PARLIAMENT OF VICTORIA

PARLIAMENTARY DEBATES (HANSARD)

LEGISLATIVE ASSEMBLY

FIFTY-FIFTH PARLIAMENT

FIRST SESSION

Tuesday, 2 May 2006

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Tuesday, 2 May 2006

The SPEAKER (Hon. Judy Maddigan) took the chair at 2.03 p.m. and read the prayer.

ABSENCE OF MINISTER

The SPEAKER — Order! Prior to commencing questions without notice I wish to advise the house that the Minister for Gaming is not present and questions addressed to him will be directed to the Minister for the Arts. Also the Minister for Manufacturing and Export is not present; questions for him will be addressed to the Treasurer.

QUESTIONS WITHOUT NOTICE

Rail: Trawalla accident

Mr DOYLE (Leader of the Opposition) — My question is to the Premier. I refer to the statement by the Minister for Transport on 6 October 2005 that:

> For the most serious public transport accidents and incidents, the state has relied … on the Australian Transport Safety Bureau or nominated independent experts to guarantee impartiality —

and to the fact that in October 2002 and November 1999 the Australian Transport Safety Bureau was used to investigate rail disasters in Victoria, and I ask: why has the Premier refused to use the Australian Transport Safety Bureau to conduct a full, transparent and independent investigation into the Trawalla tragedy when the government's own legislation nominates its involvement?

Mr BRACKS (Premier) — I thank the Leader of the Opposition for his question. Can I say to the house that I know other members of the government and the opposition have also passed on their condolences to the families of the two passengers who lost their lives in the tragic accident. We hope that those who were injured and are still suffering injury have a speedy recovery. Every support and every assistance will be given by our government, by V/Line and by other agencies in that recovery effort.

In relation to the investigation of the accident, the authority that the opposition leader referred to is an authority that conducts, as a mandated rule, investigations into accidents that occur on interstate routes. This was on a domestic route within Victoria. We will have an independent coroner's investigation, which is the first investigation that will be undertaken. We have an ongoing investigation by Victoria Police into the incident itself. As to the independent coroner's investigation, everyone in this house would have faith in and support the work of the coroner, who does a very good job in this state. A third examination will also be undertaken by V/Line. I believe that is thorough and comprehensive and will determine the appropriate recommendations for this government to follow.

Dandenong: transit city project

Mr DONNELLAN (Narre Warren North) — My question is to the Premier. I refer the Premier to the government's commitment to making Victoria a great place to work, live and raise a family, and I ask him to detail for the house how the government's Dandenong transit city announcement is delivering on that commitment for the people of Melbourne's south-eastern suburbs.

Mr BRACKS (Premier) — I thank the member for Narre Warren North for his question and for his continued support, alongside other MPs in that corridor and in that region who have supported this great project for the second city of Melbourne. Dandenong is an important part of the state. It is in a growth corridor which is currently growing at an unprecedented rate. The area has great economic growth and great population growth. What we are doing, in partnership with the council and with VicUrban, is ensuring that we not only meet that growth but get ahead of it in terms of infrastructure and support for the very livability of a place where people are choosing to live, work and invest, as the member for Narre Warren North mentioned.

In September 2005 our government announced a $92.8 million first-stage contribution to the revitalisation of Dandenong and the Revitalising Dandenong initiative to assist in the planning, preparation and early works required for the transit city which Dandenong is to become.

More recently, as part of a community cabinet, I also had the pleasure to announce, along with the Minister for Transport and the Minister for Major Projects in the other place, a further contribution of $197 million, which will go to the next and major stage of the redevelopment of central Dandenong around Lonsdale Street and the Dandenong station to ensure that we provide support and infrastructure for the livability of that area. The combined effort of those two contributions will lever up and generate some $1 billion in private sector investment. About 5000 new jobs will be created as part of this initiative. Importantly, it will see Dandenong becoming one of the premier cities in Victoria and in this state over a 15 to 20-year period.

This is the biggest urban redevelopment project post the Melbourne Docklands — it is of that scale and size. It is part of the strategy we have for Melbourne 2030, which is very important in defining the boundaries of the city and ensuring that appropriate development occurs within an appropriate framework. This is a key part of that. This is a transit city that is designated under Melbourne 2030. I say to the people of Dandenong: we care, we are behind you, we are committed to this project and we are committed to investing more than $260 million into the revitalisation of Dandenong. We know that our opponents, in ditching Melbourne 2030, would as a consequence ditch this project and the commitment to this important transit city as the second city of Melbourne.

Foxes: control

Mr WALSH (Swan Hill) — My question is to the Premier. I refer to the enormous stock losses and the decline in native wildlife caused by foxes in Victoria. I also refer to the comments in the Warrnambool *Standard* from the secretary of the Victorian Farmers Federation's Hawkesdale branch, Mr Russell Selway, when he said:

> They can spend $1 million getting rid of graffiti on a wall in Melbourne but they cannot spend $1 million to get rid of 100 000 foxes.

I ask: will the Premier insist that the Minister for Agriculture reintroduce the $10 fox-tail bounty instead of the ridiculous Bob-lotto lucky draw that the minister has dreamt up?

Mr BRACKS (Premier) — I thank the member for Swan Hill for his question. This government's record on eliminating foxes has been better than any government's record in the past. I remind the house of The National Party's record when it was in government with the Liberal Party and of how little it did to take up the issue of eliminating and reducing the number of foxes in this state. It had no fox bounty; it eliminated that bounty. We reintroduced it, and we found that whilst it made some difference, it was not significant enough to continue. We have put our effort into other programs, and those programs are making a difference.

I remind the member that he should look back with shame at the record of what his party did when in government and then look at regional and country Victoria and at what this government is doing.

Schools: class sizes

Ms BEATTIE (Yuroke) — My question is to the Minister for Education and Training. I refer the minister to the government's commitment to make Victoria a great place to raise a family. I ask the minister to detail for the house how the recent class size figures demonstrate that commitment?

Mr Smith interjected.

The SPEAKER — Order! Without the assistance of the member for Bass!

Ms KOSKY (Minister for Education and Training) — I thank the member for Yuroke for her question. Indeed we are committed to making sure that as part of our commitment to making Victoria a great place to raise a family, children are very much looked after.

Since coming to office we have invested an additional $5.7 billion into our education and training system. This has meant 6000 extra teachers and staff; also it has meant almost $1.6 billion of extra work in new facilities and major renovations in our schools and technical and further education institutions.

Mr Smith interjected.

The SPEAKER — Order! The member for Bass!

Ms KOSKY — As a result of this additional investment, today with the Premier I was very pleased to announce that our average government primary school class sizes are at a record low level for the sixth consecutive year. The average primary class size in Victoria is now 22.4 compared to 25.4 in 1999, which is a reduction of 11.8 per cent. It is an extraordinary reduction and the figures for average primary class sizes are the lowest since records have been kept, from 1973. In 2006 the average prep-to-grade 2 class sizes, on which we had made a commitment as a government when we came into power, is 20.8, compared to 24.3 when we took office in 1999 — that is, a reduction of 14.4 per cent. That is an extraordinary reduction, and it has occurred because we have made the major investment in the early years of schooling.

Honourable members interjecting.

The SPEAKER — Order! The level of interjection on my left is far too high. I ask members to be quiet.

Ms KOSKY — Just by way of example — I know there have been a lot of interjections from opposition members — Ashburton Primary School has reduced the size of its prep-to-grade 2 classes from an average of 25.4 in 1999 to 20.3 this year. Birmingham Primary School, which is in the electorate of Evelyn, has reduced its average from 26.3 to 20.7. Cowes Primary

School has reduced its average from 25.5 to 19.6. Echuca Primary School has reduced its class size from an average of 25.9 to 21. Right across the state we have seen reductions in the primary class sizes and in the prep-to-grade 2 class sizes. This is great news for parents, and it is great news for all of our students in government schools.

We set the ambitious targets so that we could make sure that we could invest in those vital years where our young people can learn the most and pick up those literacy and numeracy skills which are critical and essential in those early years. And we are seeing the results. The assessment of reading for prep to grade 2 in 2002 showed an average of 13 per cent — —

Mr Smith interjected.

The SPEAKER — Order! The member for Bass will not address members in the house in that manner. I again ask him to be quiet.

Ms KOSKY — There was an average 13 per cent improvement in the number of students from prep to grade 2 who were reading at the expected levels — this is since 1999. That is fantastic news. We also have, for all of the year levels, our students in reading and numeracy operating at or above the national benchmarks.

The results speak for themselves. Clearly the opposition would be keen to increase the class sizes. We certainly will not be doing that, because we are absolutely committed to making sure that our students get the results they deserve. Because they have more teachers and more class time, they have better results.

Rail: Trawalla accident

Mr MULDER (Polwarth) — My question is to the Minister for Transport. I refer to the startling revelations made by Rail, Tram and Bus Industry Union representative Bob Bassett yesterday. He said:

> … there have been a number of near misses on the Ararat to Ballarat rail line.

How many of these near misses were reported and investigated? What action did the minister take to protect train travellers and motorists?

An honourable member interjected.

Mr Mulder — Don't worry about him. Have a look at him when he was in opposition.

The SPEAKER — Order! The member for Polwarth has asked his question. I suggest he be quiet.

Mr BATCHELOR (Minister for Transport) — In the *Age* last weekend the Deputy Leader of the Liberal Party commented about the member for Polwarth. She described him as one of those who say something more extreme than you would want to say. That is another example.

The SPEAKER — Order! I ask the minister to return to answering the question.

Mr BATCHELOR — The member for Polwarth stands condemned for trying to politicise a tragic set of circumstances. People have died as a result of a tragic accident. I join with the Premier and other members of this Parliament in expressing our condolences to the families of those who have died. Those people who were injured — a small number, but they were seriously injured — including the train driver, we wish well. We know they are in good hands and everything is being done to make sure that their recovery occurs as quickly as possible.

The issues involved in the causes and circumstances surrounding this tragic accident at Trawalla are being investigated thoroughly at the moment. It is not appropriate for people to jump to conclusions.

Mr Thompson — On a point of order, Speaker, answers to questions without notice are required to be relevant and direct. To date the Minister for Transport has not addressed the question that was asked, which related to how many accidents and near misses have been reported and what he had done about those reports.

The SPEAKER — Order! The minister has expressed his condolences to the people involved in the accident, and I do not think that is inappropriate. I believe the minister is now moving on to answering the basis of the question.

Mr BATCHELOR — Three independent investigations are being carried out to investigate the accident which occurred at Trawalla. Many of the claims made by the opposition are false, are misleading and are designed to try and influence — —

Mr Mulder — On a point of order, Speaker, in line with your previous rulings, question time is not to be used by the government as a means of attacking the opposition. The question I asked related to the near misses — what did you do about the near misses? Did you do nothing? Are you responsible?

The SPEAKER — Order! The member for Polwarth asked a question in which he referred to a number of statements that have been made, and which

he has repeated in this house. As I understand it, the minister was responding to the question the member asked and the claims the member has made in the house. Therefore, I see it as relevant. The minister has not yet got to the final part of his answer.

Mr BATCHELOR — A number of the statements made by the opposition are false, misleading and designed to create a false impression. My sincere advice to all those who want to jump to conclusions ahead of the investigation is to be very careful. The police — —

Mr Thompson — On a point of order, Speaker, a very serious question has been asked by the shadow Minister for Transport. To date the minister has not addressed the question, which was not in relation to the recent Trawalla accident but how many times prior to that accident comments were made to him and how many reports were made to him — —

The SPEAKER — Order! The member for Sandringham appears to be debating, and in fact repeating, the question. The member for Sandringham is quite entitled to raise a point of order and give the grounds for that point of order. He is not entitled to then debate the question or in fact repeat the question that has been asked. The minister has only started his response — and there have been a number of interruptions.

In relation to the question, the minister can also discuss the current accident, which is the basis of the question raised by the member for Polwarth. In relation to the answer, when they ask questions members cannot restrict ministers, when they are answering them, from giving information surrounding those questions as well as directly answering the questions asked by members. The minister has not finished his answer yet. I take into account the point of order raised by the member for Sandringham and I ask the minister to include that in the answer he is giving to the house.

Mr BATCHELOR — Thank you, Speaker, I will try to deal with the issues without any interruptions. As I said, independent investigations are being undertaken, which will examine all aspects of this accident. The investigations will consider not just the technical and physical elements of the accident which occurred on Friday afternoon but will also look at the maintenance records of the train and the truck. It will also look at other systemic-type issues regarding the train line and the track. There have been no incidents at that level crossing involving a bus, as was suggested by the member for Polwarth. However, if any of these other matters are relevant, the authorities will take them into account, as we expect they will. This is just another savage attack on the independence of the police, the coroner and our safety experts, who do a great job.

Water: government initiatives

Ms LINDELL (Carrum) — My question is to the Minister for Water. Can the minister advise the house of recent progress — —

Honourable members interjecting.

The SPEAKER — Order! I cannot hear the member for Carrum. I ask her to speak a little more loudly, and I ask other members to be quiet so we can hear her.

Ms LINDELL — My question is to the Minister for Water. Can the minister advise the house of recent progress in addressing the challenges of securing Victoria's water supply for the future?

Mr THWAITES (Minister for Water) — I thank the member for Carrum for her question. Last year we released some very significant documents on water, but last week I released what will become one of the most important reports on water, and that is the central region policy draft for Victoria. In that document we set out a number of proposals which will ensure that we will have sufficient water in the central region for the next 50 years. The plan contains a number of important initiatives to boost water conservation, to increase recycling and stormwater reuse and to interconnect water supplies. Very importantly the plan also proposes increased environmental flows for rivers like the Yarra.

In water conservation we in Victoria are leading the way. We are leading the country in water conservation, and under this plan we are proposing to do even better. Melburnians are already saving 22 per cent per head compared to their water use in the 1990s. We will boost that to 25 per cent per head by 2015 and 30 per cent by 2020. This will be achieved partly by supporting our industry to be more efficient in the way it uses water. We currently have a program involving the top 200 water users in industry. That will be expanded to include the next thousand.

We are also planning to get more water by interconnecting our water suppliers. One of the important proposals for Ballarat will be to enable it to potentially access extra water from the Cairn Curran Reservoir. That will not only give security to Ballarat but also provide additional security to Geelong, something that I know the people of Geelong are very pleased about. This is a plan described in the Ballarat

Courier as 'a radical water plan and good news for Ballarat'. I am very pleased about that.

We are also connecting Macedon and Gisborne to Melbourne's supply — —

Mr Smith — When?

Mr THWAITES — When? The member will be very pleased to know that it has already been connected!

An honourable member interjected.

Mr THWAITES — Right on script. I refer the member for Bass to a headline in the *Macedon Ranges Telegraph* of Tuesday, 18 April 2006, 'Water winners: connection 20 years early to meet demand'. That is another example. Might I say that the member for Macedon has led the way on that.

Again there are some great projects in Geelong. The proposal for recycling water with Shell would be an outstanding project, if only we could get support for it from the federal government. There is also a proposal to interconnect the Newlingrook ground water aquifer, which would provide substantial extra water for Geelong. We have concrete proposals, so I must admit I was surprised to read that the state opposition has criticised the Bracks government for not making concrete decisions about plans for the future of Geelong's water supply. I was disappointed, given it was all here in the document.

I was interested to read this in the *Geelong Advertiser*:

> But when asked about the Liberal Party's plan for the region's water supply Dr Napthine said, 'You might have to wait for our answer'.

We are getting on with the job, as we are in recycling. Last week I was very pleased to be with the member for Carrum at the Rossdale golf course, where we visited a CSIRO project that we are supporting to investigate the storage of stormwater in an aquifer under the golf course — and that water will be able to be reused.

This is another example of innovation by our government. We have seen a very substantial boost in recycling by our government, from just a few per cent to around 12 per cent. As members will be aware, we are now conducting a feasibility study into what will be the biggest recycling project in Australia — to take recycled water from the eastern treatment plant to the Latrobe Valley. I have to advise the house that unfortunately we are not getting sufficient support from the commonwealth government for recycling.

Mr Thompson — On a point of order, Speaker, the minister is debating the question; not only that, but answers to questions without notice are required to be succinct, and the minister is exceeding that direction.

The SPEAKER — Order! The minister has been speaking now for some time, and I ask him to draw his comments to a close.

Mr THWAITES — Unfortunately we are not getting the support we should be getting from the commonwealth government for recycling. As reported today, a $40 million plan to irrigate Melbourne's golf courses in the sand belt is one of $400 million of recycling plans in Victoria that have been rejected by the federal government.

We support recycling. We are putting our money into recycling. This project would have reduced outflows at Gunnamatta, but we get no support from the federal government. We on this side are doing our bit to improve water management; all we ask is for adequate support from the commonwealth government to do that.

Mildura: road tragedy

Mrs SHARDEY (Caulfield) — My question without notice is to the Minister for Health. I refer the minister to the horrific crash which claimed the lives of six teenagers near Mildura earlier this year. According to witnesses an ambulance took nearly half an hour to arrive at the scene, contrary to the claim of the Rural Ambulance Victoria area manager, Geoff Thomson, who said the ambulance took only 9 minutes. I ask: will the minister release the call records to clarify whose statement is correct — the witnesses or the disgraced area manager?

Ms PIKE (Minister for Health) — I thank the member for her question. All Victorians were deeply moved at the tragic accident in Mildura. The community itself has been through a very traumatic series of circumstances. The issue which the member raised is one I need to receive further advice on. When I have received that advice, I will provide the member with a response.

Hospitals: waiting lists

Mr ANDREWS (Mulgrave) — My question is directed to the Minister for Health. I refer the minister to the government's commitment to ensuring Victorians can access a world-class health system and ask the minister to detail to the house recent evidence of the government meeting that commitment through reductions in elective surgery waiting lists.

Ms PIKE (Minister for Health) — I thank the member for Mulgrave for his question. The government's concerted attack on public hospital elective surgery has seen waiting lists fall over the past year. The latest *Your Hospitals* report reported that the lists are down by 638 on the figure recorded at the end of 2004 and in fact are down by 1005 on the number waiting as at 30 June last year.

We also know that hospital bypass has halved — I do not think we have to think too far back, under the previous administration — —

Mr Smith interjected.

The SPEAKER — Order! I have already spoken to the member for Bass today about addressing members in the house. I warn him not to do it again.

Ms PIKE — Under the previous administration, hospital bypass was totally out of control and absolutely spiralling. Now, not only is it down but it has in fact halved and is well below the target point of 3 per cent; it is 1.4 per cent of the time.

The latest results show that this government's initiatives to move people through hospitals are working. We admitted more than 1.2 million patients to our hospitals last year. That is almost a quarter of a million more patients than were admitted in 1999. Yet in spite of this massive increase in the number of patients, waiting lists are steady — and that is a remarkable achievement. There are 250 000 extra patients in the system but waiting lists are remarkably steady. We are one of the few states in the country where 100 per cent of urgent surgery patients are treated within the correct clinical time.

Under our government not only are we admitting many more patients but we are also seeing a huge increase in demand in our emergency departments, which means that hospitals have that very challenging task of dealing with the emergency demand and with elective surgery. Yet with the increase of presentations, we have still been able to manage the elective surgery waiting lists.

The government has committed an extra $30 million this year to treat thousands more elective surgery patients and to shorten the time to treatment, and particularly to reduce the number of people who have been waiting longer than the clinically recommended time. Overall, these results speak for themselves. Most of the people whose names were on the elective surgery list at 31 December 2005 will now have been in hospital, had their surgery and be off the list.

The *Your Hospitals* report and the web site that is now updated quarterly provide more information to the public than ever before. Not only are we treating more patients and more quickly, but we are also responding to their needs with extra resources and the best possible creative and innovative care. That is underpinned by the hiring of over 6000 extra nurses, the provision of $2.3 billion of extra recurrent funding, which is a 71 per cent boost — —

Mr Thompson — Speaker, a number of ministers today appear to be entering the Premier's reading challenge, which has the consequence of extending the time for answers beyond the time required by standing orders.

The SPEAKER — Order! The member for Sandringham has been in this house long enough to know how to make appropriate points of order. It is not appropriate to stand up and make statements without identifying that it is a point of order or identifying the grounds for the point of order.

Ms PIKE — The massive improvement in the provision of elective surgery for the people of Victoria has only been achieved because this government has invested in health but also has modernised our health system so that we can treat people more efficiently and more effectively. What a contrast! We are rebuilding the health system and we know that is an entirely different approach from that of those opposite.

Ambulance services: LifeFlight helicopter

Mrs SHARDEY (Caulfield) — My question is to the Premier. This morning on ABC radio, the Minister for Health ruled out any further financial assistance for the LifeFlight helicopter service, which transports critically ill babies and children. Simultaneously on radio 3AW the Premier said, 'We'll negotiate to see if we can assist and support them in continuing.'. What is the truth? Who is right, the Premier or the Minister for Health?

Mr BRACKS (Premier) — I thank the member for Caulfield for her question. The government hopes that LifeFlight will be able to continue to fulfil its contractual agreement with the government and is negotiating and working with the organisation to do just that. In the meantime, if that is not possible, we have contingency arrangements in place so that vital and essential service is provided, but our first hope is that the contractual obligations are met. If some assistance and support is required, we will work with that organisation to achieve that very aim.

Industrial relations: WorkChoices

Mr HARDMAN (Seymour) — My question is to the Minister for Industrial Relations. I ask the minister to detail for the house the most recent example of the Victorian government's workplace rights advocate seeking to protect Victorian workers from the federal government's extreme industrial relations regime.

Mr HULLS (Minister for Industrial Relations) — I thank the honourable member for his question and his interest in this very important issue. Since WorkChoices commenced we have seen horrific examples of how the Howard government's WorkChoices legislation is reducing the conditions of Australian and Victorian workers. In one classic example a major cleaning company, Spotless, confesses in a letter to the relevant union — and I quote from that letter:

> The passing of WorkChoices legislation by the federal Parliament will significantly change the industrial and commercial landscape of Australia.

In the letter Spotless identifies a number of employment conditions currently enjoyed by its workers that it wants to cut so it can compete with its competitors. These include reductions in overtime entitlements and part-time and casual loadings. Spotless reveals what we all now know is the real WorkChoices agenda, and that is a race to the bottom. Decent employers are being pressured into cutting take-home pay to compete with, often, fly-by-night operators that can offer new, cheap deals.

The honourable member may wish to know that Spotless has been referred to the workplace rights advocate who is at the forefront of the Victorian government's attempts to protect Victorians from the commonwealth government's savage attack.

Mr McIntosh interjected.

Mr HULLS — I note the interjection from the member for Kew who said in a press release last week that the workplace rights advocate must refer the victims of WorkChoices to the commonwealth government's Office of Workplace Services. As we all know, that is exactly like referring complaints from the hen house to the fox. The reality is, as the honourable member should know, the commonwealth department — —

Honourable members interjecting.

The SPEAKER — Order! The level of interjection is far too high. I ask members to be quiet and allow the minister to answer the question.

Mr HULLS — As members should know, the commonwealth department is actually the champion of WorkChoices; it is not the protector of Victorian workers and their families. The commonwealth department will not defend workers whose hard-earned entitlements are being legally stripped away by WorkChoices.

I conclude on this note. Members of the opposition have a clear choice: they can either join the Victorian government and stand up for workers in this state — it is quite clear — or they can support a federal agenda that promotes a climate of fear and insecurity. It is a climate where workers are being told — and this is confirmed by the letter from Spotless — that they have to lose wages and spend less time with their families just to keep their jobs.

Mr McIntosh — On a point of order, Speaker, given that the minister was quoting from and referring extensively to that letter, I would ask you to ask him to table it in the house.

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

Mr HULLS — No, I was actually quoting from the letter. I am more than happy to have it tabled. I just hope the honourable member reads it.

The SPEAKER — Order! I ask the Attorney-General to pass it to the Clerk. The time for questions has now expired.

BUSINESS OF THE HOUSE

Notices of motion: removal

The SPEAKER — Order! I wish to advise the house that under standing order 144 notices of motion 124 to 129 and 340 to 344 will be removed from the notice paper on the next sitting day. A member who requires a notice standing in his or her name to be continued must advise the Clerk in writing before 6.00 p.m. today.

CHARTER OF HUMAN RIGHTS AND RESPONSIBILITIES BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to protect and promote human rights, to make consequential amendments to certain acts and for other purposes.

Read first time.

INFRINGEMENTS (CONSEQUENTIAL AND OTHER AMENDMENTS) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to provide for transitional arrangements for the Infringements Act 2006, to make other amendments to that act, to amend the Children and Young Persons Act 1989, the Road Safety Act 1986, the Marine Act 1988, the Transport Act 1983, the EastLink Project Act 2004, the Melbourne City Link Act 1995, the Chattel Securities Act 1987, the Bail Act 1977, the Sentencing Act 1991, the Magistrates' Court Act 1989 and the Corrections Act 1986, to amend the Liquor Control Reform Act 1998 to provide for certain offences to be enforced by infringement notice and to make consequential amendments to various acts and for other purposes.

Read first time.

JUSTICE LEGISLATION (FURTHER MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Mr HULLS (Attorney-General) introduced a bill to amend the Crimes Act 1958, the Crimes (Sexual Offences) Act 2006, the Major Crime Legislation (Office of Police Integrity) Act 2004, the Surveillance Devices (Amendment) Act 2004 and the Working with Children Act 2005 and for other purposes.

Read first time.

TRANSFER OF LAND (ALPINE RESORTS) BILL

Introduction and first reading

Mr HULLS (Minister for Planning) — I move:

That I have leave to bring in a bill to amend the Transfer of Land Act 1958 and the Alpine Resorts (Management) Act 1997 to make further provision in relation to leases and licences and for other purposes.

Mr BAILLIEU (Hawthorn) — Will the minister provide the house with a brief explanation?

Mr HULLS (Minister for Planning) — This bill will amend the Transfer of Land Act and the Alpine Resorts Management Act to improve the process for registration of leases and subleases, and to provide alpine resort management boards with the power to grant leases over a stratum of land. As to whether it has any impact on the honourable member's holdings, he will no doubt declare that when we have the debate.

Motion agreed to.

Read first time.

PLANNING AND ENVIRONMENT (GROWTH AREAS AUTHORITY) BILL

Introduction and first reading

Mr HULLS (Minister for Planning) — I move:

That I have leave to bring in a bill to amend the Planning and Environment Act 1987 to establish the Growth Areas Authority and for other purposes.

Mr BAILLIEU (Hawthorn) — I invite the minister to explain what the 'other purposes' are.

Mr HULLS (Minister for Planning) — As the honourable member would know, in I think November 2005 we launched a plan for Melbourne's growth areas, which is a policy statement to extend the urban growth boundaries. We also said we would set up a Growth Areas Authority with an appropriate board, and that is what this legislation does.

Mr Baillieu — On a point of order, Speaker, I was inviting the minister to address the 'other purposes' aspect, not the Growth Areas Authority.

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

Motion agreed to.

Read first time.

VICTORIAN URBAN DEVELOPMENT AUTHORITY (AMENDMENT) BILL

Introduction and first reading

Mr BRUMBY (Minister for State and Regional Development) introduced a bill to amend the Victorian Urban Development Authority Act 2003 in relation to the levying of charges on development in a project area, to amend the Subdivision Act 1988 and the Building Act 1993 and for other purposes.

Read first time.

ENERGY LEGISLATION (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Mr BRUMBY (Treasurer) introduced a bill to amend the Electricity Industry Act 2000, the Gas Industry Act 2001, the Gas Safety Act 1997 and the Local Government Act 1989 and for other purposes.

Read first time.

PRIMARY INDUSTRIES ACTS (MISCELLANEOUS AMENDMENTS) BILL

Introduction and first reading

Mr CAMERON (Minister for Agriculture) — I move:

> That I have leave to bring in a bill to amend the Fisheries Act 1995 to make further provision for arrangements between the state and the commonwealth for the management of offshore fisheries and to make further provision for regulation-making powers and to amend the Meat Industry Act 1993 to make further provision for the sale of pet food and for other purposes.

Mr RYAN (Leader of The Nationals) — Could we please have a brief explanation from the minister about the legislation?

Mr CAMERON (Minister for Agriculture) — Principally it is about introducing new offshore constitutional arrangements in relation to fisheries with the commonwealth — in terms of the new regime that will be in place in the future. In relation to pet food, it is to allow pet food to be sold from butchers shops because at the moment it can be sold at supermarkets but not in butchers shops.

Motion agreed to.

Read first time.

PETITIONS

Following petitions presented to house:

Women: gaming machines

To the Legislative Assembly of Victoria:

The petition of petitioners against New Age religious themed gaming machines draw to the attention of the house:

1. Many women are currently imprisoned for crimes carried out in order to use gaming machines.
2. Many of these women played a new variety of gaming machine utilising New Age religious symbols.
3. These machines, combining religion and gambling, posed a heightened risk to women seeking spiritual comfort for psychological trauma.
4. The sentencing courts were unaware of the heightened risk and the correspondingly lessened culpability of such women.

The petitioners therefore humbly request the house passes a motion requesting the Attorney-General, the Honourable Rob Justin Hulls, to take action, with the utmost expedition, to have the sentences of these currently imprisoned women reviewed.

By Mr RYAN (Gippsland South) (18 signatures)

Wellington: Yarram poll

To the Legislative Assembly of Victoria:

The petition of the electors of the region of Yarram and districts draws to the attention of the house the lack of fair and equitable local government representation and excellence in governance.

The petitioners therefore request that the Legislative Assembly of Victoria act to conduct a poll of the electors of Yarram and districts within the boundaries of the old Alberton shire; that the region to be proclaimed as the Alberton shire comprising five wards, the north, south, east, west and central wards, with one elected councillor in each ward representing the electors in each ward, a total of five councillors in the new Alberton shire.

By Mr RYAN (Gippsland South) (26 signatures)

Education: home-schooling

To the Legislative Assembly of Victoria:

The petition of Victorians who support home-schooling points out to the house extensive research in America, Canada, England and Australia has revealed that home-education works both academically and socially and produces 'literate students with minimal government interference at a fraction of the cost of any government program'. Home-educated children enter conventional schools, go on to university, enter the work force and become responsible citizens. The government has provided no evidence to show that regulation would have any beneficial effect. Moreover, the powers granted to the Victorian Registration and Qualifications Authority under the terms of the exposure draft of the Education and Training Reform Bill in regard to home-education are unlimited and would allow unfair and ineffective regulations to be imposed on Victorian parents to the detriment of their children.

The petitioners therefore request that the Legislative Assembly of Victoria orders the redrafting of the clauses of the Education and Training Reform Bill pertaining to home-education in line with the existing requirements of the Education Act of 1958 and Community Services Act of 1970 that parents provide 'regular and efficient instruction' without reference to a statutory authority. This provides for the

parents' rights to determine the manner of their children's education and for the state's responsibility to ensure all children are educated.

By Mr LONEY (Lara) (42 signatures)
Mr DELAHUNTY (Lowan) (10 signatures)
Ms GILLETT (Tarneit) (6 signatures)

Weeds: control

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

The humble petition of the undersigned citizens of the state of Victoria asks that the Victorian government place a much greater emphasis on dealing with weeds such as Paterson's curse, St John's wort and blackberries by employing more rather than less pest plant and animal officers, by prosecuting errant landowners who do not control weeds and by cooperating with Landcare groups to control weeds in their catchments.

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

By Mr MAUGHAN (Rodney) (172 signatures)

Planning: Deauville estate, Beaumaris

To the Legislative Assembly of Victoria:

The petition of the undersigned residents of Deauville estate, Beaumaris, and other citizens draws to the attention of the house the importance of restrictive covenants.

Prayer

The petitioners highly value their existing residential amenity and call upon the Bracks government to:

(i) immediately review the implication of the judgment in *Tonks and Anor v. Tonks and Ors* (2003) and in particular its authority for the proposition that in particular cases restrictive covenants are no longer applicable;

(ii) take action to legislatively enforce the spirit of restrictive covenants as necessary;

(iii) meet with a deputation of residents, local members and relevant interest groups.

By Mr THOMPSON (Sandringham) (48 signatures)

Tabled.

Ordered that petition presented by honourable member for Sandringham be considered next day on motion of Mr THOMPSON (Sandringham).

MELBOURNE COLLEGE OF DIVINITY

Report 2005

Ms KOSKY (Minister for Education and Training), by leave, presented report for 2005.

Tabled.

AUSTRALIAN CATHOLIC UNIVERSITY

Report 2005

Ms KOSKY (Minister for Education and Training), by leave, presented report for 2005.

Tabled.

SCRUTINY OF ACTS AND REGULATIONS COMMITTEE

Alert Digest No. 4

Ms D'AMBROSIO (Mill Park) presented *Alert Digest* No. 4 of 2006 on:

Aboriginal Heritage Bill
Building and Construction Industry Security of Payment (Amendment) Bill
Equal Opportunity and Tolerance Legislation (Amendment) Bill
Financial Management (Miscellaneous Amendments) Bill
Terrorism (Community Protection) (Further Amendment) Bill

together with extract from proceedings and appendices.

Tabled.

Ordered to be printed.

DOCUMENTS

Tabled by Clerk:

Australian Crime Commission — Report for the year 2004–05

Ballarat University — Report for the year 2005
(two documents)

Commonwealth Games Arrangements Act 2001 — Order under s 18

Crown Land (Reserves) Act 1978 — Section 17DA Order granting under s 17D a lease over Churchill Island Reserve

Deakin University — Report for the year 2005

Environment Protection Act 1970 — Order declaring Waste Management Policy (Used Packaging Materials) (*Gazette S 94*, 28 March 2006)

La Trobe University — Report for the year 2005

Melbourne University — Report for the year 2005

Monash University — Report for the year 2005

Murray-Darling Basin Commission — Report for the year 2004–05

Parliamentary Committees Act 2003:

Drugs and Crime Prevention Committee — Inquiry into Strategies to Reduce Harmful Alcohol Consumption, Volumes 1 and 2, together with appendices, minority reports, and minutes of evidence *(in lieu of report previously tabled on Tuesday 28 March 2006)* — Report, appendices and minority reports ordered to be printed

Public Accounts and Estimates Committee — Report on the 2004–05 Budget Outcomes, together with appendices — Ordered to be printed

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

Ararat Planning Scheme — No C12

Ballarat Planning Scheme — No C79

Banyule Planning Scheme — No C50

Campaspe Planning Scheme — No C38

Greater Dandenong Planning Scheme — No C66

Hobsons Bay Planning Scheme — No C57

Kingston Planning Scheme — No C45

Manningham Planning Scheme — No C49

Maribyrnong Planning Scheme — No C59

Melton Planning Scheme — No C43

Monash Planning Scheme — No C41

Pyrenees Planning Scheme — No C9

Southern Grampians Planning Scheme — No C5

Stonnington Planning Scheme — Nos C40, C47, C55

Whittlesea Planning Scheme — No C70

Wodonga Planning Scheme — No C38

Yarra Planning Scheme — No C64

Prevention of Cruelty to Animals Act 1986 — Code of Practice for the Welfare of Amphibians in Captivity

RMIT University — Report for the year 2005 (two documents)

Rural Finance Act 1988 — Direction by the Acting Treasurer to the Rural Finance Corporation to administer a Financial Assistance Scheme to Harvest and Haulage Contractors

Statutory Rules under the following Acts:

Gambling Regulation Act 2003 — SR No 38

Geothermal Energy Resources Act 2005 — SR No 37

Mental Health Act 1986 — SR No 39

Tobacco Act 1987 — SR No 40

Subordinate Legislation Act 1994:

Minister's exception certificate in relation to Statutory Rule No 35

Ministers' exemption certificates in relation to Statutory Rule Nos 16, 21, 39

Swinburne University of Technology — Report for the year 2005

UMEE Ltd (formerly Melbourne University Private Limited) — Report for the year 2005

Victoria University — Report for the year 2005 (two documents).

ROYAL ASSENT

Message read advising royal assent on 11 April to:

Drugs, Poisons and Controlled Substances (Volatile Substances) (Extension of Provisions) Bill
Infringements Bill
Interpretation of Legislation (Further Amendment) Bill
Justice Legislation (Miscellaneous Amendments) Bill
Public Sector Employment (Award Entitlements) Bill.

APPROPRIATION MESSAGE

Message read recommending appropriation for Aboriginal Heritage Bill.

BUSINESS OF THE HOUSE

Program

Mr BATCHELOR (Minister for Transport) — I desire to move:

That, under standing order 94(2), the orders of the day, government business, relating to the following bills be considered and completed by 4.00 p.m. on Thursday, 4 May 2006:

Aboriginal Heritage Bill

Equal Opportunity and Tolerance Legislation (Amendment) Bill

Financial Management (Miscellaneous Amendments) Bill

Melbourne Sailors' Home (Repeal) Bill

Statute Law (Further Revision) Bill

Terrorism (Community Protection) (Further Amendment) Bill.

This government business program motion identifies that the government has set the task of passing six pieces of legislation this week — that is, by 4.00 p.m. on Thursday. This is in line with the steady but sure progression of legislation through this chamber and demonstrates how well this place is being managed by the government.

To assist those members who might wish to make their speaking arrangements, we propose to start this week with the Aboriginal Heritage Bill, which we will take to its conclusion, followed by the Financial Management (Miscellaneous Amendments) Bill and then the Melbourne Sailors' Home (Repeal) Bill.

The bills that are on this government business program motion, combined with the time available, should ensure that all those members who wish to speak on these bills will have sufficient time to do so.

Mr THOMPSON (Sandringham) — With regard to the smooth running of the house, I draw the attention of the Minister for Transport back to the time when we covered both the Education and Training Reform Bill and the Disability Bill in the one week. Members of the chamber were seriously curtailed in their speaking time and their ability to reflect on and represent matters that were of importance to their electorates.

I note from the government business program that again there are at least a couple of bills that are of significance to each member in this chamber. The Aboriginal Heritage Bill has implications for the 79 municipalities throughout the state of Victoria, which will have the opportunity to prepare cultural management plans. Stakeholder groups have already expressed concerns about the rate at which this legislation — —

The SPEAKER — Order! On the matter of time.

Mr THOMPSON — In terms of the question of time, Speaker, in relation to the bills before the house wide-ranging interests from across the state are appropriately reflected in this chamber. I am reluctant to see a repetition of the mismanagement of the program a number of weeks ago, when members were prevented from making a constructive and reasonable contribution on infrastructure, groups and organisations and individuals in their electorates.

Another bill that all 88 members in this place have no doubt received representations on is the Equal Opportunity and Tolerance Legislation (Amendment) Bill. Members would like to give due thought and consideration to the issues involved in their contributions to the debate on the bills I have referred to, being two of the six bills listed. I trust there will be sufficient time for members to make their contributions under the arrangements outlined by the minister.

On balance, subject to those provisos, the opposition broadly supports the business program for this week. At the same time it trusts that we will not see the extraordinary situation that we confronted in recent weeks, when there was insufficient time for members to present matters that were of relevance and importance to them.

Mr MAUGHAN (Rodney) — The Nationals will not be opposing the government business program, but I cannot help picking up on the comments made by the manager of government business about how the government should be commended for its running of the government business program. This week, with its six bills, is a good week; it is a reasonable business program. There is a very important piece of legislation regarding Aboriginal heritage, to which sufficient time will be devoted as it is no. 1 on the notice paper — and we will have some comments to make on that bill.

Looking at what else is on the notice paper, I see that there is not very much there. There are three other bills, including two that have been there for a long time. I hope that during the next sitting week we will get to debate the Channel Deepening (Facilitation) Bill. I think it would be an excellent idea, in that members on this side of the house are certainly very keen to debate the Channel Deepening (Facilitation) Bill — —

Mr Cooper — Anxious to debate.

Mr MAUGHAN — 'Anxious', as the member for Mornington says. I understand that the Treasurer, who is also the Minister for State and Regional Development, is for obvious reasons anxious to get this bill up and through, but I rather suspect that we are not going to see it this side of the election, on 25 November. I stand to be corrected on that — in fact, I would be delighted to be corrected.

The Courts Legislation (Judicial Pensions) Bill has been on the notice paper for some considerable period

of time and there appears to be no intention to deal with that. There were additional bills introduced today to do with planning, and I dare say we will be dealing with those next sitting week.

I also pick up on the comments made by the member for Sandringham about the way in which the government has been running its business program and the minister's comments that today's business program indicates how successfully that has been done. I remind the government that in the previous sitting week we had two very important pieces of legislation — the Education and Training Reform Bill and the Disability Bill — which were both dealt with in the one week. As the member for Sandringham pointed out, members were severely restricted for time, their contributions being cut to 3 minutes. How could a member have made a reasonable contribution on either of those bills when they were restricted to 3 minutes?

In that very same week we spent almost a whole day on self-congratulations on the Commonwealth Games. As I said previously, the games were a great success, and the government deserves credit for them, but we did not need to spend a whole day telling ourselves how good we were while we were limiting members to 3 minutes on both the Disability Bill and the Education and Training Reform Bill. With those few brief comments, The Nationals will not be opposing the government business program.

Mr SAVAGE (Mildura) — I rise to indicate that, unlike everybody else in this place, I am opposed to the business program, because I want to see the Aboriginal Heritage Bill removed from the list of bills to face the guillotine this week to allow more debate over a longer period of time. If it is on the guillotine list, it will be dealt with tonight, but I believe it should be taken out of that process.

I have indicated on a previous occasion that we need extra time to be able to make sure that those who are going to be affected by that bill will be able to make greater contributions to the debate than they have done already. On that basis, I indicate my opposition to the business program motion.

Mr CAMERON (Minister for Agriculture) — I rise to support the business program. In relation to the Aboriginal Heritage Bill, that is something the government would like to see dealt with by 4.00 p.m. on Thursday.

The SPEAKER — Order! The question is:

That the government business program be agreed to.

Those of that opinion say aye, to the contrary no.

Honourable members — Aye.

Mr Savage — No.

The SPEAKER — Order! I think the ayes have it.

Mr Savage — The noes have it. I call for a division.

The SPEAKER — Order! A division is required. Ring the bells.

Bells rung.

The SPEAKER — Order! I ask members to take their seats on the question that the government business program be agreed to. I ask the Clerk to record the votes.

House divided on motion:

The Clerk — The member for Mildura?

Mr Savage — No.

The SPEAKER — Order! In view of the fact that all other parties in the debate have already indicated that they support the government business program, and in line with standing order 166(7), I now declare the vote carried in the affirmative. The member for Mildura will have his dissent recorded in *Hansard*.

Motion agreed to.

MEMBERS STATEMENTS

Rural and regional Victoria: health professionals

Mr JENKINS (Morwell) — Like many areas, particularly in regional Victoria, my region is experiencing a shortage of health professionals. Doctors, dentists and allied professionals, who are vital to the effective running of a health system, are not being trained in sufficient numbers to cater for the long-term health needs of our community. In many cases more professionals are retiring every year than are being trained, and this is clearly the case with doctors. Even with the new postgraduate training places announced by the federal government — begrudgingly, reluctantly and years after the shortages became apparent — we will continue to go backwards at the rate of 100 doctors per annum. The federal government's abrogation of its responsibility is an absolute disgrace.

This is the tip of the iceberg of the deskilling of Australia. We have been fortunate to attract some great foreign-trained doctors, dentists and other health professionals, but that should not be a substitute for investing in training Australian residents in Australian universities and hospitals to treat Australians in Australia and, where possible, to assist with our obligation to provide health services to people less fortunate elsewhere in the world. It is an embarrassment and a shame that year after year we fail to meet our obligations to our own and others.

The federal government is short-changing the future health of Australians, and we in regional areas are feeling it first. Having a continuing $12 billion surplus at the federal level while failing to fulfil fundamental needs in health and education is false economy. The Bracks government has invested hundreds of millions of extra dollars in hospitals, community health and support services. We have gone some way to replace — —

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

Police: database security

Mr WELLS (Scoresby) — This statement condemns the Bracks government's increasingly troubled police minister for once again being caught out misleading Victorians over the police files debacle. This time the Premier should not let him off the hook.

Victoria Police's media director issued a two-and-a-half page media release summary, headed 'ESD investigation into release of LEAP information', on 12 October last year that stated:

> Victoria Police's ethical standards department has completed its investigation into the inappropriate release of LEAP (law enforcement assistance program) data to two individuals in July.

When I sought the investigation's full report under freedom of information (FOI) last week I was refused on the ground that the investigation had not been completed, yet the refusal letter states:

> I am advised by Superintendent Wilson of the ethical standards department (ESD) that the investigation into the abovementioned matter is pending, as one of the interviews to be conducted by the ethical standards department has yet to take place.

Which is correct: the media release summary of the investigation issued by Victoria Police in October 2005, or the denial letter in response to my FOI request, dated 13 April 2006?

When the Liberal Party demanded an investigation into the improper release of 7000 pages of 291 Victorians confidential LEAP files to a prison guard whistleblower, Assistant Commissioner Kieran Walshe said on radio on 16 August 2005 that the results of an investigation would be complete 'within 7 to 10 days'. When asked in the house in February this year why he refused to release the full report, the minister said:

> Victoria Police has released a synopsis of the report; that was made available several months ago.

The police minister must stop misleading Victorians over this police files debacle.

Small business: Energise Enterprise 06

Mr LIM (Clayton) — I rise to congratulate the Bracks government's commitment to small business, which is evident in what will happen in Victoria in just under one month's time. Energise Enterprise 06, Victoria's small business festival, will be held during the month of June. This four-week festival will facilitate and encourage small business operators to take their businesses in whatever direction they choose, be it to surmount the first challenge of starting a small business, to expand an existing business or even to diversify a current business.

Moreover, true to this government's whole-of-state approach the festival will ensure the same opportunities exist for regional and metropolitan Victorians to attend information sessions, workshops, conferences and the many other services being made available to small business operators. Energise Enterprise 06 will recognise their contribution and, in turn, will further aid Victorian small business operators.

Another important event occurring in June that recognises the forward leaps this government is making in assisting small business is the 51st International Council of Small Business. This will be the first time this conference has been held in Melbourne, and one cannot underplay the significance that it is occurring during the term of a Bracks Labor government. As a member of this government's ministerial small business task force, I am proud that this government has demonstrated, and continues to demonstrate, unequivocal commitment to small business. The presence of this conference is testimony of that fact.

Jacob Kovco

Mr RYAN (Leader of The Nationals) — This morning at Briagolong I had the privilege of being present at the memorial service to mark the passing of Private Jake Kovco, who died while on duty in Iraq on

21 April 2006. It was a joyous event in many senses, but on the other hand it marked a tragedy for those directly affected by the passing of Private Kovco.

Among the hundreds upon hundreds of people who attended were the Prime Minister, the Minister for Defence and the Minister for Agriculture, Fisheries and Forestry, as well as other parliamentary representatives and those within the general community. Most importantly, Private Kovco's widow, Shelley, was there. In an extraordinary display of courage she spoke. She was accompanied by her four-year-old son, Tyrie, and her 11-month-old daughter, Alana. Her parents where there, as were private Kovco's parents. Some of the hard men of 3RAR (3rd Battalion, Royal Australian Regiment) also spoke. It was quite remarkable to see them attempting to contain their emotions. The overriding sentiment in that room today was one of enormous love, of loss and of the terrible grief felt by a group of people, not only family but so many friends, who have laid to rest this man as a result of this tragedy. Vale, Jacob Bruce Kovco.

Christ the Priest Catholic Primary School, Caroline Springs: expansion

Mr SEITZ (Keilor) — Last Wednesday night I attended a meeting of concerned parents at Christ the Priest Catholic Primary School in Caroline Springs. Caroline Springs has a large Catholic community but only one Catholic primary school. They had an agreement with Delfin for a second site to extend the Catholic education facilities so desired by the community in that area — so much so that Archbishop Hart has recently established a new Catholic parish at Caroline Springs.

There has been growth in the region. People have been moving there on the understanding that they would have choices in the education of their children. They are most distressed and concerned that their children will now be turned away and siblings will not be able to attend the same school due to overcrowding at Christ the Priest Catholic Primary School if a second campus is not built. The land is needed now because of the long process and lead time required to build a school.

I am pleased to say that after that meeting Delfin contacted the organisers, and it is prepared to have a meeting and a discussion with them. I hope that discussion will be fruitful and the land that is available now will be given to the Catholic Education Office so it can start planning and building this desperately needed school for these people in the northern section of Caroline Springs in my electorate.

VicUrban: chief executive officer

Ms ASHER (Brighton) — Last week the government announced that the new chief executive officer (CEO) of VicUrban would be Ms Pru Sanderson. According to media reports she will be paid the same high salary as the previous CEO, John Tabart. His salary range was $440 000 to $449 990, including a bonus in 2004–05. This is way above the salary recommended by Mercer Cullen Egan Dell, which reviewed the salary for the CEO of the Urban and Regional Land Corporation, as VicUrban was then, in 2000. That organisation assessed the range at $210 800 to $316 180, with a midpoint of $263 480. Even if you factor in the public sector increases that have occurred since 2000, the salary being paid, if the reports are correct, is still way over market.

I call on the government to adjust the pay scales, particularly in light of the recent financial problems at VicUrban. There is no way known you can tell me that the CEO of VicUrban is one of the most important public servants in this state. The most recent indications of the failure of VicUrban were tabled in this Parliament by the Victorian Ombudsman in a report dated 2006 — a report on parking fines improperly issued in Docklands. The then Docklands Authority was found by the Ombudsman to have ignored legal advice, misled the Ombudsman and compiled erroneous board minutes.

I think under the circumstances the government needs to respond to my call for an inquiry into whether the taxpayers are receiving good benefits from VicUrban.

Collingwood College: concert

Mr WYNNE (Richmond) — I was delighted to accept an invitation from the principal of Collingwood College, Melanie Ruchel, to attend a concert held at the Collingwood town hall on 13 April. It was a workshop concert featuring students from the Collingwood College ensemble and the Australian Chamber Orchestra. This was a magnificent event. A full house of proud parents and other attendees witnessed a wonderful morning's activities, which, in my view, showcased some of the best of public education in this state. The students of Collingwood College, working in concert with the Australian Chamber Orchestra, put on a musical ensemble of which we were all extremely proud.

This shows that when there is a partnership between organisations such as the Australian Chamber Orchestra and the college it brings out the very best in students. I think the mentoring role the chamber orchestra has

played with the students at Collingwood College is an excellent example of how that partnership can really encourage and assist children in blossoming. Congratulations to Melanie Ruchel and the college leadership.

Land tax: increases

Mr CLARK (Box Hill) — While the Treasurer has been travelling around the world, ordinary taxpayers in Victoria have been continuing to suffer. Over recent weeks taxpayers, accountants and lawyers across the state have told me of their anger and frustration at the cost, time and paperwork being caused by the Treasurer's bungled implementation of his land tax increase on trusts.

Not only did the Treasurer end up publishing three different versions of the tax scale before he got his arithmetic right, but the State Revenue Office has been busy altering the law by administrative decree because the legislation the Treasurer pushed through this Parliament is so unworkable. The Treasurer's legislation, which did not even become public until 27 October, required all trustees holding land in Victoria to lodge notifications with the SRO by 31 December. This was so manifestly impractical that the SRO promptly overrode the law and said that notifications did not need to be lodged until 31 March.

The Treasurer's legislation also required notifications by thousands of trustees holding land that is not even liable to the new tax, like farmland or land held by superannuation trusts. One accountant told me he had spent hours compiling and lodging 50 notifications for exempt trustees only to receive word from the SRO a few days later, just before the deadline, that it had decided to dispense with this requirement as well. If the Treasurer and his parliamentary secretary are not able to understand the real world consequences of their actions, they should at least speak directly to those who do know what they are talking about, like the Law Institute of Victoria and accounting bodies. Better still Victoria needs a Treasurer who does not act just as a mouthpiece for spin and for Treasury memoranda.

SML Suppliers (Australia) Pty Ltd

Mr PERERA (Cranbourne) — I recently had the pleasure of officially opening the new SML Suppliers (Australia) Pty Ltd plant. The new plant — the first of its kind in Australia — involves using scrap rubber to manufacture a rubber mat used in many fields such as safety mats, farming and agriculture mats. Over the years SML has grown in size and structure, successfully exporting thousands of tonnes of scrap rubber compound. I am absolutely positive that this rubber mat will vigorously compete with similar products from China and Indonesia and kick them out of the Australian market. The plant has an estimated value of over $700 000 and now employs 10 people. I take my hat off to the directors, Lakshman and Sumana Ratnayake, and wish them well.

Sport: Casey Fields complex

Mr PERERA — I also had the pleasure of joining the Premier at the opening of the Victorian Football League's sporting arena at the state-of-the-art sporting facility called Casey Fields, situated in Cranbourne East. This will be the home of the former Springvale Football Club, now known as the Casey Scorpions. This is in addition to the opening of the criterium — a world-class cycling circuit — at the Casey Fields development, which is the first of its kind in Victoria, and the largest in Australia. When it is completed in 2010 it will include ovals and pavilions for football and netball, cricket nets, tennis courts, a golf driving range, soccer and rugby pitches and an athletics track. The Bracks government's $1 million contribution so far towards the Casey Fields — —

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

Taxis: rural and regional

Dr SYKES (Benalla) — Last week I attended a community transport forum organised by the Strathbogie shire and held in Nagambie. Community representatives highlighted the difficulties of attending medical and other appointments locally and in Shepparton, which is approximately 50 kilometres away. Train services are infrequent and often late, and community cars, which are available, need to be booked several days in advance. Fortunately Damien and Alan Murphy have just commenced a taxi service in Nagambie with two cabs, one of which is wheelchair accessible. Damien and Alan are keen to provide transport for the frail elderly and people with disabilities as part of an overall coordinated approach to community transport in Nagambie. Mr Jim Gardiner of the Department of Infrastructure has raised the possibility of the taxis being used in lieu of a community bus, as has been shown to be successful in small rural communities elsewhere in Victoria. I call on the Bracks government to support Mr Gardiner in this initiative.

I further call on the Bracks government to make public the findings of its inquiry into country taxis and to implement the commonsense solutions suggested by

country taxi drivers. These include similar subsidies for country wheelchair-accessible taxis as those provided to metropolitan taxi operators; increasing the cap on the multipurpose taxi program to at least $50 and simplifying the paperwork for granting further extensions; and addressing the cross-border anomalies. None of this is rocket science, it is simply commonsense. It is time for the Bracks government to live up to its claim of governing for all Victorians.

Environment: sustainability

Ms MARSHALL (Forest Hill) — It was with great pleasure that I attended a performance by the Sustainables theatre troupe at Vermont Secondary College on Friday, 28 April. The Sustainables are a family of four who make as many of the right choices when it comes to being a sustainable household as possible — showing all of us some of the simple changes we can make and some of the impacts this can have on our environment. Lemony, Solaris, Sam and Hydra live in a normal house but go that little bit further. From recycling to 4-minute showers, the Sustainables show us during their performance how easily we can contribute to being sustainable.

Many things we do today cannot continue indefinitely without having an impact on the future livability of our state. A 40 per cent increase in waste in just 10 years is not sustainable, but by avoiding excess packaging and recycling wherever possible we can make a huge difference. A 2 per cent growth in consumption of coal-fired energy each year is not sustainable, but turning off lights and appliances or switching to green power will help tackle climate change. Choosing more 'active transport' such as walking, cycling or using public transport will help clear the air and contribute to a healthier Victoria.

Sustainability is about considering the environment in all we do. A 4-minute power shower, taking reusable bags when shopping, turning off lights when not in use, signing up for green power, buying the most energy and water-efficient appliances, putting food and plant scraps in the compost, watching out for unnecessary packaging, walking, cycling, using public transport, growing native plants in your garden, and going green when you clean are just a few ways we can make a difference and help save the planet.

Riding for the Disabled Association

Mr COOPER (Mornington) — Providing meaningful assistance to people with disabilities is the primary aim of many individuals and organisations throughout Victoria. One such organisation is the Riding for the Disabled Association of Victoria. RDAV has been operating on the Mornington Peninsula for more than 26 years and currently delivers its services to 70 disabled people four days per week and every Saturday morning. This great work involves 40 volunteer helpers, 6 coaches and 4 trainee coaches. The beneficiaries are students from Mornington, Frankston and Peninsula special developmental schools and people from the Multiple Sclerosis Society.

RDAV Peninsula is now in need of a new location because the property it is using at Bittern has been put up for sale. With that in mind the association is asking the Bracks government to consider giving it a long lease over an appropriate part of the Devilbend Reservoir site. The organisation says it needs about 8 hectares to conduct its activities, and that should not be beyond the government to provide either at Devilbend or some other nearby site. RDAV Peninsula needs practical help from the government, and I trust that this call to assist will not be ignored.

Eltham South Preschool: programs

Mr HERBERT (Eltham) — I commend the staff and families of Eltham South Preschool on their terrific work in creating a truly creative, innovative and stimulating environment for their children. The buildings at the preschool are architecturally unique, and the grounds are beautifully planted and contain separate creative spaces for sitting, play equipment, vegie gardens and even a fairy garden.

On Monday I had the pleasure of touring the preschool which is, as I said, quite impressive. The experienced staff at the centre have developed comprehensive programs for three-year-old and four-year-old children which are based on acceptance of and respect for each child regardless of ability, gender, race, language or culture. An interesting idea to promote such a culture within the preschool was a 'holding hands' initiative where children are encouraged to hold friends' hands and help each other. To symbolise this they have made beautiful hand paintings to adorn the walls — easily the most sophisticated hand paintings I have seen. I suspect we have a few budding artists starting their careers at Eltham South Preschool.

Age-appropriate activities are planned to encourage play and exploration in mathematics, science, language, literature, music, movement and art. One of the innovative ways the centre has encouraged children to think creatively about their environment and art was to build an 'indoor autumn' — decorating parts of the main room with colours and materials that give it a distinctively autumn feel, inside and out.

I congratulate the staff, parents, family members and committee at Eltham South Preschool who are doing such a great job of providing a world-class preschool in the Eltham area.

Planning: Victoria Street East, Abbotsford

Mr BAILLIEU (Hawthorn) — The Minister for Planning has appointed yet another priority development panel (PDP) to usurp a local council and avoid community involvement. This time the PDP will handle the redevelopment of land at Victoria Street East in Abbotsford and is entertaining a proposed rezoning of land, including low-rise residential land, to the priority development zone.

That rezoning will lead in stage 1 alone to the erection of seven high-rise residential towers up to 12 storeys on the south bank of the Yarra on the government-owned former fire brigade site at Walmer Street. The rezoning will remove any third-party appeal rights and assign decision-making largely to the part-time Minister for Planning. In undertaking this task the PDP has conducted only superficial local community meetings. The PDP set a timetable for community input of only two weeks with a deadline of 27 April for submissions. Almost unanimous requests at the public meeting for an extension of this deadline were rejected. The PDP also declared that any request for personal appearances in front of the panel would not be public.

This project will have a significant impact on the character and amenity of the Yarra environs with a dramatic increase on already strained parking and traffic. It will not only immediately impact on residents west of Burnley Street but also put further strain on residential streets in Kew and Hawthorn West. In true Bracks government style the residents of Kew and Hawthorn were not directly consulted.

This location is a gateway between the cities of Yarra and Boroondara. The government has already mangled another key gateway — that is, at Burnley Gardens. This project is heading the same way. The minister must immediately require the PDP to advertise and extend the deadline for submissions and to directly consult all affected residents and ratepayers on both sides.

Lake Wendouree: sustainability

Mr HOWARD (Ballarat East) — I noted that the member for South-West Coast visited Ballarat last week and was photographed with local Liberal Party candidates at Lake Wendouree. I also noted that the member used that opportunity to criticise the Bracks government in regard to the recently announced $6 million project aimed at providing Lake Wendouree with up to 830 megalitres of stormwater and treated wastewater to provide for a more secure and sustainable future for Lake Wendouree.

The best that the member for South-West Coast could say on the day was that this project was too little, too late. At no time did he recognise that not only was the state government part of this very significant partnership to address the issues at Lake Wendouree, but it was joined also by Central Highlands Water and the City of Ballarat. At no time did the member for South-West Coast suggest any alternative proposal that he would put forward — whether he would use drinking water to increase the water level in Lake Wendouree or whether he had any other plans in mind.

The people of Ballarat could not recall whether he has proposed anything in the past or whether the local Liberal candidates had proposed anything in the past. It must have been very embarrassing for the local Liberal candidate for Ballarat East, a councillor of the City of Ballarat, which is a partner to this arrangement, because he has not said anything against the proposal, and he is party to it. It was a very disappointing scene in Ballarat — —

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

Ferntree Gully post office: reopening

Ms ECKSTEIN (Ferntree Gully) — Recently I attended the official launch of the newly renovated Ferntree Gully post office by the mayor of Knox City Council, Cr David Cooper. The retention of a post office in the Ferntree Gully township is due to a concerted effort by the local Ferntree Gully community, the traders and the Friends of Ferntree Gully Village — and I would like to congratulate all those involved.

After having set up a community bank because of the loss of three major banks over a period of years, the people of Ferntree Gully were not about to lose their post office, too. Some years ago Australia Post closed the post office, sold off the building and transferred the major post office functions to a new sorting and mail centre located in an industrial area away from the township. It is not accessible to elderly people who do their shopping, post letters and pay bills at Ferntree Gully Village. The first battle fought by the locals was to retain a post office agency in the Ferntree Gully township in a local pharmacy. This ensured that local people could still buy stamps and postal packaging,

post letters and parcels, and collect parcels and registered mail in their local shopping centre.

The pharmacy was then taken over by National Pharmacies, which subsequently relocated to new premises on Burwood Highway and wanted to move the post office agency there. The locals were having none of it and fought to retain their post office in the Ferntree Gully Village. The post office stayed, and for quite a while it operated out of the disused pharmacy shop. Now the shop has been fully renovated as a dedicated post office, complete with private post office boxes under the overall management of the Ferntree Gully Community Bank.

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

Friends of Farm Vigano

Ms D'AMBROSIO (Mill Park) — Last Sunday, 30 April, the Friends of Farm Vigano, together with the Mint Committee, hosted a community open day at Farm Vigano in South Morang in my electorate. Despite the drizzling weather around 500 people visited Farm Vigano to get a taste of what this heritage property will have on offer once it is fully redeveloped in the next two years, courtesy of the state government. Wine and cheese tastings were made available by local producers, as were fine-quality locally produced sausages and platters of cold meats, focaccias and arancinis. Local artists from Plenty Valley Arts were there displaying their talents, and local musicians Marcello and Pauline D'Amico played a wonderful medley of classic Italian tunes on guitar and piano accordion. Marcello has a special connection with Farm Vigano, having first visited it as a 16-year-old in its heyday in the 1950s.

Patron of the Friends of Farm Vigano and special guest Guy Grossi gave a most heartfelt welcome to all visitors. Guy Grossi and his family have a special connection with Mario Vigano of Mario's Restaurant fame, which is worthy of note. Mill Park author Archie Fusillo shared some very amusing and heart-warming anecdotes and readings from one of his books.

What better way to cap the formal proceedings than through a selection of traditional regional Italian songs performed by Anna Maria Colasanto. By the middle of her performance Anna Maria had managed to harness a chorus of accompanying singers from amongst the crowd. Also on offer to the public were pony rides and bocce games. I wish to applaud the Friends of Farm Vigano committee and its president, Giuliana Mecoli.

Mental health: 25th Golden Opportunity Ball

Mr ANDREWS (Mulgrave) — Last Thursday evening I was delighted to attend the 25th Golden Opportunity Ball. The ball is organised by the Mental Health Foundation and serves as a great opportunity to raise funds for mental health programs and, importantly, to raise community awareness of mental health and mental illness issues.

The Mental Health Foundation does a great job in promoting mental health services, facilitating partnerships as well as developing and delivering programs across Victoria. The key part of the foundation's work is the annual coordination of Mental Health Week, which is to be held between 8 October and 14 October. Mental Health Week, with more than 200 community events right across Victoria, plays an important role in boosting awareness and breaking down the stigma.

The Golden Opportunity Ball was a great success, and congratulations should go to all involved in running this tremendous event. Special mention should be made of Professor Graham Burrows, the chair of the foundation. Graham's leadership and passion are at the heart of the foundation's success. Thanks should also go to sponsors and all those who attended. I was pleased to be joined by the Minister for Health, the Honourable David Davis in another place and the former health minister, the Honourable Rob Knowles, the chairman of the Mental Illness Fellowship.

A lot has been achieved in mental health in the last six years — for instance, a 62 per cent increase in base funding — but more must be done to support the one in five Victorians who will suffer mental illness during their lifetime. The Golden Opportunity Ball is an important occasion and a great opportunity to highlight issues of mental health and mental illness. Congratulations to the foundation and all involved.

Anzac Day: remembrance

Mr MILDENHALL (Footscray) — Congratulations to the Victorian branch of the state RSL and its kindred organisations for the outstanding success of the Anzac Day commemorations in Melbourne. On his 17th and final Anzac Day as chief executive officer Brigadier General John Deighton coordinated the largest dawn service and march seen for many years. An estimated 38 500 attended the dawn service in still and cool conditions. In addition to the sombre and authoritative Tony Charlton, a fellow participant in the 2005 Victorian Spirit of Anzac prize,

Claire Chisholm, spoke of the meaning of the Anzac tradition for young people today.

As the ranks of the veterans thin, the interest among young people and the general community in the services stories and traditions grows. With the assistance of many in the ex-service community, the government has responded with not only the Spirit of Anzac prize for young people and additional funding to cover the costs associated with the march but also the community memorials and honour boards restoration program.

Later today the Premier will open *Pilgrimages*, a Shrine of Remembrance travelling photographic exhibition by author Garrie Hutchinson. It is a collection of photos of locations and former battlefields in which Australians have served with the distinction that has characterised the history of Australians in conflict. I urge all members to either attend the opening in Queen's Hall or take a moment out of their busy programs to contemplate this fine exhibition.

Mount Evelyn Special Developmental School: Commonwealth Games celebrations

Ms McTAGGART (Evelyn) — On 3 April I had the pleasure of presenting National Australia Bank gold medals to the students of Mount Evelyn Special Developmental School. The whole-of-school celebration was absolutely fantastic. Students marched into the arena class by class, with signs and flags replicating the opening ceremony of the Commonwealth Games. They were cheered and encouraged by their peers as they entered. The atmosphere was electric.

There was a podium where students were presented with their medals. A special presentation including medals and bouquets was performed by the drama students, much to the delight of the crowd. We were also entertained by junior school Karaks. The students dressed up in costumes and flew around to the delight of everyone. This was followed by a wonderful song called *Karak*, sung to the tune of *This Old Man*. I gave an account of my Commonwealth Games experiences, and Michael Morley told the students about his participation in the Queen's baton relay and wore his uniform to the presentation.

These students were absolutely delighted with the Commonwealth Games flag I presented to them last year, and this special day certainly gave them the opportunity to celebrate the most outstanding event in Victorian sporting history. Special thanks must go to the staff.

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

ABORIGINAL HERITAGE BILL

Second reading

Debate resumed from 6 April; motion of Mr THWAITES (Minister for Environment).

Government amendments circulated by Mr CAMERON (Minister for Agriculture).

Mr THOMPSON (Sandringham) — The Aboriginal Heritage Bill establishes a scheme for the protection and management of Aboriginal cultural heritage in Victoria. Schedule 2 of the commonwealth bill will repeal part IIA of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 of the commonwealth. Part IIA of that act contains provisions which, taken together with the Archaeological and Aboriginal Relics Reservation Act 1972, provide the current legislative framework for the protection and management of Aboriginal cultural heritage in Victoria. That legislative framework is to be replaced by the one provided for in this bill.

Members of the Liberal Party strongly support indigenous heritage in this state. It was the Liberal Party that introduced the Archaeological and Aboriginal Relics Preservation Bill in 1972. The situation in which the Victorian government administers protection for Aboriginal heritage in Victoria through commonwealth law is an anomaly initiated by the Hawke federal Labor government and the Cain Labor government in Victoria. The bill before the house will transfer the management of Victorian Aboriginal heritage issues back to the state of Victoria.

I state at the outset that the Liberal Party will not support the legislation for a range of reasons: the new act is likely to increase the cost of development across Victoria, increase state bureaucracy and entrench delays in Victorian Civil and Administrative Tribunal planning approval.

While Victorians value indigenous heritage, many of the resources spent on lawyers and bureaucrats would be better directed to reducing indigenous disadvantage in the areas of education, health, housing and unemployment, as well as the disproportionate representation of Aboriginals in the criminal justice system.

There are a range of wider concerns that I will allude to. I do not wish to give undue attention to any specific

issue other than to reiterate the overall concern of the opposition that the bill will increase bureaucratic outcomes, entrench bureaucracy, perhaps institutionalise division and may not be in the best interests of all Victorians. In more specific terms, the bill expands the definition of 'cultural heritage significance' to include matters of contemporary and social significance.

Mr Jennings, the Minister for Aboriginal Affairs in the other place, suggested in an article in the *Herald Sun* last year that there had been no increase in powers, but there are some specific provisions in the bill which expand upon the powers in the existing commonwealth legislation. One relates to the inclusion of 'contemporary significance' and 'social significance' in the definition of 'cultural heritage significance' and the other provision in which I believe there is an expansion is in the definition of 'Aboriginal place'. That will also include the area immediately surrounding anything referred to as being part of a natural feature, formation or landscape or an archaeological site or deposit as further outlined in clause 5(2)(e), which refers to:

> the area immediately surrounding any thing referred to in paragraphs (c) and (d), to the extent that it cannot be separated from the thing without diminishing or destroying the cultural heritage significance attached to the thing by Aboriginal people …

It will establish a ministerially appointed heritage council with wide powers and with its membership limited to Aboriginal persons. Indigenous Victorians have raised significant concerns regarding non-elected appointees managing heritage decisions. My office has received representations from people across the state who have raised concerns about the composition of the indigenous heritage council. In the words of one indigenous Victorian, 'I do not think the minister is qualified to make this decision as to who is to be appointed'.

I think there is concern about the equity, fairness and independence involved in choosing the 11 people to make up this body. I note that if alternative dispute resolution or mediation procedures fail, the Victorian Civil and Administrative Tribunal will become the forum for dispute resolution in relation to cultural heritage management plans or cultural heritage permits. VCAT is not renowned for its expedition in the resolution of disputes.

Another layer of state bureaucracy is being established with the appointment by the minister of inspectors who will become employees under the Public Administration Act 2004 and with fees being set by regulation. The structure of the legislation is such that it is likely to set up a new industry around heritage assessments in every municipality in the state. There is provision under the act for a range of entities, including a municipal council or a registered Aboriginal party, to initiate the preparation of cultural heritage management plans. Arguably this may expand the range of heritage matters that are regulated, taking into account the expanded definition of 'cultural heritage significance' and the interpretation of matters of significance in accordance with Aboriginal tradition.

Under clause 149 there is an obligation requiring a registered Aboriginal party to act in good faith. There are no penalties in the event of a registered Aboriginal party not acting in good faith in terms of the power of the Aboriginal Heritage Council to suspend or revoke the registered Aboriginal party. This is in contrast to the penalty of $180 000 in the case of an individual or $1 million in the case of a company if there has been an intentional act to harm Aboriginal cultural heritage, or $60 000 and $300 000 respectively if Aboriginal cultural heritage has been negligently harmed.

The minister also suggested in the article in the *Herald Sun* last year that the penalties were in line with those in other states. In the case of Queensland that is correct: there is an individual penalty of some $100 000 or two years jail in cases of unlawful harm. However, that contrasts with other states on my assessment. Section 35 of the relevant Northern Territory act states that the penalty is $40 0000; section 20 of the 1975 Tasmanian act states that the penalty is $1000 or six months jail; and section 23 of the 1988 South Australian act, titled 'Damaged site', states that the penalty in the case of an individual is $10 000 or imprisonment for six months. The Western Australian act states that the penalty for a first offence is $20 000 or nine months imprisonment, and in Victoria the current penalty for an individual, if I have read it correctly, is in the vicinity of $10 000. So given amounts approaching $180 000 for an individual and $1 million for a corporation, the penalties have been ramped up.

A question must be raised about the proportionality of these particular offences as against the offences that might be applicable under other heritage legislation in Victoria. It is important that there be some parity and balance. No-one in this chamber would support the destruction of indigenous heritage, but the penalties to be applied in the case of its destruction are not only significant but the heaviest in the country. On the other hand, there is no compensation for an individual where a protection order exists, other than the provision of land tax and rate remissions in the event of an ongoing protection declaration that so restricts land use as to

make it economically non-feasible. That may be construed as not being a complete balance between penalties on the one hand and the loss of the economic use of the land on the other. There are examples in Victoria of the likelihood of land use being restricted and the minister not being likely to compulsorily acquire the land, yet all that is being offered to landowners under this legislation is the remission of land tax and rates.

The bill also provides for the registration of multiple groups to represent the same area. This in part arises from disagreements among indigenous Victorians as to who is the legitimate representative in the area. Proponents of a project are obliged to liaise with each registered Aboriginal party. The composition of the 11-person council that will in turn determine who the registered party is for an area will require significant judgment, because it is important that politics not deprive legitimate stakeholders who would otherwise be entitled to contribute to an assessment of the heritage of the state.

In addition, the question arises as to why clause 39(2)(b) is required. It says:

> (2) The conditions specified by the registered Aboriginal party under sub-section (1)(b) —
>
> …
>
> (b) must not include a condition that the applicant pay or give money or money's worth to the registered Aboriginal party.

Why was this clause contemplated in the context of other pressures that might be applied in different circumstances?

The preparation of a cultural heritage management plan obliges a proponent of the plan to engage a cultural heritage adviser. The question then is: what costs will be borne and assessed in relation to this provision, who will be obliged to pay them and what is the likelihood of cost increments?

In the second-reading speech the minister stated:

> It is envisaged that the register will for the first time provide the recognition of Aboriginal nations within a Victorian legislative framework.

Under the existing commonwealth act the schedule of local Aboriginal communities refers to trusts and cooperatives. In the words of one person of indigenous background, there is a potential to institutionalise division across Victoria.

While one of the objects of the bill is to conserve Aboriginal cultural heritage, there is an obligation under the bill to transfer ownership and possession from the state of secret or sacred objects to the owners without there being prescriptions for the safekeeping of those objects.

The opposition has consulted with a wide number of industry groups and organisations and received submissions from a number of indigenous Victorians. One Aboriginal elder remarked that traditional owners should be represented on the council; some groups will only be interested in the income to be generated by the act; there is concern as to the practical impact of having multiple organisations seeking to represent the same geographic area, and there is scope for disputation being used to gain political leverage. According to this particular Aboriginal elder, at the community forums only 5 per cent of people turned up; in the case of Bendigo, only 15 out of 600 turned up; and at Drouin, only 2 out of 100 people turned up.

I note that extensive consultations were held across the state. It is one thing to convene consultations across the state, but it is another thing to determine how effective they are in terms of the engagement of all relevant stakeholders. At the consultations in Thornbury I understand there were 30 to 40 people in attendance; at Ballarat only 10 people attended the consultation, half of whom were public servants; at Echuca 9 people attended; at Shepparton about 10 people attended in the morning, and in the afternoon about 4 people attended; and at Geelong about 30 people attended consultations. It should also be noted that on a number of occasions, many of the people who attended and were included in those figures were officials or representatives of the department.

Another comment made was that if all Aboriginals speak for their mother country, then there will be one voice for that country. Aboriginal people who have no mother country should not be speaking for traditional owners on such issues as cultural heritage or native title, although they have a right to voice their opinions on social welfare issues. If development becomes a referral process for councils and an archaeologist needs to be called in for everything, the developer will end up as poor as the Aboriginal people and the AAV archaeologists will become rich. The elder felt that a referral process should be developed with the traditional owners, not with other white people.

At another meeting where there were contributions from indigenous Victorians there was concern about the lack of boundary definition within the bill. There was a suggestion by an indigenous Victorian that there had

not been a true consultation process and that the legislation had been rushed or put through at a white fella's pace; that indigenous communities see themselves as a diverse range of cultures, peoples and nations; and that traditional owners should make decisions on traditional lands. It was felt that the bill is creating potential for division — and they are not my remarks, they are the remarks of an indigenous Victorian.

Concern was also expressed that there is a challenge to democratic principles with non-elected officials being the decision-makers; that there is no appeal process for indigenous communities in relation to appointments; that there is the potential for too many Aboriginal parties to muddy the waters; that the registration of an Aboriginal party was not open to the public; and that no provision was made for deregistration in the light of new information. It was also felt that there is a lack of definition of what an indigenous site of significance is; that centralising the process is not the indigenous way; that it creates uncertainty for developers; that the present cultural heritage officers could lose their jobs; that the bill is a regression to the bad old days where the traditional owners had no rights; and that an autocratic minister had made all the decisions. I reiterate that they are the remarks of an indigenous Victorian.

There were other concerns in relation to this legislation, and they included comments from the Urban Development Institute of Australia. In October 20005 Minister Jennings stated that the proposals had the support of the UDIA, yet in a submission made by the institute multiple concerns were raised about the legislation. One of the chief comments made by the UDIA was:

> In practice, the development industry will be faced with unquantifiable delays at the outset of every development …

The institute went on in subtext to state that the proposals in the draft bill did not clearly specify what classes of applications would be subject to a cultural heritage assessment, except to suggest that the large-scale residential and industrial subdivisions would trigger a requirement for an assessment to be undertaken and effectively place an embargo on the advancement of any planning application for subdivision, use or development on the land until such time as a cultural heritage assessment was obtained.

It was the view of the UDIA that the proposed increases in penalties are draconian and should have been revised and that there should be penalties in the legislation for frivolous or vexatious claims made by any group, including indigenous groups.

The Master Builders Association of Victoria was of the view that:

> new laws requiring building sites to be checked for sacred Aboriginal links could add $2000 to the cost of the average new home —

according to a report in the *Herald Sun* of 20 October 2005.

The association had a number of recommendations which have not been taken up by the government, including that the government undertake a full Aboriginal heritage assessment prior to the release or rezoning of large tracts of land for development; that the bill be strengthened by including a list of activities that will not destroy, harm or damage Aboriginal heritage; and that the exemption of small-lot and infill development be made explicit in the bill.

The association felt that compensation to private sector parties affected by the legislation should be based on payments that reflect the market value of the land. In addition it said that there were industry calls for the addition to the legislation of the requirement on local government to accept the inclusion of culturally significant land as part of the land development contribution. The institute also recommended that more stringent time frames for heritage assessments need to be included in the bill, and it noted that presently work might have to stop if an Aboriginal artefact were uncovered during construction, creating a disjointed construction process and causing unnecessary delay to construction times.

In the case of the Construction Material Processors Association (CMPA), a number of its members had had a number of sites shut down and the association held the view that the assessment process was impossible. It felt that there would be more restrictions. It pointed out that in terms of practicality, if someone finds a piece of rock on the end of a plough, work can be stopped; it felt that there need to be strong guidelines defining cultural heritage.

The institute's view was that all sites have something on them, that there is no scientific way to sort out whether they are of great significance and that it is exceptionally difficult to run that type of business with the possibility that the site may be closed at any time. It is of the view that the bill would restrict the use of capital in the future and that farms will be affected as well. It goes on to make the comment that the legislation will bring about changes we have not thought about. I emphasise that statement.

The consequences and implications of the legislation remain to be seen. The scope for cultural heritage management plans to be developed across the state so as to properly manage indigenous heritage, in conjunction with the bill's expanded definitions, to provide opportunities for all Victorians is not yet clear.

I place on the record that in a number of cases there has been some controversy in the past. I refer to the Blairgowrie Yacht Club, Somerville Secondary College, the Convincing Ground in Portland, the Echuca bridge, the land at Venus Bay and Camp Sovereignty. Those issues have all arisen under the current legislation, and I think that the minister has placed great reliance on the goodwill of Victorians in working through the legislation. He has placed confidence in the dispute-resolution mechanisms, the mediation process and in the Victorian Civil and Administrative Tribunal (VCAT), but it remains to be seen whether those aspirations will be realised with the actual operation of the act. That is why one particular industry group — the Construction and Material Processors Association, which has raised concerns regarding the legislation — is of the view that this legislation will bring about changes which we have not thought about.

According to Building Commission records, 101 854 permits were issued in Victoria for the period July 2004 to June 2005 and some 42 433 building approvals for dwelling units. According to estimates of the time taken to resolve disputes published on the VCAT web site, 80 per cent of the matters finished in 2005 on the domestic building list were finished within 37 to 40 weeks. The time period increased to 57 to 60 weeks on the real property list. It is going to be interesting to see what VCAT has to deal with down the track as its dispute-resolution mechanisms are called into operation as a consequence of the legislation.

The other matter I wish to comment on in relation to the legislation is a matter that the Scrutiny of Acts and Regulations Committee had occasion to consider — that is, that the situation may arise where the minister does not exercise the discretion of compulsory acquisition of land under proposed section 31, and where a cultural heritage agreement or a protection declaration is made subsequent to the acquisition of the land.

The committee observed that in these circumstances the agreement or declaration may frustrate the purpose for which the land was acquired, or may otherwise diminish the value of the land. With respect to the subsequent impact that the provisions of the act may have on a landowner, the committee observed that clause 191 provides for a form of relief by way of tax and rate remissions where a cultural heritage agreement to an ongoing protection declaration so restricts the purpose for which a person may use the land that compliance with the agreement or declaration is not economically feasible.

Given this compensatory relief provision, the committee says it will seek further advice from the minister whether any hardship may arise in the form of economic loss as a consequence of an agreement or declaration over the land where the person does not have access to the statutory compensation scheme regime pursuant to the Land Acquisition and Compensation Act 1986. The opposition looks forward to the advice of the minister on this particular matter.

There have been other comments and press reports on the bill. An article by Neil Mitchell appeared in the *Herald Sun* of 20 October 2005 under the heading 'Progress falls into a hole'. In the opening paragraphs he said:

> Black-powered bureaucracy is about to erupt in Victoria with the potential to touch every developer who still has a dollar to spend and any person who thinks it might be a good idea to build on a bush block or put another room on the house.
>
> This is state-inspired, ridiculously complex exercising of power that could leave people and corporations facing fines of up to $1 million for digging a hole in the wrong place.

Mitchell went on to remark:

> No sensible person wants to trample over a genuine sacred site or bulldoze rock paintings for a block of flats. But this has the potential to tilt the balance unfairly and lock up the state.
>
> The government is building a planning nightmare.

He went on to note:

> It is physically and intellectually impossible for any government to add bureaucracy and enforcement to any form of planning requirements and expect it to cost less and work quicker.

He then referred to the Barwon Heads Caravan Park, which was considered to be in a sensitive area. He wrote:

> Digging any hole deeper than 10 centimetres has to be overseen by local Aborigines at a cost of almost $50 an hour.
>
> Bob Jordan, who runs the park, says such protectiveness is reasonable and calls in the Aboriginal overseers to sit down and watch about once a month as holes are dug.

Neil Mitchell has given rise to a number of concerns that had occurred to him earlier.

The *Riverina Herald* of 5 December 2005 contains an article under the heading 'Anger over bill'. It reports on a meeting the minister conducted in Shepparton and also a meeting with the Campaspe and Murray shires, which were briefed on the legislation. The article says that:

> … the proposed bill has angered Yorta Yorta nation representatives who believe the proposal will discredit individual indigenous groups.

In an article in the *Bendigo Advertiser* of 29 November 2005, Mr Henry Atkinson, a Yorta Yorta spokesman, is quoted as having said that the proposed bill:

> … had the potential to divide the indigenous community if several groups within the community make submissions to the council. 'Who has the right to say what can and cannot be destroyed and speak about someone else's culture?' he said.

There is also the example of the South Gippsland land, where Aboriginal observers were being paid $400 a day on building sites to ensure that no indigenous remains or relics were disturbed during construction work. There is a story about Colin and Shirley West who put their block of land at Venus Bay on the market. Mr West, a 59-year-old retiree, was told by an Aboriginal cultural heritage officer that another 60 blocks in the coastal town may face similar fees and restrictions if remains and middens were found.

There is the example in Portland of the Convincing Ground land, where Mr Michael Maher has been placed under considerable duress owing to his inability to proceed with his plans for land that he understood may have been possible when he moved in to acquire the land to build a development along the coast.

There is also the example in Echuca, where work on a bridge has been held up for several years owing to a lack of agreement on the part of the local people. I understand the Bangerang are happy with the particular route but that the Yorta Yorta are opposed to a route, that there has been a stalemate and that infrastructure that might serve the interests of all Victorians has been delayed.

I want to pay some attention to indigenous heritage issues that are of importance in Victoria. There are some 28 000 sites in Victoria, and heritage must be underpinned by the word 'respect'. I believe that every member in this chamber would respect the need to preserve and retain heritage that is important to all Victorians, including indigenous Victorians. Should this legislation pass this chamber and the other place, there are great responsibilities on those people operating within it to ensure that no antagonism develops as a consequence of disputation and claims being made that are not fairly based. I believe it is important that the real heritage issues are looked after and the real resources are directed to the preservation of heritage.

With the assistance of the parliamentary library, and also as a result of some of my own travels across the state, I am familiar with a number of important heritage sites, including Corranderrk Aboriginal Station, the Lake Condah Aboriginal Mission, together with the specialised waterways, large-scale fish weirs and other structures, and sites at Ettrick and Toolondo, where a specialised form of subsistence associated with Aboriginal groups living south of the Great Dividing Range was present. They demonstrate that the Western District Aborigines had developed efficient methods for harvesting fish and that inland fishing was an important aspect of their economy. There was also an elaborate system of fish traps comprising articulated stone races, canals, traps and wells. It is said that the system appears to modify national topographic and hydraulic settings to optimise fishing strategies.

There is the land at Framlington, the Lake Tyers Mission, the Den of Nargun in Walpa, the Canterbury Road midden in Bayswater and Point Nepean. Interestingly at Point Nepean there are 19 sites of significance, but I read in one of the reports that the sites are in poor condition and consist almost entirely of food remains. However, it is a great site where more should be done in relation to our indigenous heritage.

There is also the Narre Warren protectorate station as well as the Murchison cemetery Aboriginal graves. Frank Wilson's grave is in Norman Street, Ballarat. There is the Fitzroy Gardens scar tree and the Faithfull massacre site memorial in Benalla. A very good book by Meyer Eidelson outlines elements of important heritage in this state along the Yarra River — the Williams Street Falls, the Kings Domain resting place, the Royal Botanic Gardens mission, the Government House Battle, Yarra Park, Fitzroy Gardens, the Burnley Park corroboree tree, the Bolin Bolin meeting place, the Heide scar tree, the Yarra Flats Dreaming and the Merri Creek area.

Around Port Phillip Bay in my own area of Sandringham there are the Black Rock springs and the Black Rock lookout. I might add, for the benefit of any cultural heritage officers or inspectors who may chose to work in the Sandringham electorate, that I am sure there are many middens yet to be uncovered along the coastal foreshore.

There are other sites along the Maribyrnong River near Melbourne and at Tooradin, Corinella and Phillip

Island, as well as the Mount William quarry, the Mount Macedon grinding stone, the Keilor archaeological site and the Aboriginal plant trails and gardens and other trails in Melbourne. The opposition supports indigenous heritage and trusts that necessary resources will not be directed towards disputation and the protracted consideration of these matters.

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

Mr DELAHUNTY (Lowan) — I rise on behalf of The Nationals to speak on the important Aboriginal Heritage Bill. I say at the start that The Nationals will move a reasoned amendment, copies of which will be circulated.

The ACTING SPEAKER (Mr Savage) — Order! The amendment will be circulated after the honourable member has read it.

Mr DELAHUNTY — I therefore move:

> That all the words after 'That' be omitted with the view of inserting in their place the words 'this house refuses to read this bill a second time until a working party, in consultation with local government, recommends how permits refused under section 21U of the commonwealth act prior to the commencement day should be dealt with and has considered the operation of the proposed cultural heritage management plans and recommended practical and effective ways to specify relevant activities'.

The cultural heritage of Victoria's Aboriginal people needs to be preserved and protected, not only for Aboriginal people but for all Victorians and visitors to Victoria.

The Nationals have moved the reasoned amendment because of major concerns about the unknown regulations and unknown fees in this bill, and in particular the concerns of people across Victoria that some of the decisions made under the commonwealth act could not be adjudicated under this bill if it were enacted.

I know the member for Rodney will outline his concerns about the Echuca bridge. We spoke to parliamentary counsel, the Parliament's legal officers, and they believe there is nothing in the act that would prevent the inclusion, under 'Permits and consents' in schedule 1 at page 130 of the bill, of the words:

> (4) Nothing in this act prevents an application being made for a cultural heritage permit in respect of a matter in relation to which a consent was refused under section 21U of the Commonwealth Act before the commencement day.

Because there are some uncertainties about that, The Nationals have moved the reasoned amendment. We think it is very important to include major developments, particularly in Echuca-Moama, where for many years the construction of a new bridge across the river has been held up. The member for Rodney will no doubt go into further details, because I know the local council and the community are looking for the western link, which under commonwealth legislation the Yorta Yorta people have not approved. If that type of decision were included in the legislation, it could be reviewed by the Victorian Civil and Administrative Tribunal.

The bill has gone through an extensive consultation phase. We know an exposure draft was released in October. Government meetings with Aboriginal communities and rural councils were held throughout the state. I refer to an interesting comment from David Wood about one of those consultative meetings, held in Shepparton. I quote from his article in the *News* of Wednesday, 30 November 2005, under the heading 'Draft bill worries Yorta Yorta'. The article states:

> Aboriginal representatives expressed their concerns about the Victorian government's proposed Aboriginal cultural heritage bill …
>
> …
>
> Yorta Yorta nation community member Petah Atkinson said she still had concerns based on Aboriginal cultural differences and how the council members would be selected.

I will come back to the appointment of the council.

> 'As a community member I have concerns. I certainly cannot speak for the Yorta Yorta nation or the organisation … my personal concern is that the minister and the government are assuming we are a homogenous group and that we're all the same and that we have the same customs, values and beliefs when it comes to cultural heritage, and that's just not true', Ms Atkinson said.

She went on to say:

> … I'm saying we need to work it a lot more, we need to tailor it a bit more.

Again, these meetings across the state have flushed out a few concerns within not only the Aboriginal community but also industry and councils, and as was highlighted by the member for Sandringham, there were not a lot of people in attendance at these meetings.

As you know, Acting Speaker, currently in Victoria the preservation and protection of Aboriginal culture comes under the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act of 1984, which has a particular Victorian section, and also the State Archaeological and Aboriginal Relics Preservation Act

of 1972. I know the intention is for the latter one to be repealed and for the federal government to step away from its act.

We know that under this legislation the minister will establish an Aboriginal Heritage Council consisting of 11 Aboriginal people. Their aim will be to validate the registration of Aboriginal parties and advise the minister on the matters contained in this bill. There are concerns about whether these people will have links to Victorian Aboriginal people; but we also have concerns about whether they will have a good understanding of planning matters and, more importantly, whether they will be accepted by Aboriginals right across the state. The Shepparton article I quoted from highlights the fact that there are some concerns.

Under this bill the Aboriginal council, once established, will appoint or register one, two or maybe three Aboriginal parties as cultural heritage decision-makers for an area in Victoria. They will have a strong input into activities in their areas, advising the Aboriginal council before any recommendations go up to the minister.

Information I obtained from the Aboriginal Affairs Victorian web site highlights the fact that under current federal law there are 23 Aboriginal community areas in Victoria. One of those, the Goolum Goolum Aboriginal Cooperative, covers some of the electorate I represent. From my understanding there are about 60 different tribes within that area. The concern is how the Aboriginal council and the Aboriginal affairs minister will appoint an Aboriginal party that will be accepted in that big area. It is the same situation with many other areas right across the state. The main concern is that the appointment of these parties could create division.

I also highlight a newspaper article which goes to the concern we have, which is that if it is not done right we are going to have a problem similar to what happened in Somerville back in 2004. I refer to a *Herald Sun* article dated 4 April 2004, headlined 'Racist merry-go-round: Brawls hold up college'. It goes on to talk about that in extensive detail. I quote also from a letter in the *Herald Sun* of about that time — 24 May — under the heading 'Sorry, but school awaits':

> … construction of the Somerville secondary college has been stalled because of the objections of two Aboriginal groups.
>
> The Boonerwrung and the Bunurong tribes declared themselves the traditional and historical owners of the school site.
>
> The Boonerwrung support the school, but the Bunurong want the government to find another site.
>
> Another Aborigine claims that one of these two groups has Yorta Yorta descendants and has no claim to the area.

Again we can see that if we do not get it right there are going to be major problems. The *Herald Sun* also talks about this same issue on 9 May. It says, under the heading 'School's big family':

> Now a third family claims to be the true descendants of coastal Aborigines, with the right to stop the building of a new school.
>
> As I told you before, two groups claiming to represent the Boonerwrung are fighting over the right to say whether and how the Somerville secondary college on Mornington Peninsula is built. At stake are $550-a-day 'inspection' fees.

If we do not get it right, there are going to be hold-ups in development in Victoria, and even in government developments like that Somerville school.

I have spoken to Aboriginal people across Victoria, and I will quote some of their comments. One of them said to me, 'It is a bit difficult to understand all the changes', but he believes that they will be detrimental to the causes of Aboriginal people. There are some good things in the bill — they agree with that — but overall they feel it will be detrimental to the cause of the Aboriginal people.

Only one native title claim has been approved in Victoria, and that is along the Wimmera River in my electorate; that was made by the Wotjobaluk people. A lot of Aboriginal people feel that the native title people have not got a history of looking after cultural heritage issues.

As I said, there are major concerns about the setup of the council. There are also major concerns about the Aboriginal parties which will be approved under this legislation. As we know, Aboriginal parties will have a range of functions, including evaluating and approving or refusing Aboriginal cultural heritage management plans. These plans will be mandatory if the regulations or the minister require them in the initial planning stages of greenfield large-scale housing developments, substantial mining works or sensitive areas like coastal dunes or river banks — all developments requiring an environment effects statement.

I can say that the local government people feel the bill should not include all the environment effects statements, and they have recommended that the clause — I think it is clause 49 — which covers this matter should be withdrawn. Again that comes back to the point behind our reasoned amendment. If this amendment is supported by the Parliament, we will be able to resolve some of these issues.

An Aboriginal cultural heritage management plan will involve an archaeologist or a heritage specialist working with the developer and the Aboriginal communities to develop these plans. My understanding, from the briefings we have had from the department, is that there are only about five approved archaeologists or heritage specialists who can do this work. Victoria is a fairly large state and there are many developments going on and many things changing on a daily basis. If this bill is going to require these people to get out and develop these management plans, we can see there is going to be an enormous slowdown in developments here in Victoria.

Local government and other decision-making authorities will not be able to issue a licence, a lease or a permit for prescribed activities without an approved Aboriginal cultural heritage management plan. But the good thing about it is that if these things do get held up, the bill provides for their resolution through the Victorian Civil and Administrative Tribunal. There is some upside to this legislation, but there are also many concerns.

As we know, local governments are the responsible planning authorities, and there are many local planning laws. My understanding — from my days back in local government — is that local governments have planning overlays which could include environmental overlays, flood overlays and heritage overlays. A lot of people wonder why we could not have Aboriginal cultural heritage overlays so that when the council receives an application it could adjudicate, knowing the details from the overlays.

Local governments have many concerns. As I said, they are concerned about the number of registered Aboriginal parties, and they are particularly concerned about delays in decision making. They are also concerned about transparency in decision making and the need for training and ongoing support, not only for the Aboriginal Heritage Council and Aboriginal parties but also for the council planning officers.

Councils are also concerned about fees. They would like to see clause 49 removed from the bill, because they do not believe all areas require an Aboriginal cultural heritage management plan — and I do not have time to go through that issue in detail today. Councils are very upset at the rate remittance outlined in this bill. They believe it should only occur after agreement with a rating authority. They also believe that if this legislation goes through, it should be reviewed after three years — not five years, as proposed in the bill.

Under this legislation, the Minister for Aboriginal Affairs will appoint inspectors to the Victorian public service after approval by or assistance from the Aboriginal Heritage Council. The inspectors activities will be regulated, but there will be an increase in their powers and responsibilities — and I do not have time to go through all of them today.

Another concern about this bill is that penalties have increased dramatically — for individuals, from $10 000 up to $153 000, and for corporations from $50 000 to over $1 million. In the minister's press releases these fines were said to be 'innocuous' — not very big, in other words — but most people would see them as draconian. I again quote from the Scrutiny of Acts and Regulations Committee (SARC) report that was tabled here today. Regarding clause 27(5), the report says:

> The committee notes that 'negligent' conduct is a lower threshold to establish criminal liability. Criminal liability is ordinarily established by the mental element test of 'knowingly' or 'recklessly' engaging in the conduct.
>
> Whether in the circumstances it is appropriate to provide a lower threshold to impose a pecuniary penalty (an indictable offence) is a question for Parliament's consideration.

So many concerns have been raised, including by the government-controlled Scrutiny of Acts and Regulations Committee, about the draconian fees and penalties imposed under this legislation. It is interesting to note that the report also raised concerns about clause 31, which allows the minister to compulsorily acquire land. It said:

> The committee observed that in these circumstances the agreement or declaration may frustrate the purpose for which the land was purchased or may otherwise diminish the value of the land.

I note that the member for South-West Coast is not here today, but there is a concern in that area about land that has been purchased. There is a desire for some of this land to be handed over to the Aboriginal people, but if this happens the land-holder should be compensated for the land he had purchased.

It is also interesting to note that the Scrutiny of Acts and Regulations Committee report also discusses clause 191, saying that it:

> … provides for a form of relief by way of tax and rate remissions …

As I said earlier, councils are concerned about this. They believe this should only occur after consultation with them. The SARC report also says:

> Given this compensatory/relief provision the committee will seek further advice from the minister whether any hardship

> may arise in the form of economic loss as a consequence of an agreement or declaration over privately owned land where that person does not have access to the statutory compensation regime pursuant to the Land Acquisition and Compensation Act 1986.

There are many concerns out there. When the draft legislation was brought in there were many negative comments. One said this will increase the cost of the average house by $2000. An article in the *Herald Sun* of 20 October said under the heading 'Progress falls in a hole':

> This is state-inspired, ridiculously complex exercising of power that could leave people and corporations facing fines of up to $1 million for digging a hole in the wrong place.

The article goes on to say:

> The government is building a planning nightmare.

That is a particular concern for many of the councils and people who have spoken to me about this matter. The article continues:

> What it is creating is not only unfair, inherently racist and antidevelopment, it will make building more expensive and much slower.

That is a quote from one of the articles from October last year. Many other articles expressed concerns. I quote from an AAP NewsWire article headed 'Vic — developers would need Aboriginal cultural checks':

> Under planning laws proposed for Victoria … would-be home renovators will need to have their property checked for Aboriginal cultural heritage links before they can pick up tools.

This is one of the many concerns raised about this legislation. A valuer who passed one of these articles on to my office handwrote on the bottom of it, 'This will create havoc'. It will not only affect developers but also valuers and people who are unsure whether there are Aboriginal cultural heritage items on their land.

As I said, there are some good points to the bill, and I have to give some credit. There is an appeals process to the Victorian Civil and Administrative Tribunal; inspectors will be employed and controlled by the government; there will be time lines for the various processes, plans and agreements; and, importantly, fees will be set — but unfortunately we do not know what they will be.

There are major concerns, including about the regulations, which are yet to be developed. The regulations will set the fees and, as I said, we do not know what they will be. There are also concerns about the role and function of the Aboriginal parties. How many will there be for each region? How will they be resourced, staffed and financed? There is a real fear that these Aboriginal parties could cause disruption, slow down development and, importantly, create higher costs. There is also concern about the ability of these Aboriginal parties to work with councils, developers, other authorities and even other Aboriginal parties.

Many in country Victoria fear that this bill will threaten the rights of private land-holders. They believe the bill is unfair and antidevelopment, and that it will not achieve its aims. The bill will certainly add prohibitive costs. It will also create more red tape and force many more delays.

For these reasons, I ask members of this house to support The Nationals' reasoned amendment, which we think takes a commonsense approach. I think it is important that we resolve these matters before the bill is passed by this house and goes to the upper house. I ask for members' support for the amendment.

Mr HUDSON (Bentleigh) — It is a great pleasure to rise in support of the Aboriginal Heritage Bill. This is obviously a significant piece of legislation that will preserve and protect Aboriginal heritage for generations to come. It is a bill that effectively protects and manages places, objects and human remains that are important to Aboriginal people in the Victorian community.

More importantly the bill replaces outdated state and federal laws that govern the protection and management of Aboriginal cultural heritage across Victoria. What concerns me a little about the members for Sandringham and Lowan is that they act as if there is no legislation in place at the moment. There is legislation in place that currently preserves Aboriginal cultural heritage, but the point of this bill is that it is designed to address many of the deficiencies that exist in the current legislation, and I am certainly very pleased to support it. The bill will provide certainty for developers and land managers in relation to the types of developments that require heritage management plans.

To give effect to that the government is doing a number of things. It is establishing an Aboriginal Heritage Council, a statutory body that will be responsible for registering Aboriginal organisations that are elected as cultural heritage decision-makers for areas of land within Victoria. It will give registered Aboriginal parties responsibility for protecting and maintaining Aboriginal places and objects that have cultural heritage significance within these areas. The bill provides for the development of management plans as well as mechanisms for resolving disputes over those

cultural heritage management plans at the Victorian Civil and Administrative Tribunal.

If you look at the current arrangements, it is quite clear that there are many developments that already require approval and Aboriginal heritage assessment. If you look at greenfield subdivisions, large-scale mining projects, vegetation clearance, erosion control and many other aspects of the management of our land and waterways, you find that all of them currently require Aboriginal heritage assessments. But the weakness in the current arrangements is that they are entirely ad hoc. It is not clear what the processes are and how they can be enforced, and it is certainly not clear what happens when an approval is refused.

This bill prescribes the circumstances requiring the preparation of management plans. That will significantly reduce delays for industry, and not only by imposing time limits on critical stages of the heritage management plan process. If a registered Aboriginal party refuses to consent to a plan, there will be mechanisms providing for a review by VCAT. The time limits are quite important. Under clause 55 a registered Aboriginal party must within 14 days of receiving a notice from a sponsor that it intends to prepare a management plan advise the sponsor of its intention to evaluate the plan. Under clause 63 a registered Aboriginal party has 30 days to approve a cultural heritage management plan.

Many of the issues that have been raised by the opposition about delays and uncertainty are going to be resolved by the fact that time limits will be put in place. Also under this clause an Aboriginal party will only be able to refuse approval of a plan on two grounds: first, and importantly, if the plan does not meet the prescribed standards set out in the regulations; and secondly, if it is not satisfied that the plan adequately addresses one or more of the listed matters in clause 61 that need to be taken into account.

Importantly this bill also makes it clear that it is only registered Aboriginal parties that will be able to evaluate a management plan. If the process of putting a management plan in place has begun, a new group that is not registered cannot come along and say, 'We have an interest. We would like to be involved in the evaluation of this plan'. I believe all the problems in the current legislation that the opposition is referring to will be dealt with through this bill. If there is a refusal of Aboriginal groups to give consent, under the current legislation there is no avenue for appealing that decision. The member for Lowan, who has introduced a reasoned amendment, points to the Echuca bridge as an example, where the Yorta Yorta people have indicated that they cannot give consent to the interference with Aboriginal sites resulting from the placement of that bridge.

The new legislation is not intended to be retrospective. However, if the new legislation had been in place, a cultural heritage plan of the bridge site would have been prepared and the Yorta Yorta people would have had the right to participate in the evaluation and preparation of that plan. But if they had refused to endorse that management plan, then VicRoads would have had the opportunity to go to VCAT to appeal the decision — which, as I said, it currently does not have under the existing Victorian and commonwealth legislation. In order to be considered under this bill that process would have to start again; but the point is that the stalemate that exists in terms of that refusal could have been dealt with under this bill.

I would have thought the opposition would welcome and support that. It is incredibly disappointing to be in the house and see the Liberal Party and The Nationals oppose this bill when it is a clear improvement on the current legislation in terms of time limits and the opportunity for mediation when there is a dispute because two registered parties take contrary views about a management plan. To go back to the Echuca bridge situation, I understand that the Bangerang people, even though they are not currently a registered group, are saying they are in support but that the Yorta Yorta people are saying they are opposed to the plan for the bridge.

Under this legislation the heritage council can go to an alternative dispute resolution and a mediator can be appointed. If they were both registered parties, that issue could be resolved. If it is not resolved within the 30-day period, then that matter can be dealt with by VCAT. I would have thought that that was a significant improvement to the legislation. It is incredibly disappointing that the opposition is not supporting it. If it was interested in seeing these disputes resolved, it would be supporting the legislation.

A number of statements have been made by members of the opposition about the impact on the development industry. It is quite clear that the property development industry supports this legislation — for example, the member for Sandringham referred to the Urban Development Institute of Australia, Victoria. Mr Tony De Domenico, the chief executive officer of the UDIA, says in a letter of 21 November to the Minister for Aboriginal Affairs in the other place:

> The draft legislation is certainly an improvement on the current system.

The executive director of the Property Council of Australia is quoted in the *Herald Sun* as saying that developers will not have problems adhering to the cultural heritage requirements in this bill:

> If there is clarity about what's required and everybody knows what the rules are, the development community can live with it.

That is what the bill does. It provides a clear, streamlined process for dealing with issues of Aboriginal heritage. It provides a clear process for the development of Aboriginal cultural heritage plans. It provides clear time frames and time limits within which the different elements and aspects of cultural heritage management plans are to be considered. It provides a process for alternative dispute resolution. It provides a process for the proponent of the development to go to VCAT to have a decision by the Aboriginal registered party reviewed if they are not happy with it. VCAT must at least include a member who has experience in cultural heritage matters in determining these questions. It is a significant improvement on the current situation. I commend the bill to the house.

Ms ASHER (Brighton) — The opposition opposes the Aboriginal Heritage Bill. I often speak after the member for Bentleigh. I am convinced that his intentions are good; I just wonder about his capacity to understand what we term 'the real world'. This legislation is Labor's scheme for the protection and management of Aboriginal cultural heritage. We on this side of the house obviously agree that Aboriginal cultural heritage should be protected. However, in my opinion, this bill is probably the worst possible manner in which to actually acquire the goodwill from the rest of the community, and it is probably a way to increase delays and threaten the rights of property owners, which is something that I do not think the Labor Party should be ascribing to. Aboriginal cultural heritage should be protected in the same manner as all heritage. As I have said, this bill is not the way to do it.

I understand the government's rationale on the point that it wishes to shift the jurisdiction for the protection of the Aboriginal cultural heritage from the commonwealth to the state. I am obviously aware that the federal government has also indicated its approval for the shift of jurisdiction. However, that is not the basis of the Liberal Party's opposition. Our opposition is that this bill fundamentally threatens the rights of landowners. For that reason alone it is unacceptable.

I want to refer to a couple of definitions so that members understand the basis of my particular concerns. The definition of 'cultural heritage significance' includes:

> (a) archaeological, anthropological, contemporary, historical, scientific, social or spiritual significance; and
>
> (b) significance in accordance with Aboriginal tradition …

It is a particularly broad definition. Most importantly, the definition of 'activity' spelt out in the legislation means 'the development or use of land'. That is a very wide definition of activity.

Basically, my concern is that any landowner who wishes to undertake activity — that is, wishes to develop or use his or her land — could be required by the minister to have an Aboriginal cultural management plan before starting this activity. What is a cultural heritage management plan? I refer to the bill itself and not the assurances from the member for Bentleigh. Proposed section 42 states that a cultural heritage management plan is:

> (a) an assessment of the area to determine the nature of any Aboriginal cultural heritage present in the area; and
>
> (b) a written report setting out —
>
> (i) the results of the assessment; and
>
> (ii) recommendations for measures to be taken before, during and after an activity to manage and protect the Aboriginal cultural heritage identified in the assessment.

I make the point that what the legislation is requiring of land-holders is that, if there is an issue and there is a cultural heritage management plan, it could well threaten the rights of an individual land-holder to use his or her land to conduct any activity. I would contend, given the broadness of definition of the word 'activity', that activity could be anything; it could be development, it could be building, it could be digging a hole. I am very concerned about the role of these cultural heritage management plans and the broad definition of 'cultural heritage significance' and the very broad definition of 'activity'.

Work on people's property can be stopped under this legislation. I again refer not to the member for Bentleigh's assurances but the bill itself. Clause 87, headed 'When can a stop order be issued?', states:

> The Minister or an inspector may issue a stop order …

Clause 89, under 'What can a stop order do?', states:

> (1) A stop order issued to a person may —
>
> (a) require the person to stop immediately the activity specified in the order; or
>
> (b) prohibit the person from starting the activity specified in the order.

I further refer to clause 92, under 'Extension of stop order':

> Before a stop order ceases to operate, the Minister or an inspector may extend the stop order once only for a further period of up to 14 days.

I think these powers are extraordinarily wide, and this could be used to stop building on one's own property or even more trivial activity on property.

There are significant wide costs to industry, as has been canvassed by other speakers. There are significant wide costs to individuals. I refer to an article which appeared in the *Herald Sun* of Friday, 21 April 2006. This article, headed 'Land with a crash', has been commented on by other speakers:

> A developer has been driven to the brink of bankruptcy after claims by an Aboriginal group that his land is a sacred site.
>
> Michael Maher said the state government had backed the group, despite council permits and permission from another part of the local Aboriginal community to subdivide the property, near Portland.

I agree with the member for South-West Coast who indicated that this case and the Kings Domain affair demonstrate that the government is incapable of dealing with the sensitivity and the rights of property owners in this particular example. We fear that, given the way the government handled the Kings Domain episode and the powers the government is seeking to extract for itself, the inspectors and the minister under this bill, there is real cause for concern.

I make the observation that I am deeply concerned that the Minister for Aboriginal Affairs in another place will have such wide powers. I am deeply concerned about his performance in handling the whole Kings Domain episode. I think it was a performance where he did himself and the government no credit at all. I also note that in clause 149 there is a requirement for a registered Aboriginal party to act in good faith; I accept that point. However, I make the point that there are no penalties attached to this provision. Again I reiterate the comments made by other speakers about how large the penalties are in the case of non-compliance or if there is negligent harming of Aboriginal cultural heritage.

I make the point that we live in a society where the rule of law is supreme. We live in a society where property rights are valuable rights. We live in a society where property rights are respected. This bill threatens those property rights. It is for those reasons that the opposition is opposing the bill.

Another clause that concerns me is clause 31, which relates to the acquisition of an Aboriginal place. Again I refer not to assurances from well-meaning members on the other side but to the bill itself. Clause 31(1) states:

> The Minister may acquire, by agreement or compulsory acquisition, any land that contains an Aboriginal place if the Minister is satisfied that —
>
> (a) the Aboriginal place is of such cultural heritage significance to Aboriginal people that it is irreplaceable; and
>
> (b) no other practicable arrangements can be made to ensure the proper protection and maintenance of the Aboriginal place.

That clause bothers me, as someone who respects property rights in this state, deeply.

In conclusion, we in the Liberal Party are particularly concerned about this bill. Again, I make the point that Aboriginal cultural heritage should be protected — cultural heritage should be protected. The objectives and aspirations of the government are legitimate and ones that I would share. However, I am deeply concerned that the bill the government has brought before the house, notwithstanding the draft bill, notwithstanding the consultation, is one on which, according to my advice, the Aboriginal community itself is divided. The more substantial point for me is that it is a bill which threatens property rights in Victoria. If we are going to live in a country with a rule of law and a country that respects property rights, as we do, we need to ensure that under all circumstances these property rights are respected. Again, I make the point, in conclusion, that these cultural heritage management plans, the definition of what constitutes cultural heritage significance and the definition of activity — the development or use of land — will allow, if pushed to the extreme, property rights to be challenged and threatened.

My party has grave concerns about the bill before the house. I want to reiterate that we completely support the concept and actuality of preserving Aboriginal cultural heritage; I do not want this speech to be misinterpreted in any way. However, we also have a very strong view that people's property rights should be protected. That is the basis of our society and this bill, unfortunately, threatens property rights.

Ms BEARD (Kilsyth) — It is my great pleasure and privilege to join the debate and speak in favour of the Aboriginal Heritage Bill. The bill defines Aboriginal cultural heritage as meaning Aboriginal places, objects and human remains. It also establishes the principle that Aboriginal cultural heritage should, very rightly, be owned by Aboriginal people with traditional or familial links to the area relevant to the heritage. The provisions

cover the return of human remains and sacred objects to the appropriate groups.

The bill will also establish the Aboriginal Heritage Council as the peak Aboriginal body to deal with Aboriginal cultural heritage issues in the state. That council will comprise 11 members to be appointed by the minister, all of whom must be living in Victoria, must demonstrate a traditional or familial link to an area in Victoria and have experience relevant to the role of the council. The council will advise the minister in relation to protection of Aboriginal cultural heritage and a number of other issues.

We have heard a lot today about property, but I would like to share with the house a great story from my electorate. In the past couple of weeks the Minister for Aboriginal Affairs in another place attended the opening of a new gathering place in Croydon. This is a major acknowledgment of the people of the eastern suburbs and the large number of indigenous people who are now living outside the inner Melbourne area. The Mullum Mullum Indigenous Gathering Place in Croydon will cater for the estimated 2600 indigenous people now living in this area east of Melbourne.

It is a partnership between the local indigenous community and Eastern Access Community Health and is supported by the eastern metropolitan region of the Department of Human Services. This is an example of how the Bracks government, in partnership with indigenous communities, is taking a coordinated approach to service provision to break the cycle of disadvantage. I would like to wish the manager of the Mullum Mullum Indigenous Gathering Place, Trevor Pearce, all the best in his new role. Karen Milward is the project chairwoman, and I am sure they will carry out their roles at the gathering place with great success.

The gathering place is located in a once-derelict building. The minister and I had the opportunity to visit the site when it was in a state of great disrepair. It has now been transformed into a very exciting place, filled with Aboriginal artworks and the colours which are so special to the Aboriginal people. They hope this will be a place where Aboriginal people can gather because they want to be there and not necessarily because they have an issue — a true gathering place. It is a dream of generations and I am so proud to have it in my electorate.

I would like to congratulate the Minister for Aboriginal Affairs. I know he is held in high esteem by Aboriginal groups throughout Victoria. Through my husband's work I have had a long association with Aboriginal affairs and many of the Aboriginal communities throughout Victoria over a period of 20 years. I would also like to congratulate the government on continuing its commitment to reconciliation through this important bill. I wish the bill a speedy passage.

Mr COOPER (Mornington) — It is a shame that a bill that has as its stated aim 'the protection and management of Aboriginal cultural heritage in Victoria' is going to create exactly the wrong kind of scenario in this state. As has been said by other speakers on this side of the house, the bill not only threatens the rights of property owners throughout Victoria but also threatens harmonious community relations. It will, in my view, also create deep divisions within the community, and that is a shame.

The Deputy Leader of the Opposition said she did not doubt the sincerity of the member for Bentleigh when he spoke on the bill, and I do not doubt the sincerity of government members in regard to what they are seeking to achieve with this bill, but the realities of this world are that that is not what will occur. What will occur today is that this bill will be shoehorned through this house. It will not be subjected to the views and concerns that are being expressed by members on this side of the house, and it will not receive any real thought from government members. They will just push it through, send it off to the other place and use their numbers there to try to get this bill through by Thursday night, despite the fact that there is a considerable amount of apprehension, concern and growing anger among vast sections of the community throughout the state about what the bill will do.

When the draft legislation was produced last year Neil Mitchell, on radio station 3AW, described it as 'unfair, inherently racist and anti-development', and I agree with what he said. The reality is that the bill that is now being debated has not changed that situation at all — and that is a great pity. There was only limited community debate — because the draft bill was produced late last year and therefore consultation on it was held during the Christmas–New Year period — and limited opportunity for a head of steam to be developed in getting the bill out in the community and having it understood by a vast number of people. The shame of it is that again the government has shown that it is not prepared to listen but is just going to go down the track it has already decided on, and the rest of the community can just trail along behind and take the medicine that is going to be given to them.

In the short time available to me today I want to concentrate on a few things in this bill. From the word go I want to direct the house to the explanatory memorandum note on clause 31 of the bill. It sends a

very bad message to the rest of the community because it:

> provides for the Minister to acquire any land containing an Aboriginal place, either by agreement or compulsory acquisition.

That has to send a shiver of apprehension up the spine of any property owner in this state. If the clause on its own does not do it, then people will have to start thinking about the attitude of this government towards that kind of approach to land that is claimed to have some Aboriginal significance. You do not have to go back too far — only a couple of weeks — to the publicity that has surrounded the so-called Convincing Ground site at Portland, where Michael Maher has been bankrupted and his marriage has become part of the price being paid because a piece of his land was said by a local Aboriginal to be the site of a massacre without, as I understand it, any evidence whatsoever.

He has had the Minister for Planning demand of him that he hand over 50 per cent of his land — the best part, the foreshore part of the land — and the government will in turn hand it on to the local Aboriginal community, without any cost to the government. There has been no sign and no hint — in fact a direct denial — of the government's paying any compensation to that property owner. Yet here the bill reinforces that a minister can go ahead and do that to other land throughout the state. That, on its own, should send a shiver of apprehension through the community.

Division 4 of the bill, headed 'Cultural Heritage Permits', creates even greater and justifiable concerns among property owners. The explanatory memorandum says that clause 40:

> requires the Secretary to consider every permit application, and provides a general discretion to make a decision on such applications.

It goes on to say:

> An exception to this discretion arises where a registered Aboriginal party objects to an application within the permitted 30 days, in which case the Secretary must refuse to grant the permit.

There is no discretion. It further states:

> … where a registered Aboriginal party objects to an application … the Secretary must refuse to grant the permit.

Then starts the process set out under this bill. People must prepare and submit a cultural heritage management plan. That will take time, it will take money and it will certainly delay whatever it is they want to do, and when they get to the stage where they have prepared their cultural heritage application, under clause 63 a registered Aboriginal party can refuse to approve the plan if it is not satisfied.

The member for Bentleigh went into an explanation of his view about that particular part of the bill, but the reality is you could drive a horse and cart through the phrase 'if it is not satisfied' — that is, if the registered Aboriginal party is not satisfied. They can say, 'We refuse to endorse it; we refuse to approve it', and can stop the development. The member for Bentleigh can wave his arms around as much as he likes, but we know that development applications could be stopped for months, even years, under the provisions contained in the bill.

The government is hanging its hat on the fact that a registered Aboriginal party must act in good faith, but it does not back that up with penalties where a registered Aboriginal party does not act in good faith. There is no penalty for a registered Aboriginal party that does not act in good faith. It is simply a requirement of the bill and a pious hope by the government that that is what will occur.

I am not going to stand by and allow this bill to go through without recording my dissent and to say that the government needs to start thinking about and acting upon the concerns and views of the majority of the community. If the government thinks it has the majority of the community behind it on this bill, then I say it has another think coming. The reality is that the vast majority of the community is concerned and apprehensive about this legislation. They are being advised about this by people like Neil Mitchell who have looked at the bill, sought advice on it and who say the government has got it wrong. Once again, as has been the case so many times in the past, the government believes it is in step and everyone else is out of step — that the government has got it right and everyone else has got it wrong.

The bad news for the government is that judgment day will come next November on this and a range of other issues. People will remember this and will make their judgment on this piece of legislation. The government certainly has time — there should be no sense of urgency — to stop, reconsider and take into account the views expressed here today and by the rest of the community.

Ms BUCHANAN (Hastings) — It gives me great pleasure to speak in support of the Aboriginal Heritage Bill. I believe the intent of the bill is very clear. We have needed legislation to protect and preserve Aboriginal heritage for future generations for a long

time. It has been a long time since the federal and state legislation was reviewed.

At the outset, it is fantastic to know that the commonwealth government fully supports the bill, unlike its Victorian Liberal Party counterparts and The Nationals. It is interesting that for once we are in cahoots with the federal government. There has been no negative feedback about any aspect of it. The federal government agrees with the state government about its content and intent.

It is important to note that the bill will replace outdated federal and state legislation and will ensure the protection of Aboriginal cultural heritage as an integral part of planning and land development processes. I will talk a bit more about that later and give a specific example in my electorate. Most importantly the bill will simplify the current system which is unregulated, lacks coordinated representation of Aboriginal groups and is inconsistently applied. We have heard many examples of how the current regulations do not support the progressing of Aboriginal heritage in the community. This bill finetunes that, and as I said, it has federal government support.

The bill will provide increased certainty for developers and land managers, which is another important aspect. Everybody will have clarity in relation to what the process will be, which can only be beneficial. With the inclusion of very specific time regulations on process, people will be clear on what is to be done within a specific time frame.

The bill will establish the Victorian Aboriginal Heritage Council, a statutory body that will be responsible for registering Aboriginal organisations as cultural heritage decision-makers for areas of land within Victoria, and for advising the Minister for Aboriginal Affairs in the other place about the protection of Aboriginal heritage. They are important issues for the Victorian community.

The legislation will give registered Aboriginal parties the responsibility to protect and maintain Aboriginal places and objects of cultural heritage and significance within their areas, and most importantly will provide for dispute resolution and review mechanisms through mediation and a process through the Victorian Civil and Administrative Tribunal. It is good to know that The Nationals support that aspect of it.

It will provide a range of measures to improve compliance and enforcement of the legislation, including cultural heritage audits, stop orders, modernised offences and penalties, and increased responsibility and accountability for inspectors.

I want to talk about five specific issues raised by the opposition, which opposes the bill. Members of the opposition have mentioned during the course of the debate that the bill appears to be another regulatory impediment to development and business. Let us get the record straight. There are many development activities that already require an Aboriginal heritage assessment. That measure is contained in the existing legislation that has been reviewed and is included in the bill before the house today. These are normally large-scale developments that are likely to have major impacts on Aboriginal heritage such as many greenfield subdivisions and large-scale mining projects. The greenfield developments are the most pertinent in relation to Victoria.

Currently the requirement to conduct an Aboriginal heritage assessment is enforced in an ad hoc manner. This bill will establish a transparent and consistent process for evaluating the need for a management plan at the very start of the process. Developers and industry will benefit from the increased certainty established by describing the circumstances that will trigger the requirement for a management plan. Again — in black and white, on the table — everyone will know where they stand in the scheme of things at the beginning of a development proposal.

Some members have talked about delays that may result from the implementation of the bill. Let us look at what happens now. Delays occur, and the bill will address reducing delays to industry by imposing very specific time limits on critical stages of the heritage management plan process. Everybody will be very clear about what has to happen, by when, and who is responsible for getting things done. That is not the current process. Specifically on this point it is good to know the federal government supports this aspect of the bill. Members opposite are very silent on that issue. Currently industry may experience delays during disputes with Aboriginal parties, often due to the lack of review mechanisms on decisions for Aboriginal organisations. Like I said, the bill will redress those issues and give more certainty in relation to time, which is critical for any development proposal.

The impact the bill will have on local government administrative and planning issues will be positive. Some people may believe this will increase regulatory responsibilities and costs, but these are issues that councils have to deal with at the moment, and they will be streamlined by the processes set out in the bill. So from the beginning of the development process people will know who is responsible for what and at what stage and what level of delegation their authority applies. As I said, under the existing legislation and the

state planning policy framework there already is a responsibility to consider Aboriginal cultural heritage issues in planning decisions. This bill will provide clear mechanisms for local government to meet their responsibilities in relation to Aboriginal heritage.

I want to give an example of those mechanisms with respect to the new junior secondary college campus site at Somerville. There were some disputes over the significance of the site. Through a great negotiation process between the local indigenous groups in that area, the state government and the local government authority we have redeveloped the site to take into consideration its cultural and heritage significance. The issues have been resolved and have led to some fantastic buildings and curriculum which junior students will take on board and which will embrace not only Anglo-Saxon and migration culture but indigenous culture as well. The facility has been developed in such a way that it is environmentally sensitive and energy efficient; everybody in the community will benefit from the involvement of the local indigenous organisations in that process.

I will not go into why I think there were delays in that building, but a few meddling MPs certainly did their bit to compromise that process, which had been going on quite well until they stuck their noses into it, totally inappropriately.

On the last point, the issue has been raised of penalties being too high — or in this case, too extreme. The important issue to reflect on in this scenario is that the penalties reflect the current penalties in the most recent Aboriginal heritage legislation in Australia, which was enacted in Queensland in 2003. Some of those penalties, including the highest proposed penalty, are in this bill. They are actually lower than those prescribed in Queensland, so if some people think they are too extreme I disagree with them, because they are there in other states already. The current legislation has a fines regime which did not act as an effective deterrent to behaviour that harms Aboriginal cultural heritage. These new penalties have been designed to provide that effective deterrent.

I support this bill, and I certainly do not support the amendments put forward by the opposition parties in this chamber today. To reiterate the point, we needed this legislation to preserve and protect Aboriginal heritage for future generations of indigenous and Victorian people.

The consultation has been very wide, as I said, since 2004, with the exposure draft coming through in October 2005. Many groups across Victoria have been consulted by Aboriginal Affairs Victoria and the minister's own department. I commend them for the great work they have done in being so inclusive in the consultative process and for incorporating much of the feedback into the legislation. I commend the Minister for Aboriginal Affairs in the other place for the great work that his team has done in relation to this bill. The bill will provide effective protection and management of places and objects and human remains that are important to Aboriginal people and the broader Victorian community. I wish it a speedy passage through the house.

Mr MULDER (Polwarth) — I rise to make some brief comments in relation to the Aboriginal Heritage Bill, and in doing so I acknowledge that the Liberal Party is not supporting the legislation before the Parliament.

I advise the house of an experience I have had in matters pertinent to the legislation before the house. Prior to entering the Parliament I had a role as a project manager of a very large development in a country town. The process involved demolishing about a dozen houses in the town and preparing the site for a large development. In the course of some major excavations that were in train, the operator of the excavator informed us that he had uncovered some skeletal remains on the fence line of the property.

The police were immediately called to the location, and it was determined that the remains were Aboriginal skeletal remains. The Department of Aboriginal Affairs was contacted, as were the Wathaurong people. Trevor Edwards was involved at that time. Officers came down to inspect the site and work was stopped until we had a full archaeological survey of the site. That involved the removal of the remains from the site and the bringing in of a very large screening machine to screen material that had been disturbed to discover any other remains that were undetected during the excavation or other works undertaken. It was deemed that there were some artefacts, but I point out that this was a housing development and it had been such for a very long time. The bill before the house would not have picked up that situation had it gone through.

Mr Hudson interjected.

Mr MULDER — It would not have picked it up. It was an existing housing estate, and it would not have picked up that issue.

I would like to advise the house of what happened as a result of that. Through negotiations with the developer at the time it was agreed that provision would be made

on the title — a section 173 agreement — to ensure the reburial of the remains on the site; that the site would be protected by either a slab or some form of paving; and that access would be provided to the Aboriginal community or anyone who wanted to visit that site.

I felt at that time that the negotiations undertaken by the Wathaurong, Trevor Edwards and all those involved at Geelong were exemplary. I found them absolutely first-class people to deal with throughout the entire process. They understood that the development had commenced. There was discussion at the time that it was at the end of the development that we had uncovered the remains, and I felt they acted in a responsible and professional manner in the way they carried that process forward. I have not had the chance to see whether the reburial has taken place, but I understand that the property developer is in full agreement to meet all the compliance issues and requirements placed upon him to do the right thing in that regard.

I cannot see this legislation as anything other than another raft of bureaucracy. I can see it getting to the situation where plans are developed and laws passed whereby Aboriginal parties have the power to accept or reject cultural assessments or to veto any activity that could range from building a fence, erecting a Hills hoist or a simple extension to a full-scale housing subdivision, such as the one I have spoken about. I would have thought that the majority of these sites as they stand across the state would have been identified by now. It is not acceptable to expect developers who have taken out an option on a property to have to go through this process and face delays that could go on and on. This legislation strips private landowners of their rights.

As I said, I have worked through the process before and I understand how it works. I have had experience in working with Aboriginal groups in these types of issues, and without this type of legislation we were able to come up with what I would call sensible resolutions to problems that could occur anywhere across the state.

Just because you have this legislation in place does not necessarily mean you are going to identify each and every site across the state. There should be an obligation on developers and excavation contractors to be better educated and understand how they should act if they come across the situation that we did. To put in place this type of legislation is absolute overkill, and I am sure many members of the government would feel exactly the same way.

In conclusion, I oppose the legislation before Parliament. I do not think it does anything at all to protect Aboriginal heritage; I believe there are other ways of negotiating these positions with Aboriginal communities. As I indicated, I have been involved in these negotiations in the past and they worked to everybody's satisfaction, and I believe this bill is absolute overkill.

Ms GREEN (Yan Yean) — It gives me great pleasure to join the debate on the Aboriginal Heritage Bill, and at the outset I acknowledge the people of the Kulin nation, the traditional owners and custodians of the land on which the Parliament stands. I pay my respects to their elders, past and present, and in particular to any elders who may be here today.

The Bracks government is committed to a genuine partnership with indigenous people, and that is something that sets it apart in the political framework. Members of this government are committed to reconciliation and a pride in Aboriginal heritage in Victoria, and we want to see this heritage recognised as an integral part of Victoria's history.

This bill embodies our commitment to this end. The legislative regime at a state level has not been updated since 1972, and in fact since 1987 the commonwealth government has had that responsibility. I am pleased that there is now an agreement between the state and commonwealth governments that these powers should be returned to the states, because that means Victoria can take responsibility for the protection of its Aboriginal heritage.

Again members of the opposition are indulging in wedge politics in their opposition to the bill. They say, 'Yes, we support Aboriginal heritage, but we do not support this bill'. They are trying to create a false dichotomy between the protection of Aboriginal heritage, the development industry and the rights of property owners. A mature development industry does respect our heritage, and I know that developers in my own electorate respect this now and will continue to do so in the future.

Members of the opposition are indulging in baseless scaremongering, just like they did with the green wedge legislation. People in the house might remember them trying to say during the green wedge debate that if you were a property owner living in the green wedge and your house burnt down, 'Blow me down, you cannot build another one'. Here they are absolutely at it again.

Mr Baillieu interjected.

Ms GREEN — What would you know, Ted, you are into — —

Mr Baillieu interjected.

The ACTING SPEAKER (Mr Seitz) — Order! The member for Yan Yean will use the appropriate address for members.

Ms GREEN — Recently in the *Portland Observer* the missing member for South-West Coast — where is he? — has tried to make political capital out of the Convincing Grounds issue. If he had read the Auditor-General's report, he would have found that it was not the state government, it was actually Glenelg council that stuffed that one up.

The member for South-West Coast has been saying ridiculous things to the *Portland Observer* to try and push the wedge politics line. He has been stirring up fear, as did the member for Polwarth earlier, when he stated that this heritage bill may be used to stop you building a house, an extension, or even digging a hole on your own land.

An honourable member interjected.

Ms GREEN — Yes, the Hill's hoist.

This is not true. Small-scale building works will not require Aboriginal heritage assessments. The bill will simply make it mandatory for heritage management plans to be considered at the initial planning stage of high-impact and large-scale developments — for example, greenfield projects such as housing developments, of which I have a lot in my electorate — and where there are substantial mining works or sensitive areas like in coastal dunes or river banks.

What is it with members of the opposition? They come to a fork in the road and ask themselves, 'Will we actually stick with our true Liberal traditions, in the Hamer mould, or will we go down the extreme path?'. They take the wrong fork every time. They go down that path of again putting that wedge in and of saying, 'We really support Aboriginal heritage, but we are really worried about property owners' rights'. We know that the Hamer Liberal tag is absolutely in tatters.

We know why the former Deputy Leader of the Opposition is pulling the pin now. He cannot cope with this outfit any more. The Hamer Liberal tradition has completely gone out the window. He has even said in the local paper that we will not see another Hamer Liberal in the seat of Warrandyte. He says that it should be a Hamer Liberal seat but there is now none left. We have seen with the stupid opposition to this bill and the scaremongering that that is true, and they do not have an answer for it.

The house has heard quotes of support in the media for this legislation. We have had silly scaremongering, but we have also had some sensible responses. The executive director of the Property Council of Australia, Jennifer Cunich, has said that developers would not have problems adhering to the cultural heritage requirements. She said that if there is clarity about what is required and everybody knows what the rules are, the development community can live with it. That was last year. I have also seen it with developers in my own electorate, and I have said before that members should not just believe me because the Property Council has said it.

Damien Bell, chairperson of the Windamara Aboriginal Corporation, was quoted in the Warrnambool *Standard* last year as saying that what he had seen looked like a much better regime than what we have now, which has ended in the development problems with the Convincing Ground or Mount Franklin. He said that an important part of the bill was repatriation of cultural heritage items, including ancestral items. Indigenous and non-indigenous communities have a shared heritage and history. Hopefully this new legislation will go a long way to building these relationships, he said.

I will return to the Convincing Ground situation. It is a pity that the member for South-West Coast is not here to listen, because I could have told him that this bill would not create a problem for Mr Maher if it were in operation now. Although it will not act retrospectively, it will prevent a repeat of that situation by ensuring that all major and smaller subdivisions on sensitive coastal land will not be approved without the completion of a cultural heritage management plan. That is what the Glenelg council had failed to do.

I grew up down in the south-west, and I am deeply ashamed that I was not educated in my early life about the importance of the Aboriginal cultural heritage in that area. We all went surfing at a place off Peterborough called Boneys. There were bones on the bottom of the ocean, and we all thought that theirs was a story about the Shipwreck Coast — that is, we thought they were the bones of people who had been shipwrecked on their way to Australia and lost their lives at sea, but they were not. They were the bones of Aboriginal people whom white settlers had driven off the cliffs to their deaths a little more than 100 years ago. To my great shame I did not know that when I was growing up, and I feel that by swimming there I disrespected the memory of those Aboriginal people who were driven over those cliffs to their deaths. It is

important that we treat the sites of those atrocities with respect. The member for South-West Coast should have a good think about what happened at the Convincing Ground and treat that area with the same respect.

This is a good bill and should be supported. Members of the opposition should rethink their position, and I hope they will do so when the bill moves into the other house. I thank the Minister for Aboriginal Affairs for his extensive consultation, not only in the south-west areas that have been deeply affected by those atrocities but also across the state. I commend this good bill to the house, and I hope opposition members have a rethink and support it.

Mr MAUGHAN (Rodney) — I am pleased to join this debate and to acknowledge at the start of my contribution that Aboriginal heritage is important, not just to Aboriginal people but to the whole community, and it must be preserved. At the same time development must be able to proceed, but not at the expense of important and clearly defined Aboriginal heritage. The reverse also applies — that is, development should not be stymied by pseudo-concerns about Aboriginal heritage. Getting that blend right is important. I welcome the fact that this legislation will replace the commonwealth legislation. That certainly is a step in the right direction and will give us more control over our Aboriginal heritage here in Victoria.

Aboriginal heritage and Aboriginal land rights are vexed issues in our community and give rise to a wide divergence of views. There is a contest of ideas and beliefs going on between those who believe that Aboriginal heritage is very important under any circumstances and therefore should be preserved and those who have little time for Aboriginal heritage and believe that it should not in any way impede development in the broader community.

There is no question that Aboriginal people have traditionally been disadvantaged and that governments of both political persuasions at both the state and the commonwealth level have over many years attempted to overcome this, but there is a wide diversity of opinion on how that is best able to be achieved. Suffice it to say that Aboriginal affairs is a vexed and emotional issue, and it is certainly one that has been very divisive in the Echuca community. I want to focus on the problem of the Echuca community, particularly the proposed construction of a new bridge, before making some more general remarks.

To give the house some background, the Echuca-Moama community desperately needs a new bridge, and the Victorian, New South Wales and commonwealth governments have agreed that that should take place. Some $15 million was allocated by the commonwealth as part of its Centenary of Federation program. The project was put forward about six or eight years ago, and several options were proposed, each being of the order of $45 million. The Kennett government committed funding to that project, and this government has reaffirmed its commitment to the project.

The difficulty has been in deciding where the bridge is to be built. Initially seven options were considered, and that number was later brought down to three — that is, the east, the west and the central options. Both municipalities — the Shire of Campaspe and the Shire of Murray — in representing the views of the community opted for the western option and fought very hard for it. For the last six years they have been trying to get that option built. There is no doubt that public opinion favours the western option, which is where the growth of Echuca-Moama is taking place. However, in order to build the bridge it has been necessary to gain the consent of the local Aboriginal community, and there is some doubt about who those people are. There is debate about who represents the Aboriginal people, but the reality is that the Yorta Yorta people are specified under the commonwealth legislation, so their consent needs to be obtained. That approval has not been forthcoming, and under the federal legislation there is no opportunity to appeal, so there has been a stand-off. The construction of the bridge has stalled, and nothing has happened for the last six years.

I want to go back over some of the difficulties. I think my federal colleague the member for Murray has been misguided in some of her statements, because she says that going to the Yorta Yorta over the western option for the bridge was the Victorian government's choice and not a requirement under commonwealth law. She has said that the Victorian government chose to use part IIA of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984 to allow the Yorta Yorta to veto any construction at the western option site of the Echuca-Moama bridge.

I differ on that interpretation of the federal legislation, and I think my federal colleague should know far more about it. My view is that the agreement of the Yorta Yorta people is required, and I understand that the transport minister was advised along these lines. Agreement is required under the provisions of the commonwealth Aboriginals and Torres Strait Islanders Heritage Protection Act. Section 21U of that act, which applies only in Victoria, makes it an offence to cause

damage to or interfere with an Aboriginal object or place. That act also provides that a local Aboriginal community may consent in writing to the disturbance of an object or place and may specify terms or conditions in its consent. For the purpose of the act, the Yorta Yorta is the group specified.

With respect to my federal colleague, as I said, consent is required for this project to proceed, and that is very clearly spelt out on my reading of the act. Section 21U, which refers to defacing property, says:

> (1) A person is guilty of an offence if:
>
> (a) the person:
>
> (i) does an act; and
>
> (ii) the act causes damage to, the defacing of, or interference with, an Aboriginal object or an Aboriginal place; or
>
> (b) the person does an act likely to endanger an Aboriginal object or Aboriginal place.

It seems to me that the bridge proposal for Echuca would come under those provisions, and therefore the consent of the local Aboriginal people is required. Section 21U(4) states:

> A local Aboriginal community may consent, in writing, to the doing of an act referred to in —

the sections that I referred to previously. For quite some time consent has been sought from the Aboriginal people, and the matter has been very slow to reach a conclusion. I think I might have played some role in trying to bring it to a conclusion and in extracting correspondence from the Yorta Yorta people. On 16 February they wrote to the regional manager of VicRoads, saying that the Yorta Yorta council of elders had over past years thoroughly discussed and deliberated with VicRoads and others on the proposed route, that being the western alignment, and that even though others may have agreed, it was not to the satisfaction of the Yorta Yorta nation in the context of the protection of its cultural heritage and history.

There is correspondence which indicates that the Yorta Yorta are vigorously opposed to the western option and are not going to change, and there is recognition of that by VicRoads. Therefore the current bridge proposal is at a stand-off. The real question is whether that situation is able to be rectified under this legislation. I was heartened by the comments by the member for Bentleigh that you could make another application under this legislation to have that consent obtained, if possible, and that if it were not possible then it could be appealed to the Victorian Civil and Administrative Tribunal. As I said, I was heartened by that, but when the minister sums up I would like some assurance from him that that is the case. The second-reading speech clearly states:

> The transitional arrangements are intended to recognise existing decisions under the commonwealth act.

The question is whether the Yorta Yorta's decision not to give consent is an existing decision under the commonwealth act, and I am heartened by the member for Bentleigh's assurances. I seek further assurance from the minister in his summing up, because if that is the case, it will certainly give the people of Echuca the opportunity to bring the matter to a conclusion, to put in another application, to seek consent, and if that is not given, then to appeal under the provisions of this legislation to the Victorian Civil and Administrative Tribunal.

Summing up, the people of Echuca-Moama certainly want to build a bridge; they want it out in the west; they do not want to consider any other options until they have exhausted all possible options under both this and the commonwealth legislation. If this legislation gives the option to appeal an adverse decision then that is what we want, and I welcome that assurance.

The Nationals have moved a reasoned amendment.

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

Mr WYNNE (Richmond) — I rise to support the Aboriginal Heritage Bill. Along with my colleagues, I acknowledge the people of the Kulin nation, and in particular the Wurundjeri people who are the traditional owners and custodians of the land on which we are standing this evening. I pay my respects to their elders and any other elders who are with us today.

Victoria, in fact all of Australia, is privileged to host a rich Aboriginal culture. No country in the world has a surviving culture that even approaches the longevity of indigenous Australians, but the culture of indigenous Australians is not frozen in the history books; it is alive, it is vibrant and it is something that is experienced and played out daily. I submit it is something to be treasured. The culture that we can appreciate is ancient yet living and dynamic, which means that protecting Aboriginal culture has its own unique challenges.

When we are talking about a place, an item, a relic that is to be protected, we are not simply protecting the memory of generations past. These places and objects have custodians who are with us now, and they present ongoing cultural significance. This need for specific

protection for Aboriginal cultural heritage was first recognised by Victorian legislators. I am advised by my colleague the member for Bentleigh, who was the lead speaker for the government, that it was the Hamer government in 1972 with the passing of the Archaeological and Aboriginal Relics Preservation Act. I am advised by departmental officers that while there were some minor amendments to that in 1986, the essential core elements of that legislation have been there since 1972. Can I say, all power to the Hamer government for that foresight.

The commonwealth subsequently established national arrangements in the Aboriginal and Torres Strait Islander Heritage Protection Act of 1984, so we had state and federal legislation in place. In 1987 Victoria requested and received amendments to that legislation to allow the state to better protect Aboriginal heritage in Victoria specifically through the insertion of part 2A to the commonwealth act, so I would argue that these two acts delivered a high degree of protection for Aboriginal heritage, at least by the standards of 20 years ago.

But times have changed. We now know there are better ways to deliver cultural protection laws, certainly faster than the cultural heritage they seek to protect. The government has determined that the best way to deliver Aboriginal cultural protection is by returning responsibility for the holding within our own jurisdiction.

The principal feature of the bill is that Aboriginal heritage is protected as an integrated and harmonised part of the state's planning and land development process. In that context it is important that I acknowledge the extensive amount of consultation that the Minister for Aboriginal Affairs in the other place has undertaken in developing this particular bill. I am sure he is listening to this debate, and I want to pay due acknowledgment to the fact that that work was extensively undertaken and there was wide consultation in developing the bill.

Under the existing system local government has primary responsibility for the management and protection of Aboriginal heritage as part of the planning process, but unfortunately there has been insufficient legislative support to back local government in meeting that obligation. As we know, this has led to inconsistent protection and application across the state. I also submit that there has been an undesirable effect not only on Aboriginal heritage but for developers who lack certainty in the process. Under this bill there will be a consistent system right across Victoria, and that is welcomed.

The system has two key features. The first is the establishment of the Aboriginal Heritage Council which will be comprised of 11 members appointed by the minister who have relevant experience and knowledge of Aboriginal cultural heritage. A crucial function of the council is to register Aboriginal parties for particular areas of the state. Registered Aboriginal parties will have the power to evaluate heritage plans, to enter into cultural heritage arrangements and to negotiate repatriation of Aboriginal human remains.

I was reminded by our lead speaker, the member for Bentleigh, that in part of his contribution the member for Mornington asked what would happen if these registered Aboriginal parties acted in bad faith. It is very clear that there is a capacity to deregister such parties if such an occurrence should come to pass. I only heard some of the member for Mornington's contribution, but there was a suggestion of the possibility of inappropriate behaviour or motivation by these parties. A remedy for that is clearly available within the act.

We submit that the developers will now know exactly who they have to deal with as a first port of call for Aboriginal cultural heritage. The register of Aboriginal parties will enable developers and other parties to know with certainty which Aboriginal groups have a cultural interest in a given area and who they need to liaise with when preparing management plans. That is an extremely important element of the bill, because it is important for a developer to know what the liaison point is and who he is dealing with on a day-to-day basis in developing particular parcels of land. We have already heard some evidence from the opposition parties of quite appropriate negotiations having occurred in the past between Aboriginal communities and developers, and this will smooth that process out.

If a registered Aboriginal party rejects a management plan, that decision is reviewable at the Victorian Civil and Administrative Tribunal where appropriate. That is also an important check and balance in the process. The second function of the Aboriginal Heritage Council is to broadly advise the minister on administering Aboriginal cultural heritage across Victoria, and the minister can provide advice on his own initiative or at the request of the minister himself or herself.

The government has also moved to improve the enforcement regime of Aboriginal cultural heritage, and the minister will be empowered to order a cultural heritage audit where the minister believes there is or is likely to be a contravention of a management plan.

In the short time I have left I want to pick up briefly on one other point raised by the member for Mornington in his suggestion that under the act the minister was provided with extraordinary compulsory acquisition powers. I point the house to clause 31 of the bill which goes to the very question of acquisition and grant of land. In that respect I want to clarify for the member for Mornington and all the members opposite that clause 31 provides for the minister to acquire any land containing an Aboriginal place either by agreement or compulsory acquisition.

In making a decision to acquire, the minister must be satisfied of two things: firstly, that the place is of such cultural heritage significance to Aboriginal people that it could not be replaced if damaged or destroyed; and secondly, that no practical arrangements other than acquisition would ensure its protection and maintenance. The procedures for the compulsory acquisition of land and of later compensation under this clause are set out in the Land Acquisition and Compensation Act of 1986. There is nothing new in this; it is 20 years old. For 20 years this capacity has been available to successive governments. If there is any sort of suggestion in the member for Mornington's contribution, or by any other member of the opposition, that these are scary proposals, that people's land is under threat — —

An honourable member — Or houses.

Mr WYNNE — Or that houses are under threat. In fact, this compensation regime comes under the legislation of 1986.

This is a very good bill; it is balanced. In my view it will bring coherence to the planning process. It will clearly recognise the critical importance of Aboriginal cultural heritage and protection, and it will certainly provide surety to the broader community about the leadership role that this government has played in recognising the significance of the custodians of our land. But it will also provide a clear signal to the development community on who its members deal with and how they deal with them in terms of development in the state of Victoria.

I commend the bill to the house. I commend the minister for the work that has been done in developing this bill, and I wish it a very speedy passage.

Mr SAVAGE (Mildura) — I start my contribution by indicating that I appreciate the briefing that I was given by the department on this important legislation. Having said that, I think it is a sad day to see this bill being forced through in the way that it is — that is, on the first day of the sitting this week — without more time being allowed for consultation on it. I do not believe that it has the full support of all indigenous leaders in Victoria, and I do not think the people of Victoria have a clue about exactly what this bill contains. I could say that that is common to much of the legislation that passes through this house.

This pattern of the treatment of legislation — which could be described as undemocratic — is becoming a more common theme. I wonder if the principles of democracy have been replaced by, 'We are the government. We can do it, and therefore it is okay'. I do not agree with that; and I do not believe that this legislation has got the right mix. Also, I do not believe that it will achieve what could have been its proper outcome. There are many fine words in the second-reading speech, but if they are not followed through, the second-reading speech will not have delivered what the bill's intentions are.

In my electorate I have the largest indigenous population in Victoria per capita, and I would say that the vast majority of those indigenous people want to live normal lives in peace. They do not want interference from government agencies, and they do not want to be looked upon as second-class citizens.

I think that the recent events in Kings Domain certainly brought no credit to that particular concept of reconciliation in this state. The initial encouragement given by the government and by the City of Melbourne to some of those individuals certainly caused some concern for me and some members of the indigenous community. The so-called sacred fire, which was protected by a heritage order for 30 days, is something I see as perhaps a possibility under this bill. That sort of situation is not going to bring about good outcomes for Aboriginal heritage in Victoria. The recent events went on further, with threats of fines of $50 000 if people went into that particular part of Kings Domain, refusal of police access to that area and threats of assaults against members of the public. So let us hope we do not see a repeat of that sort of behaviour and that sort of contempt for the law in this state.

There is also the significant case in South Australia of the Hindmarsh Island bridge, where a group of indigenous women contrived a falsehood which was described as secret women's business. Another group of courageous indigenous women said — and it came out at the royal commission — that that was a complete fabrication. No doubt they suffered some vilification as a consequence. So there are some arguments out there as to what constitutes cultural heritage, and it is very important that we get this right, because otherwise it

damages the genuine intent that is out there of making sure that the cultural heritage is protected.

In my area I am aware of situations of cultural heritage inspections actually being more like extortions — the Robinvale bridge would be one. Significant amounts of money had to be paid for people to be on site to make sure that no indigenous heritage items were disturbed, but often construction on the bridge could not start because they did not turn up. When you have a $20 million project, you cannot afford to have cranes and people at the site not doing anything but waiting for people who have a different time system to turn up. I want to be assured that this bill is going to deliver the sorts of outcomes which preclude those sorts of things from happening again.

We have a marina development in Mildura, and the Mildura Aboriginal Corporation has been an excellent contributor to Aboriginal heritage inspections. Its members have been responsible. They have focused on the important developments. They have been more interested in developing work programs than in possibly obstructing the construction. But another group was involved in the marina approvals, and there is a suspicion that if it has not benefited financially, it has certainly benefited in other ways. It has premises within the marina site; I am not sure whether those premises are for a commercial enterprise, but there will be a shop in the new marina complex, and those premises have been given to it for 10 years for free.

Those sorts of things are a concern to me in terms of heritage being used as a lever or as a form of extortion to have dishonest outcomes. I want to see the Mildura Aboriginal Corporation continue with those inspections under this bill, but I believe that it will be competing with other registered interest groups, and that may be very difficult for the corporation to achieve.

I am also very concerned about clause 181 of the bill, as it is overly draconian in relation to the powers of inspectors. People will be required to give information to inspectors — it will be an offence to refuse to do so — with the proviso that they may refuse if providing the information would involve self-incrimination. I was advised that there are similar sections in the Fisheries Act, the Heritage Act and the Occupational Health and Safety Act. I have looked at the Heritage Act and the Fisheries Act, and those sections are completely different. This requirement to give information is much more forceful. I have some reservations about the strength of that part of the legislation.

I support the house amendments. I have seen the reasons for those changes, and I will not speak in opposition to them. It is very difficult to go through this legislation without knowing what the regulations and the fee structure are going to be. There has been no development of them to this point. I would prefer to have seen a framework before the bill came to this place so that we could have had some idea of what those components would be.

They also have an issue with the realistic identification of what tribes some indigenous people are from. In Mildura I have heard people call themselves members of the Mutti Mutti tribe and then, because it has been expedient, they have become members of the Latje Latje tribe, which I understand disappeared before World War II. These sorts of issues do not seem capable of being resolved in this legislation. Unless these issues are dealt with, the bill will not deliver what it is supposed to. I acknowledge that the federal legislation which is currently in effect will be repealed at the same time as this bill gets royal assent.

I make the concession that this bill is trying to consolidate the necessary solutions to the problems we have seen in the past. However, without the support of all indigenous leaders in the state I am not sure that we will see a significant improvement in the problems we see repeatedly in my area and around Victoria. This process has to be honest and transparent so that Aboriginal cultural heritage is protected, not taken advantage of by opportunistic activists within the indigenous community. We have to balance that by acknowledging that on the other side there are developers who are not prepared to reflect on the fact that some things need to be protected.

I indicate that, like some other members of this house, I will not support this legislation when it goes to the vote.

Mr TREZISE (Geelong) — I also pay my respects to the traditional owners of the land on which we meet tonight. I am very pleased to speak in support of the Aboriginal Heritage Bill, because it very much represents the commitment of the Bracks government to work in partnership with the indigenous people of Victoria. It also represents the Bracks government's recognition of the importance of Aboriginal heritage and culture, not only to our indigenous population but also to Victoria as a state.

Reconciliation is, and must continue to be, a priority for the state government. In fact it should be a priority for all governments across our nation, including the federal government. The Bracks government has outlined a vision for reconciliation in Victoria, a vision that, as the minister noted in the second-reading speech:

> … addresses the dispossession and disadvantage experienced by indigenous people, heals the hurt of past injustices, and commits to build a positive future …

In understanding the contents and purpose of this bill before the house tonight, it does take significant steps forward in achieving this vision or this goal.

In addressing this bill it would be remiss of me, as the member for Geelong, not to speak of the Wathaurong people who are the traditional owners of the land in the Geelong area. I have always enjoyed and respected the dealings I have had with local Wathaurong leaders — people who are not only the leaders of the Wathaurong community but who also very much contribute to, and are leaders of, the wider Geelong community. People such as Trevor Edwards, Lynn McGuiness, Alan Browning and Glen Shea, to name just a few who are very effective leaders, not only within their own Wathaurong community but also who are effective leaders within the wider community of Geelong, attract much respect from within the community. The Wathaurong provide to their own community very important services such as child and health care services; and I must say that the Wathaurong also make some magnificent glass.

In addressing the specifics of the bill, and as we have heard from a number of earlier speakers, it significantly recognises the important role indigenous people play in managing their own heritage and culture. This bill establishes the Aboriginal Heritage Council whose membership will be of traditional owners and will give those people a statewide say on heritage management.

A primary role of the council will be approving and registering Aboriginal groups as cultural heritage managers for specific areas of the state. Importantly the council will also be responsible for advising the minister on cultural heritage practices. Also, local groups will be responsible for protecting and maintaining areas and objects of significance in their own specific areas.

This bill will also provide more certainty and consistency for developers when addressing the important issues of heritage protection, or the protection of important places or objects, and a number of members have already spoken in detail about this important issue. The bill will now require the development of cultural heritage management plans at the planning stage of specific developments or activities.

Developments that, for example, require an environment effects statement will now also require a cultural heritage development plan. As I said, the development of cultural heritage development plans will provide more consistency and more certainty for all parties, including local indigenous people and developers. It would be fair to say that in the past local councils have had inconsistent approaches and an inconsistent commitment to heritage protection, thus creating uncertainty for developers and, more importantly, for local Kooris looking to protect important sites or objects.

I congratulate the minister on this legislation and on the wide and extensive consultation that has taken place in the development of this bill. It is good and important legislation, and I therefore wish it a speedy passage through this house.

Mr BAILLIEU (Hawthorn) — I rise to make a contribution on the Aboriginal Heritage Bill. I do so while noting that the opposition will be opposing it. In doing that, I am not satisfied that this legislation will improve the protection of Aboriginal cultural heritage, nor will it contribute to a better planning system in Victoria.

I briefly relate a tale from some months ago. I was travelling in the McHarg Ranges with some others, looking at particular items of interest in my portfolio, and I was shown what I can only describe as a well or a pond that had been constructed by an indigenous community at some time in the distant past. I suspect that I am one of few people who have seen that well, if I can call it that. I can only say that I regarded it as a treasure, and I hope it is protected and preserved far into the future. When it comes to this bill, we fall very short, and that is to be regretted.

At a briefing I attended on the bill I asked the simple question: 'Is there any land in Victoria to which this bill will not apply?'. The answer was that this bill will apply to all land; it is important to understand that. This bill applies to all land and in the process establishes a separate planning system in parallel with the existing system.

In summary, this bill seeks to repatriate provisions for Aboriginal cultural heritage protection which are currently federally based. The federal government is supportive of that repatriation, but we should not confuse that with the federal government being supportive of the content of the bill as it stands before us. This bill is an opportunity missed. Through this bill we could have integrated Aboriginal cultural heritage into our planning and heritage systems. We have gone far from that and missed a great opportunity. The bill in fact complicates the system and duplicates the planning

system to the extent that it will be effectively a planning system in parallel with the existing planning system.

I also asked at the briefing why it was that the provisions in this bill could not be placed in the Heritage Act. We were told that the Heritage Act is a European heritage act. That may be technically correct but there is absolutely no reason why these provisions could not have been included in the Heritage Act. Section 5, headed 'Application of the Act in the Heritage Act', as it stands, says:

> This Act does not apply to a place or object that is of cultural heritage significance only on the ground of its association with —
>
> (a) Aboriginal tradition; or
>
> (b) Aboriginal traditional use.

I will come back to that issue if I have a chance, but we could have taken the opportunity here to integrate these provisions and indeed, at the briefing, after I pursued the issue, we ended up being told that it was a policy decision not to incorporate these provisions in the Heritage Act.

The Heritage Act, I concede, is not perfect. It is Liberal Party policy to seek to amend the Heritage Act and the provisions of the Victorian Civil and Administrative Tribunal (VCAT) appeal mechanisms; at least this bill should apply to the Heritage Act, so I have no problem with that as such, but there are differences between the Heritage Act and the Aboriginal Heritage Bill in regard to issues of compensation, complexity, vetoes and stop orders. In many respects those are issues which could have been resolved had there been integration of the provisions.

In terms of complexity, the capacity for multiple parties to be registered and the use of stop orders and audits, virtually at any time in the process, is simply a recipe for confusion. It certainly does not add to the simplicity of process. I asked at the briefing whether the department had prepared a flow chart, because I think this is a complex piece of legislation, even in its existing form federally. I was surprised to learn that no flow chart had been prepared, and in fact there was not a flow chart for the existing legislation. The department has prepared us a flow chart in good faith.

I make the observation that there could hardly be a more simplistic interpretation of the legislation than the flow chart that was prepared for us. I do not think it adequately describes the legislation in detail. I do not want to be critical of the officers — I am sure they have done it in good faith — but it omits many parts of this bill. I think that is to be regretted, because it is disappointing that even these provisions cannot be simply described. After the issue of a draft bill, one would have thought that this would have been clear.

The comment was made earlier that there were property industry bodies that supported this bill, and some quotations were read out. They were very selective quotations. I have spoken to the Urban Development Institute of Australia in the last few days, and it has extreme reservations about this bill. I quote now from Civil Contractors Federation (CCF), which wrote in December to Aboriginal Affairs Victoria saying:

> The CCF … believes the revised penalties to be draconian, inappropriate and certainly not in the best interests of promoting best practice management of matters surrounding cultural heritage.

Further, it stated:

> … it is clearly evident that the penalties are wholly directed at the potential non-compliance of those undertaking works … Yet, for those parties involved in the management of processes leading up to various assessments and approvals … there are no penalties listed for non-compliance to any aspect of their responsibilities.

Further, the CCF said:

> … this permit process should be part of the planning permit process currently in place under the Planning and Environment Act.

I think there is plenty of evidence that the property industry is less than enamoured with the provisions in this bill.

Mention has been made of the Maher case in Portland or Narrawong, and in the limited time available I will briefly mention it myself. The conduct of the government in regard to the Maher case at Portland has been a scandal, and there is plenty of evidence of that now accumulating. Michael Maher and his family purchased some 44 hectares of land at Narrawong near Portland on the coast in 2003. He made an application for an 11-lot subdivision in a rural living zone in an area which has other subdivisions adjacent to it. The application was subsequently amended, and was approved in November 2003. Work commenced on that subdivision in December 2004 — some 13 months later. In January 2005 all hell broke loose because a neighbour and Indigenous community representative decided that this was a cultural heritage site.

As a consequence, the minister stepped in. We now find that the government, through the Minister for Planning and the Minister for Aboriginal Affairs, has taken every possible step to prevent settlement and to prevent this subdivision from proceeding on the basis of a permit that was issued and received by the

land-holder and the family in good faith. Indeed, the minister and the local Aboriginal community applied to VCAT for cancellation of the permit, and that application is still in the courts. There has now been an historic Heritage Council application to list not the particular piece of land but a very large piece of land. In my view it was a very deliberate attempt to avoid paying compensation by including a large piece of land, supposedly including the site of significant cultural heritage called the Convincing Ground.

The Convincing Ground is a label that is not disputed. It was first mentioned in Henty's diary in 1835, but the basis of the Convincing Ground label is disputed by historians; the location of it is disputed. Indeed, it cannot be identified by the government, and it has admitted that it is within 4 or 5 kilometres — it may in fact be out to sea because of erosion. Indeed, the details of the massacre which was said to have been associated with the Convincing Ground are unclear, and the connection of that massacre with the Convincing Ground is also disputed. There are many aspects of the Maher case which are of concern. The claim is disputed and recent comment from the local indigenous community suggests that this has not been conducted in good faith. Indeed, the government has been pursuing this land-holder to the point now of bankruptcy and divorce. I think that is a shame on the government. It has been using deep pockets to harass a land-holder, and that is the problem with this bill.

Mr CRUTCHFIELD (South Barwon) — It is my pleasure to speak on the Aboriginal Heritage Bill. In doing so I would also like to acknowledge the people of the Kulin nation and the people of Wathaurong in my area of Geelong and pay my respects to their elders, both past and present.

Many speakers have spoken of the legislative context in which we find ourselves today, and I want to reiterate some of that history. The Victorian legislation goes back to 1972, the years of the Hamer government, of which my grandfather, Sir Ronald Mack, was a part. He was a president of the upper house and, I would argue, a part of that particular illuminating time for the Victorian Liberal Party. That government passed some very good pieces of legislation, and this was one of them. Unfortunately, I think my grandfather would be rolling in his grave now over the behaviour of some of the current members of the Liberal Party who seem to be playing a very poorly disguised game of wedge politics.

There is no surprise about The Nationals, no surprise at all. Clearly this is one which they traditionally take advantage of in terms of kicking Aboriginal legislation. However, it is a surprise in my view and I am personally disappointed, and I know my grandfather would be particularly disappointed, with the behaviour of the Liberal Party in this place. Very little has changed. The federal government appears to have approved the repeal of section IIA of the Aboriginal and Torres Strait Islander Heritage Protection Act 1984, which allows us to enshrine this piece of legislation. I interpret that as federal government support. If ever there has been a federal government which is particularly adept at playing wedge politics, it is the current one. I certainly congratulate it on not doing that in respect of this legislation.

We can sit in this place and everyone can find anecdotes and old tales from the past about issues we could have dealt with better, whether it is the white community, the Aboriginal community or whatever. I do not think that serves any purpose. It is a not very clever way of disguising an inherent objection to reconciliation, which is embodied in this piece of legislation.

I want to bring people's attention to the City of Greater Geelong. There were some illuminating, instructive views on that council, which contained a number of Liberal members. I was mayor when the Aboriginal cultural heritage development protocol was passed on 2 July 2000. I think all members of that council, irrespective of their political views, should be very proud of this protocol because it was the genesis of this bill. Many of the standards and protocols embodied in the bill come from this protocol. I want to reiterate that this council covered all political persuasions. At the time hysteria was generated by the extreme right in Geelong about the cost — 'I will lose my house', 'I will not be able to build a swimming pool', and 'I will have all these black fellas running around in my backyard telling me there is an Aboriginal site there'. Of course none of that occurred. Sensible heads prevailed at the City of Greater Geelong, where a very robust but very intellectual and dignified debate was had. Fortunately there was an election around the corner in 2000. However, it appears that election nerves have influenced the Liberal Party's view of what is very progressive legislation.

I have the council report here. I want to acknowledge the people involved at the time. Neil Savery is now head of the planning section in the Australian Capital Territory government. He played a very important role in liaising with developers who were rightfully nervous about the protocol and the local Wathaurong cooperative. I want to pay tribute to Bill Hall who was the general manager at the time. The member for Geelong touched on Trevor Edwards, Lyn McGuiness

and Alan Browning, who still does his traditional welcoming dances at important events, and they were all important contributors. There was extensive consultation on the protocol. I congratulate the Minister for Aboriginal Affairs in another place for his extensive consultation on this bill.

I want to read a couple of paragraphs of the report. It sets out frameworks by which the Wathaurong Aboriginal Cooperative had obligations placed on it, including time constraints to respond to referral applications. It is very similar to this piece of legislation. There were time constraints. Some financial onus was put on developers, although I might add, as other speakers have alluded, much of that had to be done on greenfield and development sites. The report states:

> While land use planning is a significant component of the exercise, the fundamental principle is tied to fostering positive relationships and attitudes.

It is not just about protocols for protection of Aboriginal heritage — although clearly that is a critical part of it — it is also about relationship building in individual communities. The report states:

> Staff from the city planning department have met with representatives from Aboriginal Affairs Victoria and the WAC on a regular basis since 1995 to discuss the framework of a development protocol. AAV has indicated that this agreement/protocol is one of the first of its type entered into in the state and is looking closely at adopting this as a model framework for use by other councils throughout the state. The preparation and adoption of this protocol will endorse the city's status as a leader in the state in the protection and management of Aboriginal cultural heritage sites.

Mr Baillieu interjected.

Mr CRUTCHFIELD — I congratulate councillors of all political persuasions at the City of Greater Geelong at that particular time. I think we can confidently say that we were ahead of our time at the City of Greater Geelong, unlike a couple of people who are sledging me from the other side and who have made some pretty blatant political point-scoring efforts here, which sits very poorly and very uncomfortably with the more progressive members of the Liberal Party. Although they are not in their graves they should be concerned, as my grandfather would be in his grave.

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

Mrs POWELL (Shepparton) — I am pleased to speak on the Aboriginal Heritage Bill. The government says the purpose of this bill is to provide for the protection of Aboriginal cultural heritage in Victoria, and I think everybody in the house agrees with that purpose. It is important to protect our Aboriginal cultural heritage not just for indigenous people but for all Australians. That is because it is not just Aboriginal heritage, it is our Australian heritage, and it is important that we place on the record the importance of that protection. But I have spoken to people out there who have some concerns that this bill may have the opposite effect. The member for Lowan has moved a reasoned amendment asking the house to refuse to read the bill a second time until a working party is set up to consult with local government. Reading through the bill and the second-reading speech you realise that local government will have a huge responsibility, particularly in land management, because local councils are the planning authorities. I urge the government to support that amendment.

The bill will have a significant impact in the Shepparton district, for which I am the member, and in all of rural and regional Victoria. Shepparton has the largest indigenous population outside metropolitan Melbourne, and approximately 10 per cent of the population of the City of Greater Shepparton is of indigenous origin. We have two main Aboriginal communities — the Yorta Yorta and the Bangerang. We have some unique heritage in Shepparton. The Bangerang Keeping Place is on record as being the first Aboriginal museum of its kind in Australia, and it has some unique artefacts. About 40 000 years of Aboriginal history can be viewed when people go to the Bangerang Keeping Place.

We have some wonderful indigenous leaders in Shepparton, and I work very productively with most of them. They do great work with Aboriginal young people. The Aboriginal leaders are providing for succession planning, if you like, to make sure that our young Aboriginal people have leadership skills, and in the next two weeks I will be talking to a group of young Aboriginal people about leadership. We also do some great work in the Shepparton area with employment programs for young indigenous people. It is important that young people have access to jobs in their own regions so they can be role models and mentors for other Aboriginal people.

It is a shame that this bill is being rushed through the house. We are probably going to have to pass it today or tomorrow so it can be dealt with by the other house by the end of the week. There are some really important issues here, and I think the broader community does not understand the effects this bill will have, particularly on private landowners. While I know there has been a lot of consultation with some indigenous communities, there has been minimal consultation with local government, and I will talk about that later. There has

not been much consultation with the broader community and with private land-holders, they being some of the people this bill will have an impact on.

For example, looking in particular at clause 24, entitled 'Reporting discovery of Aboriginal places and objects', the Minister for Aboriginal Affairs tells us that it will be involved only with greenfield sites or larger developments and will not deal with people's backyards or house extensions, but one interpretation of clause 24 is that it could affect people's backyards, particularly in rural and regional Victoria:

> This section applies if —
>
> (a) a person discovers an Aboriginal place or object …

The definition of 'object' is quite broad and includes scar trees, middens and a number of other areas culturally significant to the Aboriginal community.

There is a broad definition of 'objects' in the act.

Clause 24(1) states:

> (a) the person knows that the place or object is an Aboriginal place or object.

Clause 24(2) states:

> The person must report the discovery to the Secretary as soon as practicable unless, at the time of making the discovery, the person had reasonable cause to believe that the Register contained a record of the place or object.

The provision goes on to include substantial penalties. This could affect people with farms close to rivers who might have scar trees or some other form of artefacts that they are proud to have on their properties. A lot of communities are not aware that under this bill they will have to report it and that there will be substantial penalties if they do not do so. It was a shame that the government did not further talk to the number of private landowners that this bill will significantly affect.

Clause 31 is headed 'Acquisition of Aboriginal place' and states:

> (1) The Minister may acquire, by agreement or compulsory acquisition, any land that contains an Aboriginal place if the Minister is satisfied that —
>
> (a) the Aboriginal place is of such cultural heritage significance to Aboriginal people that it is irreplaceable; and
>
> (b) no other practical arrangements can be made to ensure the proper protection and maintenance of the Aboriginal place.

It then goes on to say that there will be no compensation for the value of an Aboriginal object or Aboriginal human remains on or under the surface of the land acquired under this provision. I cannot go too far into the provisions, because of the short time available to me, but I do say that there will be some significant issues for private land-holders. Councils will need more consultation.

We have insufficient planners in some councils throughout country Victoria, and I know that is an issue the Municipal Association of Victoria is dealing with. I will read from the preliminary response of the MAV to the Aboriginal Heritage Bill:

> The MAV supports the overall intent of the bill …

But it had some concerns about:

> … the lack of guidance on what land use or development permit applications will require Aboriginal cultural heritage management plans at this point in the legislative process.

It said that had prevented:

> … a full assessment of the impact these proposals will have on local government.

The preliminary response goes on to say that involvement of local government is important because the proposed Aboriginal cultural heritage management plans could potentially expose councils to litigation if requirements for the preparation of those plans are challenged.

The MAV sets out a number of recommendations. It talks about funding for training and capacity building programs for local government to enable effective implementation of the new legislation. The bill does not identify the fact that there will be huge ramifications for local government.

Shortly after the government's consultation with indigenous communities after it had released the draft cultural heritage bill the *Shepparton News* had a report about the worries that the Yorta Yorta clan had with it. I read from an article in the *Shepparton News* of 30 November, which states:

> Yorta Yorta nation community member Petah Atkinson said she still had concerns based on Aboriginal cultural differences and how the council members would be selected.

These are the 11 council members that the minister is proposing. She stated:

> As a community member I have concerns, I certainly cannot speak for Yorta Yorta nation or the organisation … my personal concern is that the minister and the government are assuming we are a homogenous group, and that we are all the

> same, and that we have the same customs, values and beliefs when it comes to our cultural heritage, and that is just not true.

I think that is the issue with the bill: it assumes that Aboriginal people are one homogenous group when there are many different clans, with different cultures and different values.

That was evident when the member for Rodney dealt with the issues involving the Echuca-Moama bridge. I was a member for North Eastern Province in the other place during some of that time when construction of the new bridge was an issue. The member for Rodney has been dealing for a long time with the Aboriginal community and the councils. The Yorta Yorta community will not give consent or agreement to the bridge being rebuilt to the west, but the Bangerang community does not have any problem and have provided some goodwill; it is looking for a way through. The bill can stifle development and increase costs to some developments. The provisions will affect most of country Victoria and most areas in metropolitan Melbourne.

I urge the government to support The Nationals' reasoned amendment so that we have more time to consider the bill in detail and consider all the stakeholders so that what we are trying to do — that is, protect Aboriginal heritage — actually occurs.

Mr SEITZ (Keilor) — I recognise the traditional owners and indicate my respect for the elders of the land we stand on. This is an important bill that was introduced by the Bracks government as part of its Fairer Victoria policy in creating opportunities for addressing disadvantage. This bill is designed to go a long way towards that aim. It is hoped to save Aboriginal heritage for future generations and to assist in modern growth and planning with the spread of Melbourne and country towns.

It is important that we have a bill like this that empowers traditional owners of the land and Aboriginal groups so that they can protect their heritage and display the significance of their heritage, particularly in the planning processes. The bill integrates the protection of cultural heritage with existing planning approvals processes by providing a clear process for the preparation of cultural heritage management plans.

The bill specifies how and when planning authorities should account for Aboriginal cultural heritage in their decisions. Those things are being clarified and explained in the bill. The bill replaces outdated state and federal laws governing the protection and management of Aboriginal cultural heritage across Victoria — namely, part IIA of the commonwealth Aboriginal and Torres Strait Islander Heritage Protection Act 1984 and the Victorian Archaeological and Aboriginal Relics Preservation Act 1972.

I commend the work of the minister and his consultation team on the development of this bill and on the further work that is being done through consultation with the traditional owners of the land in the state of Victoria. I hope the bill will go a long way towards meeting its aims and objectives so that in 10 or 20 years time we can say that we have made a difference with the legislation now being debated and on which we will vote this evening. It is important for society and our children to learn that following white settlement respect needs to be shown to the traditional owners of the land we are living on and their culture.

The government will support the establishment of the Victorian Aboriginal Heritage Council to assist local government and conduct surveys of Aboriginal heritage in their municipalities, which is an important thing because planning is not just for state government but for local government. It will provide training for Aboriginal parties to participate in the new system and discharge their statutory responsibilities.

That should create protection for everyone who might be concerned that this will be a willy-nilly system or land grab over certain areas. I do not believe that will occur because the safeguards in the legislation will protect both parties but most importantly, continue to maintain the Aboriginal culture and heritage in the state of Victoria and hopefully across Australia as the legislation is adopted in other states. As other members wish to speak on the bill, I wish the bill a speedy passage.

Dr SYKES (Benalla) — I wish to speak on the Aboriginal Heritage Bill. I, along with my Nationals colleagues, strongly support the protection of Aboriginal heritage, but I cannot support the bill in its current form because of a number of concerns as outlined by the member for Lowan in moving his reasoned amendment and the supporting contributions of the members for Rodney and Shepparton.

My key concerns include the increase in bureaucracy and red tape — something that the Bracks government has turned into an art form. Associated with the reams of red tape is the potential for delays in significant projects and even the construction of individual dwellings. I have doubts about the independence of the government-appointed inspectors. Will they be able to speak up or will they be gagged like other public servants under the Bracks government? I also have

concerns about the process of identification of Aboriginal parties to speak for country.

Firstly, I would like to look at the issue of increased bureaucracy and red tape. The Bracks government track record on this is a gold-medal performance. Victorians, in particular country Victorians, are being strangled by ever-increasing Bracks government red tape — for example, we have the bill dealing with native vegetation management. The Bracks government is still trying to unravel that in response to criticism and comments from country Victorians. Then we have the Child Employment Bill in which the Bracks government required that grandparents have a permit to employ their grandchildren. Members will remember that the requirement for a police check of grandparents was only waived after intense lobbying by The Nationals and country Victorians. Then we have the Working with Children Bill. This bill requires a police check — —

Ms Neville — On a point of order, Acting Speaker, the member for Benalla has strayed from discussing the bill and I ask you to bring him back to the bill.

The ACTING SPEAKER (Ms Lindell) — Order! During the second-reading speech debate subsequent speakers after the lead speakers should address the bill. The contribution today has been fairly wide, so I bring the member back to the bill.

Dr SYKES — The purpose of these commentaries and examples is to show that the government's introduction of bureaucracy and red tape is an art form, and I am just quoting a number of examples of where the government has done that previously and all that it has done is tie up — —

The ACTING SPEAKER (Ms Lindell) — Order! I have asked the member to come back to the bill.

Dr SYKES — I will move on to the risk of delays associated with the introduction of this bill. We have seen examples of delays already with the current legislation. Most notable was following the disastrous fires of 2003 when land-holders wishing to re-fence their boundaries had to engage Aboriginal inspectors to check for artefacts, even when they were re-fencing on existing fence lines. This resulted in significant delays and substantial costs in implementing a fundamental post-fire recovery strategy of securing the boundaries.

With regard to my doubts about the independence of the government-appointed inspectors, the Bracks government would be well aware of the strong voice and independence of inspectors like Ella Anselmi, who found Aboriginal artefacts at Mount Teneriffe on the site intended for the Aboriginal offenders centre. What will the government-appointed inspectors do? Will they be able to speak up or will they be gagged?

Then we look at the process of identifying appropriate Aboriginal parties to speak on behalf of country. On this aspect the Bracks government's grossly incompetent handling of Aboriginal consultation in relation to the proposed decommissioning of Lake Mokoan stands out like a beacon. The Bracks government tried to get away with a superficial Clayton's-style consultation with the Aboriginal people, but fortunately local people, such as Russell Ellis from the government's Future Land Use Committee, spoke up and insisted on more Aboriginal involvement and wider Aboriginal consultation in the process. As a result of the efforts of Russell Ellis and other local people, the Bracks government has belatedly agreed to consult more widely with other groups including the Bangerang and the Taungurong and to conduct more thorough surveys for artefacts. Guess what? More artefacts have been found — what a surprise!

Whilst we have legislation which intends to make it easier to go forward and take into account the need to protect Aboriginal heritage, the fact is that some fundamental valid concerns have been raised by the member for Lowan and supported by the members for Shepparton and Rodney.

Mr Smith interjected.

Dr SYKES — And their Liberal colleagues, as mentioned by the member for Bass.

Therefore, I call upon the Bracks government to get this legislation right the first time, before trying to rush it through in an attempt to avoid the obvious negative political impact of public scrutiny and debate on this important piece of legislation. With those remarks I support the reasoned amendment moved by the member for Lowan.

Ms NEVILLE (Bellarine) — I am pleased to speak briefly in support of the Aboriginal Heritage Bill. I have listened to most of the debate here today and I really have found it extraordinary. We have heard platitudes such as, 'We are very supportive of protecting Aboriginal heritage and culture, but not where it is too hard to work through the issues, so we are happy to trade it off in most circumstances', and we have heard the list — it is going to stifle development, it is going to increase costs, and it will cause delays — of why it is just a bit too hard to be part of the process and take this

issue seriously. I think this is in everyone's interest, whether you are a developer, a member of a local community, a member of Parliament or part of the Aboriginal community. We absolutely need to protect this important part of our Australian history. It is where we have come from, and if we do not do it, it will not be long before it does not exist at all and we will not be able to celebrate it or pass it on to future generations.

In the brief time I have available to me I want to point out that all the examples we have heard tonight are issues arising from the current legislation. The government is acknowledging that the current legislation needs to move on and we need to have greater clarity and certainty. Let us take a couple of examples. Under the current model, industry developers may not be aware that heritage requirements apply to a particular application. Under the new legislation, industry developers are always going to be aware of the heritage requirements. There will be no uncertainty. It is not as if they are going be part way through the process and then, as happens now, be stunned by the fact that there are requirements. They will have certainty at the beginning of the process.

Let us talk about the lack of clarity in the current legislation about which Aboriginal people should be involved in the process, so that nobody knows who they should be consulting or talking with. This legislation clarifies which Aboriginal people should be involved in the process. It is clear that those lines of communication with the right communities are established and outlined.

Finally, one of the key parts of this legislation is that it not only identifies responsibilities and gives power in relation to Aboriginal communities but also creates a level of accountability by establishing a power of review by the Victorian Civil and Administrative Tribunal of the decisions of Aboriginal parties who do not approve the management plans. Again, this is something that does not currently exist in the legislation.

This bill is about trying to address some of the issues that are being raised by the opposition. It is about taking a positive step forward, ensuring that we are empowering and working with our Aboriginal communities, focusing on the important role we have as legislators to protect Aboriginal heritage and culture, and providing accountability to the community and certainty to developers. This legislation is not going to hold up development; it is going to help the process, and that has been endorsed by most developers around the state, the property council being an example. You can have your platitudes, but this is really a serious issue for all Victorians and all Australians. It is difficult at times, but it is worth it — and it will be worth it for future generations. I commend the bill to the house.

Mr WELLS (Scoresby) — In joining the debate on the Aboriginal Heritage Bill I indicate that the Liberal Party will be opposing this legislation, as mentioned by previous opposition speakers. Aboriginal heritage is about issues of fairness and of gaining the respect of the general community — that is, if we do not have respect for Aboriginal heritage, a lot will be lost in moving the debate forward.

What we have seen in the Kings Domain over the last month or so has put relations with the Aboriginal community back a couple of notches, which is unfortunate. As I listened to the local Aboriginal landowners they spoke with commitment and respect, and I thought they were being very responsible in the way they were dealing with the issue. It was unfortunate that other people became involved. It is unfortunate that what happened in the Kings Domain became such a mess in the end. I guess that whenever you talk about Aboriginal heritage there is an issue of mistrust, and that is again unfortunate.

One of the reasons the Liberal Party is opposing the Aboriginal Heritage Bill is that we see it as adding another layer of bureaucracy. When we look at this piece of legislation and at the red tape and the bureaucracy that is going to go ahead, it is something we just cannot support. We also have concerns about clause 149 of the bill, which states that a registered Aboriginal party must act in good faith. That is what we would expect — there is no question about that — but there are no penalties in the event of a registered Aboriginal party not acting in good faith, other than the power of the Aboriginal Heritage Council to suspend or revoke its registration.

On the other hand, when we talk about fairness we see that the legislation provides for a penalty of $180 000 in the case of an individual or $1 million in the case of a company if there is an intentional act to harm Aboriginal cultural heritage, or between $60 000 and $300 000 if Aboriginal cultural heritage is negligently harmed in any way.

I was concerned when the Minister for Aboriginal Affairs in the other place stated in his second-reading speech:

> It is envisaged that the register will for the first time provide for the recognition of Aboriginal nations —

I repeat, 'Aboriginal nations' —

within a Victorian legislative framework.

The commonwealth act, in talking about Aboriginal communities, refers to trusts and cooperatives. Now the Victorian government is going a step further and referring to Aboriginal communities as Aboriginal nations. I think that is blatantly wrong, and it does not help us in moving the debate forward.

The Liberal Party has had consultations on this bill with the Master Builders Association of Victoria. When the association looked at this legislation in October last year it said this provision could add an extra $2000 to the cost of every building block. However, in its submission it has said it believes this new bill will be better than what is currently provided, and that is a positive step. There is also concern about delays, and this has been mentioned by a number of speakers. As I said from the very start, this is an issue about fairness and about being able to move things forward. We do not support the bill. We believe there are better and more efficient ways of protecting Aboriginal heritage so that it gains the respect in the community it deserves. As I said from the start, we will be opposing this bill.

Ms D'AMBROSIO (Mill Park) — I am very pleased to lend my support to this bill and to the house amendments. In so doing I wish to acknowledge the traditional owners of the land upon which me meet, the Kulin nation, and pay my respects to their elders.

There has been a lot of toing and froing and a lot of misinformation thrown around about this bill. There has been a lot of scaremongering, which is a disappointment, because this bill purposefully sets about providing a coordinated approach to the management of heritage objects and sites across Victoria, and it does that to the benefit of all stakeholders. I congratulate the Minister for Aboriginal Affairs in the other place for undertaking a very thorough and extensive process and coming up with a bill that has been applauded and welcomed by all stakeholders involved in Aboriginal heritage matters and planning matters.

The appointment of the Aboriginal Heritage Council is part of the process of providing transparency and a coordinated approach whereby every level of participation by Aboriginal communities — whether it be through the Aboriginal Heritage Council or as parties to a planning process through to the involvement of the developers — is interrelated and interdependent upon management plans that evolve from thorough consultation through a very transparent process. Contrary to some of the comments made in this house that there has been inadequate consultation, the opposite is certainly the case. That is why we have broad agreement and broad support from the stakeholders, who are behind this bill.

In passing I must say that when it comes to Aboriginal matters words do not go very far, because with some people the benchmark seems to be higher and the high-jump bar seems to be raised. We have heard many comments in the house today about there being disagreements amongst Aboriginal communities. Why should it be a surprise that the indigenous population of Victoria and indeed Australia does not always agree on everything? Why is that a surprise, and why should it be a surprise?

Let us give them the same respect we expect for ourselves as members of non-indigenous communities. That is an important point to make, because suddenly we raise the benchmark and hurdles when it comes to policies that affect indigenous communities. We inevitably hear the same argument churned out by people who do not support positive moves to recognise the cultural significance of Aboriginal heritage or indeed positive moves regarding any area of life as they may affect members of the indigenous communities. Enough is enough! Let us stop hiding behind the rhetoric and the high hurdles that are put before us whenever we come to such bills as we have here today.

I wish to sum up simply by congratulating the government for steering this legislation in a very clear direction. It will provide certainty and transparency to all stakeholders, move forward the acknowledged Aboriginal heritage and improve the lives and welfare of members of Aboriginal communities. I certainly commend the bill to the house, including the house amendments.

Mr THWAITES (Minister for Environment) — In summing up I would like to thank all members who contributed to the debate; a number of members have contributed. As members will have heard from government speakers, the drafting of this bill has involved a great deal of consultation. It improves the protection of Aboriginal cultural heritage while ensuring that the management of that heritage is more efficient and can be conducted in a way that ensures a level of oversight of Aboriginal heritage issues.

Commonwealth legislation governing this area has been in place for some 20 years. That legislation was important at the time, but it needs significant improvement. As the house has heard, a number of provisions of that legislation have proved not to operate effectively in practice. This new legislation will ensure more effective operation of those provisions, that

Aboriginal cultural heritage is protected and that there is an avenue for appeal in certain circumstances. I thank all those who have taken part in the debate, and I endorse the comments made congratulating those who prepared this bill. In particular I thank the members of our indigenous communities for their input into the bill's provisions.

The ACTING SPEAKER (Ms Lindell) — Order! The minister has moved that the bill be now read a second time. To this motion, the honourable member for Lowan has moved a reasoned amendment. He proposed to omit all the words after 'that' with the view of inserting in place thereof the words which have been circulated and are in the hands of honourable members. The question is:

That the words proposed to be omitted stand part of the bill.

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

Ayes, 51

Allan, Ms
Andrews, Mr
Barker, Ms
Beard, Ms
Beattie, Ms
Bracks, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Gillett, Ms
Green, Ms
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 24

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Amendment defeated.

House divided on motion:

Ayes, 51

Allan, Ms
Andrews, Mr
Barker, Ms
Beard, Ms
Beattie, Ms
Bracks, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Gillett, Ms
Green, Ms
Hardman, Mr
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Nardella, Mr
Neville, Ms
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 24

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Doyle, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Motion agreed to.

Read second time.

Consideration in detail

Mr DOYLE (Leader of the Opposition) — I wish to make a very brief contribution to the consideration-in-detail stage of the bill. It may be a small point to make, but I wish to make it nevertheless before we get onto considering the bill in detail. In the first paragraph of the second-reading speech, I am sure with the best of intentions, there is mention of the government past and present taking the opportunity to

acknowledge the many Aboriginal nations who have lived on this land for thousands of generations. While I understand there are clans and various kin groups in the Aboriginal community, I would urge some caution when it comes to using the word 'nation'.

While we should be acknowledging the respect that is due to our first peoples, the indigenous peoples of our country, we should be promoting the idea that Australia is one nation, not nations with a nation overarching all, not a single Australia with then sub-nations underneath it. I know that is not the intention of the second-reading speech, and I certainly hope it is not, but I suggest that we all espouse in this place that we are one people before the law, and the idea that there are nations underneath a single Australian nation is anathema to that. I hope it is merely a matter of semantics rather than a policy shift. While we would certainly pay our respects to the Aboriginal people, we are one nation here in Australia and not many nations.

Clause 1

Mr BAILLIEU (Hawthorn) — I note that in his contribution the member for Bentleigh quoted from a letter from the Urban Development Institute of Australia (UDIA) — I think it was in November 2005 — and indicated that the property industry supported the bill. In my earlier contribution I referred to a commentary from the Civil Contractors Federation. I want to record comments from a letter from the Urban Development Institute of Australia dated 21 December 2005:

> Any legislation should be kept to a minimum, thus avoiding further time delays to an already overregulated industry.
>
> …
>
> UDIA is of the view that the industry would be quite able to agree to establish an appropriate (and legally enforceable) protocol with the original owners (once they are confirmed) which could then be registered by government in lieu of the time-consuming and confusing requirement to obtain an assessment as mandated …

It further states:

> We also respectfully suggest that the government should urgently convene a round table of developer representatives, Aboriginal community representatives and AAV to discuss these and other issues prior to introducing any legislation.

There is further commentary in a submission made by UDIA, albeit on the draft legislation:

> We understand that the draft provisions essentially prevent local councils from considering any permanent applications until such time as a cultural heritage assessment is obtained.
>
> … the effect of this provision will have fundamental ramifications for the timing of planning decisions. While UDIA acknowledge the requirement to undertake such assessment, we can find no logical reason why the planning process should grind to a halt while the assessment is being carried out.
>
> …
>
> UDIA members advise that the additional burden of time imposed by the new requirements will directly impact on overall project costs, which in turn will have direct flow-on implications for housing affordability.

Further:

> The development industry is fundamentally opposed to this clause —

this is a clause about an embargo on planning applications —

> We see no logical reason or benefit as to why the completion of a cultural heritage assessment should impede the consideration and advancement of permanent applications on the land, which may or may not have any relevance to the heritage assessment.

A final commentary with regard to the penalties:

> The proposed increases are draconian and should be revised.
>
> There should be penalties in the legislation for 'frivolous-vexatious' claims made by any group, including indigenous groups.

I invite the minister to comment on whether the round table that was requested was undertaken and what correspondence the minister has to indicate that assertions had been made that the property industry supports this bill.

Mr THWAITES (Minister for Environment) — I am not aware of any further round-table meeting other than the very extensive consultation that has already been indicated. I can find out for the member if there was any further meeting.

Mr BAILLIEU (Hawthorn) — In that case I invite the minister to confirm or otherwise that the government believes it has the support of the property industry for this bill.

Mr DELAHUNTY (Lowan) — A lot of comments have been made about support by various organisations. It is undeniable that every organisation and every member in this house is looking at ways of protecting and enhancing our Aboriginal heritage culture; but I want to read a letter I have here from the Master Builders Association of Victoria which states:

> The bill aims to protect Aboriginal heritage through a host of measures. The building and construction industry intends to

> play its part in securing this heritage for future generations and on behalf of the Aboriginal people of Victoria.

What follows is what I wish to ask the minister, who was a former Minister for Planning. With the state government introducing an urban growth boundary to contain development over the next 25 years, the master builders and also The Nationals believe that a land review is paramount. Will the government agree to the undertaking of a full Aboriginal heritage assessment prior to rezoning or the release of large tracts of land for development within that boundary?

Mr THOMPSON (Sandringham) — For the purpose of the parliamentary record I point out that the minister at the table, the Minister for Environment, has failed to answer the question of the member for Hawthorn as to whether the legislation does in fact have the support of the property industry.

Clause agreed to; clauses 2 and 3 agreed to.

Clause 4

Mr THOMPSON (Sandringham) — I would like to make a couple of points on the definitions clause. The definition of 'cultural heritage significance' includes 'contemporary significance' and 'social significance', among other matters. I was just wondering whether the minister could outline to the house his understanding of 'contemporary significance' and 'social significance' as they are defined under 'cultural heritage significance'.

Mr THWAITES (Minister for Environment) — The definitions are set out in the bill, and of course they have their plain English meanings. I would have thought people knew what those words meant. If the member needs a dictionary definition, I suggest he goes to the library and looks it up.

Clause agreed to.

Clause 5

Mr THOMPSON (Sandringham) — Under clause 5(2) the bill reads:

> For the purposes of sub-section (1), "area" includes any one or more of the following …
>
> (c) a natural feature, formation or landscape …

Clause 5(2)(e) then goes on to amplify that as:

> … the area immediately surrounding any thing referred to in paragraphs (c) … to the extent that it cannot be separated from the thing without diminishing or destroying the cultural heritage significance attached to the thing by Aboriginal people …

I was wondering if the minister could amplify the breadth of that area and give an example of a natural feature, formation or landscape to which that definition applies.

Mr THWAITES (Minister for Environment) — The member for Sandringham obviously has problems with plain English. It is set out quite clearly in the legislation under paragraphs (c) and (e), and I cannot amplify it any more clearly than it already is in the legislation. It is quite clear that it applies to:

> … a natural feature, formation or landscape …

And:

> … the area immediately surrounding … to the extent that it cannot be separated from the thing without diminishing or destroying the cultural heritage significance …

There could be any number of different ways in which that might occur — for example, there might be a particular object in a place and next to it there is an area around it which is connected to the object so that if you were to destroy the area around it you would destroy the cultural heritage thing itself.

Clause agreed to; clauses 6 to 21 agreed to.

Clause 22

Mr THOMPSON (Sandringham) — Under clause 22 the bill details the returning of secret or sacred objects by a state entity. Under that clause the question arises as to whether there is any provision for the security or safety of museum property or exhibits that may be transferred to the owner.

Mr THWAITES (Minister for Environment) — I do not know. I do not even follow what the member is trying to get at.

Mr THOMPSON (Sandringham) — There is an obligation on a state entity to return secret or sacred objects which may be otherwise owned by the state. The question is whether any regard is had to the ongoing safekeeping or security of an item which is currently held by the state and which is being transferred or returned to an individual or to the owner?

Mr THWAITES (Minister for Environment) — That extra qualification is not in the clause.

Mr Perton — Why not?

Mr THWAITES — Because it is not owned by that person. I would have thought the member for Doncaster, being a lawyer, would have some understanding of the concept of ownership and

property. If he found that someone else had an object that was his and he said, 'Give it back', and they said, 'Frankly I do not trust you to look after it', I am sure he would be a bit upset about that.

Clause agreed to; clauses 23 to 26 agreed to.

Clause 27

Mr THOMPSON (Sandringham) — Penalties are set under clause 27. I wonder if the minister could outline the rationale for increasing the penalty for harming Aboriginal cultural heritage from $10 000 to $180 000 and where that stands in the regime, apart from Queensland, in Australia?

Mr THWAITES (Minister for Environment) — This matter was canvassed extensively in the second-reading debate. I understand that the Liberal Party has a different view from the government. The government believes that it is appropriate that courts have a discretion to impose a substantial penalty in serious cases. Unlike the opposition, we do not believe in mandatory sentencing, but we do believe that where there are serious offences, courts ought to have the ability to impose substantial penalties.

Clause agreed to; clauses 28 to 30 agreed to.

Clause 31

Mr BAILLIEU (Hawthorn) — This clause covers the acquisition of an Aboriginal place and deals with the processes under the Land Acquisition and Compensation Act. In the course of debate mention was made of the Maher case at Portland. I refer to a letter from the Victorian Government Solicitor's office, dated 16 November 2005, signed by Geoffrey Code, principal solicitor, and addressed to Mr Michael Flemming, who at the time was Mr Maher's solicitor in this case. I quote:

> We repeat the views expressed during recent private mediation of the proceedings that your clients will need to compromise their development expectations to reach agreement with the parties if the proceedings are to be settled and do not proceed to full hearings starting on 1 December 2005 —

which refers to a Victorian Civil and Administrative Tribunal (VCAT) hearing. The letter continues, referring to some 20 hectares of land:

> This part of the land ought to be transferred to the state at no cost for the public management of its values, especially the Aboriginal cultural heritage values, as part of any permission granted to your clients to subdivide the balance of their lands.

I further quote:

> As discussed at the meeting … the hearing of the proceedings is looming and we request your response in writing by 3.00 p.m. Thursday, 15 November 2005 …

So the demand was made to hand over land at no cost, with a response demanded by 15 November 2005 — but the letter was written on 16 November 2005. I specifically asked the minister to address the question of whether the provisions in clause 31 will apply to the Maher land. In doing so, I note that the Premier indicated on 3AW this morning that the government would consider compensation in this case, but this letter indicates otherwise.

I also note that previously on 3AW the Minister for Planning indicated in a somewhat petulant display that Mr Maher should negotiate or take his chances at VCAT. This amounts to little more than an attempt to heavy a landowner who has received a permit in good faith and is now being told by the government to hand over his land without compensation.

Mr THWAITES (Minister for Environment) — As the member indicated, this matter is currently before the Victorian Civil and Administrative Tribunal. It is not appropriate to canvass in this house matters that are before VCAT. I have the greatest of confidence that VCAT will handle those matters with independence.

Mr BAILLIEU (Hawthorn) — I hear what the minister says, but he is perfectly at liberty to advise the house as to whether this clause will or will not apply to the Maher land.

Mr THWAITES (Minister for Environment) — I have given my response, which is that the matter is before VCAT and it is appropriate to let VCAT manage the dispute. This clause has not yet passed the house, so it does not apply to anything at this stage, but the commonwealth legislation that is currently in place does have compensation provisions, and they are applied properly in the normal course.

Mr DELAHUNTY (Lowan) — This clause has caused some concern for people I have discussed this matter with. I quote from page 10 of the explanatory memorandum of the bill:

> The procedures for the compulsory acquisition of land and related compensation under this clause are set out in the Land Acquisition and Compensation Act 1986 —

but it goes on to say, however —

> except in two specific regards. The exceptions are firstly that all land acquired under this clause vests in the Crown, and secondly that no compensation —

I highlight 'no compensation' —

> will be payable for any Aboriginal object or remains found on … the land.

I could understand if it were only 'Aboriginal remains', but the concern raised with us relates to the definition of 'Aboriginal object' in clause 4:

> "Aboriginal object" means —
>
> (a) an object in Victoria or the coastal waters of Victoria that —
>
> (i) relates to the Aboriginal occupation of any part of Australia, whether or not the object existed prior to the occupation of that part of Australia by people of non-Aboriginal descent …

It has been pointed out to us that that could mean a block of land, and as has been highlighted by the member for Hawthorn, the Maher land down at Portland is an example. The issue that has been raised with us is that if a landowner who has bought some land and therefore has private property rights has those private property rights taken away because the land is wanted by the Aboriginal community, it would be only fair that compensation be paid for that land.

I ask the minister, given that we have a chance to amend this legislation before it goes to the upper house, whether this can be looked at again to make sure that any private property rights can be covered in the compensation, not excluded as they are under this bill, which is different to the Land Acquisition and Compensation Act 1986.

Mr THWAITES (Minister for Environment) — The clause provides for compensation. The member said that the clause applies to a block of land because a block of land is an object. That is not my understanding of what an object is.

Clause agreed to; clauses 32 to 41 agreed to.

Clause 42

Mr BAILLIEU (Hawthorn) — On 13 April the Minister for Aboriginal Affairs, speaking on ABC radio, talked about the Maher land:

> … where a large scale development was granted approval on a location which has cultural significance to Aboriginal people, and at the critical time that decision was made there was not a recognition of the cultural heritage and appropriate preservation put in place for that site.

In so saying the Minister for Aboriginal Affairs indicated that what might be described as a cultural heritage management plan — although it did not exist at that time — was not in place on the Maher land, and hence it could not be described as an issue at the time. I invite the minister to address the particulars of when a cultural heritage management plan would apply relative to permits which have already been issued and not yet proceeded with and to say whether a cultural heritage management plan which is enacted by this legislation will apply retrospectively to situations such as those that apply to the Maher land, where we have on the record the minister saying that a recognition of cultural heritage on that site had not been put in place at the time of the issue.

Mr THWAITES (Minister for Environment) — It is not retrospective. It is quite a simple answer.

Mr BAILLIEU (Hawthorn) — I take it that the Minister for Environment is confirming the minister's views about that site?

Mr THWAITES (Minister for Environment) — The member is now trying to cross-examine on an issue that is actually not in the bill. The member can try to raise issues about any number of different factors, but what this process is meant to be about, as I understand it, is the provisions of this bill. As I have said, this bill is not retrospective, so it does not apply in the way the member has implied.

Clause agreed to; clauses 43 to 45 agreed to.

Clause 46

Mr DELAHUNTY (Lowan) — It has often been said in this house and in many other places that the devil is in the detail. The reality is that the whole basis of this bill revolves around when the development of a cultural heritage management plan is required, and that will be outlined in the regulations which come under clauses 46 and 47. This is why most people out there in the community are concerned about the detail. Can I ask, as requested by the Municipal Association of Victoria and by others, whether the minister will ensure that a working party involving local government will be established to ensure that the regulations that are included in this bill will prescribe the activities which will require Aboriginal cultural heritage plans in a way that is practical and effective.

Mr THWAITES (Minister for Environment) — Certainly the regulations will be practical and effective, and there will be a full consultative process and a regulatory impact process. All the parties, including local government, will have an opportunity to have their say through that.

Mr DELAHUNTY (Lowan) — I appreciate that local councils will have the opportunity, but I like to think that they will be sitting around the table as the

decision-makers, not only putting in submissions — and the minister might like to comment on that. There is also a concern about the need to make it explicit in the bill that small-lot infill development is excluded from these regulations. That will strengthen the bill, and therefore I ask again for that to be taken into account. More importantly, I ask the minister to ensure that local government and other planning agencies are sitting around the table in the development of these regulations.

Mr THWAITES (Minister for Environment) — Certainly the intent of the minister right throughout this whole process has been to work closely with local government and the community. I am sure he will continue to do that.

Clause agreed to.

Clause 47

Mr PERTON (Doncaster) — In respect of clause 47, the minister has indicated that there will be a consultative process. But clearly in drafting the bill and drafting the clause, the government has some idea of what the circumstances will be, so I ask the minister: is there some guidance to the circumstances in which a cultural heritage plan is required?

Mr THWAITES (Minister for Environment) — It will be set out in regulations, and that will go through a full process, but the minister has indicated publicly, by way of his press statements, the types of circumstances that would be included. For example, they would include high-impact and large-scale developments, substantial mining works or major works in sensitive areas like coastal dunes. They are some of the more major type of developments that the minister has set out in his press statements.

Clause agreed to.

Clause 48

Mr BAILLIEU (Hawthorn) — This clause goes to the powers of the minister to require a cultural heritage management plan. I refer again to the Maher land and a letter dated 23 February 2005 from the Minister for Planning. This was just a few weeks after work was stopped on the subdivision, for which there was a permit. The letter is addressed to Mr Saunders of Narrawong. The Minister for Planning said, amongst other things:

> I am aware that Ms Denise Lovett from the local community … has recently visited the site and had discussions with the landowner. As a consequence of these discussions, the landowner/subdivider has been informed that the works undertaken at the site constitute an illegal act and that any site works require consent under the Aboriginal and Torres Strait Islander Heritage Act.

Noting my previous comments that the Minister for Aboriginal Affairs in the other house has already confirmed to ABC radio that there was not a recognition of cultural heritage and appropriate preservation put in place at the time of the issue of the permit, the issue of whether the minister can determine, as he did unilaterally here, that this was an illegal act is a significant one.

I wonder whether the minister would address this in the context of the powers the minister has, under clause 48, to require a cultural heritage management plan and whether that gives the minister the opportunity and the responsibility — or indeed, the power — to determine whether the works that have been undertaken are in fact an illegal act.

Mr THWAITES (Minister for Environment) — That was a load of gobbledegook, frankly. If you actually looked at a transcript of what the member for Hawthorn said, you could not understand it. It made no sense at all. I think what he is trying to get at is that he is obviously doing the bidding of a particular proponent of the development. He is wanting to use this process to further that person's position.

As I indicated before, this legislation is not retrospective. It does not cover the circumstances that the member is talking about. That is covered by the commonwealth legislation, the Aboriginal and Torres Strait Islander Heritage Protection Act 1984. I suggest that if he wants to continue to proceed, support and advocate for the particular developer in that case, he look at that act and seek legal advice in relation to that act.

Clause agreed to.

Clause 49

Mr DELAHUNTY (Lowan) — Clause 49 states that a plan will be required for every environment effects statement (EES). As the Municipal Association of Victoria brought to our attention, not every environment effects statement covers mining or the like. The example used was where an environment effects statement was required by the government for the operation of the power generator in the Latrobe Valley. It was dealing with the hours of operation, not with disturbance of land or other matters that could or should be picked up under this bill.

I bring to the attention of the minister and the government that this probably should have been picked up under the regulations rather than a bald plan which says that every EES requires a cultural heritage management plan. The minister is obviously aware that this is a requirement. I ask him if any consideration can be given to exempting some of those environment effects statements which do not disturb the land or other buildings from this requirement for an EES and therefore a cultural heritage management plan.

Mr THWAITES (Minister for Environment) — There are a very limited number of these environment effects statements, and they almost always relate to fairly substantial levels of works. That is why there is a provision that requires the preparation of a plan in those cases. There may be some cases where their environment effects statement would apply to a situation where there are not such substantial works, but that would be an exceptional circumstance.

Mr DELAHUNTY (Lowan) — The minister has the power to exempt things, and I just wondered if a clause needs to be included to provide that the minister has the power to exempt an organisation which is doing an environment effects statement from also having to do a cultural heritage management plan, for the reasons I outlined in my last contribution.

Clause agreed to; clauses 50 to 82 agreed to.

Clause 83

Mr THOMPSON (Sandringham) — Clause 83(5) indicates that the secretary must pay the fees and reasonable expenses of the cultural heritage adviser in conducting the audit. I want to ascertain whether the Minister for Environment is aware of the likely impact of that on the budget.

Mr THWAITES (Minister for Environment) — I think the provision is they be the reasonable fees and they would be relatively modest. I cannot see them having a major impact on a total budget of $30 billion.

Clause agreed to; clauses 84 to 86 agreed to.

Clause 87

Mr KOTSIRAS (Bulleen) — I wish to ask the minister for some clarification. If a developer has paid some money for some works and a stop issue is issued after the works have commenced, can or will the developer or the owner be compensated in some way?

Mr THWAITES (Minister for Environment) — The stop order is there to meet a particular emergency, that is the purpose of it — that is, if there is likely to be damage to or interference with a heritage object. In those circumstances it would not be appropriate for compensation to be paid.

Clause agreed to; clauses 88 to 91 agreed to.

Clause 92

Mr THWAITES (Minister for Environment) — I move:

1. Clause 92, line 28, omit "or an inspector".

Essentially this and the foreshadowed omission of clause 93 go together. In relation to clause 92, the amendment makes it quite clear that only the minister may extend the stop order, not an inspector — that is, a minister can extend an order for up to 14 days but an inspector will not be able to extend it.

Mr PERTON (Doncaster) — Could the Minister for Environment let the Parliament what the public policy basis is for this amendment? He has given us a description of the effect but why is this being done?

Mr THWAITES (Minister for Environment) — The purpose of this division is to have either a minister or an inspector able to initiate the initial stop order in that emergency situation but not to have that rolled over permanently, or indeed extended, beyond that time without the minister doing it. It is really a balance of convenience. It is the minister who ought to have that overall power for a longer period of time; the government believes that is appropriate. However, in the short term there will be emergency circumstances where a minister will not be the appropriate person to issue a stop order, where it will be more appropriate for an inspector to do so.

Amendment agreed to; amended clause agreed to.

Clause 93

The DEPUTY SPEAKER — Order! I advise the house that because the minister is proposing to delete the clause he does not have to formally move amendment 2 in his name, as the same result would be achieved by voting against the clause.

Clause defeated.

Clauses 94 to 116 agreed to.

Clause 117

Mr BAILLIEU (Hawthorn) — This is under subdivision 2 in regard to dispute resolution in the

Victorian Civil and Administrative Tribunal in part 8 of the bill. This is not the alternative dispute resolution but dispute resolution in VCAT. It refers to the parties to a proceeding. Subclause (1) states:

> The parties to a proceeding … are the sponsor and any relevant registered Aboriginal party.

I want to take this opportunity to ask the Minister for Environment to confirm that, in the normal way, legal representation will be available to the parties to a proceeding at VCAT. I invite the minister to comment on the concern that has been expressed that the sponsor — the sponsor being the applicant for the cultural heritage management plan — is effectively the land-holder and the Aboriginal party is effectively a part of the government agency, and to address the question of who would be likely to fund legal representation on behalf of the Aboriginal party.

Mr THWAITES (Minister for Environment) — In relation to funding, obviously if the bodies are state government bodies, they would be funded through the state government. I am unable to say whether a relevant registered Aboriginal party would in fact fit within the criteria for receiving state funding but I can get some advice on that. That may be a matter for discretion — it would normally be — for the state to determine in a particular case whether it is appropriate to provide funding or not. In relation to the sponsor, obviously the sponsor or developer would be, as they are now, responsible for their own legal costs. The normal provisions at the Victorian Civil and Administrative Tribunal would apply and in normal cases legal representation is available.

Mr BAILLIEU (Hawthorn) — Further on the same issue, I invite the Minister for Environment to address the issue of the distribution of costs in a proceeding. I note that the minister is indicating that it is entirely possible that the government would pay for the legal representation of an Aboriginal party while the sponsor would be required to fund their own legal representation. Obviously there are very few sponsors who could match the financial resources of the state. Therefore, I invite the minister to address the issue of cost distribution in regard to Victorian Civil and Administrative Tribunal dispute resolution.

I note that in an earlier clause — clause 114 — there is provision for the costs of alternative dispute resolution to be resolved, but there is no matching provision in regard to dispute resolution at VCAT. I am aware of VCAT action currently in which the state is funding legal representation for one party and another party is funding its own and there is a significant imbalance. Obviously the decision will lead to concern about costs where there have been delays in expensive proceedings. I invite the minister to comment.

Mr THWAITES (Minister for Environment) — It is a little hard to comment on the streams of consciousness we are hearing from the member for Hawthorn. Matters of costs are always matters for the Victorian Civil and Administrative Tribunal; it has discretion over costs.

In relation to developers, normally as part of their developments they see it as appropriate to expend some funds in obtaining permits, and they will continue to do that, I am sure. In relation to other parties, as I said, it would be a matter of discretion for the state, but I would point out that the protection of Aboriginal heritage is a public interest. It is in the public interest that we protect Aboriginal heritage; it is not a private interest. Therefore, it is reasonable in certain circumstances for the state to support that.

Clause agreed to; clauses 118 to 142 agreed to.

Clause 143

Mrs POWELL (Shepparton) — Clause 143 deals with the fairly substantial functions of the secretary, and obviously the secretary has a substantial role and responsibilities, including, in paragraph (e):

> to develop, revise and distribute guidelines, forms and other material relating to the protection of Aboriginal cultural heritage and the administration of this Act …

I wonder if the minister could advise whether that would include councils, because I have been hearing from councils that they are not really aware of the guidelines relating to this bill. One of the councils I have spoken to has said it is not aware whether this bill will impact greatly on it, but obviously it will, so I would like to have some clarification about whether those guidelines will go to local government to allow it to know what its responsibilities will be.

Over the page, paragraph (k) says the secretary will:

> … promote public awareness and understanding of Aboriginal cultural heritage in Victoria …

That is a fairly big role. Can the minister advise whether that will also include public campaigns so that private land-holders will also know they have an obligation under this bill to indicate that they have relics or artefacts on their properties and if they do not do so they will be in contravention of this legislation, which has some fairly substantial penalties?

Mr THWAITES (Minister for Environment) — I thank the member for the points she has made. This certainly will apply to councils. There will be consultation with councils, and the guidelines will be important for them. I point out that this is not something entirely new for councils. Currently under the commonwealth legislation they play an important role, but it is a much more difficult role than they will have under this legislation, because under current commonwealth legislation the procedures to be adopted are not set out clearly, which means we have quite different rules adopted by different councils in different parts of the state. This bill will provide a lot more consistency across the state, which will help councils.

Mrs POWELL (Shepparton) — I think the minister was speaking to somebody else when I was asking this question. The further part of that question was paragraph (k), which says:

> to promote public awareness and understanding of Aboriginal cultural heritage in Victoria …

My question was: will that public awareness also relate to public campaigns so that private landowners know that in fact they have an obligation under this bill to let the secretary know if they have relics or Aboriginal artefacts on their properties and if they do not do that that, there will be a severe penalty?

Mr THWAITES (Minister for Environment) — Yes, it will include public campaigns that will assist land-holders.

Clause agreed to.

Clause 144

Mr BAILLIEU (Hawthorn) — This clause relates to the Victorian Aboriginal heritage register. Subclause (2) says:

> The Secretary may amend or revoke an entry in the Register if the Secretary considers it necessary in order to maintain the accuracy of the information contained in the entry.

I invite the minister to address the question of how an item would become registered on the heritage register, how it might be removed from the register in the event it is deemed to be necessary and how someone other than the secretary can effect such a registration or revocation or at least initiate the process.

Mr THWAITES (Minister for Environment) — Under the clause the secretary is given the power to amend a record or remove it, and that would be done to ensure it is accurate and current. Under the normal provisions I would expect the secretary would do that following advice. If you are asking practically what will happen, the secretary will take advice and presumably follow that advice to ensure that the register is accurate.

Mr BAILLIEU (Hawthorn) — I specifically invite the minister to address the question of how somebody who believes that an item should not be on the register can address the issue with the secretary.

Mr THWAITES (Minister for Environment) — The act gives the secretary the power to make those decisions. It would be a matter for the secretary to take whatever information he or she deems appropriate to ensure that the register is accurate. If people bring an inaccuracy to the attention of the secretary, I am sure the secretary will amend it.

Clause agreed to.

Clause 145

Mr DELAHUNTY (Lowan) — This clause refers to what will be in the Victorian Aboriginal heritage register. I understand that we already have a heritage register which has about 25 000 items in it. Will this mean we will start again, or will those items continue on and be viewed as part of the establishment of the new register under this bill?

Mr THWAITES (Minister for Environment) — I am advised that they will continue, but obviously there will be additions and amendments over time.

Mr BAILLIEU (Hawthorn) — I invite the minister to address the question of whether an item can be on both the Victorian Aboriginal heritage register and the heritage register under the Heritage Act.

Mr THWAITES (Minister for Environment) — I do not see why it could not be; there is no reason why it could not be. They have different criteria, but it is conceivable that a number of important Aboriginal heritage sites could be on a range of other heritage registers.

Mr BAILLIEU (Hawthorn) — I am interested in the minister's response, because at the briefing we were advised that that was not the case and that they could not be on both registers. I ask the minister to seek advice on that.

Mr THWAITES (Minister for Environment) — I am happy to seek further advice on that. My understanding is that they could be on more than one register. I am advised that there is no specific reason why it is not possible for an item to be on the register under this act or the register under the other act.

Clause agreed to.

Clause 146

Mr BAILLIEU (Hawthorn) — This clause goes to who may access the register. The heritage register under the Heritage Act is a public register. This provision makes the Victorian Aboriginal heritage register what I would call a semi-public register. Will the minister explain why it could not be a public register in the same way as the heritage register is?

Mr THWAITES (Minister for Environment) — As the member indicates, a wide group of people will have access to the register, but it will not be a public document. The clause sets out the wide group of parties that will have access to the register, and the government believes that is reasonable.

Clause agreed to; clause 147 agreed to.

Clause 148

Mr DELAHUNTY (Lowan) — This clause outlines the functions of a registered Aboriginal party or parties. These parties will play a very important role in the implementation of the bill. My question to the minister is: we know the 11-member council will be funded by the government, but we do not have any information on how the Aboriginal parties will be resourced, staffed and financed to enable them to fulfil all the functions listed under clause 148.

Mr THWAITES (Minister for Environment) — As I indicated in relation to a previous clause, there will be a discretion enabling the government to provide funding to registered Aboriginal parties. That will be considered by the government on a case-by-case basis. There will be times when it is appropriate to provide funding and support, and in those cases we will do it.

Clause agreed to; clauses 149 to 158 agreed to.

Clause 159

Mr BAILLIEU (Hawthorn) — This clause deals with the functions of inspectors. I note that the Minister for Aboriginal Affairs in the other place has sacked or suspended all Aboriginal inspectors in this state. Presumably that has occurred because of some perceived inadequacy in those inspectors, although it is hard to believe they would all fit into that category. I invite the minister to advise the house whether those inspectors who have been suspended will be eligible to be inspectors under the new provisions.

Mr THWAITES (Minister for Environment) — All people will be considered, provided they satisfy the criteria set out in the legislation. Some of those people may satisfy the criteria, and that will be a matter involving the adoption of the process set out in the legislation.

Clause agreed to.

Clause 160

Mr THWAITES (Minister for Environment) — I move:

3. Clause 160, line 18, after "Minister" insert ", after consulting with the Council,".

4. Clause 160, lines 26 and 27, omit sub-clause (2).

These amendments make it absolutely clear that it is the minister who appoints the inspectors. The minister will do that after consultation with the council, and having had that consultation the minister will be responsible for their appointment.

Amendments agreed to; amended clause agreed to.

Clause 161

Mr THWAITES (Minister for Environment) — I move:

5. Clause 161, line 13, after "Minister" insert ", after consulting with the Council,".

6. Clause 161, lines 15 and 16, omit paragraph (a).

As with the previous clause, the amendments make it clear that the minister is responsible for the reappointment of inspectors, after consulting with the council.

Mr SMITH (Bass) — With regard to the answer the minister just gave, what is the time period they are appointed for?

Mr THWAITES (Minister for Environment) — It is either three or five years, but I will get some advice on that. It is five years.

Mr SMITH (Bass) — So they are appointed for a fixed period of time?

Mr THWAITES (Minister for Environment) — Under clause 160 the minister may appoint a person as an inspector for a term up to five years, so it is a period up to.

Amendments agreed to; amended clause agreed to; clauses 162 to 198 agreed to.

New clause

Mr THWAITES (Minister for Environment) — I move:

7. Insert the following new clause to follow clause 92 —

"AA. Revocation of stop order

(1) A stop order may be revoked —

(a) if issued by the Minister — by the Minister; or

(b) if issued by an inspector — by the Minister or the inspector.

(2) The Minister must revoke a stop order issued in relation to a cultural heritage audit after the report of the audit is approved under section 85.".

New clause agreed to.

Schedules 1 and 2

Mr MAUGHAN (Rodney) — Regarding schedule 1 and the transitional provisions of the bill, I refer to the minister's second-reading speech where he indicated that the transitional arrangements are intended to recognise existing decisions under the commonwealth act. I seek some clarification from the minister as to whether a decision by an Aboriginal party under the commonwealth act is regarded as an existing decision and whether or not that is able to be progressed under the new legislation before the house tonight.

Mr THWAITES (Minister for Environment) — My understanding of the way the act works is that it is not retrospective, so if there is to be a reconsideration of any matters in which the member might be interested, the process would have to start again.

Schedules agreed to.

The DEPUTY SPEAKER — Order! The question is:

That the bill be agreed to with amendments.

House divided on question:

Ayes, 51

Allan, Ms
Andrews, Mr
Barker, Ms
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Gillett, Ms
Green, Ms
Hardman, Mr
Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Perera, Mr
Pike, Ms
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 23

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Question agreed to.

Bill agreed to with amendments.

Third reading

The DEPUTY SPEAKER — Order! The question is:

That this bill be now read a third time.

House divided on question:

Ayes, 52

Allan, Ms
Andrews, Mr
Barker, Ms
Beard, Ms
Beattie, Ms
Bracks, Mr
Brumby, Mr
Buchanan, Ms
Cameron, Mr
Carli, Mr
Crutchfield, Mr
D'Ambrosio, Ms
Delahunty, Ms
Donnellan, Mr
Duncan, Ms
Eckstein, Ms
Gillett, Ms
Green, Ms
Hardman, Mr
Jenkins, Mr
Kosky, Ms
Langdon, Mr
Languiller, Mr
Leighton, Mr
Lim, Mr
Lindell, Ms
Lobato, Ms
McTaggart, Ms
Marshall, Ms
Maxfield, Mr
Merlino, Mr
Mildenhall, Mr
Morand, Ms
Munt, Ms
Nardella, Mr
Neville, Ms
Perera, Mr
Pike, Ms

Harkness, Dr
Helper, Mr
Herbert, Mr
Holding, Mr
Howard, Mr
Hudson, Mr
Hulls, Mr
Robinson, Mr
Seitz, Mr
Stensholt, Mr
Thwaites, Mr
Trezise, Mr
Wilson, Mr
Wynne, Mr

Noes, 23

Asher, Ms
Baillieu, Mr
Clark, Mr
Cooper, Mr
Delahunty, Mr
Dixon, Mr
Honeywood, Mr
Jasper, Mr
Kotsiras, Mr
McIntosh, Mr
Maughan, Mr
Mulder, Mr
Perton, Mr
Plowman, Mr
Powell, Mrs
Ryan, Mr
Savage, Mr
Shardey, Mrs
Smith, Mr
Sykes, Dr
Thompson, Mr
Walsh, Mr
Wells, Mr

Question agreed to.

Read third time.

Remaining stages

Passed remaining stages.

MELBOURNE SAILORS' HOME (REPEAL) BILL

Second reading

Debate resumed from 1 March; motion of Ms GARBUTT (Minister for Community Services).

Business interrupted pursuant to standing orders.

Sitting continued on motion of Mr CAMERON (Minister for Agriculture).

Mrs SHARDEY (Caulfield) — It is with pleasure that I speak on the Melbourne Sailors' Home (Repeal) Bill and place on the record that the Liberal Party will be supporting it. The purpose of this bill is to repeal the Melbourne Sailors' Home Act 1986 and to close the Sailors Welfare Fund, which was established under this act.

To give the house some background to this piece of legislation, the Sailors Welfare Fund was established in 1986 as a way of directing the state's share of the proceeds from the sale of the Melbourne Sailors Home in 1964 under the 1968 act. This fund previously allowed the minister to make payments to promote the welfare of sailors and people working in the Victorian fishing and maritime industries. Over the period of time from 1989 to 1991 only three such payments were made by the minister under the act, which left a residual amount in the fund of $350 000. Under this bill it is proposed that the fund be closed and that the residual amount be spent in a way that is consistent with the purpose of the fund.

It is proposed that the funds be used in the following ways: firstly, to assist with the distribution of food to Victorians in need through the combined organisation of VicRelief + Foodbank — about which I will speak a little bit later; secondly, to expand the capabilities of volunteer lifesaving; thirdly, to support sea search and rescue operations; fourthly, and probably most importantly for some people, to promote the welfare of seafarers and maritime personnel; and fifthly, to assist in the development of the Southern Cross Chaplaincy.

In relation to some of the issues pertaining to this bill, $165 000, the largest portion of this fund of $350 000, is to be applied to VicRelief + Foodbank, a new combined organisation that is the successor of the Victorian Relief Committee and Foodbank Victoria. The Victorian Relief Committee was created by the Victorian government as long ago as 1930 to assist people affected by the economic hardships of the time — in other words, the Great Depression.

Dame Phyllis Frost, who was well known to probably everyone in this Parliament and to the entire Victorian community, was the president of this organisation from about 1975 to 2000. She was a great stalwart and supporter of those in need in this state. In January this year the government combined the operations of the Victorian Relief Committee with those of Foodbank Victoria. Of course at that time some people were horrified at the concept, and I think Dame Phyllis Frost herself would not have been impressed with the fact that her organisation was going to be combined with another organisation with slightly different principles. Concern has been expressed that the organisation that Dame Phyllis Frost gave so much to has been subsumed into this new organisation, which some believe may have a slightly narrower focus. However, it is understood that under this legislation the government will provide additional funding.

Initially the government talked about $100 000, but under this bill it appears that that might be an additional amount. When the minister sums up on this bill I would like him to clarify whether the $165 000 to be allocated from the $350 000 will be in addition to the $100 000 already promised. In other words, I am asking if $265 000 is going to be applied to this worthy cause.

I would like to go back into history a little and talk about the organisation, particularly the Victorian Relief Committee. The committee was created by the Victorian government in 1930, as I have said, in direct response to the Great Depression. Originally the organisation was called the State Relief Committee, and its major objective was to assist people in distress through the establishment of an efficient and economical way of collecting and distributing clothing and other domestic commodities. From its somewhat simple and pragmatic beginnings as a central resource depot, over the next five decades it went on to assist many thousands of men and women in Victoria in critical need.

On the other hand, Foodbank Victoria was established relatively late in 1996 as part of a national network of independent organisations known as Foodbank Australia. Its primary role is to facilitate the distribution of food and grocery products to welfare agencies across Victoria. The government has claimed that the joining of these two organisations is about enabling a more integrated and expanded resource to be centred on this area of need. However, some issues of concern have been raised, particularly by the Uniting Church. The church is concerned that to date the government has not agreed to an increase in recurrent funding, and it is calling for an additional $500 000 to be allocated to these organisations for their work. Members of the church are aware that an ongoing reference group will be established, comprising members of VicRelief + Foodbank, Emergency Relief Victoria and the Department of Human Services, to monitor the impact of the fees that are to be charged for the distribution of food by agencies.

This is an area of some concern. During the process it emerged that the Foodbank model of charging food-handling agencies for distributing emergency relief to those in need is new and something that VicRelief has not done in the 75 years of its history. What has emerged is that there is a tiered system of charging fees. In fact 40 per cent of the distributions will not be charged, but the remainder will be charged at some level. The Uniting Church is somewhat concerned about this and about the fact that not enough funds have been put into these organisations to ensure that they can continue their work.

It is interesting to look at a little of the history of the legislation. In researching my speech I went back to the original Melbourne Sailors' Home Act of 1986. We need to understand the background, so I will take a couple of minutes to talk about some of the history, which perhaps members do not know about. The wording is somewhat old fashioned, but I think it is worth recording. The preamble to the act says:

> Whereas the Governor in Council by Order dated 27 April 1868 permanently reserved certain land as a site for the purposes of a Sailors Home and by deed poll dated 8 June 1868 that land was granted by the Crown to certain trustees to be used as a site for a sailors home:
>
> And whereas pursuant to the Melbourne Sailors' Home Act 1901 the trustees for the time being of the land mentioned in the first recital sold that land and acquired other land as a site for a sailors home and invested the remaining proceeds of the sale of the land …

So the remaining proceeds formed the basis for this trust, the purpose of which was to distribute money for the welfare and benefit of sailors.

While in a sense members of the opposition support this legislation, we draw the attention of the house to the fact that the bill changes the purpose and the principles under which the Victorian Relief Committee was founded and the way in which Dame Phyllis Frost worked so hard in support of those in need. The issues that have been raised about funding and charging distribution fees to those in need is something that I would like the minister to explain, and I would like her to assure members that the distribution system of food to those in need is sustainable. Having said that, I support the bill.

Mr MAUGHAN (Rodney) — This is a simple piece of legislation that does essentially three things: it repeals the Melbourne Sailors' Home Act 1986; it closes the Sailors Welfare Fund, which was established under that act; and it pays the proceeds to the consolidated fund. It is not a complicated piece of legislation; it has four very simple clauses.

It is an interesting piece of legislation if you go back through the history of it, and the member for Caulfield has already documented some of that. The Melbourne Sailors Home was established in 1868 on the corner of Spencer Street and Little Collins Street. By 1903 it had outlived its usefulness on that site and a new building was built at Siddeley Street, South Melbourne. It was a three-storey brick building, and it had some 52 single rooms, three dormitories, a large dining room and a reading room, and it was used essentially as accommodation for seamen and those working in the maritime industries.

As sailors wages increased, as they demanded better accommodation and as the demands for cheap accommodation declined, so there was less demand for the facilities provided by the Melbourne Sailors Home, and the home was sold in 1964. The state's share of the proceeds was paid into the Sailors Welfare Fund, which

was established under that 1986 act. Between 1989 and 1991 there were only three payments from the fund, totalling $84 000, leaving $350 000 or thereabouts in the fund at the end of 2005.

I am all for repealing redundant legislation. This legislation is no longer necessary. It is no longer serving a useful purpose, and it is much better having that $350 000 out in the community rather than sitting in a trust fund, so the government has proposed distributing it between five very worthy charities. The first one, VicRelief + Foodbank, is a very worthy charity and is the combination of two groups — Victorian Relief Committee and Foodbank Victoria — and now forms a much larger organisation. It has had a combined 85 years of experience in providing food, household goods and home wares, bedding et cetera to some 500 welfare agencies out in the community. It is a great organisation that has done some great work.

Dame Phyllis Frost was mentioned earlier by the member for Caulfield. She was a wonderful lady who worked in this area for many years. She will certainly be remembered in terms of Foodbank Victoria and those sorts of activities.

Volunteer lifesaving will get $60 000. To assist in sea search and rescue, the Australian Volunteer Coastguard will get $60 000; $55 000 will go to the promotion of the welfare of seafarers and marines; and $10 000 will go to assisting Southern Cross Chaplaincy, which is an interdenominational organisation proposed to be set up to provide for the spiritual needs of those essentially associated with the maritime industries.

As I said, it is a very simple piece of legislation. It is to be commended, and The Nationals will certainly be supporting this legislation. We wish it a speedy passage.

Mr HERBERT (Eltham) — I rise to speak on the Melbourne Sailors' Home (Repeal) Bill 2006. I support the bill. I think it is a smart move. The initial legislation was introduced to support the welfare of sailors and maritime workers from the 1964 sale of the Melbourne Sailors Home. Only $84 000 has been called on the fund since that time, and it is a good move to redirect the remaining $350 000 to some very worthwhile causes.

Sadly, this bill comes at a time when the very heart and soul of the maritime work force has been ripped asunder by the federal government's draconian WorkChoices legislation. Later this month the High Court will deliberate on the issue of allowing foreign flagships and crews to operate between Australian ports. These ships of shame avoid Australian workplace standards, employ crews at absolutely minimum rates and standards, and they attack the welfare of maritime workers which this bill was originally set up to protect.

It is estimated that some 100 Australian maritime worker jobs have been lost to foreign seafarers since the controversial — —

The ACTING SPEAKER (Mr Plowman) — Order! The bill is quite simple; there are only four clauses in it. I do not believe what the honourable member is saying relates to the bill, and I ask him to come back to it.

Mr HERBERT — Thank you; I will come back to the bill. I was commenting on the welfare of sailors and the jobs lost since the WorkChoices legislation has come in, but I will come back to the bill. It is a simple bill, as you say, Acting Speaker. It is a good use of the funds in the account. While I commend the bill to the house I do say that I have great fears about the welfare of existing maritime workers who once again are under attack from an anti-worker federal government. Thank you.

Mr CAMERON (Minister for Agriculture) — I thank the honourable members for Caulfield, Rodney and Eltham for their contributions to the debate. I thank the parties for their support, and the government wishes the bill a speedy passage.

Motion agreed to.

Read second time.

Remaining stages

Passed remaining stages.

Remaining business postponed on motion of Mr CAMERON (Minister for Agriculture).

ADJOURNMENT

The ACTING SPEAKER (Mr Plowman) — Order! The question is:

That the house do now adjourn.

Southern Cross station: construction

Ms ASHER (Brighton) — The issue I have is with the Minister for Transport, and it relates to Spencer Street station costs. The action I am asking of him is to announce the amount of compensation that has been paid to Leightons, or indeed if it has been paid to Civic

Nexus, the main contractor on the Spencer Street development project, via Civic Nexus to Leightons. I am asking him to announce the amount of compensation that the government has agreed to with Leightons or its major contractor.

Spencer Street has been a disaster for this government. It was to open on 27 April 2005, and it is still a construction site. The cost blow-out for Leightons has been stated publicly at $122.6 million. Wal King, chief executive officer of Leightons, has used this particular project as an example of why you should not to deal with this government. He has come out with some very memorable quotes such as, 'This is Australia, not Iraq', and, 'This government regards public-private partnerships as Treasure Island'. Also in this project we have seen a significant amount of dissent from the left within the Australian Labor Party — for example, Peter Fitzgerald has drawn attention to the fact that factoring in inflation, according to the financial report for the state of Victoria 2004–05, the government, or taxpayers, will pay $1.8 billion for what he termed as 'a nice roof'.

We have also seen the spectacle of taxpayers funding a $170 000 open day held by the minister on 23 April 2005, with Max the Magician and Spaghetti the Clown and the like, a public relations stunt that will remain in the minds of the public for some considerable time.

Now we have seen Civic Nexus, whose original partner was ABN AMRO, as financier sell out that share, or part of that share, to the union superannuation funds. It will be interesting to see how this project is managed into the future. We know that a compensation claim of at least $54.1 million has been lodged, and that figure has appeared in the Spencer Street Station Authority annual reports. I asked the Premier a question in this Parliament on 28 March 2006 on what the amount of compensation was — the public is interested in this — and he said:

> The details of the settlement will not be disclosed —

until basically he felt like it. What I am calling on the minister to do tonight is to have some honesty, be upfront and disclose the amount of compensation agreed upon with Leightons.

Local government: overseas-qualified engineers

Ms BARKER (Oakleigh) — I wish to raise a matter with the Minister for Employment and Youth Affairs. I ask her to take action to provide continued funding for the highly successful overseas-qualified engineers in local government project. As the minister would be aware, under the Department for Victorian Communities employment grants program, in late 2005 we gave the Victorian Local Governance Association (VLGA) a sum of $210 000 to conduct a pilot project for 15 overseas-qualified engineers.

That pilot project was funded through the community jobs program, and the money provided for project management, the engagement of a registered training organisation, and mentoring — and importantly it provided those 15 engineers with a wage. The engineers were placed with a number of councils around Victoria — Boroondara, Campaspe, Greater Dandenong, Greater Geelong, Kingston, Mitchell, Moonee Ponds, Stonnington, Wangaratta and Wodonga. I am pleased to report that one of my local councils, Monash, also took on an engineer. I was very pleased to visit the Monash council in December last year to have a discussion with the traffic engineers and the engineer who had been placed into that position.

The success of this pilot project can be directly related to the partnerships which were put in place. The VLGA was the funded body, and it appointed Ann Madigan, who did a wonderful job of overseeing the work. Holmesglen TAFE was the registered training organisation, and Engineers Australia provided career development advice and individual mentors to each of those engineers. I cannot emphasise enough the importance of the involvement of Engineers Australia, as without it we would not have been able to progress this pilot project.

There is no doubt that we need not only to assist the skilled migrants who are now here to find employment in their qualification area but also to invest in the skills of our current and future generations of workers. We are doing this through a new $240 million investment over the next four years to boost the skills of our work force. But as I say, there is room to ensure the investment in our current and future workers, and we should also assist those who are already here.

Engineers Australia tell us that Australia is short of about 1000 engineers a year, and we know that there are at least 430 overseas-qualified engineers in Victoria. They can get their qualifications recognised, but they cannot get work because they need local work experience. The 15 engineers graduated from the project on 6 March, and we have already had success, with 3 engineers immediately obtaining permanent positions in local government. A further 6 have been offered extended employment. Three were applying for positions and three immediately enrolled in part-time study. I think these engineers have had further success in finding permanent employment.

This is a fairly simple employment program, but it is one which has proven to be very successful and which deserves to be continued to ensure that we can provide engineers in the areas we need them in now. We can also invest in our current workers and in workers for the future. I ask the minister to take action to provide that funding.

Seniors: driver licence assessments

Mr JASPER (Murray Valley) — I raise a matter for the attention of the Minister for Transport, and in his absence the minister at the table, the Minister for Agriculture. I refer to the difficulties being experienced by older people in renewing their drivers licences and in having to undertake an occupational therapist's investigation in doing so. This follows referrals from doctors where older people need to get medical checks — and following on from that, an older person needs to have the occupational therapist's assessment before they can acquire their licence.

I raised this matter in Parliament with the minister earlier in the session on Thursday, 28 February. I provided the minister with the details of the representations which I had received from a number of constituents within my electorate of Murray Valley. They included representations from older people who were seeking to have their licences renewed but who were having to be tested by an occupational therapist. The difficulty is that this is a large and extensive charge for an older person. The charges vary from $350 to $700. In one case a lady brought to my attention the fact that it had cost her $1000 to date — she is a pensioner — yet she still had not received her licence renewal, and that is because she had had to be tested twice by occupational therapists.

In the response I received at the time the minister acknowledged that I had made representations to VicRoads. The response I got late last year from the chief executive of VicRoads, David Anderson, was that doing anything about these charges was outside VicRoads' influence. In fact he said in a letter:

> The driver is responsible for the costs involved in an assessment. VicRoads has no discretion over fees, including travelling costs, charged by the OT.

He went on to indicate that there had been an investigation by the Road Safety Committee which really did not address this issue. When the minister responded in the house he acknowledged the difficulties being experienced by these older drivers, but he also indicated that there was no recommendation made in the report of the all-party parliamentary committee. I think the minister really has to take this issue on. It is a huge difficulty for country people. We need to get some assistance from the government through VicRoads so these older people can receive appropriate assessments at a reasonable cost and so they can continue to drive, particularly in country areas. What we require from the minister is a further investigation of this issue and action to protect older people who are seeking driver licence renewals.

I could quote other examples — but I do not have the time to add to this — where there has been discrimination against older people in the renewal of their driver licences. This is one issue that must be taken on immediately by the government, and that includes corrective action.

Rail: Cranbourne station

Mr PERERA (Cranbourne) — The matter I raise is for the attention of the Minister for Transport. I ask that he take all necessary steps to ensure that the current car parking facility at Cranbourne station be duly upgraded.

In the early hours of working days I have taken the opportunity to meet and greet commuters as they board the city line trains at Cranbourne station. I have also taken the opportunity to obtain signatures from many commuters who use the car park on petitions calling for the Cranbourne railway station car park to be upgraded. Earlier this year I lodged the signed petitions in Parliament.

Cranbourne is the home for low to middle-income families who catch the train to work in industrial pockets on the south-eastern corridor. Month by month more Cranbourne commuters travel to and from the city for work. More and more commuters are travelling by train because of the increasing price of petrol. However, by 7.00 a.m. on a working day the car park is full. A number of backstreets close to the station have been used by commuters for car parking. This arrangement is not the most desirable one. On the one hand it inconveniences the local neighbourhood while on the other hand it creates a sense of insecurity in the minds of the commuters. This discourages people who want to use the train for work and other travel.

Cranbourne is the last station on the Cranbourne line, and it has a very large catchment area. Commuters from a number of suburbs south of Cranbourne travel to Cranbourne station to catch the train. I urge the minister to take the necessary steps to ensure that the Cranbourne station services all of Cranbourne and commuters from surrounding suburbs.

Scoresby electorate: school integration aide funding

Mr WELLS (Scoresby) — I have a matter of concern for the Minister for Education Services. I ask her to take immediate action to address a shortfall in funding for a student in one of my local schools who has special needs. I am happy to provide the minister with a copy of a letter that I recently delivered to the eastern metropolitan regional director of the Department of Education and Training and which outlines my concerns.

The primary school this young student attends is excellent. It has an outstanding principal, committed teachers and a parents group that supports the school in a positive fashion. The student in question requires level 4 funding to deal with his particular needs, but he only receives level 3 funding at the moment. The shadow education minister, Martin Dixon, and I recently visited the school to talk to the principal and teachers about this issue. We saw the student in full flight.

We saw his disturbing behaviour and the enormous efforts made by the teacher and the principal to try to bring the situation under control. There is no question that this student requires a full-time aide. The student has a low IQ. A report by a Department of Education and Training psychologist says that the student:

> … hits, kicks, and pinches others, and he yells loudly which frightens the other children in his room —

because he is only a young student —

> and disrupts the learning process …

The student's:

> … behaviour is unpredictable and he will also wander out of the classroom to whatever activity takes his liking. As such, constant adult support is required to maintain and control his significant behaviour concerns.

In conclusion, the psychologist wrote:

> It is my professional opinion that in order to maintain —

this student's —

> school placement at —

this particular primary school —

> a significant increase in disability and impairment funding needs to be allocated to the school.

This student has far greater needs than the students who received level 4 funding in 2004. More students might now be receiving funding, but the problem is that the students who need it most are not receiving the proper amount.

This school is a caring school. It is grossly unfair that it needs to carry out fundraising in order to pay for more aide time. In each parliamentary sitting we hear the Minister for Education Services dribbling out rhetoric about increased funding for students with special needs, but we need her to prove it and fix this injustice. This family is going through an awful period, and the school is going through an awful time. We just want to make sure that this young student receives the proper allocation of funding.

Consumer affairs: eBay transactions

Mr LEIGHTON (Preston) — I wish to raise a matter with the Minister for Consumer Affairs in the other place. It concerns a constituent who has been defrauded in an eBay transaction. I am asking the minister to request that her department investigate the matter. The name of my constituent is Ms Terrie Seymour, and I will provide more details regarding the matter and Ms Seymour's contact information to the minister.

In summary, Ms Seymour, bidding through eBay, ended up paying $500 plus $27.45 in postage for a Navman global positioning system package to a person named either Adam Brown or Scott Ocean. However, Ms Seymour did not receive the item. In a series of emails between her and this individual, Ms Seymour attempted to get hold of this item, but eBay closed the account of Adam Brown/Scott Ocean and provided to my constituent a Sydney phone number for this person, namely 9872 3456 — obviously a fake one.

I spoke to Kate Schulze, eBay's director of public relations. While it is generally understood that PayPal will reimburse up to $1500, I do not think it is known that eBay will go part of the way towards reimbursing funds. I expressed surprise when I found that my constituent is entitled to $375, but eBay maintains that it plasters this information all over its site. I do not believe that is the case; it took me two or three clicks to get there. eBay has not been forthcoming. In fact when an individual consumer disputes a transaction, they are usually told that the matter has been closed before they find out that they can obtain funds.

I also have a beef with eBay in that it does not immediately call in the police on fraudulent matters. I will be doing so in this case. The eBay web site attempts to define itself as a third party. It is far more than a third party; it actually brokered the transaction. The payment was to an ANZ bank account, and I will

also be contacting the ANZ. The financial institutions have an obligation not to hide behind privacy but to do their own investigations if their accounts are used for fraudulent activities.

I advise eBay that I will be vigorous in the coming months in raising other such matters in this house. I invite any other consumers who have had a bad deal out of eBay transactions to contact me with their details.

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

Road safety: hoons

Mr COOPER (Mornington) — I have a matter for the attention of the Minister for Transport. I want the minister to take immediate action to correct a serious flaw in his hoon driver legislation. Late last year the Parliament passed the Road Safety and Other Acts (Vehicle Impoundment and Other Amendments) Bill. At that time the minister assured this house that this legislation would be a major tool in dealing effectively with hoon drivers. With that ministerial assurance in mind, the house supported the bill.

It has now come to my attention that Victoria Police has discovered a major flaw in the legislation that could well destroy its ability to do what the Minister for Transport said it would do. Victoria Police has recently briefed its members on the act and has advised them that seizure of vehicles by police can easily be circumvented. In short, the act provides for a course of action by police when particular circumstances arise that prevent them from seizing a vehicle at the time of apprehension of the driver. In those circumstances police give the offending driver a notice to produce the vehicle within 10 days at police premises at Essendon Airport.

However, if the vehicle is not produced, there is no penalty provision for that failure to comply. In addition, police have no power under the legislation to seize vehicles at a later date, unless the vehicle is on a public road. The reality now is that this much-vaunted legislation relies on the offending vehicle owner voluntarily surrendering their vehicle — and how many drivers are going to be prepared to do that? I would suggest that none would be prepared to do that.

This is just another example in the long line of stuff-ups by the minister and he needs to fix this particular problem quickly if we are to see hoon drivers effectively put off our roads. This was a piece of legislation that received the unanimous support of this house on the basis of assurances given by the minister. It appears now that the minister has overseen a piece of legislation that has a huge hole in it, which will allow hoon drivers to continue their operations on the road. They simply take their car and put it into somebody else's garage or just put it on private land somewhere and the car cannot be seized by the police. I suggest that the minister needs to act on this very quickly if he is to retain any credibility and if his legislation is to have any effectiveness at all.

Rail: regional links

Mr HOWARD (Ballarat East) — I raise a matter for the attention of the Minister for Transport that relates to the fast rail services which are now starting to operate between Ballarat and Melbourne and also along the Bendigo corridor. Before seeking that action I preface my comments by saying that the new fast rail service as it is already operating along those two corridors is being very well received by residents within my electorate, whether they be from the Ballarat area, the Ballan region or in fact the Kyneton region which is also in my electorate.

Those travellers are already enjoying travelling on the new V/Locity trains on the new upgraded rail track, which provides a much smoother and more comfortable trip into or out of Melbourne, whichever way they wish to go, and they are certainly looking forward to the new timetable being introduced soon as it will provide many more new services daily on those routes.

While I commend the government and in particular the Minister for Transport for their actions to date, I ask the minister to now take action to plan for the further upgrade of the rail link within the metropolitan network. As part of the first real upgrade of these rail lines for over 120 years, something by this government that is very visionary — I have raised this matter with the minister, as I have with the Premier — the work done outside Sunshine and on the country parts of the route has been excellent and is achieving and will achieve very good results for country transport. But it is important that work is done on the metropolitan corridor to ensure that the trains travelling in from these country lines are able to proceed quickly on to Melbourne without being impeded by the ever-growing travel on the metropolitan system as it is.

Certainly in regard to this issue we know that opposition members are not achieving anything useful with the comments they are making. They are only making very negative comments, and the residents in my region and even the Ballarat *Courier* are decrying some of their comments as negative. I recall a recent editorial which referred to comments made by the

opposition as cheap political point-scoring, which is lamentable, to say the least.

However, what we need to do as a government is continue to look forward and see opportunities for further upgrading the rail services from country Victoria to ensure they continue to move up to a 21st century standard, and I look forward to this — —

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

Monash Medical Centre: patient discharge

Mr DELAHUNTY (Lowan) — I raise a matter for the attention of the Minister for Health. The action I request is for the Minister to instigate an independent inquiry into the treatment of an expectant mother by the Monash Medical Centre prior to Easter this year.

The person in question is Mrs Julie Coutts, who was 20 weeks into her second pregnancy. She was admitted to the Wimmera Base Hospital on Friday, 7 April. Following the assessment, she was transferred by ambulance to the Monash Medical Centre on Tuesday, 11 April. The next day at 1.00 p.m. she had major abdominal surgery, not a keyhole procedure, to remove a badly infected gall bladder. After this the trouble really started. On Good Friday she was discharged and told to find her own way home to Horsham — approximately 350 kilometres away.

Mrs Coutts, her family and some medical people strongly believe she was discharged too early — only two days after major abdominal surgery. The second problem was that no transport was arranged to get her home safely, even though she was a member of an ambulance association and entitled to get transport from the hospital even back to her own home if the doctor believed it was safe. The third problem, and the most important, was that no after-care service was arranged with the local hospital — that is, where it is arranged for district nurses to come around each day and check the vital signs of patients such as this woman and to check, in this case, on the 25-centimetre cut in her stomach to make sure there were no infections and other problems.

At the time Mrs Coutts was discharged or when she discussed the discharge, she was on morphine and very confused. She was very upset about the way she was treated by the Monash Medical Centre. I believe strongly in country Victorians, and this was shabby and below-standard treatment of a country mother by a Melbourne public hospital. I want the minister to ensure that this unfortunate experience is not inflicted on a country patient again. Therefore I ask the Minister to urgently instigate an inquiry into the treatment of this expectant mother by the Monash Medical Centre prior to Easter this year.

As I have said, health is important for us all. Normally we have good treatment in all our country hospitals — and metropolitan hospitals, for that matter. But this was a very unfortunate situation. A lot of concerns were raised that this lady was pushed out just before Easter. It was done for the wrong reasons and that is why it is important that this inquiry gets to the bottom of the facts and ensures that people from country Victoria do not go through unfortunate and shabby treatment by a Melbourne public hospital ever again.

Geelong: arts precinct

Mr TREZISE (Geelong) — I raise an issue this evening for the Minister for the Arts. The issue I raise relates to the membership of the Geelong cultural precinct scoping study reference group. For the information of members of the house I mention that this reference group was established by the minister to examine the future development of the Geelong arts precinct, which is bounded by Little Malop, Gheringhap, Ryrie and Fenwick streets. Currently this area houses the Geelong Performing Arts Centre, which celebrated its 25th anniversary last Saturday night with Minister Delahunty in attendance. It was a great night.

Returning to the issue, as I have said, the precinct houses the Geelong Performing Arts Centre. It also houses the Geelong Art Gallery, the Geelong Historical Records Centre, the Geelong library, the Courthouse Youth Arts Centre and Geelong City Hall, which itself has provided great entertainment for its members and people in Geelong over many years as well.

The reference group is made up of those bodies as determined by Arts Victoria and is based essentially on the ownership of property, hence the participation of most organisations in the precinct except the Courthouse Youth Arts group. Therefore the action I seek from the minister is for her to appoint to the reference group a representative from the Courthouse Youth Arts Centre.

For the information of the house, the courthouse building is owned by the council. The centre is independently managed by a board which is professionally operated and managed by Lynden Costin, the general manager. The centre is home to the Back to Back Theatre Company. It is also a major producer of youth-focused artwork and an art house. As the minister said, it is a very good centre.

The centre has an ongoing commitment to housing and supporting the development of Geelong's arts and cultural development sector. It is important that the Courthouse Youth Arts Centre has input into the development of the arts precinct in Geelong. As such, I look forward to the minister's action in appointing that group to the reference group.

Responses

Ms ALLAN (Minister for Employment and Youth Affairs) — Of the two matters that I will respond to in my portfolio areas, the first is that raised by the member for Scoresby regarding disability funding for a student who attends a school in his electorate.

The member for Scoresby indicated in his contribution that he had written to the regional director of the eastern metropolitan region. Subsequently this evening he has handed me a copy of that letter. I indicate to the member for Scoresby that I will follow up the matter with the eastern metropolitan office of the Department of Education and Training. It is always useful to be armed with the information in order to do this.

I appreciate the comments from the member for Scoresby, who recognises the record levels of funding that the Bracks government has put into the education system over the last five years. That includes supporting students with additional learning needs and students with a disability to make sure that they get every possible support to ensure that they can achieve their educational best. This is a key commitment of the Bracks government, and we will continue to work very hard to ensure that all our students are well supported in our schools.

The second matter that was raised with me was by the member for Oakleigh regarding the pilot program that is being run for overseas qualified engineers. I would like to thank the member for Oakleigh for raising this with me and also for being such a strong supporter of this project from the very beginning. It was at her insistence and lobbying and her bringing of the relevant people together around the table that this pilot project was up and running and has been highly successful, as the member for Oakleigh indicated. We have had 15 engineers who have overseas qualifications and are migrants to the state pick up work in our local governments. We know that the engineering department is one part of local government that is under a bit of strain from time to time with skill shortages.

I am pleased to report to the house tonight that, on the completion of this program, 12 of the 15 participants secured ongoing employment and the remaining 3 went on to further training. That is an outstanding achievement, particularly when you consider that this is a program providing paid work experience, workplace training and mentoring over a 15-week period, really helping these migrants get a foot in the door. This has been a highly successful program, and I appreciate the member for Oakleigh raising this with me and her encouragement to me to continue to fund this program. It is under consideration at the moment, and I will certainly take on board the member for Oakleigh's support of this project.

The Minister for Transport had matters raised with him by the members for Brighton, Murray Valley, Cranbourne, Mornington and Ballarat East. I will bring those matters to his attention.

The Minister for Consumer Affairs in another place had a matter raised with her by the member for Preston. That matter will be referred to the minister for her attention.

The member for Geelong raised a matter with the Minister for the Arts. That will also be referred to the minister for her attention, as will the matter raised by the member for Lowan for the Minister for Health.

The ACTING SPEAKER (Mr Nardella) — Order! The house now stands adjourned.

House adjourned 10.52 p.m.