr Montebello is putting those arguments as his own arguments or simply as other people's arguments, but in effect he is saying that it is not part of his brief to consider the question of whether there should be protections for covenant beneficiaries included in the process when a panel is considering whether or not to amend a planning scheme to extinguish or vary a covenant.

In other words, when such a proposal to vary a planning scheme is being considered, that proposal is to be determined solely on planning grounds and is to exclude separate regard for the interests of the beneficiaries of covenants. There is a risk that that brings us exactly back to where we were in 1991 and the arguments that were put by the then Minister for Planning, Mr McCutcheon, for whom the current Minister for Planning was at one stage at least an adviser.

Those arguments are that private interests need to be subsumed to the greater public interest and therefore those private interests are at risk of being wiped out if on purely planning grounds it is considered a better outcome to remove a covenant. That seems to fly in the face of the position that has certainly been put by the Liberal and National parties over many years and also of what I understood is now the position to which the present government has moved.

From time to time there is a degree of antipathy in some schools of thought among planners towards restrictive covenants and a view that they are 'private planning' and therefore undesirable and that they should be removed if planning grounds make that appropriate.

It is feared that if this faster track process of simultaneously applying to amend a planning scheme and for a permit to do what is currently prohibited by the covenant is put in place, that will become the most common route whereby people seek to override restrictive covenants. It will not necessarily be a fast track, but it will certainly be the fastest track available and therefore the one that will be most used, which will therefore increasingly make the rights of beneficiaries of covenants dependent on planning considerations by panels or on the judgment of an individual Minister for Planning of the day.

It is of some concern that significant property rights, such as restrictive covenants, should be dependent on purely planning criteria or the judgment of the minister of the day. The minister currently has the power to remove covenants by the planning scheme process, but any proceedings along those lines have to be done in two stages. The exercise by the minister of that power ought to be confined to special and unusual cases and should not become a routine tool for extinguishing property rights.

It may be that there are better ways of going about tackling the whole question of the protection of restrictive covenants than what is contained in the bill — for example, one might look at making the current procedures in the Property Law Act the main way of dealing with restrictive covenants, but modifying where the proceedings are brought to avoid the expense of Supreme Court proceedings. There may be a variety of ways of tackling the issue to get the best possible outcome, and I hope there will be continuing community debate on those options.

While the bill is between here and the other place it is important to decide what desirable amendments can be made to the proposed legislation to achieve the best possible outcome within the parameters set by the government. That is something the opposition will consider closely and on which it will consult with interested parties and form a view before the bill is brought on for debate in another place.

Mr DELAHUNTY (Wimmera) — The National Party will not oppose the bill but will reserve the right to move amendments in the upper house if necessary. In the second-reading speech the minister said there would be adequate consultation on the bill between the autumn and spring sessional periods. It was outlined — —

An honourable member interjected.

Mr DELAHUNTY — It was a promise made by your minister. The reality is that the consultation process was not started until a good month after the bill was introduced. It was also disappointing that the National Party only received the proposed amendments at 1.15 p.m. today. It has been difficult in the time available to properly scrutinise them. At this stage we will not oppose the amendments but will reserve the right to oppose them in the upper house if they cannot do what they are supposed to do — that is, improve the operation of the bill.

The bill provides that the main purpose of the act is to amend the Planning and Environment Act 1987 in relation to restrictive covenants, and that the act will come into operation the day after it receives royal assent. That is supported by the National Party, as it will mean there will be no retrospectivity.

I was involved in local government for about 10 years. During that time I did not have much involvement with covenants, but I know that planning issues are complicated and delicate and can often be controversial. Previously councils have often not been aware of restrictive covenants. With this bill it is important that new landowners and councils be aware of restrictive covenants. Landowners have often bought land on which there were old weatherboard houses which they planned to knock down to build two-storey family homes when — surprise, surprise! — the landowners and councils found, upon closer inspection of the titles, that there were restrictive covenants limiting the buildings to single-storey residences.

As honourable members know, restrictive covenants are private laws which place restrictions on the way land may be used or developed. They are registered on land titles, but often people have not recognised the process. The restrictions might include a maximum number of dwellings, the type of boundary fence, or the maximum number of storeys for a building.

The National Party went into the last election with a policy similar to this bill. Three points in the policy document were:

> Restrictive covenants will now receive stronger legal protection.
>
> Loopholes which allow the granting of a planning permit before the consideration of removal of a covenant on the same piece of land will also be closed.
>
> Changes will be introduced to ensure an application for the removal or variation of a restrictive covenant is made separately and prior to the granting of planning approval for a new development on the same site.

As can be seen, there was a fair bit of commonality between the policy document and this bill. The National Party was keen that there be stronger recognition of restrictive covenants, and that issue looks like being addressed with this bill.

The bill was introduced in the final days of the autumn sessional period. As outlined by the minister's second-reading speech, the consultation was supposed to happen during the winter recess. But the minister's press release dated 26 June called for submissions to be in by the end of July — within 35 days, or 25 working days. Only 37 submissions were received, which is surprising considering the controversial way some restrictive covenants have been dealt with, particularly in urban areas. I believe it relates to the short time allowed for consultation. I have been informed that the submissions came from councils and interested people but, interestingly, not a lot of developers.

After the announcement that there would be consultation the National Party informed 47 rural and regional councils and interested people of the process and asked for their input. The Rural City of Ararat, a rural council in the seat of Ripon, wrote a letter to the Department of Infrastructure advising of the following council resolution:

> That council write to the Minister for Planning advising that it does not support the Planning and Environment (Restrictive Covenants) Bill 2000 and that it considers the use of legislation to enforce private, ad hoc restrictions is inappropriate … council considers the legal system is the method in which these issues should be addressed.

A couple of other councils came back with responses. Indigo Shire Council was not opposed to the bill but questioned whether the minister would be able to override the local planning scheme. As honourable members know, that can take place, and that is of some concern.

The Campaspe Shire Council indicated that it was not opposed to the bill, but was concerned that in the past with planning applications covenants did not have to be taken into account because it was not a council responsibility. The new code will require councils to police, research, and so on, prior to issuing a permit, placing additional costs and workload on council officers. As honourable members representing country electorates are aware, councils are having grave difficulty finding qualified planners to work for councils. I hope the bill will not make it any more difficult to attract qualified planners to work for councils.

The bill will ensure that any existing covenant be disclosed at the same time as a development application is submitted. I and the National Party believe the bill will improve the coordination between developers, builders, private individuals and the planning authorities, whether they be councils, water authorities, or the like.

The bill provides that it is the applicant who is required to do the work before the application is submitted or to notify the relevant people while in the process of making the application. The applicant can take those steps if he wants to vary or remove the covenant before the permit can be granted.

The explanatory memorandum says that clause 8 inserts proposed section 61(4) into the principal act to require a responsible authority to refuse to grant a permit, except in specified circumstances — we are not sure what they are — if the permit would allow a use or development which would result in a breach of a covenant.

If a developer or a builder wants a permit he must do his homework. It is important to improve the coordination of the process to eliminate many of the disputes that have frustrated councils and other members of the community, particularly those who are affected by oversights in covenants that are intended to protect their properties. It is important to minimise any costs to the community. Cooperation among all the parties involved leads to a reduction in and resolution of disputes and results in a better process.

As the honourable member for Box Hill said, an officer of the Department of Infrastructure and the ministerial adviser gave us a briefing last night, and I thank them for giving us their time. However, it is a pity that we did not receive a copy of the amendment until 1.15 p.m. today. The second-reading speech says that the Montebello report would be publicly available. I expected the report to have been available well before the bill was brought back for debate.

Rural areas have specific problems, particularly in relation to boundary fences. I cite an example of a situation that occurred in the former municipality of Horsham. The case was controversial because when the land was subdivided the owner imposed a covenant that all the fences had to be made of Colourbond. Everyone seemed to happily accept it, yet the owner ended up putting up a wooden fence. That resulted in a court case and a great deal of angst in the community. The covenant was designed to protect the people who bought the land, yet the original owner was the one who tried to break it.

I read with interest an article in the *Weekly Times* about a rural councillor who wants legislation enshrining the right to farm. Being a member of the National Party, which represents rural interests, that is a right I am aware of and support. The councillor also wants agricultural conservation covenants to protect farmers. In the article she talked about the situation in the United States of America, where agricultural covenants protect farming by limiting land use and subdivision. That happens only to a certain extent in Australia through various planning schemes, but is something worth noting.

Once a covenant is on a title it is difficult to remove because it binds all future owners. Some people buy land because of the covenant on it; others buy land unaware that it is subject to a covenant, even though it is on the title. It is up to the conveyancing people to point that out.

The bill allows for the planning authority, when asked:

> … to prepare an amendment to a planning scheme to authorise removal or variation of the covenant and concurrently consider an application to use or develop the land.

In those circumstances an amendment or variation to the planning scheme could be necessary and would require ministerial approval. Some would say that is a worry.

The bill will not affect special covenants such as those under the Heritage Act and the Victorian Conservation Trust Act. The second-reading speech also states that the bill will not impact on covenants affecting projects of declared state or regional significance under section 9A of the Planning and Environment Act. That highlights the concerns of the National Party about what is not in the bill.

What concerns the councils and many of the people I have spoken to is not what is in the bill but what is not in the bill.

One of the main reasons the National Party is not opposing the bill is set out in the minister's second-reading speech, which states that the planning process will improve the coordination of decision making on permit applications to use or develop land burdened by restrictive covenants. If that policy can be delivered the National Party will not oppose the bill.

Mr CARLI (Coburg) — It is extraordinary that the honourable members for Box Hill and Wimmera complain about the lack of consultation. This bill is a model of the consultation process. It was held over from the autumn sessional period to allow for adequate consultation. The previous government had a zero consultation policy. This bill is the result of extensive consultation with a raft of interest groups. The proposed amendments arose from the excesses of the Kennett government when developers raced around getting permits in total disregard of existing covenants. The extensive consultations and the need to consider interest groups have culminated in the amendments that are being debated tonight.

The bill is a clear indication that the government takes the consultation process seriously, and I am pleased to support the legislation. It is one of a series of promises that the Labor Party took to the last election in the context of what happened to planning in this state, and it is the last of those promises now resulting in legislation.

Honourable members should recall that the Bracks government gave a commitment to improve the coordination and decision-making permit application process to ensure restrictive covenants were taken into account. Developers will no longer get a permit without due consideration of that process. Councils were often unaware of covenants and would not take them into account even if they existed. The Kennett government and the Victorian Civil and Administrative Tribunal considered covenants irrelevant to the planning process. If someone wanted to take up the issue of a covenant he or she would have to initiate civil action and not do it as part of the planning process.

The bill offers a simple alternative to the lack of coordination and the reliance on the Supreme Court of Victoria to uphold covenants. It proposes a simple model. It allows a permit to use or develop land and ensures the permit can be granted only if there is no breach of the covenant. No person can get a permit without giving consideration to the covenant, and local government is being given the authority to ensure that that happens. Then the information is available to local government.

The bill also ensures there is adequate ability to inform those who benefit from those covenants, and provides for the changing of covenants under certain conditions. It gives councils a major role in the protection of covenants and allows them to be suitably coordinated. In short, it meets the Labor Party's promise made before last election as one of a series about improving the planning system to give it certainty. The covenants now have a greater status in deciding whether a planning application is acceptable.

I support the bill. Given the lateness of the evening my contribution must be very brief. The bill should be commended both for the consultation that took place in its making and, most importantly, for the re-establishment of covenants as an important factor in the planning system in this state.

Mr THOMPSON (Sandringham) — Residential amenity is, in many parts of Victoria, underpinned by the operation of covenants — some positive and others quite restrictive. Covenants can determine whether, for example, there is to be quarrying or signage on the land, or whether, as in some of the older covenants, alcoholic beverages may be sold in the precinct.

One of the more common forms of covenant operating in Victoria is one that is part of larger subdivisions and that limits the development of more than one property on a lot of a certain size within a subdivision. That sort of covenant gave some sense of security to householders living in those areas because it meant they could have quiet enjoyment of their residence.

In February last year I was called to a street in Beaumaris in my electorate where such a covenant operated. In a letter dated 3 February to the former Parliamentary Secretary for Planning and Local Government, the honourable member for Prahran, I stated:

> It appears to me to be a degree anomalous that a local council is able to consider a planning application for medium density development in a street where a restrictive covenant operates, without having regard in any way whatsoever to its existence. A number of local developers, in ignorance or arising from a sense of optimism, have submitted applications for development contrary to the spirit of the restrictive covenants. In one case, the council approved the application as it conformed generally with planning principles but falsely elevated the expectation of the builder. In turn, the residents have become somewhat perplexed as to how this circumstance could have arisen and are now marshalling their resources to initiate possible injunctive proceedings.

I raise the possibility of whether it may be more practicable in such a circumstance for the council to consider concurrently with the planning application the likelihood of approval being given to the removal of the restrictive covenants as a prerequisite for the approval in the first place.

In her reply the then parliamentary secretary noted that the suggestion had been made that:

> … removal of a restrictive covenant that limits development to one dwelling, should be a prerequisite to the consideration of a planning application for medium density development.

The former parliamentary secretary further noted that the issue had been brought to the attention of the minister for other purposes.

I note, for the record, that historically there have been three methods for removing covenants. One was under section 60(5) of the Planning and Environment Act; the second was by a planning amendment whereby the applicant could seek through the minister a variation or removal of a restrictive government; and the third, a rather expensive alternative, was through the Supreme Court under section 84 of the Property Law Act.

The bill before the house has been introduced with unaccustomed alacrity. I invite the honourable member for Coburg to think back to 1985 when the Labor government introduced as-of-right dual occupancy development without regard to the interests of adjoining landowners, including consideration of the impact of overlooking and overshadowing buildings. The honourable member needs to take a longer term overview of planning matters if he is to understand them properly.

In conclusion, good policy often emanates from the contest of ideas. A gentleman who started life as a junior jockey at the Mentone racecourse, which probably has a number of covenants over the track today, and went on to take out the Supreme Court prize at Monash University and has been involved in an active community organisation looking at preserving our suburbs has had active input into the debate, and I note his presence in the chamber tonight.

Mrs MADDIGAN (Essendon) — I am pleased to join my colleagues in supporting the Planning and Environment (Restrictive Covenants) Bill and the amendments. It is a reform that is well overdue. I cannot continue without referring to the opposition speakers, who are astounding in the way they conveniently forget facts that reflect badly on their period of government.

Of interest was the contribution by the opposition lead speaker, the honourable member for Box Hill, who spent about 20 minutes discussing restricted covenants and planning reforms up to 1991 and then covered the

period 1991 to 1997 in about half a sentence. That is hardly surprising, because nothing happened while the previous government was in power, despite the fact that the former planning minister, the honourable member for Pakenham, knew there was a problem with restrictive covenants. I remember raising the issue with him in 1998 during an adjournment debate. At that time his response was that he knew there was a problem and that the government might have to look at introducing legislation. He obviously thought long and hard about it because that was the last we ever heard about it. Presumably, if a Labor government had not come to power, we would still all be thinking about it now without any action being taking.

The reforms contained in the bill are part of an election commitment of the current government — another election commitment that the government is putting into practice. Rather than the opposition being so mealy-mouthed about it, it would be nice if it acknowledged for once that the government is improving all the problem situations in planning that the previous government managed to leave through its inaction or misunderstanding of planning regulations in the state.

It is worthwhile legislation and removes what was a significant problem under the previous system, that people could not get planning permits while a covenant was still in place. The fact that a covenant was in place could not be used as an argument in a planning process because a covenant was not considered a reasonable attribute of a planning process. That meant people had no protection under the previous system. Planning permits could be issued and the poor people covered by covenants were left with no avenue to argue against them. They had no protection.

I honestly thought that the opposition would welcome the legislation rather than complain about what happened prior to 1991. One really wonders if it has woken up to the fact that Victorians were not impressed with the previous government's attempts at controlling planning regulation in Victoria and that the changes have come from a community uprising. It became part of the Bracks government's policy because people repeatedly expressed their dissatisfaction with many areas of planning, particularly restrictive covenants, and also because the previous government refused to listen in this area, as in many other areas.

Restrictive covenants are a particular problem in my electorate. There is a famous covenant, the Marlodge Estate covenant, and a large part of Strathmore is covered by covenants. People wrote to the previous minister through the Save Our Suburbs group and other local organisations and made it clear on a number of occasions that there was a significant problem.

I am glad that the consultation process and the recommendations have been supported by the Moonee Valley council, which covers the area. If one reads the submissions to the consultative document one sees many people were involved in the planning process.

I find it rather peculiar that the honourable member for Wimmera chose to complain about the consultative process. It is obvious he was not here in the last Parliament or he would have realised consultation was an unknown method of approach. Honourable members were rarely given more than a week or two weeks to consider a matter. He ignores the fact that the bill was introduced in Parliament during the last session. The honourable member has had since May to talk to as many people as he wants and to ask as many questions as he likes of the planning minister.

The honourable member for Wimmera has had since May to discuss the bill with the staff of the Minister for Planning. I can only assume from the comments and misinformation he has put before honourable members this evening that he has not availed himself of any of those opportunities. If that is the case it is not the fault of the government; it is the fault of the National Party. I understand that members of the National Party were very busy in the winter break doing other things, but if they expect the house to take notice of them in debates on major importance such as planning matters they have to know what they are talking about and find out what the people think.

It is clear that the bill is a worthwhile initiative. I am pleased to support it. I have no doubt that the majority of the residents of Victoria are also pleased to see a long overdue reform.

Mr HONEYWOOD (Warrandyte) — In joining the debate on the Planning and Environment (Restrictive Covenants) Bill I place on record a response to the question by the honourable member for Essendon as to why the opposition is bothering with pre-1991 issues. In 1988 I won my seat from the Labor government because former Premier John Cain had an as-of-right dual occupancy policy across the entire metropolitan area. It did not take into account unique community factors such as exist in Warrandyte, where there is no sewerage but there is an historic village atmosphere, a bush lane character, a bushfire zone and an environmental area par excellence.

John Cain failed to acknowledge the unique community characteristics that are so important to people when

they make an investment decision in a lifestyle choice. The predicability of lifestyle choice has been a fundamental philosophy during the 12 years I have been the member for Warrandyte. I am proud to say that whichever party has been in government I have been able to achieve a bipartisan approach to ensuring that Warrandyte has been the only area of metropolitan Melbourne that has a specific no-dual-occupancy provision for the entire community and township.

I commend the current minister's adviser, Maria Marshall, for her efficiency in ensuring that that bipartisan approach has prevailed. However, I am taking part in the debate because I am totally aghast to observe that the minister has probably ignored Maria Marshall's advice and has included in the bill a provision that will permit people to apply simultaneously both to amend a planning scheme so they can remove a covenant and for a planning permit to effect what is prohibited by the same covenant. I notice that the minister is not paying attention, but I would have thought that if the Labor government really believed its rhetoric about community consultation it would not have a sleight-of-hand situation in which, without any consultation, a covenant could be removed at the same time as a planning permit was applied for. A two-stage process is required so that the community will be made aware that a covenant is about to be lifted.

The minister has proposed a trumped-up house amendment that would in effect allow the local authority not to advertise to the extent that it should to ensure that there will be no personal advertising. All that is required is that a sign be put up on the property and an advertisement placed in the local paper. Many of my constituents do not bother to read the local newspaper. That means that the rhetoric of the government on community consultation stands for nought in practice because the government is willing to ensure that no personal notification is required of an application to lift a covenant.

Finally, in ensuring that there will be no personal notification the rhetoric of the government in supporting the Save Our Suburbs group also stands for nought. At the end of the day if an individual is not given personal notification of an application to remove a covenant, and if the local authority is given an out to ensure that that does not occur, all that has to happen is that a sign must be put up and an advertisement placed in the paper, and lo and behold, through a sleight of hand a person can have a covenant removed and get a planning permit simultaneously.

That is appalling. I hope the minister will explain why his amendment does not affect the situation in my electorate of Warrandyte, which has a whole host of historic covenants; my constituents have paid a premium for a lifestyle that they hope will give some predictability for their families. I hope for areas like Warrandyte, Croydon, North Ringwood and Park Orchards, where covenants have been in existence for more than 20 years, the government's rhetoric will become a reality.

Mr NARDELLA (Melton) — I support the Planning and Environment (Restrictive Covenants) Bill. The previous speaker had the audacity to lecture the government about consultation, covenants and planning, and yet the bill before the house is a way forward for planning and covenants in our community. Together with local community members at Hillside in the seat of Melton I have fought about those exact circumstances where planning permits have been put in — —

Mr Spry — On a point of order, Madam Acting Speaker, I believe the honourable member for Melton has already spoken on the bill. I ask you to check the records.

The ACTING SPEAKER (Ms Davies) — Order! There is no point of order.

Mr NARDELLA — The community in my electorate of Melton and I fought strenuously when planning permits were lodged and the removal of covenants was not applied for. The bill will mean that the removal of a covenant has to be advertised and applied for at the same time as a planning permit is lodged. For that reason alone I support the bill. It will advise the community of what is going on within its own region.

Mr THWAITES (Minister for Planning) — I thank the honourable members for Box Hill, Wimmera, Warrandyte, Coburg, Melton and Essendon for their contributions.

An honourable member interjected.

Mr THWAITES — The honourable member for Essendon made an excellent contribution.

Under current law a permit may be granted for a development that is inconsistent with a covenant on the land. That is the way the law has been for the past seven years. The honourable member for Warrandyte did not show the passion for the issue he exhibited tonight during the seven years he sat around the cabinet table when he could have done something about it.

An opposition member interjected.

Mr THWAITES — If the honourable member is on the record as having done something, he was obviously ignored. He could not get it through. When he was in a position to do something about the issue, he did nothing. Despite all the opposition's passion and crocodile tears over the issue, it was in government for seven years and did nothing about it.

By contrast, the current government has introduced the bill in its first year of office and then undertaken the appropriate course — a consultative process. The bill was introduced not last week or a few days ago but almost three months ago. The opposition had three months to come up with some suggestions on the bill, but all its members were away. The shadow Minister for Planning was probably on a trip around the world, because we did not hear anything from him for months. He was either busy somewhere else or he was too lazy to make a contribution. Everyone agrees the bill is good legislation and that it is the first time in seven years that an advance has been made in the area. There is one issue — —

Mr Smith interjected.

Mr THWAITES — You do. Your people are supporting it. However, the one issue that people have raised is that of notice, and the government will consider that issue when the bill is between houses.

Mrs Peulich interjected.

The ACTING SPEAKER (Ms Davies) — Order! The honourable member for Bentleigh is being disorderly.

Mr THWAITES — The shadow Minister for Planning has done nothing positive for planning in three months. He has not had a single idea — not one!

He has received some expert advice from Save Our Suburbs and he is now putting forward the issue raised by that group, and it is probably a very reasonable matter to raise. It is a pity the shadow Minister for Planning could not come up with anything in three months, but it is hardly surprising when the former minister could not come up with anything in seven years! The government is happy to continue to do what it does very well — that is, consult with all groups in the community. That will be done when the bill is between houses.

Motion agreed to.

Read second time.

Committed.

Committee

Clauses 1 to 3 agreed to.

Clause 4

Mr THWAITES (Minister for Planning) — I move:

1. Clause 4, lines 6 to 13, omit all words and expressions on these lines and insert —

'"registered restrictive covenant" means a restriction within the meaning of the **Subdivision Act 1988**;'.

I advise the house that the amendment redefines the definition of 'restrictive covenant' in the bill so that it accords with the covenant in the Subdivision Act, which is a restriction. It is the result of a recommendation of the Montebello report.

Mr CLARK (Box Hill) — I accept the explanation given by the Minister for Planning that the amendment results from a recommendation of the Montebello report. I notice that the existing definition of 'registered restrictive covenant' in paragraph (b) refers to covenants registered under the Property Law Act 1998 before 1 January 1999. That provision seems not to be replicated in the definition in the Subdivision Act where 'restriction' means restrictive covenant or restriction which can be registered or recorded in the register under the Transfer of Land Act 1958. The definition of 'restriction' in the Subdivision Act is the definition that is used already in parts of the Planning and Environment Act, including provisions that have been around for some time relating to planning permits for the removal or variation of restrictive covenants under section 60. It may therefore be that this is not an issue, but I wonder whether the minister can shed any light on this point.

I also make the observation that, although I believe it has the same effect as the recommendation of the Montebello report, it is not exactly the same. It seems to have the odd result that the defined term 'registered restrictive covenant' will refer to restrictive covenants or restrictions which can be registered or recorded in the register under the Transfer of Land Act 1958, with emphasis on the word 'can'. There may be, in fact, a restriction which is not registered but which falls within the definition of a registered restrictive covenant. I ask the minister to comment on that point.

Mr THWAITES (Minister for Planning) — As I recall, the amendment follows the recommendation of the Law Institute of Victoria. My advice is that the bill does not adversely affect owners benefiting from Property Law Act restrictive covenants. Their rights are unchanged.

Amendment agreed to; amended clause agreed to.

Clause 5

Mr CLARK (Box Hill) — The Montebello report contains a recommendation about this clause. It states:

> It is recommended that the clause be modified slightly to give further indication of the type of documentation that must be provided with an application for variation or removal of a covenant or restriction.

Will the minister indicate why that particular recommendation of the Montebello report has not been accepted by the government?

Mr THWAITES (Minister for Planning) — The Montebello report states, as is the case, that the responsible authority under the principal act can require additional information to be targeted for particular circumstances. It was not felt appropriate or necessary to have a legislative requirement because that would be unduly prescriptive.

Clause agreed to.

Clause 6

Mr THWAITES (Minister for Planning) — I move:

2. Clause 6, after line 29 insert —

   "(cb) to the owners of land benefited by a registered restrictive covenant, if the application is to remove or vary the covenant.".

3. Clause 6, page 3, line 2 for "A notice under sub-section (1)(ca)" substitute —

   "Without limiting any other notice the responsible authority may require to be given under that paragraph, a notice under sub-section (1)(ca) or (cb)".

4. Clause 6, page 3, line 10, omit "and (ca)" and insert "(ca) and (cb)".

5. Clause 6, line 12, omit "paragraph (ca)" and insert "paragraphs (ca) and (cb)".

At present there are three ways to remove or effect a covenant on land. One is by a permit process, the second is by a planning scheme amendment, and the third is through the Supreme Court. The bill introduces another mechanism that will benefit all parties — that is, to have the combined approach of a planning scheme amendment to remove the covenant at the same time the permit for development is considered.

That will benefit the beneficiaries of the covenant because they will not face a situation where the planning scheme permit for a development is given contrary to a covenant. It will benefit developers because they will not need to go through a two-stage process that unnecessarily delays things. It will allow all things to be considered at once — the permit for development and whether the covenant should be removed. That is a sensible approach in the interests of everybody.

However, this provision relates to section 52, which is for a permit to remove a covenant, not for the combined approach. The section also applies to permits for development. The amendment requires that notice be given. I understand the issue that is still of concern is whether that should be personal notice. The provision does not require personal notice although at the discretion of the council it could be a personal notice. The compulsory part of the provision is not for personal notice but would be through a notice on the land or through advertising. The council would still have the discretion to order a personal notice. However, the discretion is with the council.

The permit process for removing covenants is almost never used or is not used as a matter of practice because it is almost impossible to get a permit to remove a covenant unless all parties agree. The only practical way to remove a covenant is by way of a planning scheme amendment process. I am happy, while the bill is between the houses, to examine whether there should be an additional notice requirement.

Mr CLARK (Box Hill) — The indication by the minister that he is willing to look at the issue while the bill is between houses is welcome. It goes to the issue that the honourable member for Warrandyte put eloquently a short time ago and is one that I touched on in my contribution to the second-reading debate, although I did not make the point as clearly as I could have.

The concern is that even the amendment gives the responsible authority discretion about whether notice should be given to beneficiaries, other than the prescribed notice, by placing a sign on the land subject to the application or by publishing a notice in a newspaper generally circulating in the area.

Even that does not guarantee it will be the local newspaper; it could be a metropolitan or statewide newspaper. As the honourable member for Warrandyte says, it means that all beneficiaries are not assured of receiving notices of application. As I read it, amendment 2 extends clause 6 to deal with applications to remove or vary covenants. The bill as it stands deals with a permit to do something that would be in breach of a covenant. The question is whether it is adequate for the beneficiaries to rely on the judgment of the

responsible authority for protection. Should there be a more extensive mechanism?

It has been cogently put that there are more extensive notice provisions in place in the rules of the Supreme Court and that the notification that people's rights are at threat should not be dependent on the judgment of the responsible authority. The further question has been asked as to whether the responsible authorities could end up rendering themselves liable to pay compensation if they fail to give the notice required under the legislation. This question exists under the bill as it stands and continues to exist under the amendments. The agreement that the minister will further consider the issue is welcome and sensible.

Mr HONEYWOOD (Warrandyte) — I support the shadow Minister for Planning. As a member who has taken part in the debate this evening, Madam Chair, you will appreciate that many of our constituents may, for example, go on holiday interstate for protracted periods or go overseas on business or be absentee landlords and, while absent, may have a passionate desire to ensure that the lifestyle values that attracted them to particular covenant areas are sustained.

Nothing in the minister's speech has assured me that those constituents will be accommodated by the personal notification requirements. In that context I take heart from the honourable member for Box Hill taking the fight up to the Minister for Planning, ensuring that over the past three months the minister has had to change his position. He is now talking about having a look at the bill while it is between houses to see whether he can make the personal notification provisions more appropriate.

A minister's saying he will a look at a bill while it is between houses is code for admitting that he has messed it up the first time round and may be willing to do the right thing the second time round, having had the opposition point out to him something that he was either not aware of or chose to ignore.

Given the minister's background in local government we can understand how passionate he is to ensure that local government has the final say over its ratepayers in any form of notification, but I would have thought that the duty of care of the Minister for Planning was to people who own property rather than to local municipal authorities. For the minister to stand up this evening and say that he trusts municipalities to do the right thing and to have the discretionary power as to whether they will provide the largesse of personal notification is an indictment of this minister's duty of care obligations to property owners as distinct from his former local government mayoral role, which he seems to be harking back to when he says we should let local government decide this matter.

I am not comfortable with the lack of assurance coming from the minister this evening. He needs to do far more than just give us a glib assurance that he will look at the matter while the bill is between the houses and that he trusts local government. Many honourable members here this evening do not trust local government to do the right thing by their constituents.

Amendments agreed to; amended clause agreed to; clauses 7 to 11 agreed to.

Clause 12

Mr THWAITES (Minister for Planning) — I move:

6. Clause 12, line 28, before "restrictive" insert "registered".

7. Clause 12, line 33, before "restrictive" insert "registered".

Clause 12 relates to that combined provision I talked about earlier whereby it is possible for someone to apply for a planning scheme amendment to remove or vary a covenant at the same time as making a permit application for a development. These are merely technical amendments to ensure consistency with the amendments moved to clause 4 and the definition of registered restrictive covenant.

Amendments agreed to; amended clause agreed to.

Clause 13

Mr THWAITES (Minister for Planning) — I move:

8. Clause 13, lines 17 to 19, omit all words and expressions on these lines and insert —

"(2A) A planning authority must cause notice of an amendment providing for the removal or variation of a registered restrictive covenant to be given by placing a sign on the land which is the subject of the amendment.".

9. Clause 13, lines 23 to 30, omit all words and expressions on these lines and insert —

"(3) In section 96C(3) of the Principal Act for "sub-section (1) and (2)" **substitute** "sub-sections (1), (2) and (2A)".".

Clause 13 relates to this combined amendment permit process. The purpose of the house amendments is to provide for notice to affected land-holders who have the benefit of a covenant. The advice that I have through the department and parliamentary counsel is that this would provide for personal notice. Save Our

Suburbs has raised the issue that the effect of the provisions may not be to produce that outcome. It was the intention to provide in that way and that is a matter that can be looked at between the houses.

Mr CLARK (Box Hill) — I am also concerned about the way proposed subsection (2A) being inserted by clause 13 would operate. The legislation could still be interpreted so that the requirement to give notice could be satisfied by placing a sign on the land concerned. I believe that is something that needs to be looked at. A similar point applies to the proposed new clause which the minister will seek to insert.

I wonder if while we are addressing clause 13 the Minister for Planning could indicate to the house why the recommendation of the Montebello report that clause 13(5) be amended so that the planning authority is required to make a copy of the application for a permit available for inspection has not been reflected in the house amendments.

Amendments agreed to; amended clause agreed to; clause 14 agreed to.

Clause 15

Mr THWAITES (Minister for Planning) — I move:

10. Clause 15, line 22, after "Tribunal" insert "on or".

This is a minor transitional amendment.

Amendment agreed to; amended clause agreed to.

New clause

Mr THWAITES (Minister for Planning) — I move:

11. Insert the following new clause to follow Clause 4 —

"**AA.** ***Notice to owners of land benefited by restrictive covenant***

(1) After section 19(1)(c) of the Principal Act **insert** —

"and

(ca) to owners of land benefited by a registered restrictive covenant, if the amendment provides for the removal or variation of the covenant.".

(2) After section 19(2) of the Principal Act **insert** —

"(2A) A planning authority must cause notice of an amendment providing for the removal or variation of a registered restrictive covenant to be given by placing a sign on the land which is the subject of the amendment.".

(3) In section 19(3) of the Principal Act for "sub-section (1) and (2)" **substitute** "sub-sections (1), (2) and (2A)".".

The new clause provides for the situation where a planning scheme amendment is made to remove or vary a covenant on its own so that it is the only consideration. The purpose of the clause is to ensure that notice is given of an amendment being made in that way.

New clause agreed to.

Reported to house with amendments.

Remaining stages

Passed remaining stages.

CONSTITUTION (PROPORTIONAL REPRESENTATION) BILL

Second reading

Debate resumed from 17 August; motion of Mr BRACKS (Premier).

Mr MILDENHALL (Footscray) — Given the lateness of the hour, I will make a few brief remarks on the Constitution (Proportional Representation) Bill. In particular, I will comment on the pathetic defence by the opposition of the unrepresentative situation we have in the upper house, which arose as a result of a party gaining a clear majority of the votes at the last election but ending up with only 32 per cent of the seats.

The opposition's defence of its opposition to constitutional reform is made principally in ignorance of comparable jurisdictions in Australia and recent thinking, which is exemplified in the reform of the House of Lords in Britain. Typically it claimed the government has no mandate. It was sad to have to endure the hours the honourable member for Berwick and the Leader of the National Party used in arguing that the government has no mandate, given that those of us with memories of what happened a few years ago had to put up with the Kennett government's closing of schools, closing of hospitals, hopping into the Auditor-General, closing down of freedom of information and doing a range of other things when it had no mandate for those actions. The government has a mandate to reform the upper house — a mandate that has been reinforced on four occasions.

Opposition members have short memories. The debate about reforming the upper house has been going on for some time, not only since the recent election. The

memories of opposition members are so short they do not recall agreeing with the Independents to sign up for four-year terms and that they preferred proportional representation to a constitutional commission. If opposition members still believe that why don't they move a amendment that the proposal go to a constitutional commission?

A long list of independent and conservative-minded people have argued for proportional representation in the upper house. A former President of the Legislative Council, the Honourable Alan Hunt, said in 1997, 'Let's introduce proportional representation'. Another former President of the upper house, the Honourable Rod Mackenzie, also said, 'Let's reform the upper house and introduce proportional representation'. A former federal deputy leader of the Liberal Party, Fred Chaney, said, 'Let's have proportional representation in the Victorian upper house, let's go for it'.

I have even found that the Victorian Young Liberals have pressed for sweeping charges to the Legislative Council, including election by proportional representation. An article published in the *Age* in 1980 states:

> The Young Liberals' state president, Mr Mark Birrell, said there was clearly a strong need for parliamentary and electoral reform in Victoria.

It appears the memories of honourable members do not go back to 1980 when the Honourable Mark Birrell, the Leader of the Opposition in the upper house, was a firm advocate of proportional representation in that place. Other commentators such as Brian Costar and Meg Russell, whose book informed much of the debate on the reform of the House of Lords, pointed to the insanity of the upper house because it merely replicates lower house operations. I can recommend Meg Russell's book to honourable members. It ought to be referred to in this instance.

Other states either have proportional representation in their upper houses or no upper house at all. Victoria is behind the times, and the pathetic defence of the Liberal and National parties does them no credit. It is a case of them burying their heads in the sand, hoping the issue will go away and hoping they can hang on until the next election. However, right-thinking and informed people, scholars, people with experience such as the Honourable Alan Hunt, the young Mark Birrell, Brian Costar, the Honourable Rod Mackenzie and others have argued that Victoria ought to proceed with the reform.

The proposed reform is reasonable. The upper house needs a different role or some sort of different mandate, because it does not have an appropriate role under the antiquated provisions that currently prevail.

Mr SMITH (Glen Waverley) — Drastically changing a constitution, particularly the constitution of a state, is probably one of the most significant moves that could be made by any government. It is a bit rich that tonight the government has placed a time limit on the debate on the Constitution (Proportional Representation) Bill, one of the most significant bills to come before the house in years. The guillotine hangs over the bill, and honourable members from both sides who wish to speak are unable to do so. That is outrageous.

Before the government jumps in to change a system that has worked well it should examine what has happened overseas. I have recently studied the situation in a couple of countries, particularly Israel, and have gained much information from Italy. I will speak about Italy first. It has had proportional representation since the war and a change of government almost every year. This year it wanted to change the system, but the parties played politics and only 32 per cent of people turned out to vote. The percentage required to bring about a change is 50 per cent. The vast majority of those who turned out voted for a system of first past the post rather than Victoria's system of preferential voting.

Former Prime Minister Paul Keating, who had a tremendously difficult time with the Senate during his time in power, called it unrepresentative swill! I could go on quoting examples — and forget about the conservative side of politics, Gareth Evans is an example from the Labor side.

The Israeli system was the most interesting system I saw. The Knesset consists of 120 members, and no party comes within cooee of having an absolute majority. The party with the greatest number currently is the Labor Party, which holds 26 seats, representing 20 per cent of the vote. The Likud Party, which is the equivalent of the conservative party, has 19 seats, representing 14 per cent of the vote, and the Shas Party, which is a religious party, has 17 seats. The point is that once a new system is introduced it cannot be changed. Admittedly Israel has a quota of 1.5 per cent and in introducing the bill the Premier said the figure in Victoria would be 16 per cent. What would be the ramifications of that? A proposed quota of 16 per cent means the Premier does not want anyone apart from Labor and the conservative parties. That suits the Liberals and Nationals, but it means the government is not fair dinkum.

A quota of 1.5 per cent as exists in the Israeli system results in silly outcomes. I spoke with Gideon Rahat, a member of the Israeli Democratic Institute, which is Israel's think tank, who made the point loud and clear that once a system is brought in it cannot be changed because people who come in under the system will not change their vote. There are six million people in Israel and the votes are for the whole state, not just electorates. That has all been thrown out the window. The Victorian system in which members represent people would go out the window once proportional representation gained a toehold, as has happened in the Senate.

Under proportional representation systems blackmail is a factor in the formation of government — and Israel's Prime Minister Barak has found that out already. I will explain. I spoke to Eliezer Cohen, who represents a party of three people the whole point of which is to be a constitutional party. Honourable members may not know that Israel does not have a constitution and works on a precedent system set up by the parliament, or based on the Bible. The people at the right of the political spectrum say, 'The Bible is good enough, that will be our constitution'. Prime Minister Barak, who is slightly to the left, has always rubbished the idea of a constitution. However, Cohen said that when the foreign minister and his party defected during the recent Camp David talks, which was when I was there, that matter suddenly became important.

Lo and behold, I read in the paper last week that Barak has accepted one of Cohen's suggestions — and this is the whole point that his party is in Parliament for, because it is a one-issue party — they are going to have a constitution! Of course that is just the Israeli Prime Minister saying that, and he cannot even get accord to get the Camp David issue through. Even if he did get the agreement of the Parliament he would still need to go to a referendum, and the chances of including Jerusalem are way out the window. The point is, as Eliezer Cohen said to me, that proportional representation is unfair to the people in the outer regions because they do not get equal representation with those living in the city.

Let us look at the proportions of what is proposed in Victoria. At the moment 22 electorates make up the upper house, and 9 of the 22 are country electorates. That is about the right proportion to provide representation for country electorates. However, under the provisions of the bill there will be only three country electorates out of eight. As was said in all the countries we visited, the people missing out on representation are those in the territories.

I also spoke to Limor Livnat, who is the pretender to the Likud throne and the Minister for Communications. She advised Victoria not to leap into a system that will not improve the way democracy is administered.

Again, that is what the whole system is about. It is what former Prime Minister Paul Keating and other people complained about. They argue that a properly elected government does not get a chance to bring in its legislation because there are people in the Senate with, as Gareth Evans said, about 15 000 votes who hold up the legislation of a government that has 5 million votes. No matter whether it is a Liberal government or a Labor government, they put up barriers to the passing of legislation. Mr Rahat's advice was that once these systems are entrenched they cannot be changed.

Interestingly, the Israeli system has an added complication. The Prime Minister is separately elected, so the proportional representation system is even less relevant. There are about 17 different parties vying for the Prime Minister's approval, all with their own little agendas. That makes government almost impossible. It is not possible to change that sort of system, even if it is in the national interest, because the people who are elected under that system are not interested. All they are interested in is themselves and their own little parties. That is the problem.

As the honourable member for Footscray said, in the United Kingdom there have been two reports — the Jenkins report into the House of Commons and the Wakeham report into the House of Lords — both of which are very readable documents. There might have to be an inquiry into our system, but there has been nothing like that in Victoria at all. Although it is not my party's policy but just a view I picked up while I was overseas, it would certainly be worth while looking at any of these systems.

While in the United Kingdom I also spoke with one of the experts in the Commons, Peter Pike, who is the member for Burley. He has been a Labor member for 17 years and has visited Israel, New Zealand and other PR countries. Some of his comments were interesting. He said he felt proportional representation gave not a fair say but a controlling say to minorities.

He also said that proportional representation became a case of the tail wagging the dog. The discipline both Labor and Liberal party systems adopt in Australia is not the same as the discipline adopted in the United Kingdom. Labour Party members there can vote against the party almost as they like. Mr Pike also said to me, 'I get into trouble with my electorate council because I have not kicked the government enough'. The United

Kingdom has been through that system but has not yet put it to a vote. Mr Pike doubts whether it will get through because they consider the first-past-the-post system to be the best system. I do not believe that is so, I believe our preferential system is much fairer.

Once one gets into the proportional representation system one is not able to turn back the clock. It was introduced by Labor in the Senate, and both Keating and Evans had problems with it. Part of the reason their frustration became so intense was that they were not able to get the legislation passed. This bill has all the worst features of proportional representation.

The government wants the opposition parties to dive into the unknown in a way that will not allow us to turn back the clock. For example, Israel would not be able to lift the limit from 1.5 quotas per member per party because it has to have 20 per cent for the Labour Party to get 26 seats. It is hard to do. It would be the beginning of the end of the political parties as we know them today.

Government members interjecting.

Mr SMITH — Labor members can make noises, but they should research this matter properly. The system in Italy does not work because political parties have so much to gain, such as Berlusconi for his own political purposes asking people not to go to the polls, but they cannot change the system. It has become so entrenched that it is impossible to turn back the clock.

I advise the government to examine the proposal more thoroughly. The opposition parties are opposed to it, so that will be the end of it. Even if the government wants to keep the quota at 16, which will keep out the Greens, the Democrats and others, some ratbag group will get 20 per cent on one occasion — and that one occasion will be enough to frustrate the government's legislative program or any policy direction in which it is going, and in the end the government will have to compromise. That is where the element called the blackmail factor comes in, a factor that is sinister in countries such as Israel and Italy because they have political parties from the far right and the far left that have agendas that bear no relationship to the mainstream politics of the day.

My advice to the government is that it should look carefully before it introduces the bill again. Much research needs to be done. The opposition parties are anxious to help the government with that research, but in the meantime what the government is doing with this bill is turning back the clock.

Debate adjourned on motion of Mr LENDERS (Dandenong North).

Debate adjourned until next day.

Remaining business postponed on motion of Mr HAMILTON (Minister for Agriculture).

ADJOURNMENT

Mr HAMILTON (Minister for Agriculture) — I move:

That the house do now adjourn.

Mornington Peninsula: school speech therapists

Mr DIXON (Dromana) — I raise for the attention of the Minister for Education the matter of speech therapy services in schools on the Mornington Peninsula. A constituent who is very concerned about the matter wrote directly to the Premier more than two months ago but has received no reply — not even an acknowledgment. I therefore undertook on her behalf to refer the matter to the Minister for Education.

I ask the minister to investigate what short and long-term options there are to attract speech therapists to the Mornington Peninsula and, after attracting them, to keep them gainfully employed and in the area providing this important service.

For a recent six-month period no department speech therapists have been in the area. That has had grave ramifications for many early intervention programs, because with speech therapy it is important to intervene at an early stage. It is far more effective to intervene with prep children. Furthermore, with the long gap in the therapy children who should have been receiving ongoing therapy during the six months have fallen way behind and almost have to start over again.

As a matter of urgency the department has given one of the local school clusters permission — and has funded it — to pay speech therapists at a private rate so it can have speech therapy in the schools. The rate for a private therapist is quite different from that of an education department therapist. That is a very short-term answer to the problem and creates a serious precedent in the amount of funding that would be required not only if it continues on the peninsula but also if other areas of the state want to adopt the same sort of program. The further out from Melbourne it is, the harder it is to get therapists.

One option for the minister to consider is to free up clusters of schools to employ therapists between

themselves and to be able to set the pay levels and conditions for those therapists so they will be attracted to and stay in the area and provide the consistent and ongoing therapy that is very much needed in our schools. I ask the minister to consider that as one of the options because the matter is important not only in my electorate but also throughout Victoria, especially in outlying areas where it is hard to get good speech therapists to stay and work with children in our schools.

Disability services: accommodation

Ms OVERINGTON (Ballarat West) — I ask the Minister for Housing for advice on assistance that may be available to people who often have special needs and who may be living in non-permanent accommodation, such as boarding houses and supported residential services.

An Honourable Member — They are most vulnerable.

Ms OVERINGTON — They are most vulnerable. Insecure housing is not just a feature of city life. People in country areas and regional centres, such as Ballarat, are also affected by these problems. Many people experience great difficulty in finding ongoing secure accommodation and gaining access to necessary services, particularly those who have been marginalised by society. Many of those people are known to me. Many have a range of disabilities and often live in isolation. In some cases they have no trust in the people around them and lack the confidence and knowledge to independently seek out services that could assist them.

Many require basic dental services, optical assessment, podiatry treatment or hearing tests. Because Ballarat had a large psychiatric hospital many people were deinstitutionalised. Many were known to me in my former role as a welfare worker. From my first-hand experience I know that many did not make direct contact with welfare agencies; at times they just wandered in off the street.

It is important to find a way to reach out and help people by linking them to the supports they require to maintain a decent standard of living. It is important for all people to maintain their dignity and pride. The previous government largely ignored the plight of those people. What action will the government take to address the needs of some of the most vulnerable and isolated people in my electorate?

Fire blight: New Zealand imports

Mr KILGOUR (Shepparton) — The matter I raise for the attention of the Minister for Agriculture relates to the important fruit industry in my electorate, which could be devastated by fire blight. If the disease gets into Australia it could greatly affect the apple and pear industries. The pear industry in the Shepparton electorate produces approximately 90 per cent of Australia's pears. There is no better place in the world to grow pears than in the Goulburn Valley, and it would be incredible if that industry were devastated by fire blight.

New Zealand's third application to export apples to Australia represents a threat to the fruit industry. Under no circumstances should Australia allow fruit from a fire blight area into this country. Not only my electorate would be affected; apple and pear orchards are also found in the electorate of the honourable member for Evelyn, who will be extremely concerned about the issue. The honourable member for Monbulk and others are in a similar situation.

Will the minister ensure that the Victorian government and the department work with the Australian Quarantine and Inspection Service (AQIS) to provide scientific advice as the service prepares an import risk assessment following the New Zealand application? The Victorian department understands the issue well. It swung into action very quickly a few years ago when a fire blight scare occurred. Interestingly a New Zealand tourist suspected a case of fire blight in the botanical gardens.

It is most important that Victoria has input into the risk assessment process. I know the department is full bottle on the issue, and I hope the minister involves it when ensuring that AQIS has a full understanding of what could happen to Victorian industries. The Goulburn Valley fruit industry is vibrant. There has been massive investment in new plantings, particularly in apples and pears. They could be severely damaged if a disease such as fire blight were allowed into the country in imported fruit. I am sure the minister understands what could happen to Victorian industries, and I ask him to ensure that Victoria makes a contribution in Canberra on the issue.

Greater Dandenong: homelessness

Mr LENDERS (Dandenong North) — I direct a matter to the attention of the Minister for Housing. In his recently released July report, *Homelessness in Victoria*, Dr Chris Chamberlain of Monash University identified some 446 incidents of homelessness in the City of Greater Dandenong, which is a rate of 35 per 10 000 people. That is based on Australian Bureau of Statistics figures from census night 1996 and represents a similar incidence ratio to that for parts of inner city

Melbourne that are far better served by crisis accommodation.

Dr Chamberlain also noted that two-thirds of the homeless in suburban Melbourne were the so-called invisible homeless — that is, many of those identified as being at risk of homelessness were staying temporarily in other households on census night. He also noted that on the outer-suburban fringe of Melbourne it is common for people in crisis, especially families, to access caravan parks on a short-term basis. These people — and there are many in my electorate — are not included in the official homeless tally. However, the quality and stability of their accommodation is often low. A family may have only one room for cooking, eating and sleeping in while having to share bathroom and toilet facilities. Whether that constitutes adequate sleeping accommodation as determined by the census is debatable.

As the honourable member for Dandenong North I am deeply concerned about the lack of crisis accommodation beds for single men and women and families in my electorate. Despite its being a major population centre and transport hub, there are currently only two beds for single adults or families in crisis in the City of Greater Dandenong. These beds operate on a pilot basis as part of an arrangement between Hanover Welfare Services and the Western Port Accommodation Youth Support Service.

I ask the minister to advise the house on the action the government is taking to assist homeless people and those at risk of homelessness in the City of Greater Dandenong. I seek pertinent action from the minister. As honourable members sit in this warm chamber this evening, there are many people on the cold streets of Dandenong seeking that action.

Late-term abortions

Mr PHILLIPS (Eltham) — In the absence of the Minister for Health I raise with the Minister for State and Regional Development a matter relating to late-term abortions. I seek clarification of what action, if any, the minister intends to take regarding the matter.

Recently I received a deputation of constituents at my office who were concerned about late-term abortion. During the discussion I committed myself to raising their concerns and asking for clarification from the Minister for Health. Abortion is a controversial subject in the Victorian community. It is an offence under the Crimes Act, punishable by up to 20 years imprisonment, to unlawfully destroy the life of a child that is capable of being born alive.

I am also aware of the Menhennitt ruling of 1969, which states that abortion is legal if and only if a medical practitioner honestly believes there is a serious danger to the life or physical or mental health of the mother that only abortion could avert.

This group of residents became disturbed following the recent late-term abortion of a baby in February and a subsequent article by Andrew Bolt in the *Herald Sun* of 6 July, in which a number of concerns were raised. In this case the main concern was that the baby was 32 weeks old.

I ask the Minister for Health whether he intends to introduce legislation to clarify the law on late-term abortions or whether he is prepared to express a view that I can take back to my constituents.

Gascraft Pty Ltd

Mr ROBINSON (Mitcham) — I raise for the attention of the Treasurer in his role of overseeing the gas industry concerns about the level of service and the standard of work of gas companies when asked by consumers to attend to gas leaks and appliance faults.

The White family of Nunawading had an unfortunate experience with a gas company. I seek the Treasurer's urgent investigation of the current arrangements with companies such as Gascraft Pty Ltd, because the evidence suggests there are gross inadequacies in the current law.

On 18 July the White family detected a gas leak from their kitchen stove and called Origin Energy to arrange to have a gasfitter from Gascraft come out and examine the stove and fix the leak. An employee of Gascraft came to the house and fixed the leak and demanded payment on the spot. Mrs White was unable to pay immediately and was distressed by the approach of the Gascraft employee, who said he would visit the home the next day when payment had to be made. After some negotiations, payment was made within seven days.

The family relies on one income and found the initial request of the company unsatisfactory. The family made inquiries of Origin Energy, which promised to look into the matter but failed to do so. The family is vitally concerned because the company deals with pensioners who are advised that they must pay on the spot. That is unsatisfactory and represents the hard edge of the Kennett government's privatisation of the gas industry — breaking it up and selling it off.

On five separate occasions my office attempted to obtain an explanation from Gascraft, but it is contemptuous of any duty to inform members of

Parliament of its procedures, which is hopelessly inadequate.

I seek from the Treasurer an investigation of the matter in order to ensure regional operators such as Gascraft operate in a way that meets broad community expectations, especially as gas is an essential service.

Fire blight: New Zealand imports

Mr COOPER (Mornington) — I seek from the Minister for Agriculture some clarification and action regarding his and the government's position on the importation of apples from New Zealand.

At the apple and pear conference in Shepparton on 10 August the Minister for Agriculture said that he would ignore any decision of the federal government to allow apples to be imported into Australia from New Zealand. However, at the annual meeting of Australasian agricultural ministers held later that month in Brisbane, the New Zealand Minister for Trade, the Honourable Jim Sutton, said he had received assurances from the Victorian agriculture minister, Keith Hamilton, that the state would not 'do a Tasmania' — that is, refuse to accept imports if the ban on New Zealand apples were lifted by the federal government. The report of that meeting appeared in the *Australian Financial Review* of 30 August.

The Minister for Agriculture has provided two diametrically opposed views on this one issue over the space of almost three weeks. It appears that he says whatever will please the audience he happens to be addressing at the time.

I require clarification and advice as to the actual position of the Victorian government on the possible importation into this state of apples from New Zealand. The matter is of grave importance to the apple and pear industry. I have a large number of apple producers in my electorate and they are extremely worried about the fire blight fungus. Honourable members would be aware that the importation of apples from New Zealand is banned because the Australian Quarantine and Inspection Service believes the imports pose a high risk of introducing that fungus into Australia.

The minister should clarify the position, because the apple and pear producers are extremely concerned that he is about to bow to the pressure exerted by his Labour Party colleague in New Zealand and allow the importation of apples into Victoria despite the fact that he gave the conference in Shepparton an assurance that he would not do so.

Mildura: tourism

Mr SAVAGE (Mildura) — I raise for the attention of the Minister for Major Projects and Tourism some important events in the Mildura area.

As the house will be aware, Mildura is well known for its attractive and vibrant events. Two in particular are the forthcoming November 2000 World Jet Boat Sprint Championships, a world championship event, and the Sunraysia Jazz and Wine Festival, which is in its 21st year and becomes more successful every year. The festival is a five-day event run by the River City Jazz Club, a group of dedicated volunteers.

I ask the Minister for Major Projects and Tourism to give some indication of potential support so that those events can be even more successful in the forthcoming season.

Moorabool: recreational vehicles

Ms BURKE (Prahran) — I seek assistance from the Minister for Local Government in dealings with the Moorabool Shire Council, which is trying to impose a blanket ban on the use of recreational vehicles by residents. That action has caused quite a stir in the municipality and a number of residents have asked me for assistance.

The mayor of Moorabool Shire Council, Cr Marg Card, has been unable to demonstrate any real rationale for the decision, and the residents say it is a waste of council money to draft a law that is already covered by the Environment Protection Authority and the police.

A public meeting has been arranged for 7.30 p.m. tomorrow at the Ballan Mechanics Institute. Members of the community are particularly upset because they feel the law infringes their private property rights. It applies to private properties of less than 15 acres and to property of any size — 400 acres, for example — that adjoins a smaller property. It also applies to private property of any size that does not have a dwelling on it. Properties like that are precisely the sorts of places property owners use for the enjoyment of their recreational vehicles.

I seek action from the minister to investigate the action of the mayor that seems to interfere with private property rights in an unacceptable way, especially since the Ballan area is very large and not too far from Melbourne, so many people use it for recreation. It is precisely the sort of place where people hold some private land to have a bit of fun on without having to worry about public safety and road rules. Those

properties are retained by people for their own sense of peace and harmony.

I ask the minister to investigate the matter and check whether the mayor has the right to interfere in people's lives on their own private property.

CFA: Seymour station

Mr HARDMAN (Seymour) — I raise with the Minister for Police and Emergency Services the matter of the Seymour fire station, which has been a subject of contention for a long time.

The minister, as the then shadow minister, visited the station in 1999 and his visit had some effect. At the time there was a battle going on between the local brigade and the Kennett government about providing a decent station that would meet the needs of the local brigade. The question was whether a decent station would be built or a lesser version would be considered adequate for the needs of the brigade. Needless to say the version preferred by the Kennett government was the inadequate, cheaper version.

The brigade members in their wisdom invited me and the then shadow minister to inspect the plans so we could help them press the government of the time to see the error of its ways. We accepted the invitation gladly because the brigade members were volunteers and could not be sacked by the vindictive Kennett government, which was going out of its way to prevent opposition members from visiting public amenities such as schools, hospitals and all those other places around my electorate that Liberal shadow ministers now visit. How quickly they forget!

The visit was widely publicised by the local papers, radio and television. It was such an important issue that it was featured on the front page of local newspapers and as a lead item.

The then shadow minister, the current Minister for Police and Emergency Services, agreed at the time that the best option was the one the brigade wanted. The political pressure paid off and the then Minister for Police and Emergency Services promised the $300 000 station in the dying days of the election campaign.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member has 1 minute, and I ask him to come to his question.

Mr HARDMAN — I ask the minister what action he can take because although the Bracks government did not promise the new station, the minister came good and said the government would honour the Liberals' promise, which was appreciated. However, when the plans went to tender the cost came in at $90 000 more than was projected by the previous government.

The fire brigade is in a real quandary. It needs to get this station built but does not have the funds to make up the $90 000. I ask the minister what he can do to recognise the importance of the health and safety of those great volunteers who dedicate their time to the community of the Seymour electorate.

Police: Bentleigh

Mrs PEULICH (Bentleigh) — I refer the Minister for Police and Emergency Services to a matter I have raised on numerous occasions before affecting law and order in the streets of Bentleigh. I refer to an article in the *Moorabbin Glen Eira Standard* of 1 August headed 'Menace on rail'. It is not a new problem by any means, but obviously the antisocial behaviour of some young people using public transport as a way of commuting from one destination to another, pelting nearby houses with stones, is an issue. I was pleased that Bayside Trains took some initiatives to address those concerns as well as the local police being made aware of it.

However, things go beyond that. In recent days there have been a number of robberies, one at Foodies in East Bentleigh and another when a young man was robbed, again in East Bentleigh. The police came, but of course generally there was very little that could be done. I attended a meeting of community organisations after somebody was robbed at the recreational reserve. The situation in the Bentleigh electorate is getting out of hand.

I recently received a copy of a petition sent to the police from 17 local traders regarding an increased incidence of vandalism and graffiti in the vicinity of the Bentleigh railway station and Centre Road, Bentleigh. The signatories are incensed about the ongoing threat to their properties and their wellbeing. I have had a report of a small trader being attacked by four young people merely for daring to come out of his shop late at night. The situation is getting out of hand. In the past I have appealed to the minister to take action. From time to time there appear to be increased police patrols, but I ask him for some urgent action to address this serious community problem.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Sandringham has 1 minute.

Police: breath testing

Mr THOMPSON (Sandringham) — I ask the Minister for Police and Emergency Services to take some action to assist the role of the Victoria Police. Over the past 30 years Victoria has led the world in road accident reform, leading to a reduction in the number of accidents and the consequent injury and loss of life to the Victorian motorist.

An ancillary matter has been drawn to my attention relating to the role of the Victoria Police and the use of its breathalyser equipment at community activities and functions. More specifically, if there is a community event such as a sporting, Rotary or Lions club event where police might be delivering an address and demonstrating their equipment, I understand they are reluctant to utilise their breath-testing equipment because of concerns about vicarious liability, so patrons at a particular activity are not able to use the police equipment on a widespread basis.

I ask the minister to see if that approach could be reviewed so the police can take an active role and educate the wider community so that Victoria can have the chance to lead the world.

Responses

Mr HAERMEYER (Minister for Police and Emergency Services) — The honourable member for Sandringham raised the matter of the road toll and the role of members of the Victoria Police in using breathalyser equipment at community activities and functions to try to control people who might drink and drive. He said that the Victoria Police were worried about using the equipment because of concern about vicarious liability.

I inform the honourable member for Sandringham that although that may have been a concern until October last year it is no longer an issue following the introduction and passage of the Police Regulation (Amendment) Bill, which indemnifies the Victoria Police for vicarious liability. Members of the police force should no longer be concerned in the course of carrying out their duties on behalf of the Victorian public. If they do so in good faith and in a proper way they will not in any way confront issues of vicarious liability.

As I said, it was a concern under the previous government because that government would not indemnify the police. The current government has provided indemnity in circumstances where police officers are carrying out their duties in good faith and under the appropriate rules.

The government is committed to enabling members of Victoria Police to do their job without fear of being sued. The honourable member for Sandringham can be assured that while the previous government was not concerned about the issue, the current government is. It has been addressed.

The honourable member for Bentleigh raised the issue of law and order in the electorate of Bentleigh. I suspect she probably discovered that it was an issue while doorknocking. She complained of robberies and other illegal activities in the electorate and said that the police said little could be done.

Mrs Peulich interjected.

Mr HAERMEYER — I am very much encouraged by the sudden interest in law and order of the honourable member for Bentleigh, because although the issues have obviously not emerged overnight the honourable member has discovered them overnight, and has appealed to me to take urgent action.

Mrs Peulich — On a point of order, Mr Acting Speaker, I find it deplorable that the minister is deliberately distorting my intentions. I have raised the issue of law and order on many occasions in the house. He is being quite dishonest: he is misrepresenting my intentions.

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

Mr HAERMEYER — It is inappropriate for politicians, whether ministers or others, to be telling the Victoria Police how it ought to go about its duty. I have a great deal of confidence that members of the police force will carry out their responsibilities to the best of their ability. They have been somewhat hamstrung in recent years.

Mr McArthur interjected.

The ACTING SPEAKER (Mr Nardella) — Order! The honourable member for Monbulk!

Mr HAERMEYER — The honourable member for Monbulk butts in, but he was also one who, when the previous government was deliberating on reducing police numbers by something like 800 over the past four years, had nothing to say about it, just as the honourable member for Bentleigh had nothing to say about it. Police numbers were being cut — while crime was going up, police numbers were going down — and

opposition members sat there like a pack of stunned mullets! They sat there like a pack of goobies with lockjaw! They have only just discovered law and order.

I will take up the issue the honourable member for Bentleigh raised and direct it to the attention of the chief commissioner. I have every confidence that Victoria Police will do the best it can to address issues of law and order in the electorate of Bentleigh, as it will do in everybody else's electorate. I also have confidence that with the 800 additional police the government is introducing Victoria Police will be far more able to do its job than it was under the previous government.

The honourable member for Seymour raised the issue of the Seymour Country Fire Authority station. When the honourable member was the candidate for Seymour he invited me to have a look at that fire station. I was appalled at its neglect by the previous government. Its condition was incongruous, given the great dedication of the volunteers of the Seymour fire brigade whom I met there.

It was with great pleasure that on 30 March this year I was able to announce that there would be a $300 000 rebuilding of the fire station and that the work would commence this year. The honourable member for Seymour has worn down the carpet on his way to my office and worked up a fairly big phone bill lobbying for the fire station. However, he has done a great job. That is the sort of dedication, relentlessness and tirelessness that one expects from a good member of Parliament. The honourable member for Seymour has represented his electorate and the CFA in his electorate with great distinction.

The fact that the Seymour CFA is receiving a new fire station is a great credit to the lobbying of the honourable member for Seymour. However, during the course of those works it was found that the costs had escalated due to some unexpected earthworks and site works, which blew the cost out by an estimated $90 000. The government does not want the Seymour CFA to have to wait any longer while it tries to find the additional $90 000, so I am pleased to advise the honourable member for Seymour that the government is prepared to provide whatever amount is required to complete the works to ensure that the Seymour fire station is built.

That outcome is a credit to the efforts of the honourable member for Seymour and reflects the continued commitment of the government to the CFA. This year the government has provided the CFA with a funding boost of almost $40 million.

Ms Overington — How much?

Mr HAERMEYER — Almost $40 million, which is the biggest ever single increase — almost 25 per cent — in funding for the Victorian Country Fire Authority. It is worthy recognition of the magnificent job the CFA volunteers do in this state.

Ms PIKE (Minister for Housing) — I thank the honourable member for Ballarat West for her interest in this area. In her previous work as a welfare worker with Ballarat Outreach I know she came across many people in our community who were in insecure housing and did not have access to the normal services that others in the community can access. I am very pleased to advise the honourable member and the house that the government has recently announced funding of $229 200 to the Grampians region. That will be provided recurrently to provide extra assistance and support for those people.

The Community Connections program will be managed by the Catholic diocese of Ballarat and the agency Centrecare. It is part of the government's ongoing $2.5 million Victoria-wide community connections program, which demonstrates that this government is not just providing services for people to come to, but is reaching out into the community ensuring that everybody is brought in.

The honourable member for Dandenong North again demonstrated his strong commitment to addressing the difficult issue of homelessness, particularly in his area. I commend the honourable member for his understanding of the Chamberlain report, which has been very helpful in identifying and quantifying the level of homelessness in Victoria. The report is a good base that the government is using to inform Victorians of the homelessness strategy the Premier launched in July.

The government will allocate an additional $17.2 million over the next four years to add to the supported accommodation assistance program. That is the first real increase over and above growth funding allocated to homelessness services in Victoria in the past five years.

As a first step the government has committed $7 million to develop new crisis accommodation centres. I am pleased to inform the honourable member for Dandenong North that a new service will be based in the City of Greater Dandenong with facilities to provide assistance to 18 households at a time. It is a real boost to the two beds currently available and will make

a major difference for homelessness services in the area.

An amount of $2.3 million will come from the Commonwealth–State Housing Agreement to build housing, and additional funds from the money I spoke of before will be used — that is, $450 000 will be spent on operational costs for the services that need to be provided concurrently with the accommodation. That is part of the government's very real and profound commitment to addressing homelessness.

More services will be provided in three other areas, and as the Victorian homelessness strategy unfolds the state will be in a far better position to address this very difficult human issue.

Mr PANDAZOPOULOS (Minister for Major Projects and Tourism) — The honourable for Mildura asked what I can do to support a couple of events: the 2000 World Jet Sprint Boat Championships and the 2000 Sunraysia Jazz and Wine Festival. The honourable member for Mildura is correct that Mildura is a well-known great events destination and Tourism Victoria is very keen to support events that bring people into the locality, particularly events that can grow and can be marketed internationally.

Both of those events have great potential. The honourable member would be aware that the government allocated in the budget an extra $500 000 a year for regional events, which means that more events can be supported.

The jet sprint boat championship to be held in November is one of six international championship rounds held annually, and it is very attractive for the government to support the event. The money goes into marketing; it does not go into paying the running costs of the event. The effort is about trying to maximise attendance at those events, resulting in more visitors and dollars to the area. Obviously because it is an international event there will be a number of international participants from places such as the United States, South Africa and New Zealand, where the sport is growing in popularity.

The government has been considering the potential of projecting images of Mildura and deciding whether sports broadcasters would be interested in broadcasting the event on, for example, pay television. The government's small contribution will guarantee that C7, a pay television station, will broadcast the event and use the footage to on-sell to other sports stations around the world.

The government has decided to support the event by providing $10 000. That means the event, which is becoming increasingly popular around the world, can achieve more marketing opportunities to brand the city of Mildura. The organisers of the jet sprint boat championships will appreciate that. I congratulate them on the work they have been doing at Sandilong Park, which now has status as an international venue. It means this and other events will be attracted to the area. Jet sprint boat racing is a different type of event from that which normally occurs in the region.

The Sunraysia Jazz and Wine Festival is another event with significant potential to grow. It is associated with the local Mildura wine industry, and great wine is produced there. Sometimes it is forgotten that wine tourism can maximise value from the wine industry apart from its value in producing and selling wine in Australian supermarkets and overseas.

The government will support the event, and it is the first time financial support will be provided. The organisers have asked for only a small financial contribution, and the government will provide $5000 in marketing money. That means the event can be advertised in, for example, Sydney and Melbourne to encourage visitors to the area so that they will learn to love Mildura even more.

Mr CAMERON (Minister for Local Government) — The honourable member for Prahran referred to an issue in the Ballan area. I understand the query is whether certain action proposed by the local municipality is legal. I was unsure whether the issue was to do with a local law or a planning matter. If it is a local law and the honourable member is unable to give advice whether it is a legal matter — although she may be able to do that because of her local government experience — she can send it in and the government will obtain advice. If it is a planning matter she can send in the relevant wording in the scheme to the Minister for Planning.

Mr HAMILTON (Minister for Agriculture) — I shall respond to the matters raised by the honourable members for Mornington and Shepparton as one. This is almost a red-letter day because of the obvious difference between the Liberal Party and the National Party. In a puerile and cheap political point-scoring exercise the honourable member for Mornington raised an issue about fire blight supposedly on behalf of his constituents. On the other hand, the honourable member for Shepparton, who represents the fruit bowl of Victoria and probably of Australia, raised the issue with genuine concern without attempting to score cheap political points.

I trust the honourable member for Mornington was not reflecting on his own time as a minister when he made inferences about my performance as a minister. Had he thought a little about what he said he would have realised the contradiction in his remarks. He said that I had said I would ignore the risk analysis being done by the Australian Quarantine and Inspection Service (AQIS). I assure him that was not what was said at the conference. To do so would have been to deny the fact that the government is committed to doing everything in its power to prevent the importation of fire blight into Victoria.

To ignore the risk analysis would have meant that nothing would be done. The government made a commitment that it would do everything possible to give evidence to the AQIS inquiry into the import risk assessment and to respond to the recommendations, probably next February, to ensure that the interests of Victoria's apple and pear growers are properly protected.

That is a perfectly responsible answer. Imports are a federal responsibility. The matter relies on the agreement between Australia and New Zealand on free trade between those two nations. The final decision will be made by the honourable member's federal coalition colleagues, provided there is not a federal election between now and then.

Mr Cooper — On a point of order, Mr Acting Speaker, I refer you to a ruling by Speaker Wheeler on 11 October 1973, followed by the rulings of Speaker Edmunds on 3 March 1988, Speaker Coghill on 26 October 1988 and Speaker Delzoppo on 28 October 1992. All those rulings say that honourable members should not reflect on the official actions of members of other parliaments in ways that could be regarded as personally derogatory.

In his response the Minister for Agriculture clearly made derogatory comments about the New Zealand trade minister, calling him a liar, and I ask you to rule him out of order. The New Zealand minister has said that the minister had assured him that he would allow the import of apples into Victoria. The Minister for Agriculture is now denying that, and in doing so he is clearly in breach of the rulings of previous Speakers by making derogatory comments about a member of another Parliament.

Mr HAMILTON — On the point of order, Mr Acting Speaker, the honourable member for Mornington is not only being puerile, he is being petulant. His point of order interrupted my answer, in which I was talking about the trade agreements between Australia and New Zealand. If he had kept his mouth shut a little longer he would have heard the rest of the answer.

The ACTING SPEAKER (Mr Nardella) — Order! There is no point of order. I did not hear the minister call the New Zealand minister a liar, but I do warn the Minister for Agriculture to be careful about reflecting on ministers in other parliaments.

Mr HAMILTON — It must be late at night. The honourable member for Mornington is insisting on interrupting before he hears the answer. For heaven's sake, why don't you shut up!

Mr Cooper interjected.

Mr HAMILTON — The matter is at the stage where the decision will be made by the federal government following an assessment of an import risk assessment by AQIS, the result of which will come down in February.

At the meeting of the Agriculture and Resource Ministers Council of Australia and New Zealand in Brisbane some four weeks ago, I had discussions with the Honourable Jim Sutton, the New Zealand agriculture minister. It is true that I told him Victoria had no intention of introducing legislation, as was done in Tasmania, to ban the import of apples from New Zealand or anywhere else because of the fire blight risk.

That is the position that the government will take because this government is very much aware of retaliatory actions that can be taken if and when part of the state, or indeed the Australian government, bans imports without due and proper reason. If the honourable member for Mornington is interested in representing his constituents, as indeed the honourable member for Shepparton seems to be, it is to be hoped that he will ensure that he supports his growers — —

Honourable members interjecting.

The ACTING SPEAKER (Mr Nardella) — Order! I am having difficulty hearing the minister.

Mr HAMILTON — I hope he supports his growers so that when comment is asked for on the Australian Quarantine Inspection Service report those growers will supply as much information as is needed to ensure that the risk of importing fire blight fungus into this country is minimal. It would be our argument as a government that the risk of importing fire blight and the potential for damage to this industry, and I understand that the pear industry is the one most at risk, is zero. That really should be the determined outcome not just from the

government but from both sides of the house. We have an extremely valuable industry with a great deal of investment, and the government will do all in its power to ensure that there is no risk of importing fire blight into Australia.

Mr BRUMBY (Treasurer) — The honourable member for Mitcham raised a disturbing story concerning constituents of his, the White family. This related to service difficulties with Origin Energy and its subcontractors Gascraft and repairs that were undertaken on 18 July to a leaking gas fitting in the White's kitchen. Without having all of the details of the case I can say only that I am disturbed by the information the member has provided.

There is an independent energy industry ombudsman scheme in this state. The energy industry ombudsman is Fiona McLeod, and she is supported by a number of investigators. I urge the White family, through the honourable member for Mitcham, to refer this matter to the energy industry ombudsman without delay. Under the act she has quite significant powers to remedy issues such as those presented to the house tonight.

Two other issues were raised here tonight. The honourable member for Dromana raised a concern in relation to the alleged shortage of speech therapists on the Mornington Peninsula. He raised that matter for the attention of the Minister for Education and I will ensure that it is referred to the minister. There has been a shortage of speech therapists across the state. I know that numbers are being increased but I will relay that concern to the minister.

The member for Eltham raised a matter concerning late-term abortions. There has been some press coverage on this matter recently, and I will ensure that the concerns the member has raised are brought to the attention of the Minister for Health.

Motion agreed to.

House adjourned 12.29 a.m. (Wednesday).